



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: February 1, 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 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**
There being no public comment, Councilor Thorpe moved to the next item on the agenda.
4. **APPROVAL OF MINUTES OF DECEMBER 15, 2020 AND JANUARY 4, 2021**
Councilor LaBarge moved to approve the minutes of December 15, 2020 and January 4, 2021. Member Nash seconded.

Member Paik reviewed minor changes to the January 4, 2021 minutes. The motion to approve the minutes as amended passed unanimously 5:0 by roll call vote.
5. **REQUEST TO CONSIDER 312-43 PARKING FOR PHYSICALLY HANDICAPPED**
This was brought to their attention by Councilors Marianne LaBarge and Karen Foster, Councilor Thorpe reminded. Ms. Krutzler shared the text of the ordinance on her screen. The language a little confusing so they need to decide what terms to use, Councilor LaBarge said. She said she would like to hear from the city solicitor.

He did review this, Attorney Seewald said. Some revisions have been made with regard to the use of the word 'handicapped,' in particular, replacing it with the word 'accessible.' In an email dated January 12,

2021, he pointed out that the draft remains inconsistent because there are references to 'accessible,' 'disabled' and 'handicapped.' They ought to decide on one term and use it.

The other issue Councilor LaBarge asked about was the fee for issuance of the temporary permit. He pointed out to her that fees are decided at the departmental level as provided by the state law accepted by the city council some years back, so it's not appropriate to set the fee by ordinance.

If they are going to make a recommendation to City Council, they ought to decide what term to use to describe the permit and the parking space, he concluded.

Councilor Nash said he strongly supports this change in language. By and large, the field that works with people with disabilities has shifted away from words like 'handicapped,' and he thinks this is on the right track. The word 'impairment' stood out to him. He wondered if that is referencing Massachusetts General Law, because, if so, state law by necessity will frame a lot of the language in the local ordinance.

He doesn't know if it is referencing state law, but there are impairments that would not qualify one for a parking permit, Attorney Seewald advised.

Councilor Thorpe asked if this is something that should be referred to the Disability Commission.

Councilor LaBarge said they already talked about it. She could bring it up again and talk to them about deciding on a term, she offered.

Councilor LaBarge said the other issue is the fee. When someone has a disability, they go to a doctor and the doctor diagnoses the disability and signs off on a form that goes to the Registry of Motor Vehicles (RMV). She did not even realize the city had a temporary permit and was charging a fee for it. She wondered aloud if the permit is for an employee of the city or for a temporary injury.

Attorney Seewald said he believes this is not done through the RMV; it is a local permit. It could not be used in Easthampton.

Councilor Nash said he fully supports where this is going but doesn't think it's there yet. He thinks the best place for it to go would be back to the Disability Commission to work out those details. It could be put on the floor of the council and sent to Legislative Matters, but he thinks the best place to work this out would be the Disability Commission.

Councilor LaBarge said she just wants to get this straightened out and to put in appropriate language.

This is completely within the boundaries of what they're supposed to be looking at, Councilor Nash agreed. This is language that is really outdated and demeaning in some ways and it's time to update it.

Councilor LaBarge said she would bring it up to Keith Benoit and put it on his agenda.

Attorney Seewald suggested that it be put on the list of those ordinances the committee would like the council to look at. He thinks there will be a number of those kinds of ordinances they are not actually suggesting *how* to change but simply that they *be* changed.

Member Paik said it sounds like more of a technical change.

Attorney Seewald said he thought bucket #1 consists of actual proposals for language changes of a technical/housekeeping nature. He asked if members are going to propose specific language. If not, it doesn't belong in bucket #1.

Member Napolitano asked if there is anything substantive other than changing the names.

Attorney Seewald said he didn't know.

If not, he thinks it would be bucket #1, Member Napolitano said.

If that's the case, Attorney Seewald said he could try to make the changes and get it back to the committee at its next meeting since he doesn't think it could get back from the Disability Commission in time for the committee's report.

Councilor LaBarge moved to refer 312-43 to bucket #1. Member Paik seconded. The motion passed unanimously 5:0 by roll call vote.

6. REMAINING ORDINANCES TO REVIEW/FURTHER RESEARCH NEEDED - WORK PLAN FOR SECOND PHASE

At the last meeting, there was some tension over how to structure the committee's report, Member Paik reminded. The executive summary she offered was a kind of 30,000-foot aerial view, but Attorney Seewald advised that they ground their work in specific ordinances going forward. She actually agrees with that. She doesn't think the two are in conflict and thinks they can co-exist. They can make high-level recommendations and also make recommendations for specific ordinance changes, she suggested.

