

Regular Meeting

These minutes are for the regular meeting of the Beacon City Council, held in the Municipal Center at One Municipal Plaza on July 17, 2017. Please note that the video recording of this meeting is available at <http://vimeo.com/channels/40154>.

Council Members Present:

Lee Kyriacou, At Large
George Mansfield, At Large
Omar Harper, Ward Two
Pamela Wetherbee, Ward Three
Ali Muhammad, Ward Four
Randy Casale, Mayor

Council Members Absent/Excused:

Peggy Ross, Ward One

Also Present:

Anthony Ruggiero, City Administrator
Nick Ward-Willis, City Attorney

A moment of silence was observed for those who serve and have served in the US military

First Opportunity for Public Comments: Each speaker may have one opportunity to speak up to three minutes on any subject matter other than those which are the topic of a public hearing tonight.

Speakers:

Jim Lichtenberg: Advised that he has an extensive background in education. Opposes charter schools. Believes that the development community should contribute to the community. Feels that the future haves and have nots will come down to a digital divide.

Theresa Dreyfuss: Feels that the city should consider the economic impact of a development moratorium.

Silviano: Employs a number of people who live in Beacon. The Moratorium will directly affect her, her company and her employees. Asks that the city not take away their jobs.

Rob Statskel: Is concerned that the moratorium will adversely affect him and his employees.

Jennifer VanTyle, Cuddy and Feder: Asks that council consider the alternatives to a moratorium in solving the water issue. There is an environmental review process in place where you can require certain things from the developer. Noted that the City will lose the benefits that come from development such as affordable housing and increased rates. Believes that Main Street will be negatively affected. (See attached)

Ronna Lichtenberg: As a taxpayer, would like to know how much these studies will cost. Is concerned with how long the moratorium will last because the business climate may be disturbed.

Daniel Aubrey: Feels like the moratorium is a terrible idea. Feels that you cannot just press stop on the development momentum and then push start again and expect it to start. Stated that Beacon is poised to continue its positive growth with a democratically achieved comprehensive plan.

Hugh Lewis: Feels he has a great partnership with a great community. Feels that a moratorium will halt momentum. Understands about the water concerns but does not feel a moratorium is the answer.

Justin Riccobono: Lives adjacent to the Edgewater project. Believes in the comprehensive plan. Feels that to stop progress is a mistake. Would like an alternative to a moratorium. Would like to see an annual report on development projects.

James Hartford, River Architects: Appreciates the eloquence of the previous speakers. If a moratorium is imposed, he hopes that the City will differentiate between projects. Worries about the scope of the moratorium. (See attached)

Colin Gentle: Supports the moratorium. Feels that pushing the pause button is the best thing to do right now.

Jessica Jelliffe: Moved here 3 years ago. Is in favor of a moratorium. Does not want the city to lose its character due to this rapid development.

Tom Nennie: Is a life-long resident who is a builder and has worked on infrastructure projects. Does not think a moratorium will do anything. We have to expand our tax base. Development helps create affordable housing.

Council Member Reports:

Ali Muhammad: Appreciates everyone who attends meetings and those who watch on television. Gave details on the Town Hall meeting with Rep. Sean Patrick Maloney. A constituent asked about mini horses. Asked if the pool was ADA compliant. Advised that the organizers of Beacon Hoops and the Spirit of Beacon Day are looking to pass the torch on to a new generation. Advised that he is starting a women's basketball league.

Omar Harper: Thanked everyone for coming to the meeting. Gave the details on the new School Superintendent's Community Conversations.

Lee Kyriacou: Is eager to hear from the public on the moratorium issue. Is interested in factual data.

George Mansfield: Appreciates everyone's opinions on the development issue. Would like to look closely at the impact development has on our water and the schools.

Pam Wetherbee: Is interested to hear everyone's opinions.

Peggy Ross: Excused.

Anthony Ruggiero: Gave an update on the reservoir levels.

Jerry Landisi: Gave details about the senior picnic.

Mayor Randy Casale: Ratified the appointment of Ruth Gripple as a volunteer firefighter. Chief VanVoorhis gave details on becoming a volunteer firefighter. Mayor Casale updated the public on the Spirit of Beacon Day Parade. Gave the info from Dutchess County Retired and Senior Volunteers. They are asking for people to help deliver the meals from the Friendship Center.

Resolutions, Ordinances and Local Laws:

1. Resolution Authorizing the Submission of the NYS Consolidated Funding Applications

- Motion by Council Member Muhammad, second by Council Member Mansfield
6-0

2. Resolution Approving a Contract for the South Interceptor Sewer Replacement Project

- Motion by Council Member Muhammad, second by Council Member Wetherbee
6-0

Second Opportunity for Public Comments: Each speaker may have one opportunity to speak for up to three minutes on any subject matter on which the Council can take action.

