AMESBURY

CITY HALL
62 Friend Street
Amesbury, MA 01913

City Council Ordinance Committee Meeting Minutes

August 17, 2021 at 7:00pm
Virtual meeting

This meeting was conducted under the 'Executive Order Suspending Certain Provisions of the Open Meeting Law G.L. c.30A, §20', signed on March 12, 2020.

Ordinance Committee Chair Mandeville called the meeting to order at 7:13 PM

Roll Call was taken and present were: Attorney Johnson, Councilor Lennon, Councilor Mandeville, and Councilor Rinaldi

Attorney Raffa joined the meeting at 7:22pm

Minutes for Approval: July 20, 2021

Councilor Rinaldi motioned to approve the minutes as presented. Attorney Johnson seconded the motion. Roll call was taken, 3 out of 4 members present voted yes, one abstention. Motion passed.

2021-043

- Councilor Stanganelli distributed version 4 of order **2021-043** at the beginning of the meeting. This was the version altered after recommendations from the Planning Board meeting on August 9, 2021.
- Councilor Mandeville read aloud the changes made in the redlined / blue lined version 4: **see attachment 1**
    - Councilor Stanganelli noted on the second page in the third paragraph beginning "Permanent or temporary…" the section, "displays signs" should be "display signs" or just "displays".
- Councilor Rinaldi asked if there had been feedback from the community.
    - Councilor Stanganelli said he received feedback from the proprietor of the Barking Dog with the initial version of the bill. The feedback was unsupportive until Councilor Stanganelli explained to him what this bill would not prohibit.
    - Councilor Lennon said she had gotten concerns early on from the General Manager of what is soon to be the Maples Crossing. She said she expressed to him it was important to her was that City Council and the Planning Board come together to create a plan. She said it is important to her to have an ordinance in place in the event of a modification or special permit. She said she believes the right way forward is to make post agreement arrangements.

- Councilor Stanganelli requested when making the motion if striking the word “signs” in the second full paragraph on page two, as aforementioned, could be incorporated.
- Councilor Lennon requested the committee move to continue this order until the next meeting seeing as the current version being discussed was not available until they had begun the meeting.

Councilor Lennon motioned to continue order <u>2021-043</u> until the next regularly scheduled Ordinance Committee meeting on September 21, 2021. Councilor Rinaldi seconded this motion. Roll call was taken, all 5 members voted yes. Motion passed.

<u>2021-93</u>

- Councilor Mandeville stated that the working group met twice prior to this Ordinance Committee meeting. There were notes from the group that were sent to the committee members yesterday **see attachment 2**. He asked if anyone had a chance to read the notes.
    - Councilor Lennon sad she thought the notes were robust and was very pleased with the commentary. She explained she agrees with a lot of the comments, specifically the minimum length of stay and the number of rentals per year. She said it would be very hard to manage/track as well as it is very restricting.
- Councilor Lennon asked if Councilor Gilday would be in attendance.
    - Councilor Mandeville replied by stating Councilor Gilday would not be in attendance tonight, but she had spoken with him prior to the meeting. She explained to him that since there is still work being done to this bill it would be best if it were continued at least one more meeting. Councilor Mandeville said despite Councilor Gilday’s suggestion, he felt it was appropriate for the Ordinance Committee to discuss in order to provide comments to send to the working group.
- Councilor Mandeville opened the floor or comments to be submitted to the working group.
    - Councilor Lennon said she agrees that Chapter 53G definitions need to be reviewed, and the language may possibly need to be changed to respond to that.
        - She said that the Chapter 53G definition reviews would come into play with the multiple bedrooms rented at the same time to more than one renter. She said she thinks it would be something very difficult to have any oversight on because there can be multiple parties that are paying under one rental name.
        - She said she believes the pieces on trying to manage the way that the rental takes place on the property is an overreach.
        - She said she believes that what is within the scope of the City’s ability to manage is the legal tax definition of half a year residence, the residency requirement, and definitions for any kind of multi-unit environment that has not been thought of. She gave the example of the area with tiny houses on Tuxbury Pond.
    - Councilor Mandeville explained he felt that trying to regulate length of stay and number of rentals might be an arduous process.

        - He said he believes it would be more important to focus on regulation and enforcement. Creating some answers to what would happen if you violated the rules.
    - He said the order can define all these specific places that can and cannot be rented, but just when it seems like it is all covered, some new place can pop up that is not in the regulations.

