



Committee on Legislative Matters and the Northampton City Council

Members

Councilor William H. Dwight, Chair

Councilor Maureen Carney

Councilor Alisa F. Klein

Councilor David A. Murphy

MEETING MINUTES

Date: November 13, 2018, Time: 5 p.m.

Location: City Council Chambers, 212 Main St., Northampton, Massachusetts

1. **Meeting Called to Order and Roll Call:** At 5 p.m., Councilor William H. Dwight called the meeting to order. On a roll call, the following councilors were present: Councilor Carney, Councilor Dwight, Councilor Klein and Councilor Murphy. Also present were: City Solicitor Alan Seewald and City Councilor Jim Nash.
2. **Announcement of Audio and Video Recording**
Councilor Dwight announced that the meeting was being audio and video recorded for broadcast by Northampton Community Television.
3. **Public hearing on proposed zoning changes**
 - A. **18.174 An Ordinance to Amend Chapter 350-12.3 Significant Trees**
Councilor Carney moved to open the public hearing. Councilor Klein seconded. The motion passed unanimously 4:0. The public hearing was opened at 5:04 p.m.

Councilor Dwight asked if anyone wished to speak in favor.

The proposal to amend the ordinance came out of the Mayor's office and the Public Shade Tree Committee, Office of Planning and Sustainability Director Wayne Feiden advised. At its public hearing November 8th, the Planning Board recommended in favor of the ordinance with amendments.

City Council passed the original tree ordinance three years ago (when City Councilors Jesse Owens and Owen Freeman-Daniels were members, Councilor Dwight reminded). Before it passed, planners worked with the City Council to adopt it but were sort of guessing at some things, Mr. Feiden related. It is time to revisit the ordinance on what has worked and what hasn't, he explained.

Trees serve all sorts of functions but planners are also trying to encourage other values such as net zero energy building and affordable housing, he pointed out. Most recently, Habitat for Humanity had difficulty trying to afford net zero building requirements.

What is proposed by amendment of the Planning Board is to allow a waiver for tree removal when creating net zero energy buildings with other community benefits such as affordable housing or open space. As an example of a project this would facilitate, Mr. Feiden cited development of a property on Glendale Road. The site consists of roughly 80 acres and developers crowded development onto two acres near the road. They could have spread development around the property in which no trees would have come down, but this would have eliminated 50 acres of open space. The waiver provision allows the Planning Board to look at whether getting net zero build is worth the loss of some trees.

Also, before trees had to be replaced with deciduous trees; this allows coniferous trees to be planted. For city-owned property, decisions to approve specific tree replacements could be made by the planning office in consultation with the Tree Warden, he said.

Her initial concern before realizing that the tree committee was involved was what they thought, Councilor Klein shared. Councilors have that input but one thing that continues to stand out as a concern is that it ends up being the Planning Board that makes a case by case decision and they don't necessarily have the expertise that people on the Public Shade Tree Committee have. There's a part of her that has concern that people with expertise aren't going to be called in on every tree replacement decision, she explained.

Mr. Feiden described the special permit approval process. The DPW is always sent all special permit applications for review, he confirmed. With recent reorganization, Tree Warden Rich Parasiliti is becoming more of a functionary and less of a policy position. Whoever is in that position would be the one who would be notified so the Planning Board would have the benefit of his or her recommendation.

The Planning Department application deadline is four weeks before the meeting primarily to solicit and receive comment. They ask the DPW to give them their comments a week before so they can share them with the applicant.

Councilor Dwight asked if there is a table of reference that addresses carbon offset.

The Planning Board debated that, Mr. Feiden responded. They questioned whether they could just do a flat formula and allow [the waiver] by right if applicants met the formula. They can calculate/present in table form how much carbon is being lost but some trees are scrubby and not very exciting and some are amazing in terms of shade value. It seemed important to tell the Planning Board what they had to consider but not to do it in a formula format, he concluded.

Councilor Dwight said he understands that the Planning Board is a discretionary board and takes all these things into consideration, but he imagines when decisions are challenged it is somewhat difficult to defend the challenge if there are more gray lines.

That was the discussion for the Planning Board, exactly, Mr. Feiden confirmed.

