



CITY COUNCIL MEETING
CITY COUNCIL CHAMBERS
WALLACE J. PUCHALSKI MUNICIPAL BUILDING
212 MAIN STREET, NORTHAMPTON
Northampton, MA

Roll Call

A regular meeting of the City Council was called to order by City Council President Ryan O'Donnell at 5:47 p.m. On a roll call the following City Councilors were present:

At-Large Councilor William H. Dwight	At-Large Councilor Ryan R. O'Donnell
Ward 1 Councilor Maureen T. Carney	Ward 2 Councilor Dennis P. Bidwell
Ward 3 Councilor James Nash	Ward 4 Councilor Gina-Louise Sciarra
Ward 5 Councilor David A. Murphy	Ward 6 Councilor Marianne L. LaBarge
Ward 7 Councilor Alisa F. Klein	

Public Hearing

None

Updates from Council President and Committee Chairs

Updates from Council President and Committee Chairs

None

Recognitions and One-Minute Announcements by Councilors

Recognitions and One-Minute Announcements by Councilors

None

Communications & Proclamations From the Mayor

Communications and Proclamations From the Mayor:

None

Presentations

Presentations:

None

Consent Agenda

Consent Agenda

Approve minutes of December 21, 2017

Councilor LaBarge moved to approve the Consent Agenda; Councilor Dwight seconded. The motion was approved on a voice vote of 9 Yes, 0 No.

Reconsideration of 17.397 Ordinance establishing restrictions on the use of surveillance technology in public places following Mayoral Veto/Disapproval per

Reconsideration of Measure 17.397, "An Ordinance Establishing Restrictions on the Use of Surveillance Technology in Public Places" following Mayoral Veto/Disapproval per Section 3-6 of the Charter

Councilor O'Donnell informed members that it would be in order to have a motion to approve the ordinance.

Councilor Dwight moved to approve the ordinance. Councilor LaBarge seconded.

Councilor O'Donnell explained that the council is meeting tonight within the window provided by law to comply with its obligation under the charter to consider a measure

Section 3-6 of
the Charter

that was vetoed, or disapproved, by the Mayor. The ordinance in question was introduced on September 21, 2017 and considered in City Council on that day, discussed in three separate committee meetings, then debated by City Council on November 16, 2017 and December 7, 2017 before being approved in second reading on December 7, 2017.

The Mayor vetoed the ordinance on December 18, 2017. In his letter of disapproval, he explained the reasons behind his action and suggested a possible rewriting of the ordinance.

There is a possible misunderstanding that the City Council can simply adopt that rewriting tonight as the council's response to the veto, but this is not the case, Councilor O'Donnell continued. The charter compels the City Council to consider the ordinance again in the same form in which it was passed. Further revisions - whether suggested by the Mayor or others - would have to be submitted in the form of a new ordinance. That ordinance would then have to go through the standard legislative process; i.e. - being referred out to the Legislative Matters committee per council rules. Members cannot switch out one ordinance for another.

The purpose of the meeting tonight is to fulfill a legal obligation under the charter, he stressed. Whether or not the veto is overridden, it would then be possible for other ordinances or amendments to be brought forward. For the record, he has discussed this issue with the Mayor and has discussed the Mayor's proposed rewriting with him at length. (The rewriting is a concept, not an ordinance, he clarified.) He finds some of the content to be very worthy and some to be in need of improvement. He thanked the Mayor for engaging in a detailed back and forth with him and the other sponsors. As of today, they have not reached agreement on specific language for a substitute to what the City Council passed after a lengthy three and a half month process.

Councilors are obligated tonight to vote on the ordinance as originally passed, he reiterated.

In response to a question from Councilor Carney, Councilor O'Donnell read aloud from Section 3-6 of the charter to clarify the process for responding to a Mayoral veto, "*The Mayor shall return a measure with specific reasons for the disapproval in writing to the City Council. The City Council shall enter the objections of the Mayor on its record and, in not less than 10 business days nor more than 30 days from its return to the council, shall again consider the same measure.*"

If the city council, notwithstanding such disapproval by the mayor, shall again pass the ordinance, it shall then be deemed to be enacted, he paraphrased.