Councilor Lennon motioned to continue order <u>2021-093</u> until the next regularly scheduled Ordinance Committee meeting on September 21, 2021. Councilor Rinaldi seconded this motion. Roll call was taken, all 5 members voted yes. Motion passed.

<u>2021-102</u>

- Councilor Stanganelli said there were changes made to this bill at the Planning Board meeting on August 9, 2021. The new red line version has a water mark that says "Amended/PB/Redline/8/09/2021". This is version 6. **see attachment 3**
    - He said there was a typo, in section 1 "Conservation Park Land", part A3. The Assessor's map was previously "40/14" where the correction was "48/14".
    - He stated that the line, "… and Great Swamp A, B and C as reflected on the plan sketch "Woodsom Layered Map" and..." in the paragraph under "Conservation Park Land" has been completed taken out.
- Attorney Raffa referred to section 1, A5 'Great Swamp A' and A6 'Great Swamp B' questioning why they were still on the bill if the line that incorporated them in the beginning paragraph was struck.
    - Councilor Stanganelli explained that the parcels are still there they just were not reflected in the map that is why the line says "as described below" referring to items A 1-6.

Councilor Rinaldi motioned to send order 2021-102 back to City Council with a positive recommendation as the currently modified version 6 with Planning Board changes. Attorney Raffa seconded this motion. Roll call was taken, all 5 members voted yes. Motion passed.

<u>2021-105</u>

- Councilor Mandeville stated that this bill and order **<u>2021-093</u>** go hand in hand.
- Councilor Lennon asked Chief of Staff, Paul Fahey, to confirm that there is no specific licensing board aside from liquor licensing.
    - Paul Fahey said that is correct. He said he knows there was some discussion during the Charter review, however that was not one of the recommendations. As of present the only board in the Charter is the Liquor Licensing Commission.
- Councilor Lennon stated concern for the mechanics of the permitting. There are many departments the applications would need to go through such as the Clerk's Office,

Assessor's Office, Inspectional Services and Zoning Board of Appeals. She suggested the creation of an official licensing board.
    - Paul Fahey stated he does not believe that because there is no mention of a licensing board in the Charter, wouldn't necessarily preclude the creation of one. He said this would have to be reviewed by the City's legal team.
- Councilor Mandeville said, he thinks the intention from the discussion would lead to a registration with the Clerk's Office, then an inspection by the Board of Health and Building Inspector to ensure the property meets safety requirements.
    - He said either an initial inspection, or an annual inspection to ensure all of the rules and regulations of the bills that were set are being applied.
- Paul Fahey stated that the second working group meeting did not take place.
- Councilor Mandeville suggested that this order be continued as did order **2021-093**. He reiterated that he wanted to open the floor for comments within the Ordinance Committee to submit to the working group for their discussion.
- Councilor Lennon said her recommendation for the mechanics of this [the order], is the ordinance should be written in a way that requires relief from the Zoning Board of Appeals to acquire a license. She said in that way the Building Inspector is still managing the zoning piece and there is still a board that will be reviewing the licensing. There should be an applications process through Inspectional Services that will require the review of the Assessor, the City Clerk's Office, the Board of Health, the Police Department and the Fire Department.
    - She said she would hate to create a whole licensing board for 10 rental units, but having to go through the ZBA might be the impetus to create one.

Councilor Lennon motioned to continue order 2021-105 until the next regularly scheduled Ordinance Committee meeting on September 21, 2021. Councilor Rinaldi seconded this motion. Roll call was taken, all 5 members voted yes. Motion passed.

2021-106

- Paul Fahey gave a brief overview, saying the City was in a regional health agreement with Salisbury, MA. The agreement was changed but both parties felt that the Animal Control Officer portion of the agreement was still working.
- Acting Chief Bailey wanted to add a part of the old agreement had Amesbury paying for the ACO call outs when Salisbury had more call outs. The new agreement has each municipality paying for their own.
    - He said the agreement is written really well.
- Councilor Lennon stated she is happy this agreement is handing back to Amesbury the services that tax payers are paying for. She wanted to note that in the FY22 budget that was approved, $31,000.00 and roughly another $6,000.00 was for animal care and vehicle lease, roughly $37,000.00 is being committed into this position by the city of Amesbury.
    - She said she would like to know how that shapes into hours.
    - She thinks what is missing around the ACO position is structure and their call out responsibilities.
        - She gave the example of chickens and bird feeders in densely populated areas. Whereas Amesbury's inspectional services do things differently,

she would like to know if these responsibilities will or will not fall under the ACO.

