



## **ORDINANCE REVIEW COMMITTEE**

### Members

*Councilor John Thorpe, Chair  
Megan Paik, Citizen, Vice-Chair  
Councilor Marianne LaBarge  
Councilor Jim Nash  
Jeff Napolitano, Citizen*

### MEETING MINUTES

Date: March 15, 2021, Time: 5:30 p.m.

### **Virtual Meeting**

1. **MEETING CALLED TO ORDER/ROLL CALL:** At 5:31 p.m., Councilor Thorpe called the meeting to order. On a roll call, the following members were present: Councilor John Thorpe, Councilor James Nash, Councilor Marianne LaBarge, Member Jeff Napolitano and Member Megan Paik. Also present were City Solicitor Alan Seewald, City Councilor Alex Jarrett and Administrative Assistant Laura Krutzler.
2. **ANNOUNCEMENT OF AUDIO/VIDEO RECORDING**  
Councilor Thorpe announced that the meeting was being audio/video recorded.
3. **PUBLIC COMMENT**  
Councilor Jarrett said he wanted to appreciate the committee for delving into a number of these topics even though there are a number they couldn't ultimately recommend for change. As the sponsor of the amendment to the resolution encouraging this focus on marginalized communities, he is very glad to see this work undertaken. He understands many actions and potential ordinance changes are outside of the scope of the legislative branch. In looking at the first draft of the committee's report, he offered the following suggestions:
  - ❖ Having a broader discussion in the report about the topics covered to provide more context. He thinks this will assist the council, the mayor and the community in understanding the work that needs to happen on levels other than the local legislative body, he said.
  - ❖ Reviewing the expected impacts of ordinances the committee is recommending; i.e. – explaining why they are making the recommendations they are making.
  - ❖ Using the word 'historically' instead of 'traditionally' in describing marginalized communities.
  - ❖ Defining historically-marginalized communities so the reader has an idea of what groups they have considered in the process.

He commended the committee on its great work, adding that he very much looks forward to the final report.

4. **APPROVAL OF MINUTES OF MARCH 1, 2021**

Councilor Nash moved to approve the minutes. Councilor LaBarge seconded.

Member Paik reviewed some minor changes, including insertion of the following sentence in the last paragraph on pg. 6: "He [Councilor Nash] is supportive of having a narrative around our recommendations."

The motion passed unanimously 5:0 by roll call vote

## 5. FINAL DISPOSITION OF TOPICS ALREADY REVIEWED

- ❖ **Bucket No. 1 – Housekeeping Changes**
- ❖ **Ordinances Reviewed for Impact on Marginalized Communities**

Ms. Krutzler screen-shared bucket #1.

Members reviewed the housekeeping changes. Councilor Thorpe said the spreadsheet would remain on the agenda for the next two meetings in case further changes are needed.

Attorney Seewald noted that Jackie Balance's recommendations for a 'Fit' test for Equity, Environment and Economy for new housing and for a cap on the size of new single-family homes were not included on any of the lists.

Members decided to place the two proposals on the agenda for the next meeting for discussion. Mrs. Krutzler said she would have the minutes of February 22<sup>nd</sup> for review so members could refresh their memory as to their previous discussion.

Mrs. Krutzler screen-shared the spreadsheet "Ordinances Reviewed for Impact on Marginalized Communities."

## 6. DISCUSSION OF MATTERS REFERRED TO PLANNING BOARD

- ❖ **Expanded Notification for Zoning Map Changes - §350-3.5 and §312-51**
- ❖ **Towing of Vehicles Impeding Snow Removal Operations (Planning Board input sought on larger issue of parking requirements potentially contributing to increased parking pressure on city streets by not requiring sufficient off-street parking)**

Councilor Nash said he spent about an hour with the Planning Board discussing these proposals. He shared some of the key points of their discussion. He is in the process of pulling together a report, he said.

Office of Planning and Sustainability (OPS) Assistant Director Carolyn Misch framed the discussion by saying planners don't want to create more parking lots. She noted that data shows there are fewer cars per unit in the urban core and that the city is not interested in encouraging more paved parking areas. She mentioned that problems often occur around pre-existing nonconforming properties; in other words, older properties where current parking requirements do not apply. For apartments being built today, zoning requires two parking spaces. For legacy properties, owners can get away with having less onsite parking.