Councilor Dwight read a comment received from Amy Meltzer into the record as follows:

"I am unable to attend the meeting Tuesday night when the proposed changes will come to the City Council Committee on Legislative Matters, which suggest waiving the requirement for replacing significant trees in cases of net zero development, and possibly in other cases as suggested by the Northampton Planning Board. I do not consider this a "minor amendment", as it's described in the public agenda, and I urge you

not to recommend this proposal as a blanket waiver. At a time when the city is committed to climate readiness and resiliency, it's unwise to make an exemption from replanting or paying for replanting automatic under ANY circumstances. If members of the city government feel it's essential in very limited cases, I urge the city to create a limited process by which developers may apply for such a waiver."

What she's recommending is exactly what the Planning Board is recommending, Mr. Feiden commented. The original recommendation was approval as part of the site plan review process; now the Planning Board is recommending a case-by-case assessment and issuance of a special permit, he clarified.

Councilor Carney mentioned that Ms. Meltzer said the proposed ordinance was characterized as a 'minor amendment' on a public agenda. Mrs. Krutzler assured her that this description was not used in any of the City Council's agendas.

Councilor Dwight asked if there were any opponents or people who otherwise wished to speak. Hearing none, Councilor Carney moved to close the public hearing but was informed that the hearing should be kept open for discussion of the second zoning ordinance. Councilor Carney withdrew her motion and members moved to a consideration of 18.179.

B. 18.179 An Ordinance to Amend Chapter 350-11.5 B2 Site Plan Submittal Requirements

The Planning Board and Tree Warden have sometimes felt that they don't ask for enough information so this is requiring additional information such as the species of trees, Mr. Feiden explained. Some applicants include this information but many don't, so planners want to make the requirements uniform.

Councilor Dwight reviewed the proposed changes.

Councilor Dwight asked if there were any questions or comments. Hearing none, Councilor Carney moved to close the public hearing. Councilor Klein seconded. The motion passed unanimously 4:0.

Councilor Murphy moved to move 18.174 and 18.179 as a group as amended by the Planning Board. Councilor Carney seconded.

Councilor Carney asked about the change to the size caliper.

This was at the request of Mr. Parasiliti, Mr. Feiden said. If applicants are planting in a back yard planners prefer a smaller caliper because they get twice as many trees, he explained. The change allows the Planning Board the option of allowing smaller trees.

Councilor Dwight called the motion in favor of a positive recommendation to a vote, and it passed unanimously 4:0.

4. Minutes of October 9, 2018

Councilor Carney moved to approve the minutes of October 9, 2018. Councilor Klein seconded. The motion passed unanimously 4:0.

5. Items Referred to Committee

- A. 18.173 An Ordinance to Amend Chapter 312-36 of the Code Book (Proposal to Increase Hourly Rate in E.J. Gare Parking Garage)**

Councilor Carney moved to put the ordinance on the floor for discussion. Councilor Klein seconded. All members have read the Mayor's memo and they had an informal discussion with the Mayor as the proposal was first presented, Councilor Dwight reminded. Addressing himself to the city solicitor, Councilor Dwight said they wanted to make sure this is a legal process because councilors on the board before were very concerned with who possesses the authority to change the parking rates in the garage.

This is not a subject that anyone he knows in the city is looking to make an issue of, Attorney Seewald responded. He did express his concern when he first came on board that the proper delineation is that the City Council decides the use of the property then gives it to the Mayor to figure out how to operate the parking garage. [To do otherwise] is "going by old standards where the council is tenacious and wants to continue its hold over the doings in the parking garage," he indicated.

As a point of information, the City Council did change the time limit of parking meters, Councilor Carney noted.

This has not been an issue that has been raised to him since 2013/2014, Attorney Seewald asserted.

It came up during Finance Committee discussions, Councilor Murphy acknowledged.

After charter reform, there was some debate on this floor as to where the authority lies, Councilor Dwight reminded. The executive branch as he understands it actually does determine parking rates, etc. However, there were two councilors that took issue with that and actually won the debate and that has led to where they are now where the City Council is actually determining parking rates and parking terms, he related.

He thinks there was a lot of reeducation of the City Council at the time on their role, Attorney Seewald observed. He thinks they carved out enough of the executive authority that it was just not a fight that needed to be fought.

