



City Council Committee on Legislative Matters

Members

Councilor Alex Jarrett, Chair

Councilor Marissa Elkins, Vice Chair

Councilor Stanley Moulton, III

Councilor Jim Nash

MEETING MINUTES

Date: August 14, 2023, 5 p.m.

Council Chambers, 212 Main Street

Northampton, MA

Hybrid Meeting

1. **Meeting Called to Order and Roll Call:** At 5:01 p.m., Councilor Marissa Elkins called the meeting to order, noting that the regular chair, Councilor Alex Jarrett, was unable to be present. On a roll call, the following members were present: Councilor Marissa Elkins, Vice Chair; Councilor Stanley W. Moulton, III and Councilor Jim Nash. Councilor Jarrett was absent. Also present were Climate Emergency Coalition member Adele Franks, Northampton Energy and Sustainability Commission (NESC) member Louis Hasbrouck and Administrative Assistant Laura Krutzler.
2. **Announcement that Meeting is Being Audio/Video Recorded**
Councilor Elkins announced that the meeting was being audio/video recorded.
3. **Public Comment**
Councilor Elkins opened the floor to general public comment on matters other than those listed on the agenda. She noted that no members of the public were present in Council Chambers and there were no comments from those participating remotely.
4. **Approval of Minutes of April 10, 2023**
Councilor Moulton moved to approve the minutes of April 10, 2023. Councilor Nash seconded. The motion passed unanimously 3:0 by roll call vote with Councilor Jarrett absent.
5. **Public Hearing/Community Forum on Adopting Massachusetts Municipal Opt-in Specialized Stretch Code**
 - A. **23.337 An Order to Adopt the Massachusetts Municipal Opt-In Specialized Stretch Code, referred by City Council - 6/15/2023**
Councilor Elkins opened the public hearing/community forum on the order to adopt the opt-in specialized stretch code.

Adele Franks screen-shared a Powerpoint presentation. She is a retired public health physician and not an energy code expert but she has been closely following the state's efforts to revise the building code and encouraging Northampton to adopt the opt-in specialized stretch code, she related.

For context, back in 2021, the legislature passed an act entitled 'driving clean energy and offshore wind' which required a net zero building code or stretch code, she advised. Governor Baker objected to that and vetoed the bill and negotiated a compromise such that the net zero stretch code would be voluntary, not mandated. He then asked the Department of Energy Resources (DOER) to create such a code and DOER developed a new stretch code and opt-in specialized stretch code that municipalities could choose but are not required to adopt. The fact that neither of them is actually net zero is apparently beside the point because the legislature got tired of arguing with the administration and just accepted it.

Massachusetts now has three building codes: the base code, the stretch code and the opt-in specialized stretch code. The new stretch code represents big changes from the previous stretch code in terms of energy efficiency (HERS requirements, ventilation requirements, EV chargers, etc.) and is a major upgrade. Green communities have always been required to adopt the stretch code so, in this case, they will automatically be required to adopt the new stretch code, which is quite a change from the old. Northampton has always been a green community, as over 82% of communities in Massachusetts are, so it must adopt the new stretch code and it will be fully in effect in July of 2024. They can if they decide adopt the new opt-in specialized stretch code which will then become effective six months after adoption.

The Northampton City Council is considering adopting the opt-in specialized stretch code, she clarified. The big question is what are the differences between the new stretch code which they are obligated to follow and the opt-in specialized stretch code, which they can choose to adopt? She suggested.

It turns out that, for single-family residences less than or equal to 4,000 square feet, both the stretch code and the opt-in specialized stretch code provide two pathways that are virtually identical. All electric construction or passive house certification require a HERS rating of 45 while those homes built with mixed fuels (which in Northampton's case means propane because there is a moratorium on new gas hook-ups) require a HERS rating of 42. The higher HERS rating which is easier to achieve for all electric construction is intended to make it easier to build all electric because the state recognizes the need to transition to all electric.