Planning Board members offered the following ideas for mitigating problems related to towing:

- ❖ **Publicizing seasonal messages around snow emergencies, parking restrictions and snow removal.** Councilor Nash said he thought this was a great idea. This could come from the executive branch,

but they could all pick up on reminding residents to be prepared to shovel sidewalks and not park on the street.

- ❖ Instituting a reduced fee for first-time offenders
- ❖ One member vehemently advocated for more parking enforcement across the city.
- ❖ Putting together a renter's folder with important information. (He talked to Community Action Pioneer Valley (CAPV) staff when they came in for a Community Resources meeting and they weren't too keen on taking the lead on this project, he shared.)
- ❖ Designating 'Guerilla' or pop up parking lots. On a neighborhood level, residents could temporarily allow parking on private property for snow emergencies.
- ❖ Asking Northampton Police Department (NPD) where such towing occurs and better communicating with residents in that area.

As a result of the discussion, Councilor Nash suggested the following possible actions:

- ❖ Asking the Mayor to ask NPD to consider reducing its fee. Also asking the executive to work with the vendor to negotiate a less costly fee.
- ❖ Finding a community organization to assemble a digital folder to include parking information

Members noted that the bulk of towing charges come from the tow itself and vehicle storage. Attorney Seewald reminded members that the administrative fee is under the control of the in executive branch. It is something they could urge the mayor to do, he allowed. He agreed with Ms. Misch that the problem is probably more associated with older, established, in-town nonconforming buildings with rental units. Most new units have two parking spaces, although some units on Pleasant Street have no parking whatsoever. It was a concern of the Union Station owner that residents would use the Union Station parking lot, he reminded.

Councilor Nash said he looked into that and hasn't heard any complaints from people feeling displaced. He was really surprised by that because some people did lose parking in the former Depot lot. He thinks most people who moved into the building were informed that they weren't going to have parking and so were resigned to that fact.

Councilor Nash said he would draft something with the last three recommendations.

Member Paik asked how they would fit this into their final report since, as presently organized, it is divided into positive and negative recommendations.

Attorney Seewald said perhaps it needs a third category, subjects recommended for study. Member Paik said she thought that would be really valuable. Signs could also be placed in that category, he suggested.

For towing expenses, Member Napolitano asked if the idea of taking someone's ability to pay into consideration had ever been discussed. The cost of towing will affect somebody making \$30,000 a year way differently than somebody making \$150,000, he observed.

Attorney Seewald asked if he was expecting people to fill out a financial disclosure. A person's ability to pay depends on more than just income since someone making \$30,000 might also have income from a trust fund. This is a really slippery slope which he is loathe to recommend city departments trying to administer.

He thinks it would also raise equal protection concerns. The idea is to discourage people from not moving their car in snow emergencies. He understands the concept but he does have concerns about it.

This has come up before in discussion of false alarms, Member Paik reminded. Another possibility would be finding a way to selectively alleviate disproportionate impacts by enforcing less if particular areas of town are especially impacted. She feels very supportive of the idea of waiving the first offense for a tow and having a lot more community education around towing, she stated.

As long as councilors on this committee assure them there will be an appropriation to pay Ernie's for all first tows, he doesn't have a problem with a 'get out of jail free' card on the first tow, Attorney Seewald said. It would be for everyone, so it is a little different than what Member Napolitano is suggesting.

Councilor LaBarge asked why owners are not communicating, sharing information and giving tenants instructions about where they should be parking when it is snowing.

Attorney Seewald said it's because owners are not obligated to provide parking for when it's snowing.

Couldn't they advise them there could be a problem with towing and provide suggestions of where to park? Councilor LaBarge pressed.

Councilor Nash agreed a communication issue is often embedded in this.

Councilor LaBarge agreed there should not be a fee for first offenses. This has been going on forever; as long as she's been a councilor, she confirmed.

It's an issue of keeping people fully informed and giving them options for places to park their cars during snow emergencies, Member Paik noted. The city has to work on both issues.

The city does have a snow emergency lot, Attorney Seewald noted.

But, it's not accessible to many people, Member Paik countered.

Councilor Nash said he would add members' input to his report/recommendations and they could decide where it belongs at next week's meeting.