She shared a document with a possible format for presenting actionable recommendations resulting from a review of specific ordinances. (See Analysis of Policy Options Related to Towing of Vehicles Impeding Snow Removal, attached to master version of minutes.) She tried to sort the policy options into categories of ordinances that tend to impact marginalized populations like parking, purchasing and hiring, rental housing, etc. To her, it seems like a user-friendly way to understand what they have been doing for the report. She could easily go back to earlier sets of minutes to pull this information out. This would produce categories of ordinance amendments, possible new ordinances and executive actions or agency or board initiatives intended to address problems identified in the context of the ordinance review.

Councilor Thorpe said he thought what she presented was phenomenal. Member Napolitano said it was the first time he has actually been excited about something they might produce as a committee. If they are thinking solely in terms of revising ordinances or proposing new ordinances they are looking at a very narrow scope, but if they have the latitude to refer to a basket of options within the power of the municipality, this would be useful in addressing things they've heard in a concrete way.

Even when they start with very specific ordinances, their discussions tend to turn up other actionable items, Member Paik noted. Attorney Seewald has had to school them for many hours about the limitations of ordinances pertinent to their review. Based on what they've learned, she is convinced that ordinances may

not be the best remedy for a lot of these social problems. They take too long to develop, approve and enact and are limited by the inability to legislate in areas already occupied by state law.

She thinks it would be more truthful to say this is just as much a part of their work as looking at ordinances. Understanding the limitations and offering better, alternative ways to address the problems is part of the ordinance review, she suggested.

Councilor Nash thanked her for doing this, saying it reminds him of the Sustainable Northampton Plan in that it outlines different actions by different departments needed to make things happen. Letting the parking department and Transportation and Parking Commission (TPC) know that ongoing discussion is needed and letting the Mayor know what executive actions are needed is useful, he agreed. He thinks they don't need to do this for everything that's come before them but he would say there are four or five topics they have touched on where this kind of breakdown would be really helpful.

Member Paik asked if members wanted them to be centered on specific ordinances. She asked Attorney Seewald if that would work better for the report.

Attorney Seewald said he thinks not only would it work better, but it's their entire charge. Their charge is to relate these to existing ordinances or potential ordinances. They're not expected to present solutions to existing social ills, he admonished. His insistence has been to relate them to ordinances. With the Charter Review Committee he consistently had to remind them to relate issues to the charter. He wants to reel them back into the ordinances.

Member Paik said her question was merely with regard to format, meaning should they organize them according to categories of ordinances such as parking and purchasing and hiring?

Purchasing and hiring is not an ordinance because the mayor does purchasing and the mayor hires, Attorney Seewald pointed out. There are no ordinances related to purchasing and hiring. He said he is not sure what she means by purchasing and hiring.

She asked about parking or zoning, categories in which multiple ordinances do exist.

Attorney Seewald said that's a great idea. He is feeling a bit disorganized at this point because they've touched on so many things. He thinks it would be great if they could organize the report in terms of categories such as zoning, use of the public way (parking, etc.), use of public buildings, etc. Those are all things within the jurisdiction of the council.

Councilor Nash asked if Attorney Seewald would feel comfortable including an action plan as an addendum to the report or as part of the report.

Attorney Seewald said he was not sure what he meant, did he mean suggesting to the mayor executive actions that could be taken? His only concern is that there is no ordinance relating to that. They might do that in an outside letter, he suggested.

They have been tasked with looking at ordinances and addressing where disparities may exist, Member Napolitano noted. If there's not an intersection of both of those things, do they simply not make any mention of it? He asked. Or, do they say, Mayor, you assembled this commission, here are the issues we

heard about and discussed, these are things that need to be addressed through ordinances and these are things that may take executive action.

Attorney Seewald said he does not think that's something that's appropriately within an ordinance review report. He thinks they could point out that many things can't be dealt with through ordinances, but these are the things that can.

He is not saying they couldn't encourage the mayor, but he would encourage them to do that through an outside letter or an addendum. New councilors are sometimes surprised by how little power they have to affect change through ordinances, he reiterated. Their great power is through budgets, not through ordinances.

"I think we would be excluding a lot of our work if we did that," Member Paik said. If they are going to talk about the **Housing Stability Notification Act**, several provisions of it interfere with civil relationships. How do they justify making that a recommendation. It is not an up or down kind of recommendation. Don't they have to talk about aspects of it that promote or alleviate inequalities **and are appropriate for an ordinance in Northampton**? She asked rhetorically.

