



## 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: April 8, 2019, Time: 5 p.m.**

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

1. **Meeting Called to Order and Roll Call:** At 5:02 p.m., Councilor William H. Dwight called the meeting to order. On a roll call, the following councilors were present: Councilor Dwight, Councilor Klein and Councilor Murphy. Councilor Carney was excused. 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.
3. **Public Comment**  
Although people were present to speak on a continuation of a public hearing, there was no general public comment.
4. **Approval of Minutes of Previous Meeting**  
Councilor Klein moved to approve the minutes of the February 11, 2019 Joint Planning Board/ Legislative Matters Committee Meeting. Councilor Murphy seconded. The motion passed 3:0 with one absent (Councilor Carney).
5. **Items Referred to Committee**
  - A. **18.231 An Ordinance Relative to Large-Scale Ground-Mounted Solar Arrays - Continuation of Public Hearing from 2/11/2019**  
Councilor Murphy moved to reopen the public hearing. Councilor Klein seconded. The motion passed unanimously 3:0 by voice vote with one absent (Councilor Carney). The hearing was opened at 5:06 p.m.

Councilor Dwight read the introductory paragraphs of the amended ordinance with changes as recommended by the Planning Board. After he read the first page and a half, Ms. Misch clarified that new text is highlighted in blue and underlined. She suggested reading this section as it is what has changed from the first version presented to City Council.

Councilor Dwight proceeded to read the text highlighted in blue as suggested.

The premise of the modification before them is lifting the hard-and-fast cap on the amount of trees that can be removed for the purpose of installing large-scale solar arrays, Ms. Misch presented. The ordinance would modify the existing rules by eliminating that cap but provide specific requirements for permit approval when a certain amount [three acres] of forested area is removed. At the last hearing, there were a lot of questions and comments about the ordinance and whether its evaluation of the forested area being removed was specific enough, Ms. Misch related.

Originally, the proposal was to put the threshold of review at five acres but there was a concern that this threshold was too high. Also, from the city solicitor's standpoint, there was a need to be more specific about how the proposed requirements would protect residents' health, safety and welfare to conform to state law exempting solar installations from unreasonable regulation.

In the Office of Planning and Sustainability, planners took those comments and came up with some additional standards. They lowered the threshold for review from five to three acres and added a required analysis of the core habitat to include information necessary to assess the impact of the tree removal. The ordinance allows the Planning Board to review the project through its Site Plan Approval process and makes more data available to evaluate the project's impact, she submitted.

As part of the changes, additional Site Plan Approval criteria for solar arrays over landfills and airports were eliminated. In explanation, Misch cited the city solicitor's concern that this was taking a particular use and treating it differently than all other uses in a zoning district. Also, there is already a solar array at the landfill and the existing airport already has a solar system, so the point is probably moot.

The concern was uniformity, Attorney Seewald elaborated. When a property in a district is put to a certain use, planners cannot assign different rules to that use. He was also concerned about a requirement that ground-mounted solar arrays at airports and landfills must not be separated from the site-assigned area by a road or divided by a runway, since this didn't make any sense.

That's been in the ordinance since changes were adopted in 2011, Ms. Misch noted.

The core section reviewed by the chair includes the bulk of the changes made since the February 11<sup>th</sup> joint public hearing, Ms. Misch confirmed. The Planning Board voted on March 28<sup>th</sup> for this version to move forward as opposed to the version first introduced to City Council.

Councilor Dwight asked Attorney Seewald his opinion on whether the changes were significant enough to trigger a new legislative process, and Attorney Seewald said he didn't think so.

Councilor Klein asked for a recap of the Planning Board's discussion.

Members discussed the reason for the recommendation to reduce the threshold of review from five acres to three, Ms. Misch related. This recommendation was based on the examples of the two large-scale solar arrays that have already been permitted in the city, she presented. One involved just about two acres of tree clearing and was just under the 25,000-board-foot cap and the other - the CED Northampton Solar,

LLC project at the former Willard's gravel pit – involved three acres and about 25,000 board feet. They talked about where the three acres came from and why this was staff's recommendation.

