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Approved
March 26, 2018

NATURAL RESOURCES Committee Meeting Minutes
January 29, 2018_- Time: 6:30 pm - Room 315

I. Call to Order 6:30 PM. Video & Live Streaming: Matthew Emmershay, 36 Fowler, Westfield, MA

A. Attendance: NRC Members - Councilors Ralph Figy (left meeting at 8:02pm), Nicholas Morganelli & Mary Ann Babinski (chair); **Others:** City Attorney Susan Phillips; Councilors Andrew Surprise, Matthew Emmershay & Michael Burns; Residents Kristen Mello, (WRAFT) & John Keilch; WEN reporter Dan Desrochers.

B. Procedure: Participation allowed when recognized by the chair.

C. Approval meeting minutes N/A

Motion : Councilor Babinski received a request from Attorney Phillips that she be allowed to speak to Item #2 out of order due to other commitments. A motion to approve was made by Councilor Figy and seconded by Councilor Morganelli - approved 3-0.

II. Items on Agenda

Councilor Babinski read the item and made available copies of the questions for those in attendance. This item was referred to the committee from the City Council floor on a motion by pro-temp president Flaherty and an approved by the council after Ms Mello's public speak.

B. Item #2 - Review questions presented by Kristen Mello on behalf of Westfield Residents Advocating For Themselves (WRAFT) to City Council on JAN 8, 2018 and referred to NRC:

1. Questions presented at public presentation (See document attached to posted agenda - Q.1 Referred to NRC_010818)
2. Questions posed to the Planning Board on November 21, 2017 and presented to City Council on JAN 8, 2018 (See document attached to posted agenda - Q.2 Referred to NRC_010818)
 - a. *The following is a summary of the discussion related to the issues brought before the committee by Attorney Phillips:*

Attorney Phillips:

- In reviewing committee agendas the law department has realized there is a need to renew training sessions with councilors. They plan to schedule training starting with the second City Council meeting in February. Public Records Requests, Open Meeting Laws and policies related to having open access on council computers will be discussed.
- She explained that a lot of the issues related to agendas has to do with the process not the information necessarily. It's process.
- She explained that public input is an opportunity for the public to speak, to hand in questions or treatises and to hand over whatever documents they have which then become part of the public record.
- It's not the advice of the Law Dept and it may go against the city council rules to say that everything from the floor has to show up on the agenda before it gets sent to committee. Bottom line is it is not the law department's advice that everything that comes to the floor gets immediately sent to committee.
- The process is important to follow. Members of committees have to be cognizant of the possible sensitive nature off some of the issues they may respond to. There may be ongoing litigation that could be affected my personal comments that are not officially support-

ed. Items that may be reported in the news. Committee members or the chair can do research on items and speak to legal or department heads to gather correct data.

- Records Request is the proper mechanism for the public to get access to data. There are records that speak for themselves. The Law Department does not interpret the data.
- It is not good practice to take things from the floor. An attempt to answer questions [during public speak] could inadvertently state an opinion that would be considered the city's opinion when it is not.
- It is appropriate for the committee to look at questions to decide which items, we as a committee, want to address.
- Committees are not required to respond to public questions other than to allow them to be party to our deliberation.
- At this point NRC does not need to do anything to move this item out of committee. Use the list as a reference for our current work on zoning. Don't feel that you need to respond to every question. Use the list as a tool. Leave other items on the list to a public records request.
- When issues are brought to the City Council during public participation, council does not need to move it to committee at that meeting. Any councilor, if so moved, could put the item on the next city council agenda. At that time, the full council can move the item to the appropriate committee by vote.
- Items that are not on the agenda can be moved to committee by making a motion to suspend the rules for reasonably unanticipated issues that require immediate attention. Not usually a good practice because the public who may have an interest in the issue may not have been aware of it because it was not on the agenda.

Councilor Babinski:

- Suggested that some of the items on the list could be a Public Records Request.
- Items not on the City Council agenda have been referred to committee in the past.
- Agreed that the proper route/process should be followed.
- NRC is already working on some of the items on the list and some of those items have already been discussed with engineering and other departments.
- NRC can look at the list to determine what is appropriate for us to deal with based on what is in our committee now, namely the WRPZ ordinance.

Councilor Morganelli:

- Asked Attorney Phillips for examples from list that would be Public Records Requests.

Attorney Phillips:

- Councilors don't have to make a Public Records Request, if questions fall within the purview of what they are working on.
- Explained the role of the Records Access Officer (Robyn Gay) and the record keeping required by legal department for the Attorney General's office. The City of Westfield is using the same record keeping plan as the state.
- The Public can go to the particular department or request the documents from the Records Access Officer, using the Records Request Option on the city website.
- The Records Access Officer hands out docs not opinions.