Councilor Nash asked how close the Mayor and co-sponsors were to a compromise on the measure, and Councilor O'Donnell responded that that is difficult to quantify. Both the Mayor and co-sponsors spoke in good faith and did not reach agreement. He isn't sure how to elaborate, he said.

He is a little concerned because the Mayor's version of the ordinance is not on the agenda, Councilor Dwight volunteered. It is a little difficult to talk about something that only exists as a theory and is not publicly posted.

In the interest of full disclosure and transparency, the process since the last vote has really been behind closed doors; it has not taken place in public and been deliberative, it has really been negotiations, he observed.

Given where they stand procedurally and given the months of conversation and input, he would urge his colleagues to join him in voting against the override of the Mayor's veto and against the ordinance, Councilor Bidwell presented. Not only does he think, for a variety of reasons, that the ordinance as originally drafted is unnecessary, but he truly believes that they can come up with a better ordinance. Based on the language in the Mayor's veto memo, he believes there is a basis for coming up with language that the majority of the council, the Mayor and the police

chief could support, he asserted.

He accepts that a majority of the council does want some further check on the ability of the Mayor and the chief to install additional cameras, and, therefore, he would propose to work with his colleagues to come up with an alternative.

“I truly believe that the building blocks of such an alternative” have been identified, he observed. Among other things, an alternative ordinance would give them the opportunity to enact a consistent regulation throughout the city and not just in the downtown area. It would also allow them to provide for the possibility that the police chief and the Mayor, at some point in the future, might recommend additional cameras and give them the ability to require that specific details of any such proposal be presented. There would then be a public hearing and an opportunity for the council to either approve or deny the project, and an opportunity to clarify that such an ordinance could be overturned or amended in the future. He expressed the belief that the ingredients are present to start the new council session with the relationship between the council, the Mayor and the police chief on common ground. If the ordinance is not passed tonight, he has pledged to work with everyone involved to make that happen, he concluded.

Councilor Klein echoed comments made by previous speakers by stating that a veto is not a compromise and a rewritten ordinance that fundamentally changes the ordinance’s effect and meaning is not a seeking of common ground. The cornerstones or tools of compromise and seeking common ground are collaboration and ongoing conversation, she suggested.

Over the last four months, conversation was held with the police chief and sponsors made a number of modifications to the ordinance based on her comments. There was not a similar opportunity for collaboration or conversation with the Mayor during the period in which the council deliberated prior to his veto, she reported. On October 2nd she called to request a meeting with the Mayor for herself and five others; after two weeks, having not heard back, she called again and was told that the Mayor was not taking meetings about the cameras. As a co-sponsor, she was frustrated not to be able to hear the Mayor’s views directly from him. What leads to compromise and the finding of common ground are conversations, not silence, she alleged.

The claim that the process around the ordinance was compromised by the way in which it was brought forward seems to her to be “a bit of a red herring,” she continued. As city councilors, they respond to issues as they arise; it is their responsibility and obligation. They propose resolutions, legislation and ordinances, conduct vigorous public debate, work with members of the community, conduct relevant research, ask questions and seek answers, seek input from relevant parties, make adjustments based on input and present their thoughts to fellow members. Ultimately, they vote - twice.

She proceeded to restate the reasons she is committed to restricting surveillance cameras in the city. Some people have more access than others to resources fundamental to maintaining one’s dignity and safety and some are more at risk of being subjected to oversight and management by the powers that be. She considers it one of her duties as a city councilor to work that much harder to afford those folks (immigrants, people of color, people whose lives are lived more in the streets than in the shelter and safety of a home and others who are more vulnerable to the abuses of power) whatever measures of safety and ease she can. This very much includes her assurance that they will not be subjected to the indignities of surveillance.

There is necessarily a relationship – a power dynamic – between the watcher and the watched, the surveillor and the surveilled, Councilor Klein asserted. The entity that surveils is always the one with power. The people who are surveilled are at risk of being discriminated against, harassed and handed over to federal authorities.

Accepting the Mayor’s version of the ordinance is not a compromise, it’s a complete alteration of the intent of the ordinance that this City Council passed with a strong

majority vote, she maintained. The council's ordinance says no cameras, the Mayor's revision allows for the possibility of cameras while giving the council some possibility of oversight.