### **EXPANDED NOTIFICATION FOR ZONING MAP CHANGES**

Councilor Nash shared highlights of this discussion with the Planning Board. The subject of notification for zoning map changes overlapped with the subject of notification for permit applications, he reported.

Ms. Misch said that the yellow signs placed at project sites have worked effectively, and he shares that perception. She also noted that people complaining about lack of notification often make this statement at a hearing, so they've obviously heard about it in some way.

Planning Board members offered the following ideas:

- ❖ For mailings, developing a certified abutter's list for permit applications. This would generate a list of people within a defined buffer zone.

- ❖ Developing a mailing list for residents based on addresses, i.e. - occupant at 40 Smith Street. It's not necessary to have the name of the resident to inform them, he noted.
- ❖ Increasing the use of listservs for resident notification
- ❖ Seasonal messaging around zoning changes. "We seem to have a zoning season," Councilor Nash observed. They could just let people know that, if they are interested in tiny houses or two-family by right, they should watch for it in the spring.

PB Member Marissa Elkins strongly agreed with Attorney Seewald's position that it not be made into an ordinance since it would make things difficult for the city if notification wasn't handled properly. It could derail the whole hearing process.

Councilor Nash proposed the following possible actions:

- ❖ Having the mayor issue an executive order for courtesy notifications to be sent to abutters and residents when there are zoning map changes. Since it would be coming from the mayor as a courtesy it wouldn't have the weight of an ordinance and would be pretty much like the yellow signs.
- ❖ Developing a mailing list for residents where individual names are not used or needed but notice is sent to 'resident.' It could be postcard notification.
- ❖ Putting the responsibility for abutter notification for Planning Board special permits on the project developer.

That's not right, Councilor LaBarge and Attorney Seewald interjected. Under state law, the Planning Board/city is required to send out the notice although the developer must pay the cost. If it is a courtesy notice, they could require the developer to do it. Statutory notice is sent by the city, and it has to be, he clarified.

The overall goal is to let all residents within the notification zone know, whether they are property owners or renters, Councilor Nash explained.

Of course, the problem is that the city doesn't know who renters are because they don't have rental registration, the solicitor reminded.

The way information about zoning map changes gets to residents is often councilors, Councilor Nash advised. He will bring a report to the next meeting for formal action by the committee, he confirmed.

He is backing down from the position of 'we need an ordinance,' Councilor Nash volunteered. It looks like there are other avenues and that's what they want to recommend.

### **SIGN ORDINANCE**

Members discussed the need for revision to the sign ordinance to comply with the recent Supreme Court decision that signs cannot be regulated based on their content.

Councilor LaBarge moved to recommend that the ordinance be added to the list of items recommended for further study. Member Paik seconded. The motion passed unanimously 5:0.

### **COMMERCIAL BUFFER ZONE**

The building commissioner has said his interpretation is that the ordinance prohibiting activities during certain hours of the day can be enforced in any zone where there are residences, Councilor Nash reported. He sent him an email late last week asking him to clarify this in writing. If it is clear to the commissioner, councilors can convey to residents that they don't need a new ordinance because this is already in place.

Members noted that the ordinance citation (§312-25) needed to be added to the spreadsheet.

The solicitor said he would be interested in seeing Commissioner Flagg's interpretation of this. Councilor Nash said he would resend the email to Commissioner Flagg and cc' Attorney Seewald.

## **7. PRESENTATION AND DISCUSSION OF FIRST DRAFT OF FINAL REPORT**

Members reviewed changes to the draft forwarded earlier in the day by Member Paik.

Councilor Nash said he liked the language Member Paik has added. Attorney Seewald thanked her for the changes, noting it is a definite improvement.

Attorney Seewald suggested deferring final approval of all documents until the last meeting and adopting them in final form at that time. Mrs. Krutzler asked if she should incorporate the changes into the master version, and he said it was up to the committee. Member Paik suggested leaving changes in red.

Member Paik wondered aloud whether they should add anything to the report. She referred to Councilor Jarrett's comment that contextualizing their work is important. There are various misconstrued definitions and ideas that she would like to clarify in the report. The city's latest comprehensive plan, the Climate Resilience and Regeneration Plan, starts with definitions of resiliency, she pointed out. Similarly, she feels like they should somewhere talk about what an ordinance is.

