



City Council Committee on Legislative Matters and the Northampton City Council

Members

Councilor William H. Dwight, Chair

Councilor Gina-Louise Sciarra, Vice Chair

Councilor Rachel Maiore

Councilor John Thorpe

MEETING MINUTES

Date: November 8, 2021, Time: 5:30 pm
Virtual Meeting

1. **Meeting Called to Order and Roll Call:** At 5:01 p.m., Legislative Matters Committee Chair William H Dwight called the meeting to order. On a roll call, the following members were present: William H. Dwight, chair; Gina-Louise Sciarra, vice chair; Rachel Maiore and John Thorpe. Also present were Office of Planning and Sustainability (OPS) Assistant Director Carolyn Misch, City Solicitor Alan Seewald, Esq., DPW Director Donna LaScaleia and Administrative Assistant Laura Krutzler.

Councilor Dwight announced that the meeting was being audio/video recorded.

2. **Public Hearing on Proposed Zoning Changes**
 - A. **21.318 An Ordinance to Amend §350-17 FFR District and §350 3-4 Zoning Map to Include Recreation Land - referred to CR, PB and LM - 9/22/2021**

Councilor Dwight announced that notice of the public hearing was published in the Daily Hampshire Gazette on October 25, 2021 and November 1, 2021.

Councilor Sciarra moved to open the public hearing. Councilor Thorpe seconded. The motion passed unanimously with 4 Yes, 0 No by roll call vote. The public hearing was opened at 5:05 p.m.

OPS Assistant Director Carolyn Misch gave some background of the Farms, Forests and Rivers (FFR) section of the Zoning Ordinance. The FFR section of zoning provides protection for natural resource areas (farms, forests and rivers) by allowing their development rights to be transferred to other parts of the city, she explained. Per this provision, development rights can be shifted from areas with natural resources and sensitive habit which the city might want to protect to places where the city might want to encourage increased development. The scheme was developed about 30 years ago when the city was beginning to evaluate what to do with the state hospital grounds. The state hospital was identified as a receiving zone of extra density, but this was before an overall plan for redevelopment of the state hospital had been created and before zoning was adopted to allow different densities there.

Subsequent to this, the city worked on a redevelopment plan for the state hospital and established zoning to implement that redevelopment. As it turned out, density credits from sending zones were not needed to create more density because the built-in zoning ultimately adopted already had allowance for enough units. Also, it was complicated to figure out how much development could take place on a parcel in a pristine forest area and how to transfer that right to another parcel, so the mechanism was never really used.

In concept, it seemed like a great strategy but when you get down to the nuts and bolts, it is a complicated system. There are communities which have implemented it.

In addition, over time, the city started applying this zoning designation to open space already owned and newly-acquired by the city. The city rezoned parcels of land such as Fitzgerald Lake, the Saw Mill Hills, etc. from residential to FFR because the classification served to identify on a map that these parcels are permanently-protected open space. Over the years as the city has acquired more land, it has continued to do this as a way to show on a map that these parcels are not available for development.

The next step they have talked about is applying this zoning classification to private properties that are permanently protected either by conservation restriction, agricultural preservation restriction (APR) or deed. The proposal before them now is to bring these permanently-protected private properties into this classification. The second component of the proposal before them is a map change to bring over 100 parcels out of other underlying zoning classifications and into FFR.

Ms. Misch screen-shared a map showing the existing FFR parcels and the new parcels to be added. The underlying uses on the individual parcels will not change because they are already dictated by whatever mechanism protects the land; i.e. - a deed restriction, APR, etc. These parcels will no longer be flagged as residentially-zoned, putting developers on notice that the land is not available for development.

She screen-shared the text to accompany the map change. The biggest change is deletion of the section dealing with the transfer of development rights since they are not going to be using it anymore. The rest is reorganizing the definition and changing it to indicate that they are pulling in urban and rural parks with an active recreation component.

The types of properties included fall into three categories: 1) rural, publicly-owned open space and greenways, 2) lands permanently protected with conservation or agricultural restrictions and 3) urban parks.

The amendment also reestablishes the uses allowed in the district, creating more flexibility by allowing 25% of the parcel to be developed with roads, sewage, drainage facilities or other development in a way that still protects the underlying resource area. The Planning Board can approve this kind of development to expand the function of urban parks and recreational facilities. All site improvements have to be laid out and constructed to minimize environmental impacts to protected resource areas, she noted.