She concluded by urging her colleagues to support the ordinance again.

Councilor Nash said he wasn't quite certain as to whether there was going to be a compromise prior to the meeting. Had the Mayor simply vetoed the ordinance, his vote for tonight would be simple; he would be reaffirming the council's ordinance. But it was made difficult by the Mayor's suggestions. As Councilor O'Donnell stated, they are worthy of consideration. However, the council is bound by its own rules, so the only way to get to the Mayor's revisions is letting this version of the ordinance die, and, "I'm terribly uncomfortable with that prospect," he said.

The Mayor's revisions "are our ordinance," he affirmed. "That is our language and he added to it."

Just as if it went out to committee, it came back with recommendations that he feels improve the ordinance. As revised, the ordinance establishes a process for the City Council to have a discussion about surveillance technology downtown and everywhere else. "We have been missing such a process," he asserted.

Had the process been in place from the start, they would have arrived at a different place, he suggested.

His worry is that simply moving forward and supporting the ordinance passed does not establish a process going forward. It sets a process for the central business district but does not create a process for Florence Center, Leeds, Sheldon Field or other areas outside downtown.

The Mayor's revision creates a framework that requires further discussion of surveillance technology.

Within the central business area, city properties that will be impacted by this ordinance if passed tonight are the James House parking lot on Gothic Street, Pulaski Park, the Armory Street parking lot and a possible future transit center on King or Pleasant Street. What he likes about the Mayor's revision is that councilors actually get two bites of the apple for any proposal for surveillance technology brought forward; the budget process and a separate public hearing.

He expressed frustration at the fact that, if he were to not reaffirm the ordinance, he would be perceived as being in support of surveillance technology, which he is completely against. (Audible comments from the audience indicated they agreed.)

What he is in search of is a process that completely works, he clarified. He was hoping tonight that they would have some kind of a compromise and is a little disappointed that they haven't found common ground. He is definitely against cameras, he stressed.

Councilor O'Donnell reminded the audience of the request that they maintain silence during the council's deliberations. He clarified that future revisions can be brought forward whether or not the ordinance is upheld tonight.

Councilor LaBarge informed those present that she has spent some time going over the Mayor's proposed revisions. She has the utmost respect for the Mayor and agrees on some of his issues and not others. The Mayor does not legislate, the council does. Her question is why the Mayor legislated after the council's ordinance passed. He let the council spend substantial time on the ordinance and did not offer his input until after the resolution and ordinance passed two readings. A lot of what Councilor Nash referred to could have happened if the Mayor did come forward and participate in the process, and it did not happen, she emphasized.

The City Council spent substantial time on the ordinance and did not hear the Mayor offer input until after the ordinance passed two readings. Why did he not take part in the process prior to vetoing this well-thought-out ordinance, she asked rhetorically. He did nothing illegal, but people she has spoken to felt it was in bad taste and disrespectful to the public.

“I just feel there was no reason to attack the ordinance after it was passed twice,” she elaborated.

The Mayor points out that the City Council has the power to not fund the cameras; that is so true but the federal government could fund the cameras and likely would, given the present priorities of the president. Because the Mayor did not participate in the process, she feels that he has missed the point. More importantly, the council is using the strongest power it has, the creation of law in the form of a city ordinance, to condemn a policy that is the opposite of progressive and that will undermine the city’s proud sanctuary status. This is the strongest stand they could take on the issue so it is only right to use the strongest power the council has.

The Mayor wants to expand the ordinance to encompass the whole city and to allow cameras on public buildings. This ordinance, which already passed twice, addresses the issue of scope, she maintained. The Mayor also uses the term ‘restrictions’ vs. ‘prohibitions.’ “I feel that he is legislating again,” Councilor LaBarge observed.

She questioned why the Mayor or city solicitor did not raise this issue earlier or submit the changes as an amendment. “I believe he should have signed the ordinance into law,” she pronounced. If the ordinance wasn’t broad enough for the Mayor, it simply does not make sense that he would disapprove it.

In conclusion, Councilor LaBarge stated that she supported the ordinance twice, and “I stand where I am.”

Councilor Carney defended the process against complaints that it was seriously flawed. “Everything has been completely by the book,” she confirmed.