For single-family dwellings less than or equal to 4,000 square feet with mixed fuel heating systems, the opt-in specialized stretch code (OSSC) has two additional requirements not contained in the stretch code green communities are required to adopt. Under the OSSC, single-family homes constructed with mixed fuel heating systems must have rooftop solar unless there is significant shading or other factors that make it not feasible and must be pre-wired for eventual electrification. Both could be seen as consumer protection measures because rooftop solar will reduce electricity bills for consumers and being pre-wired will reduce the cost of the transition which will eventually be required of all home in Massachusetts. For new construction that is all electric, the stretch code and opt-in specialized stretch code have the same requirements, she stressed.

Under the opt-in specialized stretch code, multi-family homes over 12,000 square feet must meet passive house standards and be pre-wired for electrification if built for mixed fuels.

Dr. Franks showed the list of communities which have already adopted the OSSC, representing 18% of Massachusetts' population. All are in the eastern part of the state, but communities in the central and western part of the state are considering it, including Northampton.

Why adopt? Massachusetts has committed to being fossil fuel free and has to make substantial reductions (50%) in emissions by 2030 so all buildings will need to be converted to all electric. To get there, new buildings especially will need to be more energy efficient and produce renewable energy to offset the electric loads of their buildings.

The opt-in specialized stretch code prepares buildings for the inevitable all-electrical future and saves on the future cost of conversion by requiring all electric construction or pre-wiring. It also prepares Northampton for the fossil-fuel free pilot recently requested by home rule petition since, in order to be considered, adoption of the OSSC is required. It also encourages all electric construction, which will produce healthier buildings which are less expensive to run.

Ms. Franks offered to entertain questions and Councilor Elkins opened the floor to comments and questions from the public.

Johnny Scarborough, Garfield Street, Florence said he did an upgrade to his house a few years ago, at which time he met the stretch code and put in high-efficiency boilers. He was told he couldn't put solar on the roof because of trees in front of his house which are on city property. The solar company wouldn't go to the city and say he wanted to put solar on but can't. If in the future he has to replace his current boiler, he is wondering what all these cost are going to be to him. Now, his gas stove only costs \$96 a month and his electric bill is very low. Is he going to be forced to go all electric? He asked. He is currently gas, he said.

Eric Broadbent of 264 Old Wilson Road thanked Adele Franks. She mentioned mixed fuel would be propane because Northampton has a gas moratorium. He asked if oil is off the table? (Councilor Maiore shook her head 'no.')

It might be hard to achieve the HERS rating with oil, Dr. Franks suggested.

Mr. Broadbent said his house is HERS rated but he is not sure how it is affected by the heat.

Louis Hasbrouck agreed that energy code changes are inevitable and said he supports the idea of reducing greenhouse gases. That said, the current energy code is very, very complicated and beyond what a lot of contractors can understand. He has no idea what the phrase 'enthalpy recovery ratio' in the one- and two-family residential energy code means. As he goes through the code, he's spending a lot of time going back and forth. The building code itself has traditionally been evolutionary with some editions having more changes than others but he thinks people are going to have some difficulty with this change. He knows a lot of the resistance from contractors is that they don't understand it. The state has given responsibility for the planning and design of the energy code to a lot of people who aren't used to dealing with it.

"You can't build a new house without having a HERS rater help you design the energy efficiency aspects of it," he noted. Along with HERS raters they have added two more approval agencies which both have something to do with passive houses. People are now going to be going to people they don't know and having things presented to them in language they don't necessarily understand. That's his biggest issue with the stretch code. He thinks it is important to provide a public source of information for dealing with the

code, whether it be through DOER or the Board of Regulations. In some ways, it is a transitional issue. Five years down the road, people will understand all this stuff but right now they don't. That is why there is a lot of resistance on the part of contractors and building officials. He built a house in 2003 and put in extra insulation, solar panels on the roof and air-source heat pumps. Even with the solar panels, his electric bill and energy costs are significantly higher now than they were when he had oil and he spent a lot of money on the HVAC system and solar panels. He worries that people less affluent are really going to struggle.

