



Committee on Community Resources and the Northampton City Council

Committee Members:

Chair: Councilor Gina Louise Sciarra

Vice-Chair: Councilor Dennis P. Bidwell

Councilor Alisa F. Klein

Councilor James B. Nash

Meeting Agenda

Date: October 24, 2018

Time: 7 p.m.

**Location: JFK Middle School Community Room
100 Bridge Road, Florence, Massachusetts**

1. Meeting Called to Order and Roll Call

2. Announcement of Audio/Video Recording

This meeting may be audio/video recorded for broadcast by Northampton Community Television.

3. Public Comment

4. Minutes of Previous Meeting

A. Minutes of September 17, 2018

Documents:

[09-17-18_Community_Resources.pdf](#)

5. Community Forum on Proposal to Expand Tenant Membership of the Northampton

Housing Authority

History:

- City Council referred to Committees on Community Resources and Legislative Matters - 8/16/2018
- Continued by Community Resources with Agreement to Hold Public Forums - 9/17/2018
- Continued by Legislative Matters - 10/9/2018

Documents:

- [18.142 An Order To Strengthen Democratic Representation In The Northampton Housing Authority.pdf](#)
- [18.142 Memo From DHCD.pdf](#)
- [18.142 Legal Opinion Re NHA Special Legislation.pdf](#)

A. Brief Presentation by Council President Ryan R. O'Donnell

B. Community Comment

6. New Business

A. Discussion of Drafting Letter/Meeting Request to President of Columbia Gas

Documents:

- [18.170 Letter To CG President.pdf](#)

7. Adjourn

Contact: Gina-Louise Sciarra @

glsciarra@northamptonma.gov

Phone: 413-570-3133



Committee on Community Resources and the Northampton City Council

Committee Members:

Chair: Councilor Gina Louise Sciarra

Vice-Chair: Councilor Dennis P. Bidwell

Councilor Alisa F. Klein

Councilor James Nash

Meeting Minutes

Date: September 17, 2018

Time: 5:00 pm

Location: City Council Office, 210 Main St., Northampton, Massachusetts

1. **Meeting Called to Order and Roll Call.** At 5:05 p.m. Councilor Sciarra called the meeting to order. Present on roll call were Councilors Gina-Louise Sciarra, Dennis Bidwell, Alisa F. Klein and James Nash. Also present was City Councilor Ryan R. O'Donnell (5:15 p.m.).
2. **Announcement of Audio/Video Recording**
Councilor Sciarra announced that the meeting was being audio and video recorded for broadcast by Northampton Community Television (NCT).
3. **Public Comment**
No members of the public were present, so there was no public comment.
4. **Approval of Minutes**
Councilor Bidwell moved to approve the minutes of July 16, 2018. Councilor Nash seconded. The motion carried 4:0.
5. **Items Referred to Committee**
 - A. **18.142 An Order to Strengthen Democratic Representation in the Northampton Housing Authority - referred to CR and LM, 8/16/2018**

Councilor Sciarra read the text of the order. Councilor Klein moved to put the order on the floor for discussion. Councilor Nash seconded.

Councilor Sciarra noted she was not present at the City Council meeting where the order was introduced. She and Councilor Bidwell both had questions about how Councilor O'Donnell reached the number six. She was also curious about how elections would be held; whether each property would put forward candidates, etc. She noted that seven properties are operated by the housing authority.

Councilor Nash stated that he would like to get the input of the city solicitor. He expressed his understanding that [housing authority operation] is regulated by state law. He would like to know what kind of latitude they have around this. The solicitor's opinion would also inform them as to what kind of language would have to be inserted into the charter, he indicated.

Councilor O'Donnell arrived.

Councilor Nash repeated his request for feedback from the city solicitor about how this relates to Massachusetts law and what kind of latitude the city has to create different organizational structures.

Councilor O'Donnell said he would also be happy to provide legal background. The proposal came up in the midst of an incident around air conditioners being removed from certain buildings. He expressed his understanding that housing authority members were not consulted about this decision. If commissioners approved the policy it would be a problem in that it was a poorly-thought out policy. If they were not consulted, that would also be a problem because they should have been, he observed.