Ms. Misch cited creating parking for a recreational area or installing drainage to address drainage issues as examples of the types of development this would allow. The updated definition also allows uses to support passive recreation such as trail-building or wildlife viewing stations and structures that support active recreation like bathrooms and concession stands. In addition, the expanded definition allows farm stands and events or other operations that support the underlying use such as functions and weddings. Planners want to make sure they are allowing opportunities to provide a funding stream to support these spaces but not to allow another use, she explained.

Councilor Dwight said he guessed they deleted rivers from the title because these are already protected by federal, state and local statutes.

Ms. Misch confirmed that is the case. In switching the properties over, they are not including portions of the property that are in the special conservancy district or flood plain because these are already protected by flood plain standards, the Wetlands Protection Act (WPA), etc. The portions of land on the official map are those that are permanently protected through APR's or conservation restrictions, so in some cases they are not rezoning the entire parcel but just back land, she elaborated.

Over 100 people were notified of the hearing since the city is required to notify property owners of map changes, she advised. People understood that it wasn't the portion of the property where their house was located but the back portion that was being rezoned.

The Planning Board held a public hearing September 23rd and voted to forward the ordinance with a positive recommendation, she reported.

Councilor Maiore said she had some residents who had concerns about hunting and jeep riding; in other words, the word recreational and what it encompasses.

That is a management issue, not a zoning issue, Ms. Misch clarified. The term 'recreation' is just saying recreational uses are allowed. It doesn't mean all types of recreation *will* be allowed because it depends on the underlying function of the property and what is already stipulated in individual restrictions.

Councilor Maiore expressed her understanding that it would allow the flexibility to have hunting where it was not allowed before, but Ms. Misch said not really. Any kind of recreation is allowed generally, but whether a specific use is allowed is a management issue, which on public property is decided by the Conservation Commission. She gave Fitzgerald Lake as an example of a conservation area managed by the Conservation Commission together with the Broad Brook Coalition (BBC). Hunting is allowed on some city-owned conservation properties because it was historically allowed when the city bought the property. On private property, zoning can't change what is allowed by deed when a property is transferred.

Councilor Dwight asked if anyone wished to speak in opposition.

Councilor Nash expressed his understanding that these private properties already have restrictions in place, which is one of the reasons they qualify for this designation. While the zoning language makes it sound like there will be bathrooms going in, that really falls to the body managing the property.

To be clear, not all the properties have restrictions on them, Ms. Misch clarified.

Councilor Sciarra moved to close the public hearing. Councilor Maiore seconded. The motion passed unanimously with 4 Yes, 0 No by roll call vote. The hearing was closed at 5:28 p.m.

Councilor Sciarra moved to forward the ordinance with a positive recommendation. Councilor Thorpe seconded. The motion passed unanimously 4:0 by roll call vote.

3. Public Comment

Councilor Dwight opened the floor to public comment.

Councilor Foster drew attention to a process note associated with the two parking ordinances on the agenda. When the ordinances came before TPC, she made the request that, as part of the amendment, councilors change the term 'handicapped' parking to 'accessible' parking. She has been working with the planning director and Keith Benoit to go through the general ordinance and update this terminology in all of its occurrences. 'Handicapped' refers to a barrier that prevents access whereas 'accessible' refers to the type of space (i.e. – having an access aisle and curb cut and therefore more accessible to people with disabilities) and is preferred by people in the disability community. This presents an opportunity to go ahead and change this particular ordinance while they wait for the other changes, she suggested.

Attorney Seewald let the committee know there will be a raft of similar changes coming forward very shortly. He is in the process of putting together a long list of changes submitted to him by Keith Benoit for presentation to the council as a package, he advised. If councilors want, this could be added to that list.

Councilor Foster respectfully requested that the committee go ahead and make the change for this ordinance rather than waiting for the other changes so that as they move it forward they are using the updated language.

Alexis Neubert of 142 Road said she was tuning in about the proposed stop sign on Cross Path Road and Riverbank Road. She asked what prompted the necessity of a sign at that intersection. She's not opposed, but it doesn't seem like there is enough traffic. She knows there have been some issues with clear-cutting of the riverbank and now there are some jersey barriers there. There is more of a safety concern around driving around the airport and the 91 overpass then at this intersection, she noted.