It is standard for one or more councilors to bring a measure before the council and for it to be referred out, she indicated. This is what jump starts the process - delivery to the council of an ordinance. In this case, it came out of a conversation with the police chief. She does not have a problem with the Mayor’s veto and proposed revisions; that too is by the book. However, she disagrees and will continue to support the ordinance. She appreciates the aspects of the revisions that seek to broaden the scope across the city and would support that sort of expansion. She feels the ordinance covers enough ground for people to feel confident in supporting it. She urged fellow councilors to join her in reaffirming their vote.

The debate has been influenced by passions and reactions to passions and has often strayed from the essential facts germane to the ordinance, Councilor Dwight observed. They have all been lobbied by proponents and supporters of the ordinance and heard hours of community testimony, along with testimony from the chief. Sometimes it’s helpful to employ an analogy when an issue becomes obscured by emotions. Let’s try to replace cameras with something almost everyone can agree is unacceptable: racial profiling. “I am morally opposed to both forms of policing.” He knows the police chief is as adamantly opposed to racial profiling as he is.

He asked those present to imagine a hypothetical police chief submitting a proposal for identifying suspects based on the characteristics of race. In that context, it seems absurd that councilors would even entertain the notion, but he’s sure some people in the community would believe that the proposal had at least some merit and should be considered; at the very least it shouldn’t be prohibited outright. Proponents might argue that security needed to be balanced with individual rights; that not enough study has been done to determine the efficacy of this policing tool. Some might even say, “If you haven’t done anything wrong you don’t have anything to worry about,” and, “I’m fine with being profiled.”

If the council started off with a resolution as it did in this instance, declaring its principled opposition to the concept of racial bias as law enforcement, some would argue that people racially profile all the time, so what would be the harm if the city did. Would they hear complaints that the council's action was an overreach and rash if they responded by drafting laws to resist racial profiling as a law enforcement tool, he asked rhetorically?

He acknowledged that analogies are only useful to a point. He believes that racial profiling and unwarranted government surveillance are wrong and run contrary to principles embedded in the constitution. That has been identified as bias in some testimony. He agreed that it is, it is a bias towards upholding his oath of office. My opposition to municipal control of cameras in public spaces stands and to him the ordinance passed is the best assurance they now have to insure they are not installed. That being said, he would support any means by which they could arrive at the same conclusion, that being, at the very least, no city-managed cameras downtown monitoring public spaces.

As an aside, Councilor Sciarra noted that she was not sure how to square the view that the Mayor should not be involved in the legislative process with the criticism that he should have been involved sooner. She agreed with Councilor Carney that she is completely comfortable with the legislative and executive process.

It is a real shame that common ground wasn't found. She was extremely interested in having a substantive deliberation about it. Her frustration for the past few weeks has been that, although she has heard many opinions from others about the Mayor's proposal, the opinions she has been seeking and unable to obtain are those of the sponsors and other councilors.

At this point she is not sure of the value in discussing a proposal that has evolved. We aren't able to see the proposal in its evolved form because that was done behind closed doors and without transparency. That is frankly very frustrating because she would like to have a real conversation about it.

Relative to process, Councilor Dwight commented that he is struck by the irony of the immediate support of a proposal that was not vetted through any process other than an individual process. He respects and agrees with many of the points the Mayor made in his proposed revisions, not the least of which is its expansion throughout the city. The reason it didn't expand throughout the city originally was the concern that this would be too far reaching and perhaps jeopardize the success of addressing the immediate issue of cameras in the downtown area. He is appreciative of the Mayor's contributions to the process at this stage.

He and the Mayor have discussed it, and there were a number of reasons that the Mayor did not participate. He knew that the Mayor supported the police chief's request because of his statements during the campaign but knew little more than that. He underscored the council president's clarification that the Mayor's revisions and the ordinance as passed are not mutually exclusive. One does not preclude or exclude the other. It's more difficult because it would call for a repeal or amendment of an existing ordinance, but this entails the same process as recently followed.

It is my strongest desire that we actually reaffirm what we sussed out and supported in the majority, he concluded. Common ground while a laudable and desirable pursuit is never achieved, because we are disparate creatures with disparate perspectives and attitudes. As for compromise; there was significant compromise. Majority passage was a result of compromise.