Chapter 121B of Massachusetts General Law (MGL) provides that all housing authorities in Massachusetts consist of five members and are managed, controlled and governed by that board. The training manual for local board members cites more specific responsibilities, such as setting and revising policy, establishing annual operating and capital budgets, overseeing the Executive Director in all aspects of that person's employment and encouraging and supporting tenant participation in the administration of public housing.

The structure of the housing authority board is laid out by Section 5 of Chapter 121B and is different depending on whether the housing authority is based in a city or town or is regional. In cities, four members are appointed by the mayor and must include a labor union representative who lives in the city and a tenant of the housing authority.

In towns, non-gubernatorial representatives are elected by the voters of the town, he advised. There was a change to state law in 2014 to reduce the number of non-gubernatorial representatives from four to three and require that one be a tenant. The same act said the Department of Housing and Community Development (DHCD) should promulgate regulations for how such tenant elections should be conducted.

The new act also directs DHCD to develop a comprehensive training program for board members and creates a provision for removal of members by joint council/Mayoral action.

In other jurisdictions such as New York, housing authorities range from three to seven members, he continued. In some, two members must be tenant-commissioners or elected by the tenants. In Connecticut, housing authorities with more than five members must have two members who are tenants per Section 8-41 of Connecticut law.

HUD regulations expressly affirm the general importance of tenant participation, he stressed. "HUD promotes resident participation and active involvement of residents in all aspects" of housing administration, he quoted.

The legislation he is proposing is pretty squarely in line with the direction of change in Massachusetts law, especially the 2014 Act, Councilor O'Donnell suggested.

The boards have a policy-making role and an oversight role, and he thinks each of these is strengthened by increased tenant representation. Because all other aspects of the housing authority remain unchanged, he thinks it is minimally disruptive. He thinks it is lawful, he opined.

In response to a question from Councilor Sciarra, Councilor O'Donnell explained that the process for "making it so" would be for the council to vote to request the Mayor to file a home rule petition with the legislature.

Councilor Klein questioned if the language in the order is standard language used for home rule petitions, and Councilor O'Donnell said yes.

Bills are filed to amend the statute and the acts themselves typically begin 'Notwithstanding anything else . . . ,' he elaborated. In the phrase, "Ordered, that the Mayor is authorized and *requested* to seek state legislation as follows:" he changed the word 'directed' to 'requested,' he advised.

Councilor Bidwell pointed out that this would leave it to the Mayor to make such a request. He asked if Councilor O'Donnell knew if the Mayor would make such a request and Mr. O'Donnell said he did not. It is appropriate for the Mayor as the representative of the city to make such a request, he asserted. However, if he chose not to do so, it would be within his prerogative as Mayor, he affirmed.

Councilor Klein expressed her understanding that they are passing a law and said it doesn't make sense to her that the Mayor could choose not to follow a law.

However, Councilor O'Donnell clarified that is not a law, it is a request. His hope is that the Mayor, members of the housing authority and tenants would all collaborate to pass something to which they are all agreeable.

He worded it as he did because he doesn't believe the City Council has the authority to order the Mayor to do anything, he explained.

Councilor Bidwell asked if there is a precedence for a home rule petition that would change state law for just one community or if it would make more sense to initiate more of a state-wide effort.

Councilor Sciarra questioned whether, along those lines, at the very least it makes sense to start in the senate district. Would it make sense for our senator to ask for this for just one community in our district or would that be a harder thing to do? She asked rhetorically.

Councilor O'Donnell noted that those are interesting questions.

Hundreds of pieces of legislation are filed each year and they are all like this. It is more often the case than not that legislation is just about one or two communities.

There is always a legal question as to whether the town has the authority to do something, it was noted.

To him, Chapter 121B is a minimum floor, he stated. He doesn't think it disrupts to add additional members.

Councilor Sciarra asked how he came to six since there are seven buildings operated by the housing authority, and Councilor O'Donnell confirmed it is only because it results in an odd number of members.

Councilor Sciarra asked if there would be a representative from each property, and Councilor O'Donnell said not as it's written, although he did think about it.

DHCD has not promulgated regulations about how this should be done but it seems that there is clear legislative intent to set up a method, he added.

Councilor Klein pointed out that towns have town-wide elections to add tenants to the board. Here, he is proposing just having tenants elect a tenant representative. She wondered if that would be a sticking point at the state level and whether there was any merit to having a city-wide election.

