



Committee on City Services and the Northampton City Council

Committee Members:

Chair: Councilor Maureen T. Carney

Vice-Chair: Councilor Marianne L. LaBarge

Councilor Dennis P. Bidwell

Councilor James Nash

Meeting Minutes

Date: April 1, 2019, 4 p.m.

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

Present: Councilor Maureen T. Carney, Chair
Councilor Marianne L. LaBarge, Vice Chair
Councilor Dennis P. Bidwell
Councilor James Nash

1. MEETING CALLED TO ORDER AND ROLL CALL

At 4:01 p.m., Councilor Carney called the meeting to order. On a roll call, Councilors Bidwell, Carney, LaBarge and Nash were present.

Also present: Building Commissioner Louis Hasbrouck

Councilor Carney announced that the meeting was being audio and video recorded.

2. PUBLIC COMMENT

There being no members of the public present, there was no public comment.

3. UPDATE ON BUILDING DEPARTMENT ACTIVITY/PERMIT VOLUME

Update on Internal Discussion about the Possibility of Local Regulations for Short-Term Rentals

Mr. Hasbrouck passed out an information sheet on Short-Term Rentals (STR's). It's confusing and what's confusing is that there are a number of definitions, he reported. The number of allowable rental rooms varies between three and five or six. In certain codes, buildings with six or more lodging rooms switch to another section (i.e. - lodging houses with six or more rooms are covered by the commercial building code). Once the city sits down and decides what it's going to regulate under this new statute, it can decide what regulations to bring to bear, he suggested.

Councilor LaBarge referred to an accessory apartment on Ryan Road. She asked if the homeowner could use it as a rental after the family member living there passes away.

The zoning ordinance requires it to be owner-occupied; i.e. – the owner must live in one of the units, Mr. Hasbrouck said.

His piece of the regulations (the building code) don't speak at all to a rental unit like that, Mr. Hasbrouck said. Regulations that relate to STR's are mainly those that presently cover Bed & Breakfasts (B&B's).

One of the factors taken into consideration by the commercial building code is whether the occupancy is permanent or transient. Homeowners can rent a room in a house for a period of longer than 30 days and it's no different than a son or daughter living in a room, he asserted. Most of the regulations speak to short-term rentals as opposed to those longer than 30 days.

Another set of regulations speak to single-family homes.

Mr. Hasbrouck said he thought the aspect of STR's that will be addressed because of the latest statute will be a general ordinance not a zoning ordinance. How zoning addresses it remains to be seen. How it addresses it now is zoning defines a B&B as having three or fewer rooms.

"Everybody has their own little bite of this apple," Mr. Hasbrouck observed, citing the licensing statute, building code, health code and fire code as regulations that all apply to STR's. Each code has chosen a different number of rooms in its definition, he noted.

Councilor Bidwell said he got the impression at some point that there was going to be some effort from building, fire and health to develop a coordinated approach to regulation.

Mr. Hasbrouck said he thinks it's going to start with the financial piece. He is pretty sure the new statute says that platforms like Airbnb are going to have to tell the municipality who is registered with them. What the city does with that information remains to be seen.

As far as the building code is concerned, a building inspector can't go into a single-family home. A routine inspection cannot be done by a building official; the Fire Department has more latitude.

What the city could require as far as this registration process is not clear to him yet.

He's put a fair amount of time and energy into trying to see what other towns are doing, he related. Some use their fire departments to inspect but their focus is on smoke and carbon monoxide detectors.

Any new B&B has to be sprinklered per the building code, Mr. Hasbrouck advised. He reviewed the definition of a lodging house, which is how B&B's are referred to by the building code. A three-family home would need a sprinkler system but an owner may be able to avoid putting a sprinkler system in a two-family home that becomes a three-family home, he noted. A sprinkler system in a single-family home is about \$8,000.

Mr. Hasbrouck clarified that the sprinkler requirement only applies to a new building or one where there is a change of use. He thinks most people are going to say that they've been renting rooms for a long time; in other words, that it's not a change of use.