Some board members had a concern about how the Planning Board would be able to evaluate a study from a consultant given that its expertise isn't necessarily in habitat evaluation. But the board deals with lots of different studies from Stormwater to traffic and, in some cases, wetland so, in the end, members felt comfortable adding another component to review. For the most part, members agreed it made sense to have standards that dove a little deeper into the impact of tree clearing. It wasn't a lengthy discussion; they felt pretty comfortable with it, she concluded.

Councilor Klein expressed her understanding that the three-acre threshold came about because the city has already approved two large-scale solar arrays of this size (two and three acres), so that it is in keeping with what has already been allowed. However, she questioned whether this was the best way to arrive at a threshold and whether the threshold for review couldn't be lower going forward.

Ms. Misch acknowledged that any number could be picked. Because the zoning ordinance contains a hard cap of 25,000 board feet of timber, she used that as a starting point. Below that volume of timber removal, applicants could get a special permit without an in-depth evaluation. And, not every forest is the same. The geographic area that directly correlates to the volume of commercial timber removed is different for different types of wood, she pointed out.

Yet regardless of the age or type of forest, they are still talking about three acres applying to any project without looking at the quality of the forest and the sequestration involved, Councilor Klein observed.

Ms. Misch confirmed that is true but pointed to the need to create a uniform standard. "You wouldn't want it to be dependent on the type of forest," she suggested.

Sequestration was talked about quite a bit in the previous hearing, Councilor Klein reminded. She said she didn't see anything here that required an analysis of the carbon sequestration benefit of a particular forest vs. the benefit of a solar array.

Ms. Misch referred to Item 3, the standard requiring the applicant to show that the project will be carbon-neutral over the first ten years of operation. She expressed the opinion that it in combination with insuring that tree stumps remain in the ground addresses this comparison.

The city has no real way to analyze the habitat being lost and balance it against the benefits of solar energy, Attorney Seewald acknowledged. "These are all noble things to protect and they're in conflict to some degree," he observed. He is much more comfortable with this draft, he confirmed. There's never going to be a perfect formula and the Planning Board has to have some discretion in analyzing a proposal. Much of zoning feels arbitrary, but lines have to be drawn and that's what they're trying to do as well as to protect forests while recognizing and respecting the exalted status solar has in zoning.

This is also in the context of the state not having caught up with technology, Councilor Dwight commented. "They're still back on roof-mounted solar arrays and they have not discussed large industrial systems so we have to make up our own guidelines."

An audience member asked about the final sentence in the ordinance:

**For RR, WSP, SR, URA, URB, within uses allowed by Special permit, Delete the entire bullet for ground mounted PV solar array.**

This reflects the change to eliminate the special permit requirement, Ms. Misch explained. Because they are creating a range of criteria under site plan approval they are essentially shifting the review of large-scale solar systems from a special permit process to site plan review. The ordinance now clearly states that a developer will get a permit if he/she meets very specific criteria.

Lilly Lombard said she is wearing a couple of hats today and would begin with her hat as chair of the Public Shade Tree Committee (PSTC). She realizes that Northampton as a municipality is faced with questions it really shouldn't have to answer – state level questions about the appropriateness of siting for solar facilities. The PSTC has been very engaged throughout the [legislative] process and asked for a continuation of the first public hearing because members wanted time to consider the proposed ordinance. She kept asking Tree Warden Rich Parisilliti how a new draft was coming and heard it was going to be sent to the city solicitor first. When it finally came back to Ms. Misch it was only forwarded to them hours before the last Planning Board meeting. PSTC members went to the Planning Board (PB) and asked for a continuation but PB members did not feel it was necessary. She is hoping now that the PSTC has had a chance to look substantively at the new draft, Legislative Matters (LM) Committee members will consider and accept their comments as it is the first opportunity they've had to offer them.

