

Ordinance Review Committee – Meeting Notes 02/17/2021

COMMITTEE MEMBERS PRESENT:

NAME	PRESENT (Y/N)	NAME	PRESENT (Y/N)
Cllr Barry Connell	Y	Cllr Afroz Khan (Chair)	Y
Jim Connolly	Y	Gregg Ogden	Y
Cllr Jared Eigerman	Y	Atty Mark Reich (Staff)*	Y
Molly Ettenborough	Y	Lt. Siemasko	N
Clerk Richard Jones *	Y	Mike Strauss	Y
Chief Chris LeClaire*	N	Ron Thurlow	Y

*NON-VOTING MEMBERS; ADVISORY POSITION

Introductions

Chair Khan started the meeting by going through upcoming meetings for completing the Chapter review. These were noted as follows:

Wednesday, February 17th

- Chapter 5 Building & Building Regulations
- Chapter 11 Parks & Recreation
- Chapter 12 Streets, Sidewalks & Other Public Spaces
- Chapter 16 Local Historic District

Wednesday, March 3rd

- Chapter 6 Civil Defense & Disaster Relief
- Chapter 7 Fire Prevention & Protection
- Chapter 10 Miscellaneous Offenses

Wednesday, March 17th

- Chapter 4 Boats, Docks & Waterways
- Chapter 8 Health & Sanitation
- Chapter 14 Utilities

Wednesday, March 31

- Chapter 9 Licenses, Permits & Business Regulations
- Chapter 13 Traffic & Motor Vehicles
- Chapter 15 Vehicles for Hire

Wednesday, April 14th

- Chapter 12 Street, Sidewalks & Other Public Spaces
- Other Items

Ms. Ettenborough asked how are comments and edits by those who review the chapter incorporated later. Chair Khan indicated that once we discuss all our comments and edits, they will be publicly posted and if there are additional comments/edits can be discussed at the last meetings in April. This effort is considered a “first pass” and then our last meetings can include outcomes from the follow-ups. Ron Thurlow shared that he discussed his edits prior to the meeting with the Harbor Commission and was able to bring them to the original meeting.

Chapter 5 – Building & Building Regulations

- Section 5-47: Discussion around annual reports that are done in the budget book and are part of that process; however, each year in February a report on the maintenance of municipal buildings, except schools, shall submit a report on the physical conditions; need to remind the administration on this. CIP planning is done around that time so it can complement that effort.
- The group decided that when referencing “Chapter” we should specify the actual Chapter number throughout the section to avoid vagueness.
- Question came up by group regarding Section 5-62 if the fees go to the general fund or revolving fund. Chair Khan will verify with Ethan Manning. Mark Reich clarified with the group that a revolving fund is a fund established outside of the general fund for specific programs in the city that is self-funding where fees and other receipts received from that program and can be spent without appropriation by the city council. This is money that is not looked at by elected officials (Group)
- Interesting language that references fall-out shelters due to an enemy attack; state building code may pre-empt this language and should be checked in Section 5-62. Chair Khan will research and also send to the Building Inspector or Jennifer Blanchett.
- Mark Reich said that there needs to be a specific Revolving Fund ordinance that helps tighten and clarify all of this. JE expressed interest in ordinance being a better way since there is a trail of work and efforts; orders are harder for the public to find. Chair Khan will work with Ethan Manning on that. Atty Reich stated that discrete matters can be handled by an Order. He also stated that the list from Ethan can be put in a chart with requirements of the revolving fund and then when something is added; it can added as a line item in a chart.
- Molly brought up the issue with solar panels and snow that comes off sloping roofs onto the driveway of homes. This is a bigger issue and may need to be added as a substantive change. Atty Reich has not seen any ordinances or bylaws that have addressed this issue. Molly is dealing with it right now in terms of private driveways and not a public way. Chair Khan will research with Atty Reich to see if this can be addressed. The nice thing is that in reviewing the solar applications this can include putting an edge in or something.
- Section 5-96 notes an inspector of Natural Gas which the group speculated to understand who that is. The city council confirms this position which may be a person who wears multiple hats. Cllr Khan will clarify who this is. These positions are significant and should be clear to the public to see. Clerk Jones shared that it is probably Gary Downes, plumbing inspector.
- Many fees were noted in this chapter as well. The global listing of fees that was identified by the committee early on will resolve some of the organizational aspects of fees in Chapters.
- Molly noted that permits for Hot Water Heaters are in our code but is that done consistently in the city. The group discussed that Hot Water Heaters tend to get resolved in emergency situations and the permit can be done after the fact but is that done. May be important to have publicly available. Natural gas is an important safety issue in terms of permitting.
- Cllr Connell noted that the Building Inspector reports to the city council and Mayor but Plumbing Inspector, Inspector of Wires reports to the Mayor only. Who supervises who is key to clarify at some point. Ron Thurlow pointed out that it’s unusual to have the city’s electrician also inspecting their own work. May be important to review the policies to keep those roles separate.
- Section 5-152 is not referencing the latest National Energy Code, 2020. Need to update to relevant codes and remove dated provision. Maybe including a code cross-reference. Similarly in 5-179 there

seems to be reference to brand names and we should change to a generic reference. Chair Khan will check with Chief LeClaire.