Under the change in 2014, one of the members is elected by tenants, not in a town-wide election, Councilor O'Donnell noted, adding that he is not automatically interested in doing it as an at-large election. He thinks tenants should be able to elect their own voices.

He feels the City Council has a responsibility to every citizen in Northampton, he affirmed. He thinks the mechanism within the housing administration will be strengthened with tenant representation. In support of the proposal, he jokingly invoked the Alka Seltzer slogan, stating, "Try it; you might like it."

Councilor Bidwell said he was trying to think of any other institution where a majority of the governing body are recipients of the organization's services or another instance where the recipients of the service are in theoretical control of the system's governance.

Under current law, in theory, 100% of the commissioners could be tenants now, Councilor O'Donnell pointed out. Theoretically, the labor representative could reside in a housing authority property.

Conversely, he could ask, is there any condo association where the governing board does not reside there? He thinks the board is there to provide citizen oversight of the management.

Councilor Sciarra wondered if there would be a way for each of the housing communities to have a voice.

His only thought is simpler is better, Councilor O'Donnell responded. They might want to leave it up to the housing authority to decide.

Councilor Klein agreed that, where they have multiple communities, it is important that there be a voice from each community. She asked him to consider amending the order to specify that there be representation from each building.

She appreciated Councilor O'Donnell's pointing out that condo association board members are all tenants, Councilor Klein continued. She thinks [tenant representation] is particularly important in this case because they are talking about people with disabilities and other people who are marginalized. She really appreciates this effort on his part. She voiced the sentiment that the undergirding, or support behind the concept, is really important.

The condo association analogy is helpful but it has its limits since the housing authority involves public resources and conflict of interest statutes, Councilor Bidwell noted. One of the reasons he would like the city solicitor's input is that, in some instances, members would be direct beneficiaries of financial decisions. If people would be recusing themselves from decisions all the time it would defeat the purpose. "All of which is to say I'd love to have the solicitor's input before going too much further," Councilor Bidwell said.

Referring to Councilor O'Donnell's statement about wanting it to be a collaborative effort, Councilor Klein said she was curious as to whether he had talked to the Mayor.

He reached out to the chair of the housing authority board and invited him to the two meetings scheduled, Councilor O'Donnell responded. His philosophy is to 'hash it out at a public meeting,' he volunteered.

He mentioned that the administrative assistant reached out to housing authority tenant associations.

PUBLIC COMMENT

Councilor Sciarra invited individuals in the audience to comment.

Edgardo Cancel of 19D Hampshire Heights spoke at length about his experience growing up in a housing authority property (Florence Heights) and working for the past 15 years as a community organizer in the Hampshire Heights and Florence Heights communities. He has been working very hard trying to organize the tenants' community and form a tenant association. They have had very little success in working with the housing authority, he reported.

His entire family moved back to Puerto Rico and he decided to stay here. Growing up in Florence Heights, they had many resources; they had an arts program in the community center, vans picking them up for the youth center and vans picking them up for the YMCA. They had tons of support that are non-existent now.

He said he believes a lot of things have fallen through the cracks. He was very excited to see a new housing authority director. In the past, the housing authority was very supportive and very collaborative of those efforts, and that is not the experience today. One of the reasons he is active is because he knows it is possible. He knows what it is like to have a lot of positive male role models in his life. He sits on the Housing Partnership Committee, he added.

He thinks the proposal "is a phenomenal idea," he continued. This would really help improve things for residents. Increasing the number of members will provide additional needed support not only for residents but for the housing authority, he suggested. In his experience, they have "way too much on their plate." The biggest problem right now is that they have a director who is unwilling to work with the residents and unwilling to recognize the tenant associations, he asserted. They have been working for three years and have yet to be recognized by the housing director, he maintained.

He attends meetings and the first hour and a half goes to complaints from residents, Mr. Cancel related. Right now they have a huge problem with mold in Hampshire Heights. The director continues to deny there is a problem, and board members are not informed enough to know whether what she is saying is true or not.

There are two board members that are residents – one of Salvo house and the other of McDonald house. He doesn't think the two tenants are that much in touch with what is happening at other properties, which is

why he thinks having representatives from other communities makes a lot of sense. He mentioned that he had not spoken personally to Councilor O'Donnell but that, when he heard he had put this forward, "it was music to my ears."