PSTC members had a very robust discussion and came up with a list of suggestions. Ms. Misch met with her and Todd Ford this morning to discuss. They agreed on some changes and Ms. Misch encouraged her to present areas of disagreement to LM for its consideration. They didn't agree 100% on all things but moved forward. She appreciates the urgency in closing a loophole since they don't want more people cutting down forests before applying for a permit. She appreciates the movement the ordinance has taken toward further consideration of carbon sequestration. She passed out a document with PSTC's suggested amendments and reviewed the proposed changes as follows:

- ❖ Change threshold of review from three acres to one acre of canopy.
- ❖ Propose use of 'diameter at breast height (dbh) of 20 inches or greater' as indicator of tree's value rather than age of the tree (100 years or older).
- ❖ Change 'old growth' to 'large.'
- ❖ Add 'provided by a qualified third party' to Item #3. Their concern is that there is a lot of pseudo-science concerning carbon neutrality. Therefore, they feel very strongly there should be a third-party review.
- ❖ Item #3a - replace "The total volume of trees to be removed" with "The total projected volume of live wood after a 10-year period of additional growth."
- ❖ Replace 'timber' with 'live wood' in Item #3(b). This gets to the point that all live wood captures carbon and not just timber. Timber refers to wood that has economic value. Why would they only consider wood with economic value? She asked rhetorically.
- ❖ Replace "assign Renewable Energy Credit (REC) to the City to match or exceed said release of carbon" with "contribute to the City's tree fund in an amount so that 10 years after planting trees with provided funds, the live wood will equal or exceed the carbon deficit generated by the project." As she informed Ms. Misch, they felt a more immediately beneficial and measurable trade would be contributing to the city's tree fund rather than trading in REC's.
- ❖ Item #5 - again lowered threshold from three to one acre and added the phrase "or beyond the area required to access the site for installation, whichever is smaller."

As to why PSTC members feel one acre is a better review threshold, all agree these are arbitrary starting points, Ms. Lombard noted. The justification for three acres was related to the notion of 25,000 board feet since that is the threshold that triggers a forest cutting plan. This measurement is not really applicable to this setting, she suggested. They're talking about trying to preserve habitat and sequester carbon for the benefit of the city, so why would they attach it to this arbitrary and antiquated number? When she reread the guidelines from the Department of Energy Resources (DOER) for medium-scale solar arrays, DOER defines 'medium-scale' as anything over one acre. "If we're going to be attaching ourselves to arbitrary numbers, why don't we attach it to that and protect our resources even further," she suggested.

"We recommend one acre," she confirmed. They feel that one acre is still a substantial number and the state considers it a substantial number. DOER strongly discourages locations that result in a significant loss of land and natural resources, including farm- and forested land. Significant tree cutting is problematic because of the important water management, cooling and climate benefit trees provide. What is significant is up to the community to decide, she stressed.

"You can pack a lot more than 25,000 board feet in an acre of mature forest," she added.

Regarding Item #5, she did not have a specific conversation with PSTC members about this item; this came out of a conversation with her, Todd Ford and Ms. Misch this morning, she disclosed.

Attorney Seewald said he doesn't believe the city could require somebody to dip into their pocket and pay money to the city.

"It's not going to happen under my watch in Northampton. You can't require an applicant to pay in order to get a Special permit or any kind of permit," he opined.

They can require offsets but they can't require remuneration, Councilor Dwight clarified.

With regard to the recommended threshold of an acre, they are in an environment where solar is the favored child of the legislature, Attorney Seewald reminded. If he wanted to build a single-family house in Northampton, he could cut down an acre of trees to build his house. PSTC is proposing to make it more difficult to cut down an acre of trees for solar in favor of something less favored in zoning. In this scenario, developers can cut down an acre to build a house but can't cut down an acre to install solar, he pointed out.

"You're one acre is more arbitrary to me than the three acres," he reported.

That's one point of contention, Councilor Dwight said.

#### **PUBLIC COMMENT**

Adele Franks of Florence said she wanted to speak to the issue of one acre vs. three acres. This goes back to the DOER document entitled, "Model Zoning for the Regulation of Solar Energy Systems" released in 2014. "Since medium-scale ground mounted systems can reach up to approximately an acre in size, DOER believes it's reasonable and appropriate to provide more regulatory scrutiny via site plan review for these projects in residential districts to protect public health, safety and welfare," she quoted.