Again, it's necessary, he stressed. It's necessary to figure out how to cut down on greenhouse gases. If they build to the standards of the current stretch code they will have efficient houses but they'll be expensive and expensive to live in and that concerns him. He wishes they would put an upper limit on the size of houses because what's important is the total cost of energy to live in a house as opposed to the total cost of energy per square foot, he suggested. For this reason, he would encourage some kind of zoning to encourage smaller houses and potentially even to restrict larger ones.

Councilor Elkins asked about the evolution of the stretch code. She hears that it is going to evolve and change and she asked what the process for that is.

The current MA building code is the 9th edition and they have been trying to promulgate the 10th for years, Mr. Hasbrouck advised. The 9th edition is based on 2015 and 2018 International Code Council (ICC) model codes. The stretch code is based on the 2021 International Energy Conservation Code (IECC) model code. The 10th edition of the state building code will go to the 2021 IECC model code.

It will change again in January and July of 2024. Some of the conflicts between various editions depend on which book you look at. Even in an optimal situation, once the 10th edition is promulgated, they will be looking into the MA building code and it will refer them to one of the model codes with a couple of hundred pages of amendments. The stretch code will direct them to the IECC code and various versions of DOER stretch codes.

They are going to spend time administratively sorting out the conflicts in the various codes, he suggested. There are a lot of direct contradictions in the codes, he asserted.

Ultimately, it appears that DOER has taken the lead on writing the energy codes which are incorporated into the building codes. It seems clear that DOER in consultation with the Board of Building Regulations will be the ones to tweak the energy code to make it match up with the building code.

The old stretch code lasted about 10 years, he noted

Public Comment

Following the presentations, the Legislative Matters Committee had a wide-ranging, animated conversation with extensive public comment from local residents, contractors, climate change activists and a former building commissioner. Participants included **John Handzel of East Longmeadow, Eric Broadbent, 264 Old Wilson Road, Johnny Scarborough, Garfield Street, Anthony Patillo of Autumn Drive, Barbara Rakaska, Denise Lello, 35 Woodlawn Avenue.**

He is building all of his houses right now fossil fuel free, **John Handzel** reported. He's not doing it because he believes in it; he's just doing it to appease the planning department and some other people. He'd like to know where Adele Franks is getting the numbers that it is less expensive to run all electric. He found some

bills from last winter for a well-insulated house on Riverside Drive that were astronomical and no one was going in the house, opening the refrigerator, using hot water or running the stove or dryer. How do you people figure that it's more economical to go electric? He asked.

The city has carbon goals to meet so pre-electrifying and not having to retrofit is going to be cheaper, Councilor Maiore responded. In order to decarbonize they need to decarbonize buildings. This is the clearest path to zero emissions and to meeting local and state climate regeneration goals.

That all sounds pretty, but do you know what it costs to build like this? He persisted. Everybody wants affordable housing but this drives up the cost.

Eric Broadbent, 264 Old Wilson Road, weighed in on the dispute as to whether all electric houses are cheaper to operate and concern that they are more costly to build. As far as the cost of electricity vs. other fuel sources, last year it happened to be cheaper to heat with natural gas than with electricity because of the market, he pointed out. The market anticipated a huge shortage of electricity so electricity prices went way up. Natural gas ended up not having a supply shortage and stayed cheap. The efficiency and cost of electricity can't be measured by the past year, he stressed. However, the concern about the cost of building with higher insulation value is legitimate and there is a cost to the wiring, he confirmed.

What opponents are not taking into consideration is the environmental cost. If they look at what happened in Hawaii, they can see that multi-million dollar issues are brought about by having increased carbon levels in the atmosphere.

