



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: May 13, 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: William H. Dwight, Maureen T. Carney and David Murphy. Alisa F. Klein 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 proposed zoning change, there was no general public comment.
4. **Approval of Minutes of Previous Meeting**
Councilor Carney moved to approve the minutes of the April 8, 2019 Legislative Matters Committee Meeting. Councilor Murphy seconded. The motion passed 3:0 with one absent (Councilor Klein).
5. **Public hearing on proposed zoning change**
Public Hearing Notice published April 29, 2019 and May 6, 2019 per M.G.L. Chapter 40A, Section 5.
 - A. **19.025 An Ordinance to Rezone Five Parcels from URC to CB and to Include Parcels in CBAD - referred to CR, LM and PB on 3/21/2019**

Councilor Dwight announced a public hearing on a proposed zoning change to rezone five parcels from URC to CB and to include the parcels in the Central Business Architecture District (CBAD).

Councilor Carney moved to open the hearing. Councilor Murphy seconded. The motion carried 3:0.

Councilor Dwight noted that the Community Resources Committee (CRC) is scheduled to take up the zoning change at its meeting next Monday. That being the case, per its usual procedure, Legislative Matters will continue the hearing until it has received CRC's report.

Councilor Murphy moved to continue the hearing to June 10, 2019 at 5 p.m. Councilor Carney seconded. The motion carried 3:0.

6. Items Referred to Committee

A. 18.231 An Ordinance Relative to Large-Scale Ground-Mounted Solar Arrays - Continuation of Public Hearing from 4/08/2019

Councilor Carney moved to reopen the public hearing. Councilor Murphy seconded. The motion passed unanimously 3:0 by voice vote with one absent (Councilor Klein). The hearing was reopened at 5:05 p.m.

Councilor Dwight reviewed the history of the ordinance.

Carolyn Misch updated members on the status of the ordinance since the last meeting. After Legislative Matters (LM) sent the item back for further discussion by both parties, the Planning Board took it up May 9th following additional discussion by the Public Shade Tree Committee (PSTC) as well as further discussion between the Planning Department (Ms. Misch) and PSTC Chair Lilly Lombard.

At the Planning Board level, the Planning Board already gave a formal recommendation so its recommendation still stands, but members discussed the concept of reducing the threshold for review. The primary concern of PSTC members was that the review threshold was too high, so she presented the idea of lowering the threshold from three to two acres to the Planning Board since two acres was the size of tree clearing for one of the projects already reviewed and approved. It is not as clean a threshold as the 25,000 board feet of the current standard. But if members wanted to stick to a similar threshold, two acres represented the area of clearing for one of the previously-approved projects.

The Planning Board didn't have a problem with that; they weren't wedded to the idea of three acres vs. two acres, so they were fine with modifying the threshold, Ms. Misch reported. The other thing discussed was, given the number of criteria and their specificity, whether the level of review should be special permit or site plan approval. The version being forwarded says a special permit is triggered at two acres. Having a special permit threshold was of no concern to Planning Board members.

There was a draft in between the Planning Board and PSTC consensus which contained an additional point of analysis; i.e. - comparing the location of the project with the mapping of zones of resilient corridors. This comparison was added as a potential other point of analysis. However, the Planning Board (PB) had concerns about using a third-party tool that had not been adopted by another government agency. Members felt uncomfortable using a tool that hasn't officially been adopted by a government body but liked the idea of the city potentially adopting such a tool through a planning process.

The Planning Department is in the process of adopting a resiliency plan, so PB members were in favor of having language about corridors incorporated into the resiliency plan and then having all projects show that they are consistent with all adopted city plans. They felt more comfortable having the standard inserted into a resiliency plan that would then be used to evaluate all projects before the board, not just solar projects.

There are some non-government agencies that issue reports that are relied on but he doesn't think the Nature Conservancy is one of them, Attorney Seewald commented. The Planning Board is suggesting they cannot embed a point of analysis in the criteria of zoning. . .

At the Planning Board meeting there was discussion of using generic language to indicate that a map adopted by a city, state or government could be used to evaluate projects that include tree removal, Ms. Lombard elaborated.

As they wound their way through the conversation, they did talk about that but ended up deciding not to put it in a regulation but to make it part of the resiliency plan, Ms. Misch clarified.

Councilor Murphy asked if the ordinance before them had been modified to reflect the compromise.

The parties indicated that it had. She feels like it was a good process, Ms. Lombard added. Weighing protecting the city and its forest resources with respecting the zoning act was 'a deep dive,' she observed. She interviewed other towns that have been through this process and ran it past the Attorney General's office. She definitely feels comfortable switching back to the special permit and definitely feels it is within the realm of the zoning act. She thinks the acreage reduction from three to two is a fair compromise.

They also added the provision that the applicant would have to credit the city with Renewable Energy Credits [to match or exceed the amount of carbon released] and that none of those credits could be used to support biomass.

She thinks it's "a brilliant idea" to reference an overlay that identifies corridors of ecological importance and to use that model regionally, Ms. Lombard volunteered. She said she just shared this with Bill Moomaw, one of the experts looking at the whole New England region. He thinks referencing maps like this is really the model they should be using at the state and regional levels.