- City of Newburyport does not regulate solar panels; it may be better to have some permitting process; right now solar panels does go through building and electrical permitting; should it be codified?
- Section 5-196 should be expanded to include more items but that is considered substantive and can be flagged for councillors to bring up. "Utilities including but not limited to" was suggested
- Section 5-197 should be looked at by Director of Public Works; or if there is a way to reference this to a broader context or have David Zinck review.
- Section 5-201; All the 1971 sections should be reviewed; Chair Khan will circulate to the appropriate administrative staff.
- Section 5-205 will be reviewed by Atty Reich to see if there is any updated federal or state rulings on poles such as the double poles issue.
- Section 5-227 – Earth Removal Board can be formed quickly if needed. Many folks didn't know we had this; it's from 1976 which may have been formed during the Boyd Drive development. Clerk Jones shared that it was helpful to have available. Important to understand that there is a board for soil removal and an affirming process; typically when development is being done in open space.
- Enforcement is noted here by police department given its about buildings and group discussed that Police Departments are typically identified as the general enforcement agencies. Atty Reich indicated that it makes sense for them to be enforcing.
- Article IV Condominium conversion was raised 5 years ago to the AHT but not addressed. Some of these boards exist so it's important to keep. Clerk Jones mentioned that condo conversions have happened and probably not considering this ordinance. This was done in the late 80's. Statistics show that the rental stock is shrinking considerably. Cllr Khan will see if we can bring to the AHT.
- Severability Clause and fines will be highlighted throughout so that we can make sure it is captured in a global way at the beginning of a Chapter. Definitions will be moved to the beginning of said Article or Chapter.
- Under definition in section 5-276 there is a statement that says "Shall" is mandatory and directory and "May" is permissive. The group decided to strike "and directory". Important to know if this section is even being followed; it was created in 1992. Atty Reich will review this section or someone from his office.
- Section 5-277 was discussed by the group; initially there was a desire to have more folks who do work in the city to be from Newburyport. Atty Reich shared that this is not easily to be enforced and public projects are held to other goals and procurement requirements. Group discussed that it should be deleted. Guidance is to refer to procurement guidelines and rules. Instead of deleting we can change the language.
- Section 5-278, 5-279, 5-280, 5-281: Is this consistent with state law. Atty Reich stated we don't need this and we need to reference the statute. Recommendation would be to see if council can delete this. Clerk Jones shared that since it was done in the early 90's may have been driven by labor sensitive issues by specific councilors. This is covered by statute and bid laws of the state.
- Definitions should relate to the article after the Intent. MS asked if there should be definitions in the beginning of a Chapter. JE clarified that it will depend on the Chapter.
- Demolition policy was raised by Cllr Connell as something to be discussed at a later date.

Chapter 16 – Local Historic District

- We only have one LHD; Fruit Street. No change being sought. Should Section 16-11 regarding penalties be in the omnibus of fees and penalties.
- Section 16-12 is repeating validity and separability in terms of the severability; needs to be removed.

Chapter 11 – Parks and Recreation

The list was done as an effort of creating a drug free zone for parks. In 2018, Cllr Eigerman confirmed all of these parks and areas. A parks commission was formed in 1998 but never mentioned until in this ordinance was done in 2018. Chair Khan will send section to Lise Reid for review.

- Removal of parks commissioner can be done by a 2/3 vote of the city council; reference is MGL and specific to parks commissioners. Group agreed to put the citation here;
- Section 11-5 item (5) can clarify that it is referencing anything with a motor.
- Section 11-6 specified that Parks Commission has oversight but we don't have reference in our code about Waterfront Trust which is in an enabling formation. The city council may want to codify their existence or reference the appropriate statute in this section also related to a Land Case. This is important with the bid being done for the Market Landing work.
- Section 11-28, 11-31, 11-33 should be updated to note the effective date that the Atkinson, Moseley and Bartlett commissions were abolished.

Next Meeting

Chapter 12 on Streets and Sidewalks will be moved since the committee did not get to it. The committee meets every two weeks. The next meetings are as follows.

Chapter	Reviewer	Discussion Date*
6 – Civil Defense & Disaster Relief	Chief LeClaire, Lt. Siemasko, Thurlow	March 3, 2021
7 – Fire Prevention & Protection	Chief LeClaire, Lt. Siemasko, Thurlow	March 3, 2021
10 – Miscellaneous Offenses	M. Reich	March 3, 2021
8 – Health & Sanitation	Ettenborough, Strauss	March 17, 2021
14 – Utilities	Strauss, Ettenborough	March 17, 2021
4 – Boats, Docks & Waterways	Lt. Siemasko, Thurlow	March 17, 2021
13 – Traffic and Motor Vehicles	Clerk Jones, Lt. Siemasko, Thurlow	March 31, 2021
9 – Licenses, Permits & Business Regulations	Connelly, Ogden	March 31, 2021
15 – Vehicles for Hire	Connelly, Ogden	March 31, 2021
12 – Streets, Sidewalks & Other Public Spaces	Connell, Khan	April 14, 2021