When he renovated his house about eight years ago, it was upgraded to the stretch code with 16 inches of insulation, six-inch wall construction, etc., **Mr. Scarborough** advised. He has friends in Florida with all-electric houses 400 square feet smaller than his who are running the air conditioner for \$65 a month. Here in New England, even with gas heat and LED lighting, his electric bill is \$90 to \$125. The cost of operating a house with electricity is far more here than in a lot of other areas, he asserted. He doesn't know how people will be able to continue to live here.

Councilor Elkins recognized the mayor's presence.

Mr. Handzel asked how many of the councilors have ever built a house. He doesn't think any of them have and neither has Adele, the one with all the facts and figures. He has a bunch of people telling him what to do and how to build a house who have never done it.

Adele Franks said she would be happy to provide the studies including a recent homebuilder-funded study showing that it is in fact cheaper to build all electric homes. The homebuilder-funded study was picked up by the newspapers with very misleading headlines but these have since been clarified. What the study found is that the reason the cost of building homes has gone so high is supply chain costs; it has nothing to do with construction being all electric as opposed to mixed fuel/fossil fuel. She would be happy to provide those references, she reiterated.

In the hour-long discussion that followed, councilors and residents freely shared their thoughts and observations and sponsors and proponents dispelled inaccurate information and made a case for the necessity of changing the requirements for new construction and substantial renovation.

Councilor LaBarge shared her family's personal experience of paying three times more for electricity before converting to oil 10 years ago. "Are people being forced to do this?" She asked. "I'm very uncomfortable with this."

What they heard from their building inspector is exactly what people have been saying to her, she related. A lot of people want to know why the city didn't put something in the Gazette letting people know about this meeting. "This is a huge drastic change in our city," she observed.

However, sponsors stressed that the specialized code only applies to new construction and substantial renovation and does not require people in existing homes to replace fossil-fuel heating systems with electricity and/or solar. Also, the difference between the opt-in specialized code and the stretch code the city would automatically adopt is simply an incrementally lower HERS rating and the requirement to add rooftop solar, Councilor Maiore noted. It is actually quite modest and not radically different from the code they already have. The specialized code does not force people to use electricity because it allows for mixed fuel sources. "Unless we want to change our climate goals in this city, we need to do this," she stressed.

Councilor Moulton agreed it is a huge change and commented that possibly wider public notification of this topic would be desirable.

Anthony Patillo of Autumn Drive, Florence, who retired from the city as the building inspector in 2010, said that what he is hearing from contractors and locals is that they want to know what they're up against. When the stretch code first came into effect, prescriptive packages with mandatory components that buildings must meet or exceed to insure compliance were provided. He asked for clarification as to whether fossil-fuel appliances such as furnaces and heaters have to be replaced with all electric appliances.

Compliance can add significant cost, he attested. Also, they are making building envelopes very tight which is good. But if there is a power failure and no air circulation because a home's heat exchanger isn't working, it can create other problems. "The road to hell is paved with good intentions," he observed. They saw what happened in Maui on the west coast and in their neighborhoods with floods. The better they understand what they're up against, the better.

Barbara Rakaska also asked about furnace replacement and whether this will trigger the requirement to go electric. "We do need to know an answer to that," she insisted.

In response to Councilor LaBarge's concerns about cost, **Denise Lello of 35 Woodlawn Avenue** said that, given the timeframe she supplied for her conversion, a lot of progress she may not be aware of has been made since then. They probably were using conduction heat. Electric heat pumps now are very efficient ways to heat and cool a house and, indeed, are the most widely used form of home heating in the state of Maine. The opt-in stretch code focuses on new buildings.

They know retrofits are very difficult. If they don't adopt this new stretch code, they are going to be faced with much higher costs than if they pre-electrify new buildings now, she confirmed. She encouraged people to be thoughtful and think about what they are doing for the future by taking the really small step of adopting this code. Northampton has been part of the stretch codes up until now and there is no reason for them to step back.