They're making a distinction right there that larger than an acre is considered large, she presented. To her, that's just as much of a justification for one acre as was presented for the 25,000 board feet.

Since she met with PSTC representatives this morning, Councilor Klein asked if Ms. Misch felt comfortable with the proposed amendments.

The review threshold (1 acre vs. 3 acres) was the biggest area of disagreement, Ms. Misch confirmed. Other changes were fine. As she expressed, she felt comfortable with three acres because anyone who wants to clear more than 25,000 board feet has to file a forestry cutting plan. She felt comfortable with the three acres, she reiterated.

Regarding another proposed change, she was neutral since she felt it was comparable to the existing standard. She suggested Ms. Lombard pitch the alternative standard to the committee and let them decide.

Councilor Klein asked Ms. Lombard if the PSTC would be willing to sign on again as a sponsor of the ordinance if LM were to accept all of its proposed changes. In other words, is an endorsement by the PSTC contingent on LM accepting its recommendations? She asked.

Ms. Lombard said they did not discuss that as a committee. All she can say is that they did not vote to endorse the ordinance as positively recommended by the Planning Board at the last meeting. She would be delighted to bring it back to PSTC and see if a motion would be made.

Councilor Klein said she would be in favor of continuing the hearing to give PSTC a chance to consider this.

**David Roitman of 575 Bridge Road** shared comments from Professor Bill Moomaw, founder of the Center of Environmental Resource Policy at Tufts, lead author of several UN intergovernmental Panel on Climate Change reports and an advisor to the new Climate Action Now work group.

They didn't get a direct answer from Professor Moomaw on the question of three acres but there is a very good chance they can and that would certainly provide a scientific perspective, he asserted. His group supports what Ms. Lombard is recommending in terms of changes 100%, he advised.

"We need more solar but not at the expense of trees. Solar siting is critical," he quoted Professor Moomaw as stating.

"It needs to be understood that trees are critical carbon storage units but they're much more than that. They reduce local temperatures in summer by shading streets, by absorbing more sunlight and radiant heat. More importantly, evaporation of water from leaves can keep surrounding area several degrees cooler, reducing the need for air conditioning and the emissions associated with the electric generation to operate." If the Northampton City Council wants equivalencies, the City Council should consider this factor when accounting for trees used for solar arrays, Mr. Moomaw suggests.

"City and suburban trees are important to creating a more adaptive city through a changing climate," he further quoted Mr. Moomaw as stating. "Trees suck up water during a downpour and evaporate it from their leaves. The larger the tree, the more effective it is in preventing run off from more intense precipitation events."

Thirdly, "I'm surprised that there is no preferred siting language," Mr. Moomaw wrote. "For example, installation on landfills, abandoned building sites and other places previously disturbed, road rights-of-way, over parking lots, on stores or other large rooftops. Whatever language is deemed legally appropriate, Northampton should achieve this preferred siting."

He is talking about a strategy, Mr. Roitman observed.

When Attorney Seewald talks about solar as the favorite child of the legislature, it is a fair comment, he acknowledged. However, Senator Jo Comerford and Representative Lindsay Sabadosa are very aware of the issue local officials are dealing with and the legislature [as a whole] is becoming increasingly aware that they can't favor one or the other (solar or trees). "It's a false choice," he observed.

Finally, Mr. Moomaw recommended that there be a simple ban on disturbing wetlands or vernal pools and that the provision protecting older trees be strengthened. "Replacing removed larger trees with small ones will not make much of a carbon difference for a very long time," he commented.

He personally thinks it would be great to continue the hearing to allow them to get more information, Mr. Roitman concluded.

