



Committee on Ordinances

September 23, 2013 – 7:00 PM - **Minutes**
City Hall, 133 William Street, City Council Chamber, Room 214

** View Agenda **

MEETING: COMMITTEE ON ORDINANCES
DATE: SEPTEMBER 23, 2013
TIME: 7 P.M.
PLACE: CITY COUNCIL CHAMBER, ROOM 214, MUNICIPAL BUILDING

PRESENT: COUNCILLORS STEVEN MARTINS, CHAIRMAN; HENRY BOUSQUET; DEBORA COELHO (7:12); BRUCE DUARTE, JR.; BRIAN GOMES (7:15); DENIS LAWRENCE, JR.; JOSEPH LOPES; JOHN SAUNDERS

ABSENT: COUNCILLORS DAVID ALVES, VICE-CHAIRMAN; JANE GONSALVES; JAMES OLIVEIRA

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Councillor Martins called the meeting to order and took attendance. Memos from Councillors Alves and Oliveira stating they would not be in attendance and Councillor Gonsalves stating she would be late were read into the record and received and placed on file by Councillor Saunders and seconded by Councillor Lopes. The Clerk stated that Councillor Gonsalves contacted him letting him know that she was ill and would not be attending the meeting

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Notice, City Clerk of reference of a Public Hearing, on a Written Motion, Councillor Saunders, requesting that Item 11 of Part D (Industrial) in Appendix A/Table of Principal Use Regulations of Chapter 9 of the Code of Ordinances in hereby amended by striking the word “N” as it corresponds to Column IB, and insert in place thereof, the word “Y” (Ref’d 8/13/13) and a Communication, Planning Board to Councillor Steven Martins, Chairman, Committee on Ordinances, notifying the Committee that the Planning Board held a Public Hearing on September 18, 2013 to discuss Amending Chapter 9, of the Code of Ordinances, that Item 11 of Part D (Industrial) in Appendix A/Table of Principal Use Regulations be amended by striking the word “N” as it corresponds to Column 1B, and insert in place thereof, the word “Y”; the Planning Board voted to send an *UNFAVORABLE RECOMMENDATION* to the Ordinance Committee. (1, 1a)

Councillor Saunders made a motion to open the hearing which was seconded by Councillor Lawrence.

No one spoke or wished to be recorded in favor of this Appendix A/Table of Principal Use Regulations.

Arthur Glassman, Planning Board Chairman spoke in opposition. He explained that the Board voted 5-0 against the change because they felt it would enable salvage yards to be located at other areas of the city where they are currently not zoned for. The decision to send the unfavorable recommendation had more to do with this opinion as opposed to this particular business.

Councillor Saunders stated that the State is no longer issuing salvage licenses so the Planning Board’s concern is unfounded.

Attorney Timothy Wanger of 128 Union Street, representing Whaler’s Cove also spoke in opposition to this.

No one wished to be recorded in opposition.

On motion by Councillor Saunders and seconded by Councillor Duarte, the Committee VOTED: To continue the hearing to Wednesday, October 16, 2013, at 7:30 p.m. This motion passed on a voice vote.

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Notice, City Clerk of reference of a Public Hearing, on a Communication, Councillor Alves, submitting a DRAFT of an Ordinance, Waterfront Economic Development and Revitalization Overlay District (WEDROD), as it relates to Gaming and Casinos (Ref'd 8/13/13) and a Communication, Planning Board to Councillor Steven Martins, Chairman, Committee on Ordinances, notifying the Committee that the Planning Board held a Public Hearing on September 18, 2013 to discuss a DRAFT of an Ordinance, Waterfront Economic Development and Revitalization Overlay District (WEDROD), as it relates to Gaming and Casinos; the Planning Board voted to send an **UNFAVORABLE RECOMMENDATION** to the Ordinance Committee. Councillor Martins opened the public hearing. (2, 2a)

Attorney Chris Saunders, representing KG Urban Enterprises, spoke in favor and explained that his client is looking to build the potential casino on this property. He expressed both the importance and urgency of this overlay district coming to fruition so that New Bedford could be considered as a location for any future casino. He described this action as "The imperative first step" to having a casino in New Bedford.

Councillor Duarte asked Attorney Saunders if this is "spot zoning". Attorney Saunders replied that the Assistant City Solicitor told the Planning Board at their meeting, prior to there even being any discussion on the issue, that it was spot zoning. Attorney Saunders strongly disagreed with that opinion while also stating that it was improper for the Assistant Solicitor to do that. He then cited cases demonstrating that this is not spot zoning.

Councillor Lopes asked Attorney David Gerwatowski what his opinion is. Attorney Gerwatowski stated that while it may appear to be spot zoning when looking at the technical definition, he feels the Council must make its decision based on policy as opposed to whether or not this is or is not "technically" spot zoning. He stated that this property is unique in that it is large and has many different owners; where as spot zoning traditionally refers to changing a singularly owned, smaller parcel of land.