That's only because the Mayor has acquiesced, Councilor Murphy pointed out.

If it is deemed that rate changes and parking duration is the purview of the Mayor, does it come out of the ordinance book? Councilor Carney asked.

"It's an executive function," Attorney Seewald confirmed.

If the Mayor were to object, Councilor Carney asked if the next step would be to withdraw the ordinance.

He could do that, Attorney Seewald agreed.

He has not heard a peep about this, Councilor Dwight acknowledged. Last time, he heard a lot of peeps,

Councilor Carney asked if there had been any news coverage about the rate increase. It will be on the City Council agenda Thursday, members noted.

In this case the increase was to offset the cost of the credit card system, Councilor Dwight added. It also was part of the comprehensive parking plan, Councilor Klein said.

It is worth noting the passing of Bill Letendre, who died Wednesday, and making note of his contribution. He was the 'father of the parking garage,' Councilor Dwight remarked.

Councilor Klein asked if the chair of the Transportation and Parking Commission (TPC) had anything to say about its discussion.

Councilor Klein pretty much summarized their discussion; how this aligns with the parking plan and brings rates in the garage in alignment with other rates throughout the city. Also that, along with compensating for the cost of credit cards, raising the rate serves to create turnover in the garage and increase the availability of parking and make people want to park for a little while and move on rather than stay there all day.

She recalls a recommendation for an incremental movement to encourage people to find other means to come downtown, Councilor Klein added.

Councilor Dwight called the motion for a positive recommendation to a vote, and it passed unanimously 4:0.

B. 18.183 An Ordinance Relative to No Parking on Grass Plots/Tree Belts

A recommendation is still pending from TPC, so this ordinance will be tabled until the next meeting, Councilor Dwight advised.

C. 18.184 An Ordinance to Amend Chapter 5 of the Code of Ordinances by Adding Section 5-7 (Designating Certain Positions as Municipal Employees)

Councilor Klein moved to put the amended version on the floor. Councilor Carney seconded.

Councilor Dwight expressed his understanding that this is a housekeeping measure.

Attorney Seewald confirmed his understanding. They have come to learn that actions designating certain positions as special municipal employees are strewn about in different orders so this is an effort to put them all in one place, he explained.

Councilor Dwight asked if this impacts in any way their qualification for minimum wage. . .

It has only to do with conflict of interest, Attorney Seewald clarified. Designation as a special municipal employee loosens restrictions for municipal employees in that they have a right to work during normal working hours elsewhere and to work for a few hours in another position.

Councilor Murphy noted that a lot of people were losing interest in serving on boards if doing so meant they couldn't appear before the Planning Board, etc.

The one that stands out to her as kind of questionable is the Board of Health because members of that board have the ability to set regulations in the city, Councilor Klein observed. If employees are creating regulations, it seems as if the threshold should be higher. . .

Attorney Seewald pointed out that other bodies such as the Planning Board, License Commission, etc., issue regulations. However, he has said the Board of Health is the most powerful board in any town.

It was her understanding that what the Board of Health can do has more impact than regulations of the Planning Board because is tantamount to law, Councilor Klein continued. She was under the impression they could actually create ordinances.

Anyone who has a financial interest in a matter before a board will not be able to participate, Attorney Seewald stressed.

Special municipal employees have advantages in certain exemptions; it's not that the law doesn't apply to them. For example, there are some exemptions that would require an order of the City Council. Also, employees would still have to get the appointing authority to authorize participation in some matters; they just wouldn't have to come to this body. Most of this is housekeeping because most of these positions are already designated as special municipal employees, he noted.

With respect to extra-curricular club advisors, if someone is a teacher and wants to be an adviser, he or she is getting a second contract in his or her own department; thus requiring an exemption.

Councilor Dwight called the motion in favor of a positive recommendation to a vote, and it passed unanimously 4:0.

D. 18.195 An Ordinance Relative to Parking on Grove Avenue

Councilor Murphy moved to put the ordinance on the floor for discussion. Councilor Carney seconded.