Resident John Keilch:

- Expressed an interest in asking Attorney Phillips a question.

Attorney Phillips:

- Clarified that she was there only to address the NRC

Resident John Keilch:

- Expressed his concern that unanswered questions may lead to uninformed decisions/approvals given by boards etc. because boards, commissions and committees take action without having all the answers.

Councilor Babinski:

- Offered that she would respond to Mr. Keilch because Attorney Phillips had to leave.
- Clarified that Attorney Phillips was only there to help explain to the committee the best process/practices committees should follow when questions are brought to the council or boards during public participation and the role they should play at the time.
- The process we need to follow will continue to be discussed.
- Items not on the City Council agenda have been referred to committee in the past.
- Agreed that the proper route/process should be followed.
- Law Department has to follow the proper protocol. They need to answer to the Attorney General.

Councilor Morganelli:

- Stated that the public deserves an answer to any question proposed to any committee.
- Some questions may require research;
- Others Public Records requests;
- Committee members may not be at liberty to blurt out any answer. How and what we say is important.
- Legal ramifications need to be considered; refer to the appropriate department.

Resident Kristen Mello:

- Offered that the word “acknowledged” could be replaced with the word “published” or “confirmed” if there is a concern about the wording. If the answers to the questions were compiled or available, she would not have asked them of the Planning Board or City Council. These questions are for anyone having a comprehensive plan for our city moving forward for its development and resource protection which is why the list of questions was developed in the first place. She understands that people have jobs and responsibilities and legal situations and that we need to be careful. However, [she felt] the reaction that was given to the Planning Board originally is the reason that this had to come to the City Council at all. The reason that WRAFT decided to bring the list to the council was to ask the council to open an investigation to get the answers to these questions. If there are some that you cannot answer because it puts the city in a liability situation then she gets it. We cannot address the questions at this time. If the citizenry had a clear explanation of how things are supposed to happen with respect to bringing concerns to the council, that might help. I did not know there was one place to put all records requests prior to December of last year. When Robyn [Gaye] explained that to her it was a mind blowing moment because now she doesn't have to chase anyone down, she can just ask her. It would have saved her hours to know that. Answers to some questions are not in files and an answer to a records request would be , we don't have that and nobody can get that for

you right now. That's why she asked the council not to get the answers but to open an investigation. It is part of the charter Section 26, That is why she did it.

Councilor Figy:

- No one is questioning that. It is about the process.

Councilor Babinski:

- The law department hopes to clarify the process going forward. We need answers but should not hold up the work on the ordinance until we get all the answers.
- We need to make informed decisions. What questions can we handle now? Which ones are critical now?
- NRC was already working on what some of the questions address. NRC needs to deal with questions that are critical to what is before them now and perhaps others can wait until later.
- Pioneer Valley Planning Commission can provide Local Technical Assistance and may be able to help with mapping the Water Protection Zone but there is a charge. Other departments (DPW or engineering) could assist.

Councilor Emmershay:

- Is there funding available?

Councilor Figy:

- City Council cannot initiate a request for funding.
- b. *The following is a summary of the discussion related to Item #2 that took place at the meeting regarding the questions NRC can answer or need time to answer.*
- The committee discussed the direction it should take in pursuing answers to questions

Councilor Morganelli:

- Suggested we identify which are public records request and talk to legal to determine which ones fall under the jurisdiction of what is now before the committee.

MOTION by Councilor Morganelli:

- To work with Robyn Gay (Records Access Office) and city departments to figure out which of these are public records requests and the rest of the questions to consult with legal to determine how to move forward with those.
 - Seconded by Councilor Figy. Motion approved 3-0
- c. *Who can answer*
- Law Department to clarify questions authorized to answer
 - City Records Access Officer, Robyn Gay, for public records request.
 - City Departments, i.e. DPW or Engineering

A. **Item #1** - Continuation of the discussion from October 16, 2017, regarding: 10/6/16 - Upon motion of Councilors Babinski, Onyski and O'Connell, it was VOTED: That the Article III, Section 3-170 - The Water Resources Protection District. Specific attention to but not limited to Section 3-170.3, 3-170.5 and Section 3-170.6 be reviewed and that this matter be REFERRED TO NATURAL RESOURCES

1. Review changes, additions and corrections made to the draft ordinance since 10.16.17
 - a. Review feedback from November 2017 meetings with City Planner and Law Dept.
 - b. Review feedback from January 2, 2018 meeting with BAPAC

c. Airport District designation information and updates

The following is a summary of the discussion related to this item before the committee:

The chair explained that the purpose of today's meeting is to get people up to speed on the work completed on the draft to this point and to restart the conversation going forward on the zoning ordinance amendments. Recent conversations and events have highlighted new areas that need to be strengthened.