Ed Olmstead of Florence said his concern is that there be a process that considers sequestration of carbon vs. solar arrays. He would like to see more solar. He would prefer to see them in parking lots or roof tops but is glad to see this being seriously considered here. He had a question about the ability to cut down an acre of trees to put up a house. He sees solar farms as [belonging] more in industrial areas. Also, what happens to these solar arrays once technology changes and large-scale structures are no longer needed? He noted that the ordinance refers to the eventual decommissioning and removal of solar systems. Is there any way to assure that systems will be taken down and removed and the area returned to biological habitat? He asked. It seems that it would be in their interest not to have forests broken up with these left-over parking lots or whatever they might be. He would like to insure that, in balancing the need for solar with the need for carbon sequestration and natural habitat, there be some way to enforce the requirement of returning the area to its natural state, he indicated.

As far as siting, he also asked if there was anything to address the fact that solar systems installed far away from existing transmission lines require the installation of additional infrastructure (i.e. – utility poles)..

Councilor Dwight asked Ms. Misch to speak to the questions about decommissioning/reclamation and transmission lines.

The Planning Board requires a bond as part of the permit process, Ms. Misch advised. One condition could be to post a bond for the cost of decommissioning the system at the end of its life span. She agreed the visibility of transmission lines is a big concern. In its last two decisions, the Planning Board has said the developer can put poles on its property but not new poles on an existing right-of-way. There is an ability to restrict how this is done, she assured. When they are talking about rural areas, finding a way to access transmission lines is a problem, she confirmed.

Northampton resident Nick Warren said he is particularly concerned with the action-ability of the criteria put forward for the so-called expert doing the analysis of the land before the permit is granted. The criteria are

fairly general and he is not sure that the ordinance as written deals with the actual impact of the solar installation. For example, the criteria calls for "Analysis of the forest type and relevant habitat that will be lost." Which of the animals, birds and plants are we particularly concerned about? He wondered. He is not sure how when the permit is being considered Planning Board members are going to be able to say, "This is too much habitat degradation." He thinks that needs to be cleaned up and made a lot more specific.

The criteria also calls for analyzing the structure and diversity of the canopy, mid-story and understory. What kind of changes in the understory and the over-story are they willing to accept? He wondered. "I think we're looking at the right things but I don't think we have any criteria upon which a Board could make a decision to grant a permit." It is that lack of specificity that he is concerned about. He doesn't think there are objective criteria about what impacts the Planning Board is willing to accept.

Also, if planners are trying to push developers toward using parking lots and using roofs, they might want to think about the 200% restriction, he suggested. Many solar installations would be way more than 200% of the annual projected electric usage of the individual site, he asserted.

And, he is not sure that leaving stumps in the ground is actually an effective way of sequestering carbon. Stumps rot, and when they rot they release their carbon, he maintained.

Northampton resident Helen Armstrong said she wanted to address the point Mr. Warren just made about leaving stumps in the ground. The part of the tree that is removed is from the ground up but there is an equivalent mass under the ground, and the root system is as large as the canopy. Leaving stumps in the ground is also an effective way to control erosion and siltation of the adjacent waterways.

Kit-Sang Boos of Northampton commented that, in this time of climate change, it seems kind of foolish to pit trees against solar when in fact they really need both. She likes to think of trees as a treehouse. There is a canopy where birds live and underneath roots host a really complex web of life which can't be seen but is really valuable in holding the soil, sequestering carbon and making life healthier for all. She supports the PSTC's amendments that would make it more difficult to cut down trees.

Suzanne Theberge of Prospect Street said she works with Mr. Roitman in Climate Action Now and the group on foods and forestry. The science tells them that they have 10 to 12 years to address the climate catastrophe. As they speak to people who are doing research, including Bill Moomaw, they are finding that old trees are sequestering huge amounts of carbon and she doesn't know if this new research is accurately reflected here. They don't have a lot of options left to address climate change. Carbon sequestration is one of the very few things they can do. The idea of building solar sites and cutting down forest and trees – it's wrong. If something is afoot, they need to minimize it as much as possible because they absolutely need trees, she insisted.

She is building a house and has reorganized the site to preserve trees. They are going out of their way on a personal level to do everything they can to not cut down trees. This is one of the few things they can do so, let's tighten this up and build solar on rooftops, etc., she urged.