After being recognized by the chair, Deborah Jacobs of 82 Grove Avenue explained that she and a neighbor at 74 Grove Avenue (Linda Butler) sent in a request to the TPC over the fact that they were having such a hard time getting out of their driveways. Their street is a wonderful resource for people who want to use the rail trail/get down to the river, she noted. They were told by the TPC that they could not get no parking across from their driveways and were asked to come back with another proposal. The street is also very, very narrow. Mrs. Butler made a recommendation.

The ordinance as presently proposed [to prohibit parking altogether on the westerly side and to prohibit parking on the easterly side of Grove Avenue for 120 feet from Evergreen Road] "will make some people very, very unhappy" in that they wouldn't be able to park on either side of the street, she claimed. It also doesn't really help them get out of their driveways.

Mrs. Butler would like to go to Plan C and she would like this withdrawn because it really doesn't do what they set out to do.

Every single person who lives on that street came to a meeting; however, the plan that got submitted was changed by the TPC, Councilor Klein indicated. One piece of what was requested was abided by - to prohibit parking on one side of the street - but the other issue, that there are two houses that literally cannot back out of their driveway - was not addressed. Also, one space was blocked off that wasn't even requested and doesn't make sense to anyone.

DPW Director Donna LaScaleia said the reason they did this was because a tree and bushes could obstruct the sight line of people turning onto Grove Avenue, Councilor Nash explained.

There is no reason the city should prohibit parking on this section, Councilor Klein asserted. The TPC ordinance doesn't address what's necessary. Plan C is going back to the drawing board and trying to figure this out in a way that makes sense to people.

A terrific proposal was put forth by Linda Butler, of which half is being put forward, i.e. a parking prohibition on the easterly side of the street, Councilor Nash agreed. Ms. Butler's proposal for this side of the street involved line striping. There was line striping on Florence Street, Fruit Street and Grove Avenue. At that point, TPC members realized 'we need a clear policy before we go forward with line striping on any of these streets.' Someone made a motion and request to the DPW to develop a proposal over the next few months so that they have a clear policy. So that piece of the proposal for Grove Avenue got tabled, as well as for Fruit Street and Maple.

TPC members took the DPW's recommendation on sight lines at face value, Councilor Nash noted. From the photographs that were shared he could see that no parking there may be unnecessary.

Folks coming down to access the bike trail need a little more direction as to where to park. Where line striping is more helpful is in directing people where to park, he added.

Councilor Murphy asked what the appropriate solution was for tonight – do they continue to allow them to come up with an alternative or just approve part of it. . .

Councilor Nash said he would defer to Councilor Klein and her constituents. Maybe tabling action until the line-striping piece is clarified, he suggested. The TPC motion was to give Ms. LaScaleia until January to propose a policy on line-striping, he indicated.

Members discussed and sought direction from the city solicitor. His suggestion would be to make a negative recommendation, Attorney Seewald said.

Councilor Murphy withdrew his positive recommendation and moved to make a negative recommendation at the request of the neighbors. Councilor Klein seconded.

Councilor Klein publicly apologized to the chair of the TPC because she wasn't able to come to the meeting at which the proposal was discussed because it was on Yom Kippur.

The motion passed unanimously 4:0.

E. 18.196 An Ordinance Relative to Parking on Wilder Place

Councilor Murphy moved to put the ordinance on the floor for discussion. Councilor Carney seconded.

Similar to the previous ordinance, this ordinance is also to create a 'no parking' zone, Councilor Nash explained. In this case, the proposal has the support of the neighbors.

The people who are parking there now aren't people living on the street. They are either working for a business in the immediate area or running into one of their customers. The street is super narrow and people are parking on both sides at points even at the end of the street where there is a fire hydrant and two driveways. The DPW went out and made the recommendation to move all parking to one side of the

street, in this case the westerly side. The ordinance was initiated by residents of Wilder Place, he confirmed.

Councilor Dwight called the motion for a positive recommendation to a vote, and it passed unanimously 4:0.

6. **New Business**

The committee will reconvene at 7 p.m. for a joint meeting with the Community Resources Committee to discuss tenant representation in the Northampton Housing Authority, Councilor Dwight announced.

7. **Adjourn**

Councilor Klein moved to adjourn. Councilor Carney seconded. The motion passed unanimously 4:0. The meeting was adjourned at 6:11 p.m.

Prepared By:

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