Tenants are trying to improve conditions at the housing authority, he stressed. He believes Northampton has a huge opportunity to be a model community, he added. If they can be trend setters as they have been on many, many other things, he believes it would be good for housing authorities all across the board.

Councilor Sciarra asked if housing authority members respond when contacted directly by him, and Mr. Cancel said yes. Gerard Budgar attended a recent community event at the housing complex, he noted.

Councilor Bidwell informed Mr. Cancel that, in a meeting just prior, the City Services Committee recommended that Emily Laufer, a resident of Hampshire Heights, be appointed to the housing authority. She will be appointed at this Thursday's City Council meeting.

Councilor Nash thanked Mr. Cancel. He agreed that a board of five is too small and that having more members would be beneficial to overseeing an organization as complex as the housing authority, as it would allow them to break out and do more work. "The number needs to be bigger," he concurred.

Councilor Bidwell commented that he is very sympathetic to the spirit of the proposal, although he thinks the details and the number may benefit from a little further study. Since this involves him, he would like to know what the Mayor thinks of it and the city solicitor.

Councilor O'Donnell said he hoped he could rely on this committee to help structure a fruitful discussion. He thinks it would be good to file in the legislature in December.

Councilor Klein asked if he envisioned some sort of public meetings to engage the public, and Councilor O'Donnell responded that he envisioned using the council committee process for that purpose.

Councilor Sciarra asked if he wanted them to hold this back in committee, and he said it would be totally at their discretion.

Councilor Bidwell wondered if it would make sense to hold it in committee to allow for input from the parties whose involvement they are seeking.

Councilor Klein proposed having some kind of public meeting but inviting people from particular realms that are relevant to this discussion; i.e. members of the current board, staff of the housing authority, tenants and the general public.

Members discussed the appropriate time and venue for such a forum. Councilor O'Donnell suggested 7 p.m. Other members suggested locations that might be more accessible to housing authority tenants, such as the Senior Center, Jackson Street School, Ryan Road School or the Florence Civic or Community Center.

Mr. Cancel offered to serve as a Spanish interpreter for purposes of a public forum.

Councilor Bidwell wondered how concerned they need to be about raising expectations. There are a lot of hurdles, he pointed out. The Mayor and city solicitor need to be on board. They have to remind folks at every step that, as City Councilors, they do not have the authority to do this. They need to be careful about building expectations unrealistically, he concluded.

Legislative Matters could still meet and have a discussion with the City Solicitor so he could address some of the legal issues, Councilor O'Donnell suggested. He thanked Mr. Cancel for his advocacy.

Councilor Bidwell cautioned about the need to be realistic about the number of meetings, and Councilor Klein said she envisioned two.

No specific agreement as to the format or location of the public forum was reached, but Councilor Bidwell moved to continue the item to the next meeting. Councilor Nash seconded. The motion passed unanimously 4:0 by voice vote.

6. New Business

A. Scheduling for Update from Planning Dept. on the Process for Reviewing/Revising Downtown and Florence Zoning

Councilor Bidwell explained that he received a Downtown Northampton Association meeting notice indicating that Planning Director Wayne Feiden was going to make a presentation about focus groups being held to discuss potential changes to downtown and Florence zoning. He suggested to the Mayor that, sometime prior to the point that a fully-drafted zoning ordinance came before them, it would be helpful to have a preliminary conversation about the proposals. Councilor Klein said she thought it would be useful for Mr. Feiden to present to the whole council, and others agreed. Mrs. Krutzler was asked to make a request of the Mayor's office for Mr. Feiden to make a presentation to the full council on October 4, 2018.

7. Adjourn. At 6:23 p.m., Councilor Bidwell moved to adjourn the meeting; Councilor Nash seconded. The motion was approved on a voice vote of 4 Yes, 0 No.

Prepared By:

*Laura Krutzler Administrative Assistant
(413) 587-1210*

**CITY OF NORTHAMPTON
MASSACHUSETTS**

In the Year Two Thousand and Eighteen

Upon the Recommendation of Councilor Ryan R. O'Donnell.