Given that they themselves have questioned what an ordinance is and isn't, he thinks it would be useful to define the term, probably most importantly what an ordinance isn't, Member Napolitano agreed.

The first question is to whom the report is directed, Attorney Seewald suggested. His understanding is that it is directed to the City Council and the mayor. He really doesn't have an objection but the reason he didn't start that way is he is assuming that the target audience knows what an ordinance is and isn't. He would be happy to add a definition. He didn't see it in the charter report or earlier ordinance report.

She thinks they actually should take a broader view, Member Paik suggested. They shouldn't be limited to the cast of characters in March of 2021. City government is changing and will look very different this time next year, she pointed out. She feels like a lot of things they touched on are really valuable as community education. She doesn't think they should limit themselves. Their esteemed colleague Councilor LaBarge wanted to clarify what's really meant by affordable because people conflate subsidized affordable with market-rate affordable. They are important points and also relevant to their recommendations. She said she would take a shot at drafting it.

Councilor Nash said he'd love it if she took a shot at a draft. Yes, they are reporting to the mayor and council but the hope is that maybe the paper picks up on it and interested people will read it. Having a little additional information to guide readers through is an interesting idea.

She isn't offering because she relishes the extra work. She is painfully aware that she is one of the two resident volunteers on this committee who is not on the city's payroll, Member Paik reflected.

She asked if she could submit drafts to Ms. Krutzler as they are written. Councilor Nash said he would love to team up on writing this but the size of the committee constrains them from operating in groups.

If the committee officially charged two members with a task, it would be considered a subcommittee, Attorney Seewald said. However, two people taking it upon themselves to share information is not the same thing since two people are not a quorum, he clarified.

Member Paik said it will be done and shared as far in advance as possible. Attorney Seewald said he would make himself available if she needs any help.

### EXHIBIT A

Mrs. Krutzler screen-shared and members reviewed Exhibit A, Ordinances Recommended/Not Recommended for Adoption.

Member Paik said she would like to enrich the recommendations more. They had a fairly rich discussion of the two-family proposal at the last meeting. She would like to include a summary of what they thought were the strengths of that set of ordinances and why they were recommending them with reservations while they were recommending the other two enthusiastically.

She doesn't necessarily want to discuss it now without anything in writing but she shared her confidence that she could strengthen the recommendations by pulling from things members have said in previous meetings. She referred to thoughts expressed such as the fact that 1) housing demand is cyclical, 2) a low stock of houses drives up cost, 3) they want to be ready with a stock of houses when the market turns/adjusts and 4) demand for larger houses might be temporary as ideas she would like to include. She also mentioned the idea that building houses with shared walls increases the affordability, efficiency and flexibility of the structures as rentals.

That's pretty much what Councilor Jarrett brought up earlier about a broader discussion of the context and impacts, Councilor Thorpe said.

Councilor Nash said he would make a point of reviewing the recommendations for next time with this point in mind.

Attorney Seewald said he is happy to review further. He was guided by §1-15.1, which calls for a report summarizing the committee's recommendations and any proposed revision of the ordinances contained therein. He approached it with the idea that members would be appearing before the council to explain why they did what they did. They might recommend further study of the ordinance providing for the ordinance review itself. That is what was guiding him and why he made brief recommendations, he explained.

Councilor Nash said he thinks councilors will be interested in an overview of how they arrived at their recommendations. They will also want to know how come they're not coming up with huge changes. He thinks it is a fair question and that it would be good for them to walk through that.

Member Paik wondered if they wanted to state in their report how they were limited by parameters such as the six months of their existence and what came to them 'across the transom.'

Attorney Seewald said he thinks that is inherent in all reviews because they're all six month reviews. That is why every one of them has had a very narrow focus.

8. **ADJOURN**

Member Paik moved to adjourn.

Councilor Nash added that the investigation started here needs to keep going. The scrutiny needs to continue to be applied to all matters before them and to all legislation that comes before council. He thinks there's an ongoing recommendation to be thoughtful and mindful as they go forward.

And that considering historically marginalized communities should not be exclusive to this committee but should be the mindset of the Mayor and City Council going forward, Attorney Seewald added.

Councilor Nash seconded. The motion passed unanimously 5:0 by roll call vote. The meeting was adjourned at 7:20 p.m.

Respectfully submitted,

Laura Krutzler, Administrative Assistant  
Northampton City Council