  - She would like to know if there are restrictions in the contract regarding what the ACO can and cannot respond to, such as chickens, small animals, domestic animals vs. large animals and other wildlife. She said if there are these restrictions for one municipality or the other how are they reconciled.
- Acting Chief Bailey responded to Councilor Lennon's inquiries:
  - In regards to the budget, he said, a big chunk of the $37,000.00 is to pay for half of the AOC which is about $20,000.00. The $6,000.00 is for vehicle costs which includes gas and other vehicle costs. The remaining $11,000.00 is for overtime hours.
  - In regards to the avian issues, those are not things that would necessarily be in the contract but would have to be developed in an Animal Control Policy for Amesbury. He said that there is already an Animal Control Policy that can be amended to explain how to deal with different animals, rules and procedures for Amesbury. The contract really deals with hours of employment, wages, health insurance, who's paying for what.
- Councilor Lennon suggested there be some regulatory guidelines or an actual policy for open spaces within the City that allows off leash dogs.
- Councilor Lennon asked, in regards to off hours, if the police force responds to ACO calls.
  - Acting Chief Bailey responded yes, Amesbury Officers will respond to calls if the ACO is unavailable. He went on to explain there is room for the City to discuss hiring their own full time ACO if the need be. The contract between Amesbury and Salisbury does have a clause that will permit Amesbury to back out of the contract if they are retaining their own full time ACO.

Councilor Lennon motioned to return order <u>2021-106</u> back to City Council with a positive recommendation. Councilor Rinaldi seconded this motion. Roll call was taken, all 5 members voted yes. Motion passed.

Councilor Lennon motioned to adjourn. This motion was seconded by Councilor Rinaldi. Roll call was taken all 5 members voted yes. Motion passed.

Adorn at 8:17 pm

Respectfully Submitted by, Ellie Andersen, September 16, 2021

Attachment 1

CITY OF AMESBURY

IN THE YEAR TWO THOUSAND TWENTY-ONE

SPONSORED BY: _____ BILL No._2021-043

Steven Stanganelli, Councilor-at-Large

_____

Scott Mandeville, Councilor-at-Large

_____

Adrienne Lennon, Councilor-at-Large

An Ordinance to Amend Amesbury Zoning Bylaw (2015 as amended) to govern electronic signs, message boards, and billboards

Summary: A measure to amend the Amesbury Zoning Bylaw by updating Section VII: Signs to include defined uses and restrictions on electronic outdoor advertising.

WHEREAS, the Amesbury Zoning Bylaw regulates signage and encourages designs and use that reflect the historic character of Amesbury's diverse neighborhoods; and,

WHEREAS, it is a stated goal of the Zoning Bylaw to protect and enhance the visual appearance of Amesbury by maintaining public and private property values as well as promoting public safety; then therefore,

Be it Ordained by the City Council of the City of Amesbury assembled and by the authority of the same, as follows:

Amesbury Zoning Bylaw be amended to change Section VII, Signs, Item 3 "Sign Types and Regulations" to add Item Q: Electronic Outdoor Advertising to read as follows:

"Q: Electronic Outdoor Advertising: A sign defined as a type of Electronic Message Display (EMD) sign that may be electronically or computer-controlled to change messages displayed at a fixed location or as part of a commercial mobile video screen. Uses of a sign or billboard, located on a mobile commercial platform or, if part of a property, either on the exterior or installed on the interior of a building or structure and visible from without, whether free-standing or attached to a structure, double-faced, back-to-back, or V-shaped, of any size or height, that serves to advertise, direct or call attention to any business, article, substance, or service, or anything that is digitally or electronically projected, or by a structure of any kind on real property or upon the ground itself, and that advertises services, products, events, or commodities. Electronic Outdoor Advertising is a use to be regulated by the Zoning Bylaw and not the General Bylaw. Such use shall be prohibited.

Nothing in this section shall be interpreted to apply to temporary, non-commercial mobile signs, nor electronic menu boards, nor signs denoting the business hours of an establishment or used for wayfinding.

Permanent or temporary non-commercial accessory electronic information displays signs on City or School buildings, attached or free-standing, ~~property~~ shall be allowed provided that such signs shall not exceed fifty percent (50%) of the total square footage of the primary sign or forty (40) square feet, whichever is smaller."

CLARIFYING NOTES but not part of the order:

The amended language is offered to address concerns raised in prior public meetings.

Based on feedback from Scott Kelley, a Planning Board member, this revision now addresses the potential of mobile commercial advertising signs.