Speakers:

Robin Tass: Is in favor of the moratorium. Feels that we should look at water and traffic. The Comp Plan was adopted many years ago – maybe it does not fit Beacon anymore.

Tina Bernstein: Loves Beacon. The tone she hears is one of deep concern about the rapid growth. Thinks we need to think about the impact on the schools and the aesthetics of Beacon. Understands that we would like to grow our tax base but there has to be very careful planning. It's not just about the water is about a number of things.

Theresa Kraft: Urges the City of Beacon to move forward with the moratorium. Expressed concerns about the project next to the Howland Cultural Center. Feels that the height change in the building next to the HCC will have a negative effect on it.

Mary Fris: Is in favor of a residential building moratorium. Would like to preserve the areas that are zoned light industrial. People that commute to NYC will spend their money in NYC. Let us find a way to hire people from Beacon in new Beacon Businesses. I

Elsa: Just moved to Fishkill and bought a home in the Beacon school district. Does not want Beacon spoiled by over development. Would like to stick with the zoning standards found in the Comprehensive Plan.

Elaine Chaccio: Support the moratorium to protect our water supply. Is sure that the Council can create a moratorium with minimum impact. We need to establish our population. The anticipated growth will put us at or above our safe water yield. Conservation is a good idea anyway. In order to increase the population do you want to burden the current population. Once you hit that max, you cannot increase job growth. A living wage in Beacon would be helpful.

April Farley: As VP of the NAACP brings her sadness to announce that Dorothy Paulin has died. Gave burial details. Gave a brief biography of Ms. Paulin, highlighting her impact on the community. Feels that Ms. Paulin was the foundation of what Beacon represents. Beacon is getting out of balance with low income and high-end luxury.

Lanie Smallin: Applauds the moratorium for development in Beacon. Moved here in 2009. Feels that the rapid growth can cause problems down the road. Recommends that we keep our light industrial parcels and not change them to residential.

Dan Blair: Reading statement from Caroline Jensen, 39 Spring Valley Street: Supports a moratorium. HVPP published an Urban Action Agenda with data that supports the need for a moratorium. One way to increase jobs is to rezone parcels from residential to light industrial. For every dollar received from residential taxes, the City expends \$1.15 for every dollar received from commercial the medium cost is 27 cents.

Jack Wertz, Beacon Lofts: Been here for 5 or 6 years. Beacon has something special. Everyone wants to live here. Believes that if the moratorium does pass, you will stunt the growth.

Julie Shiroishi, E. Willow Street: Pleased that the City is considering a moratorium. Is from LA where she experienced many droughts. Is a parent of two school age children. There was a problem with overcrowding last year. Beacon is truly a wonderful place but if we are not moving forward mindfully, we will be killing the goose that lays the golden eggs. An urban planning friend advised that it is a wise thing to implement a moratorium after a new comp plan is adopted.

Samantha Britton: Thanked Ali and Mayor Casale for talking about the Spirit of Beacon Day. Wishes she could volunteer but she does not have the time. Thanks also to the organizers of Beacon Hoops. Feels that it is very important to have a day we everyone comes together to celebrate our City. Has lived here all her life and feels that Beacon needs more opportunities to jobs. Feels that the suggestion to bring a Boces here is a great idea.

Josh McKibble: Supports the idea of a moratorium with respect to the water issue. A six-month moratorium would be helpful in the examination of the purchase of the Craig House property.

Mayor Casale advised the speaker about the role of the City with respect to the transfer of private property in the City of Beacon. We apply the zoning rules to everyone equally.

Braden Smith, 15 Maple Street: Moved here 4 years ago. Loves Beacon and the community. Manages a local business here. Thinks that the moratorium is the prudent way to go. Wants to send his kids to schools that are not overcrowded. As a business owner thinks that the moratorium will be a chance to look at how to handle commercial space here. His business is growing and wants to grow it here but if the space is not here they will have to move to Fishkill. Hopes the city will manage the commercial growth for the future.

Gary Pavlov, Hillside Road: Does not think that there is a problem with the water. Once you stop the momentum, it will not be easily restarted. Thinks that technology will take care of the water issue.