Also, considering that two competing parties were not within the council but without (the Mayor and the Police Chief), they heard from the Police Chief and incorporated most of her concerns into the legislation. So they're talking about a re-compromise of a compromise that was voted by the majority.

With the establishment of the new charter, jealously protecting the division of powers has been a critical hallmark throughout the Mayor's tenure. The Mayor has done his job and protected the power of the executive. 'We [City Councilors], not so much,' he lamented. They have not necessarily been so clear on how they are supposed to prosecute their charge under the charter. Today is the opportunity for them to do what they are charged to do; to affirm the vote that they made in good faith, good process and good conscience. He expressed his hope that they would do so one more time. They will continue to move forward and to debate this issue, since it does not go away, he assured.

Councilor Dwight compared the surveillance camera ordinance to the executive order establishing Northampton as a sanctuary city in that, "the promise that was read into it is much greater than the promise that can be delivered." The executive order simply states that Northampton police will not honor ICE requests for detainment unless they are accompanied by a warrant. It is just reducing the likelihood; saying they are not going to be complicit. Similarly, with this ordinance, his hope is that they are not going to be complicit in monitoring their citizenry in an unwarranted fashion for the sake of a false sense of security.

They have heard throughout the process that it was flawed, Councilor Murphy observed. He does not think it was flawed in the sense that the council did not dot the 'I's' and cross the 'T's.' He thinks it was flawed in the assumption that the testimony heard in this room in fact represents the majority of the people in Northampton. There is a very organized and articulate group of proponents that has come to absolutely each and every public hearing and expressed a very strong position on this ordinance. But part of that was to use the word 'boycott' and intimidate and express disdain for our business community.

'I travel in that community, and they were very intimidated,'" he presented. They did not hear from a large population of people that have a financial investment in this city, are not anybody's enemy and provide employment. They were intimidated from coming here and talking to them. While he is comfortable as a result of this process that they should probably have a procedure for approving the installation cameras, he doesn't think this ordinance has taken into consideration some very important points of view. "I don't think we can assume that we heard all the voices in this room and all the opinions in this room that we should have because of intimidation, and intimidation is the part of the process that was flawed," he remarked. He is somewhat uncomfortable that they didn't notice that perhaps to the extent that they should have.

Councilor Murphy said he also took issue with Councilor Klein's implication that cameras only focus on those in the minority community. "Cameras see everybody . . . they don't discriminate; they don't profile," he retorted. For this reason, he has not supported the ordinance to this point and he will not support it tonight.

Councilor O'Donnell expressed his hope that they could keep the focus on the merits of the legislation.

He actually did go out and speak with a number of business people, Councilor Dwight said. He did not think Councilor Murphy ever heard him advance that he was representing the majority. "You can't serve everybody; it can't be done." Representative government is a compromise, he acknowledged.

The argument in case presented by Councilor Murphy is one he never made and one he never heard made on this floor. He heard it in public comments, but they should not confuse public testimony with debate, he opined. He agreed some business owners felt intimidated from speaking out.

None of that speaks to the order; it speaks to the process, he clarified. The process did not inform his debate nor his advocacy for this particular order, he stressed.

Councilor Carney moved the question.

Councilor O'Donnell noted that this has been a hard issue for the council and a very long process. Things can get a little heated but at the end of the day it's okay to disagree with each other.

Presumably, the ordinance passed because they believed in it, he reminded. His concern is that, at the last minute, they seem to be debating a new question. They are debating an ordinance that this council passed twice in a row and comparing it against something that is amorphous; that has not been settled. He is concerned that it would be irresponsible to reject the ordinance that is concrete and has been vetted through an extensive public process for an ordinance that has not been written, an agreement that has not been struck.

"I'm not sure how we can responsibly trade one for the other," he said. Their responsibility under the charter is to vote on the ordinance that they've passed twice, he clarified.

If they believe this ordinance within the Central Business District makes the city better by setting up a restriction on the use of cameras, there is a process for later amending it. If they believe in creating a restriction downtown; he would hope that the council reaffirms its votes. He doesn't know how he could explain to his constituents how the council could pass something twice and then jettison it for something that is unclear. He will be voting yes on this ordinance, he affirmed. Six votes are required to enact it into law.