Councilor LaBarge commented that it's so confusing, and Mr. Hasbrouck agreed. All of the regulations that apply should have some consistency, but they don't, he observed.

If rent is not charged, it does not trigger the definitions [for lodging house or B&B], Mr. Hasbrouck confirmed.

Councilor Bidwell asked when the sprinkler requirement went into effect and Mr. Hasbrouck said January 1, 2018, when the current building code became effective. It's not clear to him how well it's being enforced by the state, he noted.

One of the things coming out of the most recent legislation is that cities and towns will find out how many Airbnb's there are in the community, Mr. Hasbrouck continued. How people cope with it going forward is something that remains to be seen. If the city finds out that 123 Main Street in Anytown, MA is an Airbnb, there will be a discussion. But if it's an existing use that is just now being registered it doesn't need to put a sprinkler in. Since initial reports will be about places that are already registered, he thinks there will be a presumption that they are existing, he added.

Councilor Nash said he thinks they need to make distinction between a B&B and an Airbnb with a B&B being what Craig Della Penna is operating. Airbnb's don't have to meet regulations around serving breakfast and other regulations, he pointed out.

However, "I'm not sure that's not a distinction without a difference," Mr. Hasbrouck replied. M.G.L. Chapter 64G (the room excise statute) refers to breakfast but M.G.L. 1140 (licenses) does not, he noted. Meanwhile, the Northampton zoning ordinance does not speak to breakfast at all, he asserted. (Northampton zoning limits B&B's to three or fewer rooms, he reminded.)

Councilor Bidwell commented that it would be easier to start over from scratch. Because of all the overlapping regulations, the city could be relatively arbitrary and choose definitions, name them, define them and regulate them, he suggested.

Councilor Carney asked if the city could do that overlooking state regulations.

"I think the state regulations will land on top of it," Mr. Hasbrouck advised. Where there are both local and state regulations, the most restrictive applies, he explained.

Discussion continued, with Councilor Bidwell asking if the Building Commissioner is suggesting that ultimately they need a city ordinance that contains definitions.

"I think the place to start is for the city to take all that's out there currently, look at it, put it together and choose something they can put a box around," Mr. Hasbrouck said.

Councilor Carney asked if it would make sense to have the Health Department, Office of Planning and Sustainability and Building Department come together to agree upon common definitions.

They already had that meeting and went away with the determination that they needed to go back to the office to decide what they needed to bring to the table.

Councilor Carney asked if there was any way councilors could help with that.

Mr. Hasbrouck said he thought it should come from the top down and begin with the idea of what the city is trying to accomplish and what is needed to make that happen. The city also has to wait for the state to issue regulations, he noted.

Members discussed administrative aspects of the new law, such as how the city will go about compiling a list of existing Airbnb's, whether through its own efforts or by simply accepting information provided by the STR platforms. Members also asked questions about whether various rental units qualify as STR's subject to the Community Impact Fee.

Councilor Nash took the opportunity to tell Mr. Hasbrouck that he's been really helpful with a lot of issues that have come up on his ward and to constituents he has pointed his way.

Mr. Hasbrouck said he likes working in Northampton because city officials work together well. There's a supportive aspect to the work environment that he hasn't seen in other towns.

Councilor LaBarge also thanked him for everything he has done in the city.

BUILDING PERMIT ACTIVITY

Since building permits are tracked on a fiscal year basis, he didn't bring the most recent report, Mr. Hasbrouck said. However, building permits took a big jump in FY2015 and have stayed consistently higher than in the past in terms of both raw numbers and the value of permits.

Aside from Smith College, the city will probably have another 40 new single-family houses, which took a drop in 2009, 2010 and 2013. Village Hill was nearly built out and now there's 30 more units in one subset of the development.

One of the things he was most excited about was the new commercial building at Village Hill, Mr. Hasbrouck shared. There's another mixed-use building in the works and two significant solar arrays, one on Park Hill Road and one at the former Willard's Gravel Pit.