The administrative assistant reminded Councilor Dwight that another zoning ordinance was scheduled for public hearing at 5:05 p.m., so he moved to that agenda item.

B. 21.319 An Ordinance to Require Installation of EV Charging Stations in Parking Lots over 25 Spaces, referred to PB, CR and LM - 9/22/2021

Councilor Sciarra moved to open the public hearing. Councilor Thorpe seconded. The motion passed unanimously 4:0 by roll call vote. The public hearing was opened at 5:39 p.m.

Councilor Dwight read the ordinance.

Section 350-8.9 sets forth design standards for parking lots with over five spaces, Ms. Misch presented. The language is pretty straightforward but the Planning Board did make a recommendation to modify it. The threshold of 25 spaces was used because this is a threshold for other requirements.

Planning Board members discussed that it might be too confusing to address both charging stations and charging ports in the text and amended the language to simply state that one EV charging station is required for every 15 parking spaces, she reported.

Councilor Dwight raised a question he was needled with by a citizen when the city was proposing to install charging stations in the parking garage; namely, why should he pay for electricity for a Tesla?

The city doesn't have to provide free electricity, Ms. Misch clarified. The stations can be set up to be pay stations as well so that's just a choice the city has made. The zoning ordinance is providing for charging spaces, not determining whether they are free or for pay. As more and more of these vehicles come on the road, there is a need to create spaces for them. It will only be mandated if someone is building a new parking lot of 25 spaces or more.

Councilor Dwight said he would add that they are trying to promote any conversion away from fossil fuels and it aligns very well with the city's commitment to reducing its carbon footprint.

Councilor Maiore asked if the number is aspirational (wanting to encourage) or prescriptive.

To some extent, the numbers are pulled out of the air, Ms. Misch said. They want people to start thinking about these. Most people are going to be charging at home so they don't want to require too many but they want to have enough so the city is welcoming and it doesn't deter people from coming to Northampton.

Councilor Nash said he did some outreach to both the Chamber of Commerce and Downtown Northampton Association (DNA). DNA Executive Director Amy Cahillane said it doesn't seem like this is going to be such a big deal and that it won't be too impactful for somebody already constructing a very large parking lot. "Basically, there is going to be no pushback from the business community," he suggested. At a recent hearing for an underground storage tank at a gas station, owners were talking about doing exactly this to attract customers. "The charging is something that will bring in customers," he observed.

In addition to encouraging Northampton residents to come and charge, they want to encourage people coming from farther distances to shop here, Councilor Sciarra added.

Councilor Thorpe moved to close the public hearing. Councilor Sciarra seconded. The motion passed unanimously 4:0 by roll call vote. The hearing was closed at 5:50 p.m.

Councilor Maiore moved to positively recommend the ordinance as amended by the Planning Board. Councilor Thorpe seconded. Ms. Misch clarified that the change was to consolidate the subsection to one paragraph and change the threshold from 25 to 15 spaces. **The motion passed unanimously 4:0 by roll call vote.**

4. Items Referred to Committee

A. 21.338 An Ordinance Relative to a Stop Sign on Cross Path Road, referred by City Council - 10/7/2021

Councilor Dwight changed the order of the agenda to move up the stop sign on Cross Path Road.

Councilor Sciarra moved to forward the order with a positive recommendation. Councilor Thorpe seconded.

Some trees and vegetation were cleared on Riverbank Road adjacent to the Connecticut River this past August, Director LaScaleia advised. The clear-cutting is an entirely separate matter and the DPW is not handling its enforcement. She did have a conversation with multiple city departments about an appropriate response from a public safety standpoint. Interestingly, the trees and heavy underbrush that grow on the embankment had created something of a natural barrier in case an errant vehicle happened to leave the roadway. She conferred with the police and fire chief and determined that, in the interest of temporary public safety, they needed to put some barricades there until they could more fully assess what is needed

to let vehicles approaching the intersection know that they need to stop and look left and right. Once underbrush was removed from that embankment there is a really clear path to the river for a driver who may be distracted or impaired in some way. Workers put a temporary barrier there until could they could come up with another solution. They vetted the intersection to see if it met stop sign or guardrail warrants and were concerned about sight lines. There are a lot of different warrants for a stop sign, some based on volume and some based on roadway hazards. In their engineering judgment, having a roadway with a 10-foot drop to the river meets a warrant to install a stop-controlled intersection, so that is what is proposed.

