



COMMITTEE ON ELECTIONS, RULES, ORDINANCES, ORDERS AND CLAIMS

Councilor David A. Murphy, Chair

Councilor Jesse M. Adams

Councilor Maureen T. Carney

Minutes

Monday, June 10, 2013

6:00 pm – 8:00 pm

City Council chambers, Wallace J. Puchalski Municipal Building
212 Main Street, Northampton, MA

1. Members present/absent: Councilor Murphy, Councilor Adams, Councilor Carney, City Solicitor Alan Seewald
2. Meeting Called to Order – **Councilor Murphy called the meeting to order at 6:02 p.m.**
3. Announcement of Audio/Video Recording of Meeting **The meeting was audio-recorded.**
4. Approval of Minutes of May 13, 2013 **Councilor Adams moved approval of the minutes; Councilor Carney seconded. The motion passed unanimously (3-0).**
5. Public Comment **None**
6. **CLAIMS:**

- Robinson – Property Damage Claim of February 17, 2013 *(continued from May 13, 2013)*

No new information was presented. Mr. and Mrs. Robinson were present. City Solicitor Seewald explained general negligence claims for the city to be liable, the incident must be foreseeable. Mrs. Robinson questioned what would happen if the streetlight had fallen on her daughter instead of the car. Councilor Carney questioned the safety check of the streetlight, who is liable, as lights don't just fall, and suggested maintenance records be checked by Central Services.

Councilor Adams moved to deny, without prejudice; Councilor Murphy seconded. The motion passed on a vote of 2 Yes, 1 No (Councilor Carney). If new information is brought forward, the claim may be reconsidered.

- Candelaria – Property Damage Claim of February 28, 2013

Councilor Carney moved to deny the claim; Councilor Adams seconded. The motion passed unanimously (3-0).

- Theroux – Property Damage Claim of February 28, 2013

Councilor Carney moved to deny the claim; Councilor Adams seconded. The motion passed unanimously (3-0).

- Gaudette – Property Damage Claim of March 12, 2013

Councilor Adams moved to approve the claim in the amount of \$173.23; Councilor Carney seconded. The motion passed unanimously (3-0).

- Smolenski – Property Damage Claim of March 12, 2013

Councilor Carney moved to approve the claim in the amount of \$305.85; Councilor Adams seconded. The motion passed unanimously (3-0).

- Pelott – Property Damage Claim of April 14, 2013

Councilor Adams moved to approve the claim in the amount of \$49.95; Councilor Carney seconded. The motion passed unanimously (3-0).

- Perrea – Property Damage Claim of April 20, 2013

Ms. Perrea was present for the claim. No work orders for this pothole were on record; however, Mr. Parasiliti and DPW spoke with Ms. Perrea's boyfriend and appeared to be aware of the pothole. The DPW corrected the pothole within several days of the incident.

Councilor Adams moved to approve the claim in the amount of \$468.13; Councilor Carney seconded. The motion passed unanimously (3-0).

6:40 p.m. – Public Hearing (Continued from May 13, 2013):

- Ordinance: Amend 350a and 350b Table of Uses and Table of Dimensions for URA (*Referred by City Council April 18, 2013 to Planning Board, Committee on Economic Development, Housing and Land Use, and Committee on Elections, Rules, Ordinances, Orders and Claims*)
- Ordinance: Amend 350a and 350b Table of Uses and Table of Dimensions for URB (*Referred by City Council April 18, 2013 to Planning Board, Committee on Economic Development, Housing and Land Use, and Committee on Elections, Rules, Ordinances, Orders and Claims*)
- Ordinance: Amend 350a and 350b Table of Uses and Table of Dimensions for URC (*Referred by City Council April 18, 2013 to Planning Board, Committee on Economic Development, Housing and Land Use, and Committee on Elections, Rules, Ordinances, Orders and Claims*)
- Ordinance: Amend 350 -6.8 Consistent with Sustainable Northampton, More Than One Structure be Allowed to be Built on One Parcel (*Referred by City Council April 18, 2013 to Planning Board, Committee on Economic Development, Housing and Land Use, and Committee on Elections, Rules, Ordinances, Orders and Claims*)

The ordinances passed at Committee on Economic Development, Housing and Land Use of May 7, 2013. The Planning Board held another public hearing on May 23, 2013 and unanimously passed the ordinances, with amended changes. Carolyn Misch, Senior Planner explained the more stringent language with “7 or more units on a parcel” would need special permit. Six or fewer units would be by site plan or by right. Councilor Murphy questioned, and Ms. Misch confirmed the limit of townhouses at three. A townhouse is defined by a shared party wall.

Councilor Freeman-Daniels noted previous language, improved language changes, and noted a super majority must approve these at City Council. Ms. Misch also confirmed any new construction with 2,000 SF triggers need for site plan approval.

Adam Cohen noted neighbors’ concerns and questioned if developers would build multi units. Mr. Cohen noted examples in Portland and Toronto. Mr. Cohen noted public anxiety about this process, and requested that the Ordinances be tabled and the Planning Board hold more public hearings.

Councilor Freeman-Daniels noted that the Planning Board closed their public hearing. Councilor Freeman-Daniels noted further concerns about multi-unit developments, with proposed ideas of more buffer, and concerns and complaints relayed to him by residents of homes looking into yards of others if different orientation of units is built. Councilor Freeman-Daniels urged the Committee to pass the Ordinances as Amended.

Ms. Misch stated that language is well-defined, yet the Planning Board does not want to dictate, as neighborhoods are eclectic and change from block to block.