Adjournment:

- Motion by Council Member Muhammad, second by Council Member Mansfield
6-0

Next Workshop: July 31, 2017

Next Meeting: August 7, 2017



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July 17, 2017

Jennifer L. Van Tuyl
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Mayor Randy Casale
And Members of the City Council
City of Beacon
1 Municipal Plaza
Beacon, New York 12508

Re: Proposed Moratorium – Draft Moratorium Local Law

Dear Mayor and Members of the City Council:

I submit the following comments on the proposed moratorium that was discussed at City Council's Workshop on Monday, July 10th.

A moratorium is not legally warranted:

There are strict legal limits on a municipality's ability to impose a moratorium on the processing of land development applications. As summarized in a 2012 decision:

For the enactment of the moratorium to be upheld, the municipality must show that its actions were:

1. in response to a **dire necessity**;
2. reasonably calculated to alleviate or prevent a **crisis condition**; and
3. that the municipality is presently taking steps to rectify the problem.

Jeffrey v. Ryan, 37 Misc.3d 1204(A), 961 N.Y.S.2d 358 (Sup. Ct. 2012) (citing Matter of Belle Harbor Realty Corp. v. Kerr, 35 N.Y.2d 507, 512 (1974)) (emphasis added). All three standards must be met.

Requests for moratoria are often made by project neighbors opposing development. *See*, 11 New York Zoning Law and Practice Report, No. 1, page 6 (July/August 2010). New York's highest court has specifically made the point that public outcry is simply not a lawful basis for a moratorium. A municipality "may not invoke its police powers solely as a pretext to assuage strident community opposition." Matter of Belle Harbor, *supra*, at 512.



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The present proposed moratorium doesn't meet the legal test. The City's comprehensive planning is more up-to-date than any other community in the County. It's 2007 Comprehensive Plan was followed by extensive additional planning by three (3) area subcommittees. It enacted comprehensive zoning amendments to implement the plan. It conducted a further Comprehensive Plan amendment in October 2016 relating to the Linkage zone (drastically reducing the permitted density, in response to public outcry). It completed a further Comprehensive Plan update in April, 2017.

The apparent rush to the moratorium lacks transparency. After weeks of anti-development comments and Facebook posts from the community, the moratorium was announced suddenly without public discussion. "Local governments should also make sure that moratoria are enacted only after a process that provides opportunities for all interested stakeholders to engage." 11 New York Zoning Law and Practice Report, No. 1 page 6 (July August 2010). At least one Councilman wants to broaden the moratorium to include a re-evaluation of virtually the entire Comprehensive Plan. "If we are going to take the time for a moratorium, I suggest we get all of these in there as well." At least one of his proposed additions would allow a new debate on the October 17, 2016 vote on the Linkage zone, as the Parcel L zoning he opposed (by a vote of 7 to 1) is in the Historic Overlay.

There is no proof of "dire necessity" or "crisis condition" to justify a moratorium, as further discussed below.

The City Council can address issues of water supply more constructively without a moratorium:

The Comprehensive Plan this City adopted three (3) months ago states:

The primary water supply issues have more to do with maintaining Beacon's aging infrastructure, rather than having enough supply for existing and new development.¹

Everyone in the City looks forward to hearing LBG's discussion of the actual situation with water supply. Historically, the finding of water in Dutchess County is not a complicated issue. To the extent that there is a bona fide issue of water supply, the City has many other options that do not require the drastic results of a moratorium. These include:

1. Requiring all developments to assess water supply in their SEQR review at the Planning Board;

¹ CITY OF BEACON COMPREHENSIVE PLAN UPDATE, at 75 (adopted April 3, 2017).



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2. Requiring all or certain developments to conduct a cumulative impact assessment of water supply;
3. Having the City prepare a generic DEIS on water supply, and charging the costs to development projects; and
4. Having the Council conduct testing and exploration at other potential well sites in the City.

All these measures could be implemented immediately. Some combination of the above methods would be more constructive at actually solving the water problem than a moratorium would be, especially when the adverse effects of a moratorium are considered. A moratorium will undoubtedly encourage the anti-development sentiments of project opponents, and the Council will find it hard to resist their encouragement to extend the moratorium further.