They will also be increasing the size of the left-right arrow to clearly indicate to drivers that they have to go either left or right. The ordinance was positively recommended by the TPC, she confirmed.

The stop sign is for people on Cross Path Road entering the t intersection, Councilor Dwight clarified. He said he takes Director LaScaleia's point - once upon a time there were trees there and now there's just darkness.

Councilor Sciarra asked if there will be guardrails.

Director LaScaleia said no; guardrails are generally used for side to side collisions as opposed to head on impacts. She thinks warning signage is appropriate in this case.

Her concern would be whether that signage would be sufficient to keep an impaired driver from going over, Councilor Sciarra volunteered.

She doesn't think anything but a physical barrier would keep someone from going over the edge, Director LaScaleia responded. For the temporary barrier, she had to make a decision in the moment in consultation with police, fire and conservation, she reiterated.

Alexis thanked the director for the explanation and said she is not opposed to a stop sign. There is some underbrush at the corner that infringes on visibility for drivers stopping and trying to look right, she shared. She was mostly trying to understand why that choice was made instead of a guardrail. She asked if there are any plans to replenish the growth that was previously on the bank.

Attorney Seewald said he has been working with Sarah LaValley of the Conservation Commission to draft an enforcement order and has drafted a complaint to be filed in court. They are going to give the landowner another chance after reading the complaint to comply with the enforcement order. So far the landowner has ignored all of the deadlines, he related.

Living on the riverbank side of the road, she personally is very concerned about erosion issues there and maintaining the integrity of the bank, so she appreciates that information, Ms. Neubert said.

Councilor Nash thanked Alexis for showing up and voicing what a lot of people have said. There is universal dislike of the cement barriers. He asked if once these measures are implemented the cement barriers will go away.

Yes, Director LaScaleia confirmed. They are really there as a stop-gap measure. Until she can actually get some signage up, she doesn't feel comfortable removing the barriers.

As Alexis was sharing, the property on the right hand side has a lot of growth that impacts the ability to see to the right, Councilor Nash agreed. As drivers approach the intersection from the east, it is hard to see a vehicle coming. His request to the DPW is to reach out to the property owner to see if the brush can be removed.

Director LaScaleia said there are some right-of-way issues there as the growth is not on city property. The property line and the road are one and the same there. They may not have the ability to force any action. They will have to carefully place the signage if they are not successful in convincing the property owner to remove the vegetation.

Councilor Nash asked if there is striping to denote travel lanes through the intersection. Director LaScaleia said she would do a stop bar and an approach to that stop bar on Cross Path Road.

Councilor Nash mentioned other general concerns constituents asked him to report, including concern about different activities going on in the road at different times of day, such as bird watching and traffic to and from the Meadows.

The motion passed unanimously 4:0 by roll call vote.

B. 21.335 An Ordinance Relative to Stop Signs on Evergreen Road and Chestnut Avenue, referred by City Council - 10/7/2021

Councilor Dwight said it looks like the ordinance is proposing a three-way stop.

After the development of Chestnut Avenue Extension and Beaver Brook Route, both of which are privately owned, there were ongoing concerns that she worked on with former Ward 7 Councilor Alisa Klein and, more recently, Councilor Maiore, about near misses in this area, Director LaScaleia reported. The city engaged Fuss & O'Neil to do traffic counts and turning movements. There is not a lot of volume here but the roadway geometry creates a hazard. Because they are dealing with a private way they are not proposing a four-way stop sign, just a three-way. They will ask the homeowner's association to allow the existing stop sign to remain and the DPW will install new stop signs on the public roadways.

Councilor Dwight noted that the stop sign on Chestnut Ave. extension is privately owned. He asked if it is enforceable by the city.

Violations would not be enforceable by the city, but failure to stop would be evidence of negligence and so would be relevant in an accident situation, Attorney Seewald advised. It is not something Northampton traffic enforcement officers would have the ability to enforce.

Councilor Maiore thanked Director LaScaleia for being so responsive to the concerns of the residents. A lot of young kids walk down to Leeds Elementary School so the nature of the intersection has led to a lot of scary experiences for parents.

Councilor Sciarra moved to forward the ordinance with a positive recommendation. Councilor Maiore seconded. The motion passed unanimously 4:0 by roll call vote.