Mr. Handzel clarified that he doesn't believe in the stretch code because most electricity is still produced from natural gas. He knows they have hopes and dreams that it's all going to be made out of the sun but that is not currently the case. He does believe in it in the long run; he just thinks it can't be done overnight.

Intermittent Inspector Hasbrouck reminded those present that he opened his comments by saying this is necessary; he doesn't think they have an option. He does believe that, as written, the code is so complicated that a lot of people can't grasp it. In terms of cost, the effect of greenhouse gases on the environment is huge. However, he doesn't think it is fair to say that an all-electric home is less expensive and at the same time to say it's more expensive but the costs are worth spending. He thinks they need to be more straightforward about it.

He echoed Mr. Patillo's idea of providing prescriptive packages for builders and questioned why DOER doesn't provide a check list of measures necessary to achieve compliance. He stressed this is inevitable and former Building Commissioner Patillo agreed.

Adele Franks clarified that the opt-in code is about new construction and not about what people are going to be forced to do in their existing homes. It does not require homeowners to replace existing heating systems with all electric systems unless they are renovating over 50% of the building's square footage.

In response to a question from Councilor Nash, she clarified that the new stretch code is being phased in and will be fully effective in July of 2024.

Discussion continued, with participants acknowledging the huge need statewide for contractor and homeowner education. The opt-in code has "very, very little impact on an existing house or an existing furnace," Mr. Hasbrouck assured. To date, building codes have been written by the Board of Building Regulations and Standards using ICC model codes. DOER representatives aren't contractors; they're energy specialists. One of the things folks take issue with is that DOER staff are not code specialists, he noted.

Councilor Moulton agreed the need for code change is inevitable. The city created a new Climate Action and Project Administration (CAPA) department and he believes that under its leadership city officials will develop a plan for educating not only contractors but homeowners. He also is concerned about affordability. He thinks it's key to look at the life of the home as, while higher code standards entail upfront costs, over the life of the home, he thinks the costs will be less. He referred to incentives available through Mass-Save and the Healy administration's announcement of a new Massachusetts Community Climate Bank which will receive \$50 million from the Department of Environment Protection (DEP) to focus on affordable housing. Again, it is education about available incentives and subsidies for new construction that will help keep it affordable.

He supports this and will vote to recommend it with a positive recommendation but said he is sympathetic to the concern that not enough people knew about this meeting. Although supportive, he is somewhat reluctant to move it to the council meeting this Thursday in the middle of August.

Councilor Nash moved to forward the order to council with a positive recommendation. Councilor Moulton seconded with the provision that it be on the September 7, 2023 City Council agenda to give people a little more time to weigh in.

Councilor Elkins said she supports this legislation and believes it is necessary but agrees that arguments about cost are never going to win the day. She credits the sources Adele cites on those points but for her this is not the issue. She is very committed to housing at every level of the market and doing everything they can do to leverage their zoning laws to encourage smaller dwellings, multi-families and infill development.

“The fact of the matter is, our planet is dying; we’re literally baking on this planet and we don’t have time to mess around,” she declared. She will do everything within her power as a councilor to address the city’s housing needs but this involves “the literal existence of the human race.” Unanimously, council and their mayor ran on these climate goals and this agenda so they have had robust public discussions within the political sphere about this. “These are goals that our literal lives depend on,” she concluded.

She called the motion to a vote, and **it passed unanimously 3:0 with Councilor Jarrett absent.**

Councilor Elkins voiced her strong perception that there is broad consensus about this as a priority. There is going to be disagreement in the details but they are working through them, she noted.

6. **New Business**

None.

7. **Adjourn**

Councilor Nash moved to adjourn. Councilor Moulton seconded. The motion carried 3:0 by roll call vote with Councilor Jarrett absent. The meeting adjourned at 6:43 p.m.

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