"I feel like we can integrate all of that into an ordinance review as long as we're very clear about what is allowed in ordinances," she shared. Even the charter review report had a section titled, 'Topics for Further Study.'

He is not sure the tenant notification ordinance alters civil relationships, Attorney Seewald responded. It's grounded in an ordinance. There may be things the mayor has to do to implement it, but that's true of every ordinance. It is not something exclusive to the mayor and outside of ordinances being suggested to the mayor to do to eliminate injustice in the city.

"Let's not confuse the issue," Member Napolitano countered. "We're not saying there's things he needs to do. We're saying he charged us with identifying disparities, discrimination and so forth," and they identified and talked about these topics. They are saying these are the things the Mayor told them he was concerned about and that they are supposed to be studying. Some can be addressed through ordinance and some can't, and they are suggesting that the Mayor look at those that can't.

Attorney Seewald said he was going to push back a little by pointing out that the mayor didn't direct them to do anything. The charge to look at ordinances to identify potential disparities came from a City Council resolution, he reminded.

Councilor Nash said he really appreciated Attorney Seewald setting up the guardrails, but it sounds like they may want to speak to things outside the guardrails. Based on what they're saying, what would be a proper way to organize that?

Attorney Seewald said he fully supports Member Napolitano's proposal. He would recommend stating in an addendum or in a covering letter that they were approached about certain topics and have addressed in their report what can be addressed through ordinance but these are things they really could not address. He doesn't have a problem with pointing out what they could not address in the report.

Member Paik's proposal to categorize ordinances in terms of zoning and land use, the use of public ways, parking, etc. is a great idea, he added. They could also have a category for 'housekeeping' changes.

In structuring the chapters, she would like to explain why each category of ordinances is impactful, Member Paik continued. Using zoning as an example, zoning changes can have outsized, dramatic impacts on whether people choose to move to Northampton, to buy houses here or to stay in their houses and pass them down to future generations as an asset. In that way, they can touch on the structural causes of systemic racism, one of which is intergenerational wealth inequity. They would still be reviewing specific ordinances but would also be fulfilling their charge of looking at ordinances through a very critical social justice lens.

Attorney Seewald said she had him up to the passing of inherited wealth.

Member Paik said she doesn't think she needs to convince anyone about racial disparities in home ownership, which is a primary driver of wealth in America.

Zoning is one of the main ways they have maintained their social structure and that is being recognized more and more, Attorney Seewald acknowledged. In fact, state law just changed so that zoning laws to allow multi-families in all districts only need a majority vote instead of a two-thirds majority. That in no way is going to change intestacy laws, he observed.

He was asked at least verbally to address the issue of effects upon vulnerable communities by the Mayor, Member Napolitano confirmed. It seems to him unnecessary and ideological to simply refuse to mention and relay issues they have heard about with the caveat that they have been advised that they cannot address these through ordinances. Acknowledging these things can't be addressed through ordinances seems reasonable but not mentioning them at all seems ideological, he volunteered.

Attorney Seewald said he thinks the argument could be made that it is ideological to mention something that has nothing to do with ordinances such as the fact that property can be passed from one generation to another. Zoning laws could enable more ownership of property, Member Paik said.

What's the negative, what's the drawback? Member Napolitano pressed. He asked if they would be in trouble or liable if they mention these things.

Not at all, Attorney Seewald responded. "If you want to mention that one of the reasons zoning is important is because real estate is passed from generation to generation, it is fine," he conceded. The truth is, property is going to be passed from generation to generation whether or not zoning is changed.

Member Paik said she willing to do the literature review or draft this portion of the report if he could focus on the technical legalities.

Councilor Nash asked if that work needed to be done in this meeting.

Anybody who wants to work independently can work independently or in groups of less than a quorum but discussion has to happen in the meeting, Attorney Seewald clarified.

Councilor Nash expressed his understanding that two of them could work together on a draft.

Two people can't be assigned to work together because that would be a subcommittee, Attorney Seewald cautioned.

Councilor Nash said he feels like they are talking a bit in circles here. He appreciates Attorney Seewald setting the boundary and thinks they want to honor that but he thinks they as a group can have some latitude in adding some additional documents. Member Paik seems very interested in doing the work around this and he'd be more than happy to discuss it in a [meeting like this](#), he said.