C. 21.336 An Ordinance Relative to Off-Street Handicapped Parking Spaces, referred by City Council - 10/7/2021

The ordinance is to establish handicapped spaces at various recreation areas in the city, including Florence Fields, Sheldon Field, Maine's Field, Arcanum Field, Musante Beach and Smith Vocational and Agricultural High School (SVAHS) fields, Councilor Dwight advised.

Councilor Sciarra moved to forward the ordinance with a positive recommendation. Councilor Thorpe seconded.

Councilor Maiore reminded members that Councilor Foster requested amending the language as part of a positive recommendation.

Councilor Dwight said the only time 'handicapped' appears is in the title as far as he can tell. It appears in the name of Schedule XVI and in Section 1B but these are part of the overall code changes being addressed by Attorney Seewald. **Councilor Sciarra moved an amendment to change the title. Councilor Thorpe seconded. The motion passed unanimously 4:0 by roll call vote.**

Councilors stated their assumption that this came out of the planning office and was therefore reviewed by the Disability Commission. Councilor Nash said he believed it originated in the Bike and Pedestrian Committee but would seek confirmation of this before it goes to council.

The motion to approve the ordinance as amended passed unanimously 4:0 by roll call vote.

D. 21.337 An Ordinance Relative to Parking on Main Street, referred by City Council - 10/7/2021

Councilor Foster's request is to modify the language of this ordinance also to make it more compliant and relevant, Councilor Dwight noted.

Councilor Sciarra moved to forward the ordinance with a positive recommendation. Councilor Thorpe seconded.

This change to the downtown parking regulations has to do with eliminating an obvious danger, Councilor Nash explained. Main Street has angled parking and, at times, when backing up out of a space drivers are backing into a crosswalk. This is something Parking Administrator Nanci Forestall has been wanting to change for years. They are eliminating parking spaces where this danger exists for overall pedestrian safety.

Councilor Dwight expressed his understanding that the word 'handicapped' is actually embedded in the code and therefore not within their purview to change until it is changed holistically.

Attorney Seewald confirmed the title is the title of a section of the code but said he's not sure they couldn't recommend it be changed. He is fairly certain it's going to be one of the changes referred by Councilor Foster and Keith Benoit.

Councilor Dwight said it seems strange to him that they would change a section of the code so that it would no longer conform to other sections. The only reference to 'handicapped' is the title to Section 312-117, he noted. He said he for one would like to err on the side of caution.

Councilor Maiore said she has full confidence they will change this language with due haste so she doesn't personally feel the need to do it right now. She said she would agree to err on the side of caution. She asked if anything could be put in the place of the space such as bike racks.

Councilor Dwight agreed delivery trucks and regular drivers might otherwise have trouble resisting the temptation to park there. He thinks it would be appropriate to have some kind of deterrent to prevent this.

Councilor Nash said he will look into where new handicapped spaces will be added to replace those being eliminated.

There being no further comments, **the motion passed unanimously 4:0 by roll call vote.**

5. **Approval of Minutes of October 4, 2021**

Councilor Sciarra moved to approve the October 4, 2021 minutes. Councilor Thorpe seconded. The motion passed unanimously 4:0 by roll call vote.

E. **21.349 An Ordinance Relative to Parking on Meadow Street, referred by City Council - 11/4/2021**

Councilor Sciarra moved a positive recommendation. Councilor Maiore seconded.

There is already a parking restriction on the north side of Meadow Street, so folks have been pulling off the road and parking on the south side, Director LaScaleia explained. As she has discussed with Councilor Maiore, the ground there is getting quite compacted. Since this is a flood zone, it is important for water to be able to infiltrate the soil. As part of this project, the DPW created an infiltration trench to allow water to drain off the surface of the roadway and a paved area for people to park to provide a stable off-street parking area to reduce damage to the flood zone. They want to keep people away from the utility poles and avoid damage to the new infiltration trench, so they have created a designated nine-space parking area.

Councilor Maiore said she fully supports the director's thoughtful design.

The motion passed unanimously 4:0 by roll call vote.

6. **Adjourn**

Councilor Sciarra moved to adjourn. Councilor Maiore seconded. The motion passed unanimously 4:0 by roll call vote. The meeting was adjourned at 6:36 p.m.

Prepared By:

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