18.142 AN ORDER
TO STRENGTHEN DEMOCRATIC REPRESENTATION IN
THE NORTHAMPTON HOUSING AUTHORITY

Ordered, that the Mayor is authorized and requested to seek state legislation as follows:

An Act Expanding the Membership of the
Housing Authority in the City of Northampton

*Be it enacted by the Senate and House of Representatives in the General Court assembled
as follows:*

SECTION 1. Notwithstanding any other general or special law to the contrary, members of the housing authority of Northampton shall include, in addition to the five members provided by Chapter 121B Section 5, six additional members each of whom shall be a tenant in a building owned and operated by or on behalf of the housing authority. These six members shall be chosen in an election among all tenants of the buildings owned and operated by or on behalf of the housing authority for a term of two years. Such elections shall be held in accordance with regulations promulgated by the housing authority and/or the department. In the case of a vacancy, the Mayor shall appoint a tenant member, subject to City Council approval, to fill the remainder of the unexpired term. Six members shall constitute a quorum.

SECTION 2. This act shall take effect upon its passage.

From: Amy Stitely, DHCD
To: Councilor Ryan O'Donnell
Date: October 10, 2018
RE: DHCD comments on proposed Northampton City Council legislation – 10/10/18

==

After reviewing the proposed language being considered by the City Council, DHCD offers the following comments:

- 1) The two-year term is very short. This would be counterproductive to the Board if it had to accommodate such a rotating group.
 - a. Other Board members are appointed for a five year term and the expiration years are staggered so that the Board has somewhat consistent membership.
 - b. Also, it takes a while to learn the duties of being a Board member. Because boards have a rather technical set of duties, DHCD has mandated online trainings for all Board members; there is also a voluntary, DHCD-funded, one-day in person session offered for tenant Board members; and MassNAHRO offers Board member trainings too.

- 2) Tenant elections can be time consuming, costly, and are difficult to administer/ monitor for fairness. For these reasons the housing authority and tenant advocacy groups are now jointly requesting that the state legislature amend Section 5A of MGL 121B to require an appointment process for town tenant board members, instead of an election (legislative amendment may be forthcoming in the next 6 months).
 - a. State election laws are protective of people's rights, so working outside of state election laws/ infrastructure could leave the process open to risk of disenfranchisement, accusations of fraud, etc. Please consider who/what agency would have dispute resolution powers if this moves forward.
 - b. The cost to administer elections is not trivial. DHCD would not provide any additional funding to the housing authority to conduct such elections. I'm not sure if HUD would. One reason mail seems like a better election system is that some residents have difficulty getting to an in-person election (dealing with transportation, translation, babysitting, etc). However, the Boston Housing Authority seems to have found a way to successfully administer in-person city-wide elections for their Resident Advisory Board. Talking to them would be a good idea if this moves forward.

- 3) Assuming that Section 5A of MGL 121B is amended in the coming months, DHCD will not be promulgating regulations on the administration of tenant elections. Housing authorities also do not have the legal authority to promulgate their own regulations, so I would consider saying elections shall be in accordance with the "Authority's policies" (not regulations).



Office of City Solicitor
City of Northampton
210 Main Street, Room 12
Northampton, MA 01060

Alan Seewald, Esq.
City Solicitor

MEMORANDUM

Please reply to:

71 King Street
Northampton, MA 01060
(413) 584-4455
aseewald@northamptonma.gov

TO: William H. Dwight, Chair
Committee on Legislative Matters
Gina-Louise Sciarra, Chair
Committee on Community Resources

FROM: Alan Seewald, City Solicitor

RE: Home Rule Procedures

DATE: October 16, 2018

The City Council Committees on Legislative Matters and Community Resources will be holding public fora with regard to a proposal filed by Council President O'Donnell to seek state legislative approval of a special act increasing the membership on the Northampton Housing Authority ("NHA"). You have requested a memorandum on the legislative process for seeking that special act. With the caveat that the city may not have the standing to seek special legislation with regard to the NHA, the following is the process for obtaining special legislation.

Prior to 1966 and the adoption of Amendment Article 89 to the Massachusetts Constitution, cities and towns could enact only that legislation that the state legislature specifically authorized them to enact. Article 89, also known as the Home Rule Amendment, expanded local power by authorizing local legislation to "exercise any power or function which the general court has power to confer upon it, which is not inconsistent with the constitution or laws enacted by the general court in conformity with powers reserved to the general court by section eight, and which is not denied, either expressly or by clear implication, to the city or town by its charter." Mass. Const. Amend. Art. 89, § 6.