The committee reviewed the changes that were added to the last draft which included suggested changes from the Law Department, Planning and Barnes Aquifer Protection Advisory Committee (BAPAC). The committee was shown the edited draft with changes from BAPAC. (See attached document)

Some of the items highlighted were:

- Noted which surface water items were moved from **3-170.2** Delineation of District to **3-170.1**
- It was noted that the Medium and High Yield aquifer map had been put on the council share. This area is not included in the current zoning ordinance. The committee agreed that this has been one of their concerns from the beginning.
- It was mentioned that the Zone II near Root Road was made a protected zone in 1998. This is Southampton's zone II recharge area.
- BAPAC's suggestion to move the definitions above the delineation section was mentioned.
- The replacement of the detailed definitions for the zones with a reference to the MGL regulations at 310 CMR 22.02 instead was recommended by the law department to avoid the case of the MGL definition being changed. BAPAC agreed with this.
- Noted that the committee needs to research dealing with Waste oil mentioned on **3.170.5 #1b and #4**
- Under permitted uses **3-170.6 #2** removed variance reference as suggested by city planner. BAPAC was okay with the change if ZBA uses MGL Chapter 40A, sec 10 in when making decisions about variance requests. Councilor Emmershy suggested it was a good idea to remind the ZBA members about this. This can be further discussed, perhaps having a check off list of MGL requirements on the application might work. The committee agrees that some of the regulations in this ordinance refer to and depend on other references that may also have to be strengthened.
- Committee determined more research needed to be done on areas of the ordinance where grandfathering businesses/residences may need to be considered with some of the changes being proposed.
- It was suggested to look at the issues that might arise with non-conforming lots.
- **3-170.6 [5]** Needs to be clarified and perhaps language with specific criteria that has to be met needs to be included. Needs more review. It was suggested that the Board of Health be referenced to weigh in. For example, Septic system Title 5 needs to be approved by the health department.
- A suggestion was made to possibly rename some the sections. Committee agrees this would need more review before being considered.
- **3-170.7 1.a.viii** Clarification needed for non-conforming parcels that have been approved and may be affected if the delineation changes. Need to be careful that we don't override the parcels who have past approval. Existing non-conforming new parcels would have to be conforming. Need to clarify this language. It was stated that the goal is to make the language as clear as pos-

sible. The process is important. Put better protection on existing non-conforming/old fuel storage tanks. It was agreed that this needs to be reviewed. The committee will do further research.

- **3.170.8** and **3.170.9** are already approved changes.
- **3.170.10 [1]** the change to 6 weeks was recommended by BAPAC because of the scheduling of committee and board meetings. NRC okay with this.
- **3-170.11 [3]** There was a recommendation that the stormwater management regs could be referenced here. This will need more discussion.
- **3-170.11 [13]** Needs more review
- **3-170.12 Enforcement and Penalties** - As discussed, this would be new section. It was recommended by the City Planner that *Article I sec 1-10* of the zoning ordinances could be referenced here. NRC felt it was important to include specific language in this ordinance. This section could be made stronger than Article I. It was suggested that; we consider the possibility of a different fines structure by businesses and residences; regs for underlying zones; and not exempting the city. This needs to be clarified re acreage and underlying zoning. NRC agrees that whatever we decide the language should be, this section definitely needs to be in this ordinance.
- **3-170.5 Prohibited uses** - Comment made that this is grossly understated. Road treatment in these areas could be critical. Specify what should and shouldn't be used. Airport will not deal with highly corrosive ice melts. Should identify reduced road treatment and application of these Ice melt products. Should we rate/rank products such as Salt, sand, Calcium Chloride. Calcium Magnesium chloride if it is a concern? This issue needs to be reviewed.

2. Next steps

- *Need to review and tighten up changes. Need to leave as little doubt as possible.*
- *Need GIS Mapping of Water Resource Zone. A topographical map would be helpful.*
- *Research Airport District rules about impervious surfaces*
- *Councilor Babinski will do research on district overlay size*
- *Continue to review and gather data to support changes to items in latest draft*
- *Areas needing more tweaking will be discussed at the next meeting*

III. Next Meeting Date: TBD March 5 was a possibility.

IV. Adjournment: 8:28 PM Motion by Councilor Morganelli

Respectfully submitted,

Councilor Mary Ann Babinski (chair)