Marty Nathan of 24 Massasoit Street said she wanted to support the amendments Ms. Lombard and the PSTC have proposed; specifically, triggering a deeper analysis with one acre rather than three acres. The threshold for a tree cutting plan was adopted in 2011, and so much has changed in their understanding since 2011. "I think we know more than we did eight years ago." She thinks they need to do their absolute



best to both produce as much renewable energy as possible but also sequester as much as possible. "I totally support the one acre critical analysis," she confirmed.

Amy Meltzer of Olive Street asked if the significant tree ordinance applies to trees in a solar project.

Ms. Misch confirmed it does.

That means there is a replacement requirement, Ms. Meltzer concluded. She asked if there is any way to mandate or evaluate the quality of the array. There is a huge range in the lifespan of solar arrays, and when they cut down trees they're gone, she pointed out. She asked if the quality of the solar array can be evaluated in the site plan approval process.

He hears that they are talking more about the duration of the project than the quality, Attorney Seewald responded. Someone made the comment that generally solar arrays are expected to last 20 years. He doesn't expect any of them to last 20 years. Most solar projects he's been involved with have been on agricultural land. "I have no illusion that this is the technology we're going to be using 10 years from now."

The statutes create a priority use, and that's the situation they're in.

Ms. Meltzer said she understands why the city solicitor doesn't want Northampton to be one of the communities testing the state law by requiring Site Plan Approval.

There's no question that they can require Site Plan Approval, Attorney Seewald clarified. The question is the criteria for determining that a solar installation must be denied because the health, safety and welfare of the citizens of Northampton requires it. Site Plan Approval is a perfectly appropriate way for the Planning Board to gather that information, he confirmed.

Site plan approval slows down the process and allows an opportunity for peoples' voices to be heard and she's disappointed that's off the table, Ms. Meltzer commented.

It's the special permit requirement that has been eliminated, Ms. Misch clarified.

She was using the wrong word; she meant special permit, Ms. Meltzer corrected. She understands why the attorney is reluctant to have Northampton be a test community by requiring a special permit, she explained. However, should the acceptability of special permits be held up in court at some point, she asked if that could change?

Laws are a living process that can respond, change and adapt, Councilor Dwight assured. If circumstances indicate a special permit is appropriate, then yes, absolutely, it can be changed.

Ms. Meltzer urged LM members and the City Council to recognize that, whatever they decide, any efforts to create energy need to be accompanied by ways to urge people to use less energy. "We cannot build our way out of this problem. We can't create enough energy to meet current needs no matter what we do," she maintained. She urged them to incentivize ways to reduce energy consumption. The process seems not to have given enough time for the experts in the city to weigh in, she observed. She encouraged making enough time to achieve full consensus.. She thinks all the citizens in the city would appreciate knowing city officials made the time to come to an agreement.

Councilor Dwight said he would refer her to the Northampton Energy and Sustainability Commission (NESC). The ethos of this community has been reduction; to conserve and reduce its carbon impact, he assured.

Regarding the special permit/site plan approval distinction, Attorney Seewald noted they could require a special permit but it would be a special permit in name only. The priority use bestowed by Section 3 of state law requires that they not apply traditional special permit standards. He assured her that, whether special permit or site plan approval, the public will have the opportunity to be heard. The only distinction is the extent of discretion the Planning Board has to deny the project.

Marissa Weiss of Northern Avenue thanked the committee for the interesting conversation. In listening to the voices it strikes her that there is a discrepancy between the one acre and three acre recommendations. Personally, she likes the idea of more review being triggered at one acre. However, by making solar harder than housing, planners potentially set up an unintended incentive to encourage other types of development. She asked if it is known how many parcels fall into that one to three acre category and whether it's possible to get a little more information about how the owners might want to use this land and whether [adopting the one acre review threshold] may actually be an unintended disincentive away from solar and toward other types of development.