At 7:02 p.m., Councilor Carney moved to close the public hearing; Councilor Adams seconded. The motion to close the public hearing passed unanimously (3-0). Discussion will return to these Ordinances after the Committee discusses other ordinances on the agenda.

7. ORDINANCES:

- Ordinance: Amend §195-2 Expand Historic District to Include Much of Round Hill (*Referred by City Council of April 4, 2013 to Committee on Economic Development, Housing and Land Use, and to this Committee- Continued from May 13, 2013*)

Janet Gross gave a history of the area, including extensive renovation. Ms. Gross noted the support of the Historic District Commission and the support of Councilor Spector. Peter Rose also noted that 96 Round Hill Road was designed by two women architects.

Councilor Adams moved to send to City Council with a positive recommendation; Councilor Carney seconded. The motion passed unanimously (3-0).

Ordinances Proposed by City Solicitor Alan Seewald, for this Committee’s sponsorship (*Continued from May 13, 2013*):

- Ordinance: Amend §22-1 Overview of City Council and City Council Committees
- Ordinance: Amend §22-5 Committee on Elections, Rules, Ordinances ~~and Orders and Claims~~
- Ordinance: Amend §44-3 Accounts ~~and Claims Against the City~~
- Ordinance: Amend §76-18 (City Clerk) Duties
- Ordinance: Amend §128-15 Animal Control Officer; poundkeeper and provider
- Ordinance: Amend §128-16 Reimbursement for damages to livestock or fowl

City Solicitor Seewald referred to his memorandum and explained his proposed changes to follow proper procedures, make better use of resources, reduce billable hours, and make use of city insurance. Claims will no longer be a legislative function.

Councilor Adams moved to send to City Council with a positive recommendation; Councilor Carney seconded. The motion passed unanimously (3-0).

8. Discussion of Ordinances for Council Committees and Rules

Councilor Adams and City Solicitor Seewald will work together over the summer to draft changes to align with the City Charter. This Committee may invite City Councilors to a meeting to further discuss these proposed changes.

- Ordinance: Amend 350a and 350b Table of Uses and Table of Dimensions for URA
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- Ordinance: Amend 350a and 350b Table of Uses and Table of Dimensions for URC
- Ordinance: Amend 350 -6.8 Consistent with Sustainable Northampton, More Than One Structure be Allowed to be Built on One Parcel

Councilor Carney moved to send to City Council, as Amended, with a positive recommendation; Councilor Adams seconded. The motion passed unanimously (3-0).

- Ordinance: Amend §312-102 Schedule I: Parking Prohibited All Times – Round Hill Road (Referred by City Council May 16, 2013)
- Ordinance: Amend §312-103 Schedule II: No Parking Certain Times – Round Hill Road (Referred by City Council May 16, 2013)
- Ordinance: Amend §312-104 Schedule III: Limited-Time Parking – Round Hill Road (Referred by City Council May 16, 2013)

Ms. Misch explained these changes affect the southern portion of Round Hill Road, as Opal may make changes to northern portion at a later date.

Councilor Adams moved to send to City Council with a positive recommendation; Councilor Carney seconded. The motion passed unanimously (3-0).

9. NEW BUSINESS –*Reserved for topics that the Chair did not reasonably anticipate would be discussed. None*

At 7:52 p.m., Councilor Carney moved to adjourn and was seconded by Councilor Adams. The motion to adjourn passed unanimously (3-0).

*Respectfully submitted,
Mary L. Midura
Executive Secretary*



SEEWALD, JANKOWSKI & SPENCER, P.C.

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MEMORANDUM

TO: Committee on Elections, Rules, Ordinances, Orders and Claims
FROM: Alan Seewald, City Solicitor
CC: Mayor David J. Narkewicz
RE: Elimination of "Claims Committee"
DATE: May 7, 2013

I am proposing that this Committee sponsor revisions to the Code of Ordinances in order to eliminate the process by which the Committee handles certain claims. Currently, claims for defects in public ways, known as c. 84 claims, are handled by this Committee. Claims against the City for general negligence and other wrongful acts, known as c. 258 claims, are sent directly to the City's insurance company for handling. My proposal is to eliminate this Committee's role in determining whether to pay c. 84 claims and to allow both categories of claims to be sent directly to the City's insurer.

My reasons for this proposal are twofold. First, both c. 84 claims and c. 258 claims have very specific (although different) notice requirements with which a claimant must comply before a claim may be paid. Our current system for handling c. 84 claims does not follow state law in this regard, and claims are being paid without statutory compliance. The City's insurer is setup to receive, evaluate and determine whether a claimant has followed the proper procedure and whether the claim is one that should be paid. Second, the current system is inefficient and burdensome on staff, on the City Solicitor and on the members of this Committee. My proposal would require that, upon receipt of a claim, staff collect much of the same information now collected (i.e., any records of notice of a defect in the way), and send the claim and such supporting documents to the insurer. Unless the insurer contacts staff for more information, the involvement of the City staff would then be concluded. This process has the added benefits of not placing staff, the City Solicitor and the Councilors who comprise the Committee in an adversarial position vis-à-vis the citizen-claimants and of reducing the billable time spent by the Solicitor. I have spoken with counsel for nearby cities and towns, and this is the way each of them handles such claims.

Attached hereto, in redline/strike-out format, are the Ordinances that would need to be amended or repealed in order to carry out this proposal. In reviewing the charge of the Committee, I did not find any duties with regard to elections, so I have eliminated that reference from the committee name as well.