The City will still be able to use temporary electronic displays to inform residents of events, road detours, elections, or meetings. The City may use the electronic message display that is towed into place. Such signs are already allowed under other parts of the Zoning Bylaw according to Planning Board staff. The City could also install a permanent electronic display on City property

(such as beside City Hall) or, as revised, on school property. There is now a limit to such accessory signs (40 square feet).

Businesses will still be allowed to have indoor or outdoor electronic menus. So, this would not impact establishments like McDonald's or Burger King.

A business can still have a small sign that may indicate "open" or "closed" displayed on the inside or outside of a window.

And this does not prohibit a business from having any sign with its business name or logo as long as it meets established standards and size. So, this shouldn't impact businesses like Walgreens or the various gas stations.

Wayfinding, directional, or safety signs are not impacted by this ordinance per Planning Board staff.

Attachment 2

Genesis of regulation of STRUs

- 471 Main Street – lots of parties (every 2-5 days), late/loud parties, children unsupervised, boats crashing into other boats
- Need better enforcement of issues/violations
- Shouldn't zone just for one property – we need to look at this more broadly.
- We don't have a noise ordinance right now.
- We don't have recourse right now (legally) unless we address a specific violation. This is what KP advised regarding outreach to one unit on June 7, 2021:
    - Angela:

      The application of the Styller decision issued today by the SJC will require fact specific analysis and may vary by property and community. At a minimum, I do not recommend that the City issue notices of violation without undertaking that fact specific analysis.

      Please let me know if you want us to assist in evaluating how that decision may apply to the use of one or more specific properties in the City.

      -Robin

      Robin Stein, Esq.

2021-093

- Take the provisions out of the licensing, if there are any additional ones

2021-105

- We need to define which sections to revise in the Zoning Bylaws when we are done with this order
- Need to brush up on Chapter 53G definitions
- Everyone should get familiar with Amesbury's current Zoning Bylaws: https://www.amesburyma.gov/planning-board/pages/amesbury-zoning-bylaws-and-maps
- Need to look at what we are allowing in the second bullet on page 2. This currently doesn't allow for bed and bed and breakfasts or single rooms. We may need to modify Chapter 53G definition?
- For whatever we decide, we need to come up with potential scenarios for the housing we have. For example: people buying up duplexes and renting both sides, or sells one and STRU the other one. Look at various locations. What about our condos (Birchwood)? What could happen to combat some of these things? Loop holes.
- Instead of the number of days, we should reference the legal tax definition for half a year, or to create legal residence.
- 5 days is too restrictive. Minimum rental length should be eliminated
- 4 times rentals restriction is also too restrictive.

- Should we restrict that multiple bedrooms can't be rented at the same time one on property (which would be like a Bed and Breakfast).

References from Chat on the Call:

Lenox:
https://www.townoflenox.com/assessor/news/guidance-short-term-rental-hosts

Lexington:
https://www.lexingtonma.gov/zoning/pages/short-term-rentals

Bershires/Stockbridge:
https://www.berkshireeagle.com/news/local/on-short-term-rentals-stockbridge-sees-window-of-opportunity-to-craft-regulatory-bylaw/article_37f6e110-9319-11eb-a6c2-97cf8ebb116d.html

Portsmouth (different state law that MA)
1 - https://www.cityofportsmouth.com/sites/default/files/2020-02/Fire%20Dept%20Written%20Testimony%20opp%20SB%20458_0.pdf
2 - https://www.cityofportsmouth.com/sites/default/files/2020-02/SB458_3.pdf

2021-093 - https://www.amesburyma.gov/city-council/pages/2021-093-amended-ordinance

2021-105 - https://www.amesburyma.gov/city-council/pages/2021-105-an-ordinance-to-establish-this-zoning-ordinance-for-short-term-rentals

Newburyport's joint meeting of August 19, 2021 Planning Board/Council meeting
https://www.youtube.com/watch?v=90JjLt83ryo&list=PLYFJEOKez71bo1bQsl1SEDFiNbVykEYTq&index=16

MGL Chapter 64G -
https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIX/Chapter64G/Section1

The promulgate language Nipun mentioned is on page 3 of this Lexington PDF -
https://www.lexingtonma.gov/sites/g/files/vyhlif7101/f/uploads/art._10_stm2_2020-10-14_0.pdf

Attachment 3

CITY OF AMESBURY

IN THE YEAR TWO THOUSAND TWENTY-ONE

SPONSORED BY: _____ BILL No.____

Steven Stanganelli, Councilor-at-Large

_____

Scott Mandeville, Councilor-at-Large

_____

Michael Hogg, District 6 Councilor

_____

Anthony Rinaldi, District 2 Councilor

An Ordinance to create a Town Forest Conservation Area

Summary: A measure to create and protect a Town Forest Conservation Area, in order to preserve open space and provide for passive recreational use that promotes the quality of life of Amesbury residents and for the preservation of natural resources, under the provisions of M.G.L. c. 40, §8C, as it may hereafter be amended; M.G.L c.45 §3, as it may hereafter be amended; and of Article 97 of the Massachusetts Constitution, as amended. Land would be placed under the care and custody of the Conservation Commission, to be known collectively as the Amesbury Town Forest. Current uses would continue.