"These large-sale arrays are going to occupy a much bigger area than one acre," Ms. Misch asserted. She expressed her understanding that the question is how many forested parcels Northampton has that may be eligible for that use. It is hard to quantify, she said

Ms. Lombard said there seem to be plenty of restrictions for residential build-outs that don't apply to solar, such as frontage and slope. One could argue that zoning applies a whole lot more scrutiny to that area. She asked if they could acknowledge that solar is under a different kind of lens.

Councilor Murphy made the observation that, last month, the Planning Board had come up with a version that the PSTC had not had a chance to comment on. This time, they have a version from PSTC that the Planning Board has not had a chance to comment on.

This body does not have the expertise to arbitrate that dispute, he pointed out. He would like to have the Planning Board and PSTC present a version they have reached agreement on. "We're the wrong ones to do that."

Procedurally, the process for an ordinance going forward is to be referred out to the Planning Board and LM, Ms. Misch reminded. The Planning Board felt very comfortable with three acres. "It's your decision to make in terms of what weight you want to give to what committee and what recommendations you take," she suggested. She doesn't know that the Planning Board would actually change its stance in a reopener.

Councilor Murphy said he thinks continuation is a good idea so they can come to an agreement. It would be a matter of LM throwing a dart at a dart board. "We'd much rather have your expertise," he said.

Councilor Klein said she has the rare pleasure of agreeing with Councilor Murphy. She feels like, as a councilor, she is a generalist. "We're hearing an incredible amount of expertise in this room. It feels really clear to me that the real experts in the city around this are the PSTC." She said she thinks the NESC needs

to play a more active role as well. She feels pretty strongly that they need to continue this and send it back. She thinks they need an endorsement from both the PSTC and NESC.

If that was a motion to continue, he would second it, Councilor Murphy said. Councilor Klein said she would be willing to make that motion if they'd heard from everybody.

In the absence of a motion, Councilor Dwight said they were going to continue.

Councilor Nash commented on the 'great turnout here today.' As the Ward 3 councilor, as always, coming to a committee meeting, he has learned something. He asked if there was an upper limit to the amount of trees that could be cleared for residential development.

When a developer reaches 25,000 board feet he or she has to file a forest cutting plan, Attorney Seewald said.

How many acres this involves is totally dependent on the type of forest, Ms. Misch advised.

Having a uniform limit on clearing regardless of the use seems to be the way to go, Councilor Nash suggested.

Discussion continued, with Attorney Seewald commenting that he is used to having this discussion around the preservation of farmland in the context of solar development rather than the preservation of trees. Marty Nathan pointed out that, as farmland disappears, "cheap forested land is the next great frontier" for solar development.

Sharon Moulton of 48 Evergreen Road said she thinks they should remember what Adele Franks read about the DOER recommendation. In keeping with this recommendation, maybe instead of one acre they should use 'over one acre' and state that they are following DOER's recommendation.

Maureen Carney of South Street commented that, "What we have we have and once we've lost it we've lost it." She urged members to pull together whatever expertise they have and sit down and sort this out.

Nili Simhai of State Street said she is an outdoor/environmental educator so she also thinks of herself as a generalist. Her big zoom out view of this is in line with other comments. Technology only degrades in time. She used to live in New York and her husband obtained a grant to put in a 50k solar array on public land. They could probably fit four times as much with technology now; that's how fast technology is changing. With trees, their value is only increasing. It seems instinctively to her that there should be some very deep thought given to ever cutting down a tree. This is coming from someone who stays up at night thinking of how they're going to resolve climate issues in 10 to 12 years, she shared. She thinks everyone should have solar but she doesn't think it makes sense to cut down a tree to put it up. She urged the board to continue learning a little bit more before making a decision.

Tony Rose of Ryan Road, a member of Climate Action Now, suggested incorporating the use of mapping tools able to identify biologically sensitive areas in the analysis of a forested area prior to its removal.

Penny Geis asked about setback requirements. Specifically, she wondered whether a group of people with shared boundaries could agree to build a solar array collectively without required setbacks.

They could pool their land and create a new parcel, but they would still have to have setbacks, Attorney Seewald said. You can't do away with setbacks because neighbors agree.