She has been conferring with other communities, and none of them have a look-back clause.

David Roitman of Climate Action Now confirmed that his group supports the ordinance as endorsed by the PSTC and further refined by the Planning Board. They are especially interested in seeing the inclusion of the following language ". . . critical resilient lands and significant climate corridors." Referencing science-based maps like this is exactly the sort of planning that Northampton and the general area should be doing.

Mr. Roitman invited others who support that statement to please stand, and half a dozen in the audience stood.

John Skibiski of 50 Hastings Heights commented that, in order for something to go through, it's got to be reasonable. From the point of view of a developer it's got to be cost-effective. One of the things of concern is stumps left in the ground. If contractors are going to remove timber from a lot and not remove the stump, getting in there with trucks to assemble the operation is almost impossible.

There is an accommodation in the ordinance allowing for access to the building site, Councilor Dwight pointed out.

They have to have corridors there to maintain the solar facilities so stumps would have to be removed, Mr. Skibiski persisted. Then there's the question of what is called a stump. Does it apply to a three-inch tree that was cut or six- or eight-inch diameter trees? It seemed kind of vague to him. He hopes there is something really clear in the ordinance that will help a developer to know exactly what he needs to do. The simpler the ordinance the better, he asserted.

In response to a question about the city's replacement policy, Ms. Misch said the city currently has a tree replacement requirement for trees over 20 inches in diameter. This policy currently applies to any project that triggers site plan review by the planning department or site plan approval by the Planning Board. There is a replacement calculation included in zoning that requires replanting trees that are removed.

Someone asked where trees could be replanted.

Trees can be planted on site or on any city-owned property with approval by the Office of Planning and Sustainability, or the developer can make a payment into the City Tree Fund, Ms. Misch clarified.

Councilor Dwight asked if anyone else wished to speak. There being no further public comment, he asked the city solicitor his feeling about this version.

He likes it better and likes that planners are applying criteria that weren't just drummed up for this section of the ordinance. They will never really know whether it is consistent with state law until someone challenges it, but he likes this version better than the other.

Councilor Carney moved to close the public hearing. Councilor Murphy seconded. The motion carried 3:0 (Councilor Klein absent).

Councilor Murphy said he would make a positive recommendation of this version to council. Councilor Carney seconded.

The impetus for this was out of critical concern that there was a loop hole in zoning that could be exploited, it was noted. It is worth noting that the ordinance is subject to modification as circumstances require, Councilor Dwight reminded. He expressed gratitude to Ms. Misch and Ms. Lombard for navigating this and coming to visit them over and over.

There was a conversation at the Northampton Energy and Sustainability Commission (NESC) about carbon offsets and carbon sequestration; i.e. is a solar array going to give them the same carbon neutral value as a tree? It depends on how the tree is disposed of; if it gets burnt, it does not. He learned the value of stumps in carbon sequestration through this process. He is grateful for all the public participation and the discussion and patience of committee members and thinks what is being referred is a good law.

The motion carried 3:0 with one absent (Councilor Klein).

B. 19.039 An Ordinance Relative to Parking on Main Street, Florence - referred by City Council - 4/4/2019

The ordinance proposes establishing two 15-minute parking spaces in the spaces immediately west of the intersection with Chestnut Street (in front of Cooper's), Councilor Nash explained.

Councilor Carney moved to forward the ordinance with a positive recommendation. Councilor Murphy seconded. The motion carried 3:0.

7. **19.052 An Ordinance Relative to Parking on Chestnut Street - referred by City Council 5/2/2019**

On Chestnut Street over the last few years since things have become more vibrant there's been a demand on parking, Councilor Nash related. There is a home with a no parking sign behind it leaving a four-foot parking zone. The idea is simply to eliminate this four feet and have the parking start on the other side of that driveway. This eliminates a problem entirely since there really isn't space for parking there to begin with. Also, the trucks for Coopers back in right there, so this resolves that conflict.

He and Councilor Murphy made a request to the DPW to provide some line striping in that area to more clearly identify where the parking spaces are. He imagines a new 'no parking' sign will be posted.

"I think this is a good thing and I hope you vote to give it a positive recommendation," he concluded.

His personal observation is that people have been parking there and the person who lives there calls parking enforcement every single time, Councilor Dwight volunteered. A lot of people get ticketed there.

Councilor Murphy moved to forward the ordinance with a positive recommendation. Councilor Carney seconded. The motion carried 3:0.

8. **19.062 An Ordinance to Amend Chapter 5 of the Code of Ordinances by Amending Section 5-7 Special Municipal Employees - referred by City Council 5/2/2019**

The ordinance proposes granting special municipal employee status to members of the Select Committee on Pesticide Reduction, Councilor Dwight explained.

Councilor Murphy moved to forward the ordinance with a positive recommendation. Councilor Carney seconded. The motion carried 3:0.

9. **New Business**

None.

10. **Adjourn**

Councilor Carney moved to adjourn. Councilor Murphy seconded. The motion passed unanimously 3:0. The meeting was adjourned at 5:45 p.m.

Prepared By:

*L. Krutzler, Administrative Assistant to the City Council
413.587.1210; krutzler@northamptonma.gov*