Councilor O'Donnell called for a roll call, after which he announced that the ordinance was affirmed by a vote of 7:2 (Councilors Bidwell and Murphy opposed) to general applause.

The following ordinance passed upon reconsideration:

**CITY OF NORTHAMPTON
MASSACHUSETTS**

In the Year Two Thousand and Seventeen

Upon the Recommendation of Councilors Ryan R. O'Donnell, William H. Dwight and Alisa F. Klein.

**17.397
AN ORDINANCE**

ESTABLISHING RESTRICTIONS ON THE USE OF SURVEILLANCE TECHNOLOGY IN PUBLIC PLACES

Be it ordained by the City Council of the City of Northampton, in City Council assembled, as follows:

That Chapter 285: Streets, Sidewalks, and Public Property (Article III: Streets and Sidewalks Policies) of the Code of Ordinances be amended as follows:

§ 285-52 Surveillance technology.

- A. Definitions. For the purposes of this section:
 - 1. "Public places" means streets, sidewalks, lots, parks, and the steps in front of City Hall.
 - 2. "Surveillance technology" means hardware or software that records and/or transmits the image, identity, movement or actions of individuals or vehicles in public places including but not limited to video cameras, license plate readers, and facial recognition systems.
- B. Prohibition. Within the Central Business District, surveillance technology shall not be deployed and/or operated in a fixed location for a period of more than one day on City property or property leased and/or controlled by the City.
- C. Exceptions. The prohibition shall not apply:
 - 1. At the Police Station on Center Street.
 - 2. To security cameras that monitor parking structures, including the Police Station parking deck, so long as such cameras do not monitor public places outside of the parking structure.
 - 3. When the use of surveillance technology is temporary and the purpose is to prevent or mitigate imminent and serious risk to the public in emergency situations.
 - 4. When the use of surveillance technology is temporary and the purpose is in connection to a specific and time-limited criminal investigation.

Updates from Council President and Committee Chairs

Information Requests (Charter Provision 2-7) and Information Study Requests

New Business:

None

At 6:47 p.m., a motion to adjourn was made by Councilor Murphy and seconded by Councilor Klein. The vote to adjourn passed on a voice vote of 9 Yes, 0 No,

Attest: Laura Krutzler, Administrative Assistant to the City Council

Information
Requests
(Charter
Provision 2-7)
and Information
Study Requests

New Business

EXHIBIT A

List of Documents Reviewed at January 10, 2018 City Council Meeting:

1. January 10, 2018 Agenda
2. Minutes of December 21, 2017 City Council Meeting
3. Letter of Disapproval from Mayor David J. Narkewicz to the Northampton City Council dated December 18, 2017 of Measure 17.397, "An Ordinance Establishing Restrictions on the Use of Surveillance Technology in Public Places."
4. Mayor's Proposed Revisions to Ordinance 17.397, 'An Ordinance Establishing Restrictions on the Use of Surveillance Technology in Public Places.'
5. 17.397, 'An Ordinance Establishing Restrictions on the Use of Surveillance Technology in Public Places' as passed in second reading by the City Council on December 7, 2017.

2018 - 2019 ROLL CALL RECORD FOR NORTHAMPTON CITY COUNCIL											
Record of City Council Votes for January 10, 2018		Bidwell	Carney	Dwight	Klein	LaBarge	Murphy	Nash	O'Donnell	Sciarra	Total
Roll Call by Laura Krutzler, Administrative Assistant to the to the City Council @ 5:47 p.m.		Present	Present	Present	Present	Present	Present	Present	Present	Present	9 Present, 0 Absent
Reconsideration of Measure 17.397, "An Ordinance Establishing Restrictions on the Use of Surveillance Technology in Public Places" following Mayoral Veto/Disapproval per Section 3-6 of the Charter		No	Yes	Approve Yes	Yes	Second Yes	No	Yes	Yes	Yes	7 Yes; 2 No

At 6:47 p.m. Councilor Murphy moved to adjourn the meeting; Councilor Klein seconded the motion. The motion was approved on a voice vote of 9 Yes, 0 No.

Recorded by: Laura Krutzler, Administrative Assistant to the City Council