Ms. Simhair asked if there was no way to incentivize smaller arrays that would fit into spaces on the side of highways.

Ms. Misch said they would have to talk to DOT because those are all rights of ways for DOT.

The essence of the conflict is that there are competing interests, Councilor Dwight observed. As a community, it has been Northampton's mantra for quite a while to be the most responsible and the most thoughtful as it goes forward in all these processes with an eye toward reducing its impact at the same time as enhancing its ability to thrive as a community. They are working on creating that policy now.

Councilor Murphy moved to continue the public hearing to the next meeting. Councilor Klein seconded. The motion passed unanimously 3:0 with one absent (Councilor Carney). In the interim, it is the hope that the PSTC will be able to come to terms with the Planning Board, Councilor Dwight said.

**B. 19.011 An Ordinance Relative to Bicycle Share Services - referred to LM and TPC, 3/7/2019**

Councilor Murphy moved to forward the ordinance with a positive recommendation. Councilor Klein seconded.

Northampton has the Pioneer Valley Bike Share program and because they don't have anything on the books, it's really not protected, Transportation and Parking Commission (TPC) Chair Jim Nash explained. Other vendors could come in and set up smaller operations and challenge Pioneer Valley Bike Share. The idea is that anybody else that comes in to compete has to meet the same standards.

The ordinance accomplishes three general goals, Ms. Misch elaborated. They don't have anything on the books that specifies where people can park their bicycles so there is a provision that defines where bicycles can be parked. The big piece is really about shared mobility services, which includes a range of services such as bike share services, scooter shares, etc. It is becoming an issue in communities that already have established bike share systems. Since the University of Massachusetts (UMass) and other cities started Pioneer Valley Bike Share, there has been interest by other companies. Businesses such as Lime and Ant Bicycle Inc. have wanted to come into the region and participate in the shared mobility space. Accordingly, planners thought it was appropriate to introduce uniform requirements. Other communities have also introduced ordinances or bylaws to address this and frame it so that everyone is effectively operating under the same rules.

The TPC discussed the ordinance initially, then the Bicycle and Pedestrian subcommittee proposed changes to specify that the ordinance also cover scooters, Ms. Misch related. Bicycle/Pedestrian Committee members didn't want other companies coming in and 'cherry-picking' prime urban areas, so they recommended that vendors be allowed to operate anywhere Valley Bike Share operates but be required to offer services to other areas also. "They can't just come in and cannibalize [core urban areas]," she commented.

Finally, the ordinance defines shared mobility.

His only concern upon initial review is whether the ordinance is intended to protect a single operator, Councilor Dwight observed.

However, the city is "applying the same rules to everyone," Attorney Seewald responded. "It's just a level playing field."

Councilor Dwight said he just came back from San Francisco where scooters are littering the landscape. It makes it very difficult for pedestrian traffic back and forth, and this addresses that. He's glad to see the ordinance is facilitating and addressing points of conflict and assuring people safe passage of the sidewalks without having to navigate scooters or bicycles laying on the ground.

Councilor Klein asked how enforcement of the first section is to be done, and Ms. Misch said the mayor has not yet specified the enforcement agent/agency.

Mrs. Krutzler clarified that the version formally before them is the one positively recommended by TPC and not the version with the changes proposed by the Bicycle/Pedestrian subcommittee.

The motion makers clarified that they are accepting the amendments made by the Bicycle/Pedestrian subcommittee as proposed. Councilor Nash clarified that the TPC itself did not make any amendments to the document that it sent forward, and any additions were added by bike/ped committee members.

Councilor Murphy clarified he is proposing to positively recommend the version with changes proposed by the subcommittee. Councilor Dwight called the motion to a vote, and it passed unanimously 3:0 with one absent (Councilor Carney).

6. **New Business**

None.

7. **Adjourn**

Councilor Murphy moved to adjourn. Councilor Klein seconded. The motion passed unanimously 3:0. The meeting was adjourned at 7:04 p.m.

*Prepared By:*

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