WHEREAS, the Woodsom Farm property, purchased in 1989 (See Essex South Registry of Deeds Book 9963 Page 330), represents the largest contiguous open-space parcel in the City's possession; and

WHEREAS, the Town Forest and contiguous parcels on the southside of Lions Mouth Road and northside of Kimball Road have been used by Amesbury residents for passive recreation for decades; and

WHEREAS, the original purpose for the parcels comprising Town Forest as noted in various recorded deeds has been to preserve it for the use and pleasure of the residents of Amesbury; and,

WHEREAS, the Town Forest parcels identified in this ordinance and accompanying map are contiguous to the Great Swamp, Conservation Commission Land known historically as "Lot 17", property under the care of Essex County Greenbelt, and parcels of the Woodsom Farm Parkland and Conservation Area as well as the Margaret Rice Conservation Area; and

WHEREAS, the National Recreation and Park Association (NRPA) and the Cooperative Extension Service standards suggest that 43 acres of recreational open space is needed per 1000 population (Master Plan, NR-7 Natural Resource Element); and,

WHEREAS, given the current population of Amesbury of approximately 17,000 persons, then this standard suggests open space of approximately 731 acres of which approximately 130 acres is met by the total area of Town Forest and the Great Swamp parcels noted below; when combined with over 350+ acres of other parcels at Woodsom Farms provided with similar Article 97 protections, the City will have nearly met the recommended goal;

therefore,

Be it Ordained by the City Council of the City of Amesbury assembled and by the authority of the same, as follows:

1. <u>Conservation Park Land:</u>
    a. That the City of Amesbury shall place the following parcels and portions of the area known as 'Town Forest' ~~and 'Great Swamp A, B and C' as reflected on the plan sketch "Woodsom Layered Map" and~~ as described below under the care, custody and control of its Conservation Commission or its successor entity:
        i. **'Town Forest Parcel A', 54 Kimball Road #RR, Assessor's Map 60/5**
        ii. **'Town Forest Parcel B', 70 Kimball Road #RR, Assessor's Map 60/1**
        iii. **'Town Forest Parcel C', 270 Lions Mouth Road #RR, Assessor's Map ~~40/14~~ 48/14**
        iv. 'Woodsom Parcel A', 206 Lions Mouth Road #RR, Assessor's Map 61/5
        v. 'Great Swamp A', 26 Kimball Road #RR, Assessor's Map 62/2
        vi. 'Great Swamp B', 24 Kimball Road #R, Assessor's Map 62/1.
    b. These parcels shall be preserved for conservation purposes, for the promotion and development of natural resources, for passive recreation, and for the protection of the watershed resources of the City of Amesbury, under the

provisions of M.G.L. c. 40, §8C, M.G.L. c. 45, §3, as they may hereafter be amended, and of Amended Article 97 of the Massachusetts Constitution. The range of current passive recreation and land use practices shall continue to be allowed and may be altered from time to time by the Conservation Commission in coordination with Mayor's office or their designee;

c. Current passive uses include but are not limited to: dog-walking, other trail-based events, mountain biking, snow-shoeing, non-motorized hobby activities, bird watching, trail running and walking, and other low-impact activities. Activities requiring the use of motorized vehicles are hereby prohibited unless otherwise specifically authorized under separate City ordinances/legislation. The previous sentence shall not be construed so as to prohibit the use of authorized municipal maintenance or emergency response vehicles.

References:

https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter40/Section8C

https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter45/Section3

https://malegislature.gov/Laws/Constitution#partTheFirst

https://malegislature.gov/Laws/Constitution#amendmentArticleXCVII

Attachments:

Map files to be added

- Pictometry Map provided by Assessor (File Name "2021-102 Town Forest Conservation_Assessor Maps Combined View.pdf")
- Amesbury Trails Map provided by Ken Aspeslagh (File Name "2021-08 03_Town Forest Map Supplement for Conservation Proposal 2021-102.pdf")