The department continues to see four or five permits a week for residential roof-mounted solar panels. Even though some of the rebates have fallen off it's still pretty popular.

Councilor LaBarge asked about ground-mounted vs. roof-mounted for residential use, and Mr. Hasbrouck said both are allowed. The upper limit as far as size is predicated on on-site energy consumption. With a heated driveway, heated pool and large house, a homeowner could have a larger array. "It's not much different than a shed," he said with regard to dimensional requirements.

There being no further questions, Councilor Bidwell wished Mr. Hasbrouck good luck in sorting through the regulatory and enforcement aspects of STR's. He's done a good job of reminding them of how complicated this is and how there are conflicting definitions.

One of the things that's important to him is that a regulation be very specific and clearly defined, because that's what makes it enforceable, Mr. Hasbrouck said.

Members thanked him for his presentation.

4. **MINUTES OF MARCH 4, 2019**

Councilor Bidwell moved to approve the minutes of March 4, 2019. Councilor Nash seconded. The motion passed with 3 Yes, 0 No, 1 absent. (Councilor Carney stepped out briefly.)

5. **ITEMS REFERRED TO COMMITTEE**

19.026 Appointments to Various Committees - referred by City Council, 3/21/2019

Disability Commission

Jeremy Dubs, 20 Hampton Avenue, Apt. 301, Northampton

Term: March 2019 - June 2021

To fill a vacancy on the Disability Commission

Council on Aging

Benjamin Capistrant, 48 High Street, Florence

Term: March 2019 - June 2019

To fill the unexpired term of Robert Montague

Councilor LaBarge said she talked to Jeremy Dubs at length on the phone and he came to a Disability Commission meeting. He is hoping to be favorably considered for the position. 41 years ago, he was born with a permanent disability called Osteo Genesis Imperfecta that left him wheelchair bound with fragile bones. Throughout his life in a wheelchair, he has observed how society is built around the needs of the able-bodied and often overlooks the disabled. As he's grown up, he has increasingly realized that the only way to make positive changes is to become actively involved. He believes he is in a unique position to do that, she shared.

He graduated with a degree in communications and has been deeply involved in music for the past 20 years, so he has many friends and acquaintances in the Pioneer Valley. Because of his many contacts, when he finally decided to speak out about snow removal, he was able to reach a wide audience and get an article written about it in the Gazette. He believes that if appointed to the Commission, he will be able to continue to use his voice and local connections to speak to the community about issues before the committee. He believes having more support from the community would lift some of the burden off the shoulders of the Disability Commission and help them get even more accomplished. He has lived in Northampton for 15 years and has experienced firsthand the accessibility issues at local businesses and the problem with snow removal in winter. He would like to do everything he can to make long-lasting improvements to enhance Northampton's reputation as a community that is sensitive to the needs of its disabled citizens.

Councilor LaBarge moved to make a positive recommendation. Councilor Nash seconded. The motion passed unanimously 4:0.

Ben Capistrant has been in Northampton for several years and is on the Smith College faculty Councilor Bidwell related. His fields of research, investigation and writing are in the area of

gerontology and demographics as they affect different aging issues. What he seems to be very much interested in doing is seeing what the intersection is between his academic work and the work of the Council on Aging. He thinks it's a good fit, Councilor Bidwell shared.

He put forward a motion for a positive recommendation. Councilor Nash seconded. The motion carried 4:0.

6. **NEW BUSINESS**

Members briefly discussed the annual reappointment process after being informed by the Administrative Assistant that 47 appointed positions have terms expiring this year (June 30, 2019).

Members asked if they could get a list of the names in advance so they could begin contacting them before June, and Mrs. Krutzler said she would try to get a list.

It would be advantageous to contact the candidates before June 30, 2019 if possible, Councilor Nash suggested.

Councilor LaBarge recommended inviting Steve Connors from Veterans Services to the next meeting to talk about Memorial Day activities, and other members agreed.

7. **Adjourn**

Upon motion made by Councilor Bidwell and seconded by Councilor Nash, the meeting was adjourned at 5:08 p.m.

Prepared By:

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