The establishment of home rule authority of cities and towns was accompanied by a limitation on the ability of the state legislature to enact statutes relating to a single city or town. Section 8 of the Home Rule Amendment provides that "[t]he general court shall have the power to act in relation to cities and towns, but only by general laws which apply alike to all cities or to all towns, or to all cities and towns, or to a class of not fewer than two...." Section 8 allows for special acts that relate to a single city or town "(1) on petition filed or approved by the voters of a city or town, or the mayor and city council, or other legislative body, of a city, or the town meeting of a town, with respect to a law relating to that city or town; (2) by a two-thirds vote of each branch of the general court following a recommendation by the governor;...."

Thus, in order to initiate special legislation, the City Council must pass an order authorizing the Mayor to seek a special act, which Order must be signed by the Mayor. The request for a special act should specify the degree to which the legislation may be altered in the legislative process. Typically, the Order allows the legislature to make clerical or editorial changes and, with the Mayor's approval, modifications so long as they are within the general objectives of the proposed act. The Order could require enactment exactly as drafted, but such a provision would significantly reduce the likelihood that the legislature will pass the special act. The proposed act is then filed by our state representative and proceeds through the usual legislative process.¹

Finally, as I stated above, there is a question as to whether the City would have standing to propose a special act with regard to the NHA. Section 8 (1), quoted above, requires that a proposed special act be "a law relating to that city or town..." While the NHA is a statutory body under M.G.L. c. 121B under the control of the authority members, its residents are all domiciled in the City, the Mayor appoints four of the five members of the authority, and the authority members and NHA employees are considered city employees for conflict of interests purposes. While I believe that the proposed legislation would be a law "relating" to Northampton, I must caution that this an open question.

Please let me know if you need anything further from me in this regard.

¹ You may note that there is a second method in Section 8(2) for obtaining special legislation by having the Governor file the bill followed by a two-thirds majority vote in each branch of the legislature. This process is rarely used (in my experience) and is most appropriate for non-controversial, routine matters.

Mr. Steve Bryant
Columbia Gas of Massachusetts
?????
?????

October, ???????

Dear Mr. Bryant,

The Community Resources Committee, a body that reports to Northampton City Council concerning matters affecting our community (including economic development, local business, tourism, the environment, the arts, planning, zoning, sustainability, land use, housing and affordability etc.) are requesting that you or another representative of Columbia Gas of Massachusetts attend our December/January ?? meeting on ????? to speak to a range matters concerning our gas utility.

In 2015, Columbia Gas imposed a moratorium on all additional gas service based on projections that Columbia Gas could not adequately deliver fuel to customers during peak days of the year, especially frigid winter days. At that time our use of natural gas appeared to be trending upward and natural gas was often the fuel of choice for new development and heating system upgrades.

However, faced with CG's moratorium disallowing all new service, we as a community were forced to seek alternative sources of energy. By our reasoning, we expect that our use of natural gas has decreased as access to gas has been capped. We have also worked in partnership with Columbia Gas to address gas leaks throughout our community, reducing the escape of especially volatile greenhouse gasses while undoubtedly further restoring a measure of gas capacity. Three years into the moratorium, and despite numerous requests from city leaders, Columbia Gas has yet to provide the Northampton community the necessary data to assess the need for the Columbia Gas Reliability Project to build an addition gas line or to assess the success of our conservation efforts.

We are requesting that Columbia Gas meet with us to discuss our gas utility along with providing the following data.

- Peak demand consumption numbers for Northampton covering the years 2012-2017
- Information substantiating the claim that new infrastructure is the only method by which we can fulfill demand
- Data concerning leak repairs in Northampton since the start of the moratorium and how much gas has been retained annually

We look forward to the opportunity to engage in a productive discussion about our shared energy future.

Sincerely,

G-L Sciarra, Committee Chair, Ward 4 City Councilor
Dennis Bidwell, Committee Vice Chair, Ward 2 City Councilor
Alisa Klein, Ward 7 City Councilor
Jim Nash, Ward 3 City Councilor