Attorney Seewald suggested he put together a report discussing important Issues that don't really belong in ordinances and they as a committee supplement it. Member Paik would be modifying much as she does with her careful review of the minutes. She could bring her modifications to a meeting and the committee could vote on whether to include them. His concern is they have five more meetings between now and the end of March. He thinks they need to close the door soon on new things and get this thing drafted so they have at least two meetings to finalize it.

Councilor LaBarge said everything she's heard from Attorney Seewald is absolutely correct and she's going to follow his path. Right now, they've all been told this is not the right direction. They are four months behind and she thinks they have come a long way. She agrees with Councilor Nash that they can go ahead as a committee and put forth whatever they want as a recommendation of their thoughts.

When Director Feiden came to speak he presented the two-family by right ordinances in conceptual form, Member Paik reminded. They haven't really spent the time to review them for their impacts. She would propose their doing that. She knows there is a lot of momentum going forward but there's also been a lot of community pushback. She asked to put this on a future agenda.

That particular zoning change is being reviewed, Councilor Nash pointed out. He thinks at best what they would be recommending is that the Planning Board examine ways to find more opportunities for housing. They could definitely all go to that meeting next week and weigh in.

Attorney Seewald pointed out that in all likelihood it will already be enacted before they meet again.

Since it's come before them in their six months and part of their purview is to review existing ordinances, she doesn't think [they](#) should be excluded, Member Paik shared.

Members discussed having Director Feiden come to their next meeting to talk about demographics, the six maps showing the location of amenities such as open space, grocery stores and public transportation in relation to concentrations of vulnerable communities and the American Community Survey. If he accepts their invitation it might be helpful to hear other housing proposals the planning department is considering, Councilor Nash suggested.

7. **ADJOURN**

Councilor LaBarge moved to adjourn. Member Napolitano seconded. The motion passed unanimously 5:0 by roll call vote. The meeting was adjourned at 6:38 p.m.

Problem

Cost for vehicle tows in Northampton are prohibitively high.

Context

- Renters without designated off-street parking spaces (driveways/garages) are most at-risk for tows.
- Renters without parking are likely lower-income and more cost-burdened by fees/fines.
- New, transient, and lower-income residents have uneven/inadequate access to city information about snow emergencies and the like.
- Direct costs ~\$200 with variable storage fee but towing also incurs indirect costs (transportation, income loss, etc.)

§ 312-51 Towing of vehicles impeding snow removal operations.

[Added 10-15-1992]

A.

Any vehicle parked on any way in the City of Northampton in violation of § 312-31 of this chapter and/or any other ordinance, regulation, or emergency order related to snow plowing and snow removal operations may be removed from said way to some convenient place, including a public or private garage through the agency of a person or persons in the employ of the City or by an independent contractor.

B.

The removal of said vehicle shall be authorized by any police officer of the rank of Sergeant, the Director of Public Works, the Assistant Director of Public Works, or the Superintendent of Streets. The owner of any vehicle so removed shall be responsible for the cost of such removal and of the storage charges, if any, resulting therefrom.

C.

The owner of such vehicle may also be ticketed and subject to a fine in accordance with the procedures of MGL, c. 90, § 20A1/2 and all amendments thereto.

Policy Options

- Council can lower/eliminate the \$25 fine but not the fees set by the agencies. **ORDINANCE AMENDMENT? PARKING**
- City can work only with vendors (i.e. towing companies) that cap the tow fee. **EXEC ACTION PURCHASING AND HIRING**
- City or another entity like Noho Housing Partnership or nonprofit could provide information to newcomers (esp. renters) about signing up for weather and other alerts, parking and towing, and schedule of fines and fees. **AGENCY OR BOARD INITIATIVE PARKING**
- Mayor can lift “blanket towing” and not tow in *select* areas without off-street parking or with only street parking. Tow on odd/even sides during set hours and/or non-thruways. **EXEC ACTION PARKING**
- City can require parking more commensurate with the renters’ needs. The pending Two Families by Right zoning changes will create more parking pressure in the near future. **ORDINANCE AMENDMENT? ZONING**
- Landlords should be required to provide information to new tenants re (*forced speech – against their own interests of not providing adequate number of parking spaces). **AGENCY OR BOARD INITIATIVE RENTAL HOUSING**
- Registration is nonexistent for landlords. Assumption that “rental housing” = buildings with two or more units, but there are possibly a large number of informal rental arrangements between tenants and landlords. **NEW ORDINANCE? RENTAL HOUSING**
- Refer to planning board for input on how the status quo creates parking pressure on renters and what planning board can soften that burden on renters. Request that Planning shares the demographic info from the census and the implications for policies that alleviate burdens on vulnerable populations.