A moratorium will have adverse effects that the City should want to avoid:

As Councilman Mansfield pointed out last week, no reasonable decision can be made on the moratorium without also considering the problems that a moratorium could cause. The Council should discuss all of the following potential problems

1. The City will lose substantial new ratables. As the Mayor has previously pointed out as recently as June 12, 2017, an advantage of new development is that it shares in the costs of city-wide improvements to be paid for by the tax-payers. The City is looking to improve long-standing, city-wide deficiencies in infrastructure, and needs new ratables to assist in funding the cost. While it is not legal to assign to developers the full costs of upgrading existing infrastructure, there is no question that developers make substantial public infrastructure improvements at no cost to the taxpayer.
2. The City will lose all the public benefits provided by developers, including Greenway Trail segments, public parks and pocket parks, and the improvements to the Main Street corridor with developments of retail on the ground floor with residential below.
3. The City will lose the benefit of the provision of affordable housing by developers.
4. The moratorium will cause harm to existing small businesses on Main Street. Most Main Street businesses still struggle, particularly in the winter. The City's Comprehensive Plans have recognized that the City needs substantial additional residential growth to support its Main Street businesses.
5. To disavow the Comprehensive Plan now by enacting a moratorium will threaten financing of projects. Until the past few years, banks would not finance projects in

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Beacon, because they had no comparables to rely on in financing. The market was untested. When the banks see that the City is not “reliable,” and readily “changes its mind” and disavows decisions made after comprehensive planning, they will become more cautious; money will become more expensive, or not available at all. These factors will hurt the city, as money paid to lenders is not available for public improvements.

6. Similarly, developers now thinking of investing in the City, if they learn that the Comprehensive Plan can’t be relied upon, and that the City is one of those communities that is always in the throes of revisiting its zoning and planning decisions, will simply go elsewhere. Cities rise and fall, and if the moment is not taken advantage of, it may pass.
7. The moratorium will cause significant financial damage to developers with projects in development. The development community has made significant investments in land based upon the decisions that the Council has made in its zoning laws. The City Council encouraged reliance on those decisions, because they were made after years of planning, including the adoption of the 2007 Plan and the reports of the three committees.
8. The City will thus be harming the people who have been the City’s strongest allies in bringing about Beacon’s renaissance. That fact should not be forgotten. Mr. Kyriacou’s repeated criticisms of developers for “always seeking the maximum” are largely unfair. Developers like Dia Art Museum, the Roundhouse, the Town Crier, and others went far beyond what was required in zoning in designing very special places. Many other projects have also incorporated standards of excellence that were nowhere required in the code. As for the criticism of “seeking the maximum density we permit,” it is no more a sign of poor conduct that one seeks approvals for the density specifically allowed in the zoning, than it is that one drives 55 MPH in a 55 MPH zone. It’s not fair to blame a developer for doing what the city permits to be done. It is appropriate to continue to refine design standards, but a moratorium is certainly not necessary to accomplish that goal.

The moratorium as drafted is far too broad:

The City doesn’t need a moratorium to investigate its water supply; to investigate school impacts,² to improve design standards, or re-evaluate the Historic Overlay, or for any of the purposes so far announced. Requests to “broaden” the moratorium to include issues such as permissible uses in the Fishkill Creek Development District (already the subject of the 2007 Plan and a separate Committee report) and to re-evaluate employment, which was already done as part of the prior plan, similarly do not require a moratorium, and may not even be necessary.

² I respectfully refer the Board to the presentation by Patrick Cleary, Planner, to the City Planning Board on July 11, 2017 as to the school impacts. Information on school impacts is readily available, and does not require a moratorium.



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Without conceding any validity to the moratorium, the proposal is separately objectionable as being far too broad. There are a number of types of proposals that should not be covered by the moratorium:

1. Projects developed under very recently enacted zoning, such as Parcel L, rezoned (and greatly reduced in density) on October 17, 2017. It is simply unfair to hold the development of this property up after taking such a long time to determine the appropriate zoning. This project is fully developed and will be submitted to the Planning Board next week. To the extent that Mr. Kyriacou's request to re-evaluate the Historic Overlay can be considered an effort to encourage a revote on this matter, it should be rejected by the rest of the Council.
2. Smaller projects in general that will not have a significant impact on water supply.
3. Any size project that can make improvements to water or sewer infrastructure that offset its demands and improve existing conditions.
4. Large projects which, although not yet formally submitted to the Planning Board, have had substantial work done in furtherance of development, such as work in the Brownfields program, or significant environmental cleanup.
5. There should be no bar to review by the Planning Board, including SEQR processing. The refusal to process is an additional injury to the property owner without any corresponding benefit to the City.

Summary:

No group of citizens in the City of Beacon have done more to bring about its renaissance than the development community. No group has contributed more to the improvement of public infrastructure. This moratorium will punish the group that has done the most to help the City. It is unfair and will be counterproductive. Please consider the many other and better ways to address the mutual problem of assuring a safe water supply for the future. Let us not forget what Beacon was like not-that-many years ago. "Those who do not remember their history are doomed to repeat it."

We are happy to participate in any discussions, workshops, public forums, or other discussions of the best way to address the issues before the Council concerning water.

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Very truly yours,

A handwritten signature in blue ink, appearing to be "JL Van Tuyl".

Jennifer L. Van Tuyl



July 17, 2017

Attn: Mayor Randy Casale
City of Beacon Mayor's Office
1 Municipal Plaza
Beacon, NY 12508

RE: Proposed Building Permit Moratorium

Dear Mayor Casale and members of the City Council,

I am a local architect based in Cold Spring, and have several past and present projects in the City of Beacon. Our firm specializes in ultra-energy efficient building design- aka: Passive House. Passive House is a building standard and methodology that results in buildings that require 90% less energy than conventional buildings- and is identified as the best path forward to reducing carbon emissions in buildings and achieving net-zero or net positive energy use.

I have two single-family Passive House projects about to begin in the City, and want to express both my support for a moratorium on development in order for water supplies and other critical infrastructure to be assessed, as well as my concern that a moratorium would affect low-impact single family houses caught up in that concern.

Large-scale, speculative developments on properties that were previously not zoned for multi-family residential development stand to massively outstrip supplies designed for traditional urban growth. Stopping otherwise "as of right" projects for property owners- who intend to reside in the houses they build- does not seem to be in the spirit of the organic rebirth that Beacon has been enjoying. It is a burden on young families who are not seeking to turn a profit, but rather to join or remain in the fabric of the community.

Our clients are not developers who see the "time is now" opportunity in the current hot housing market, but are rather working families that have identified Beacon as their home and place to raise their children. They have saved and purchased land out of their own household budgets, and have weighed their options carefully as they chose Beacon as their home. They are not luxury apartment buyers who are overwhelming services, but rather tax payers within residential districts who wish to build on approved lots and in building types that reinforce the neighborhood, rather than contradict it. Their future net-zero houses stand as examples of how the city should build going forward, rather than be caught up in otherwise much needed introspection on how much building is too much building within the City of Beacon.

I urge the City Council to look at ways to ensure adequate supplies in a scary, unpredictable future through smart growth, careful resource management, and thoughtful planning. Please adopt measures such as restrictions on lawn watering and private car washing. Please encourage rain water harvesting, native plantings, porous pavings and xeriscapes. Mandate low-flow fixtures and educate people on the limits to our resources. Sensible, low-impact residences should be a part of this mix, and not perceived as a part of the problem.

Thank-you for your consideration of this very important and timely issue.

Sincerely,

James Hartford | AIA, LEED AP, CPHC
River Architects, PLLC | Partner, CEO



July 17, 2017

Re: Moratorium on new construction in Beacon

Dear mayor and council members,

In September 2014, my wife and I used our savings to purchase a lot on West Center Street in Beacon, N.Y. At that point, we knew we couldn't yet afford to build but we didn't want to miss the opportunity because we so loved the location and knew we ultimately wanted to raise a family in Beacon.

For some time before then, we had been looking for the right place to settle in the Hudson Valley. We looked at a number of towns and small cities but none in any way appealed to us as did Beacon. It seemed to have so much of what we wanted: diverse communities, civic pride, access to nature, good schools, and proximity to upstate New York (where I grew up) and New York City (where I currently work). Not to mention being home of the Sloop Clearwater, great tacos at Tito Santana's, the town pool and the fact that Max's on Main plays Jets games during football season.

Now, some three years since purchasing our lot, we have saved enough to begin building our new home at 29 W Center Street. In the last month, we signed a contract to move forward with River Architects and Balanced Builders, hoping and planning to be in our new home sometime next year. We also have a five-month-old boy who we dream of someday dropping off at South Avenue elementary every morning. We have gotten to know our next-door neighbors and Terrence McNair, from around the corner, cuts our grass and shovels our snow. This is all to say, we love Beacon and its people—and passionately want to be a part of the community. We would be devastated to have to put those plans on hold now that we are finally able to move forward.

I should say I am ardently in support of a moratorium on new construction as it relates to larger scale or multi-family development which would threaten Beacon's culture, sustainability and vibrancy. Such development absolutely should be moderated and limits put in place to protect the community from the often-inevitable negative effects of mushrooming growth and opportunistic development. I hope it is evident that our desires are not in the same category as this kind of development.

Thank you for listening to our story and for considering allowing construction such as ours—single-family homes with live-in occupants—to go forward. I realize drawing the lines of demarcation on these kinds of regulations is not easy so I know that what we are asking for is not always as simple as we'd hope. On behalf of my family, we appreciate your time and your consideration for allowing us to continue ahead with our dream to move to Beacon.

Sincerely,

Susan Austin (Lorielle Mallue & Henry Austin-Mallue)
Owners, 29 W Center Street, Beacon, NY