Recorded in favor were Henry Turgeon, President of the New Bedford Police Union and Bill Cabral, President of the New Bedford Firefighter's Union.

No one spoke or was recorded in opposition. The hearing was closed.

On motion by Councillor Lawrence and seconded by Councillor Gomes, the Committee VOTED: To recommend to the City Council ADOPTION of an ORDINANCE, Waterfront Economic Development and Revitalization Overlay District (WEDROD), as it relates to Gaming and Casinos. This motion passed on a Roll Call Vote of Yeas 7, Nays 1, with Councillor Coelho opposed.

Councillor Saunders stressed that there are many benefits from creating this overlay district, regardless of how one may feel about the casino coming to New Bedford. The environmental clean-up alone would be worth it in his opinion, which is the number one factor in developers staying away from this property.

Councillor Coelho stated that she is pro-development and pro-cleanup, but feels that this should be done in harmony with the Planning Board, which opposes this action. She also feels it is spot zoning.

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Notice, City Clerk of reference of a Written Motion, Councillor Martins, asking, that the Committee on Ordinances amend the Ordinance titled "Committee on Veterans Affairs, Elderly, Health, Housing and Disability Issues", pursuant to Chapter 2, Section 2-56, to read the "Committee on Veterans Affairs, Elderly, **Youth**, Health, Housing and Disability Issues", for the purpose of giving youth a seat at the table and giving them a voice on issues; and further, this would give all City Youth an opportunity to present their ideas, concerns and questions to each of us and be invited to the Committee Meetings to present their views; and further, as a member of the Committee and a member of many youth programs and strong advocate for the City's youth, I believe we should welcome all of our young adults into our Council Chambers and establish a better partnership with them and our City government (Ref'd 8/13/13) was received and placed on file by Councillor Lawrence and seconded by Councillor Coelho. (3)

Councillor Martins stated that he felt the youth need and deserve to have a voice in city government and that their issues are equally important to older citizens as well.

Several young people from the Mayor's Youth Council spoke in favor of adding youth issues to this Committee's scope of responsibility.

Councillors Saunders, Lawrence and Duarte all spoke in favor of this although Councillor Lawrence needed clarification as to whether or not the intention was to place a "non-voting youth" representative/member to the committee. Councillor Martins explained that's not what the intent was, but rather to simply broaden the committee's scope of responsibility to also include issues relating to the youth of New Bedford.

On motion by Councillor Lawrence and seconded by Councillor Gomes, the Committee VOTED: To recommend to the City Council ADOPTION of the ORDINANCE, Relative to Committees of the City Council, Amending Chapter 2, Section 2-70, Duties of the Committee on Veterans' Affairs, Elderly, Youth, Health and Housing and Disability Issues. This motion passed on a Roll Call Vote of Yeas 8, Nays 0.

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Notice, City Clerk of reference of a Written Motion, Councillors Oliveira, Gomes, Lopes, Council President Martins, Councillors Gonsalves, Coelho, Bousquet, Alves and Duarte, requesting, that the City Council revisit the Ordinance that describes the activities of hawkers and peddlers for the purpose of modifying its current language to allow food trucks and so called food trailers to conduct business within the City, much like the recent Ordinance fashioned by the City of Boston, the City of New Bedford could benefit by receiving revenue for space dedicated to food trucks and also introduce a new dimension of food vendors that would provide variety and convenience to its residence that otherwise would not occur (Ref'd 5/10/12, 10/23/12 – refer to legal counsel for drafting, 3/19/13 Tabled for 30 days, 4/22/13 – tabled, 5/13/13 - tabled) was removed from the table by Councillor Lawrence and seconded by Councillor Lopes. (4, 4a)

Councillor Lopes offered an amendment to the language, asking that the food trucks be allowed to serve in parks from 9am to 8pm as opposed to 24 hours, 7 days. A motion was made to accept the amendment by Councillor Gomes and seconded by Councillor Lawrence.

On motion by Councillor Gomes and seconded by Councillor Lopes, the Committee VOTED: To recommend to the City Council ADOPTION of the ORDINANCE AS AMENDED, Amending Chapter 15-72 Food Trucks. This motion passed on a voice vote with Councillor Saunders opposed.

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Notice, City Clerk of reference of a COMMUNICATION, Mayor Mitchell, to City Council, submitting AN ORDINANCE, amending Chapter 17, Section 17-18(i) OFFENSES AND MISCELLANEOUS PROVISIONS by adding Inspectors from the Department of Inspectional Services and Sanitarians from the Health Department as enforcing persons; and also submitting AN ORDINANCE, amending Chapter 9, Section 5120, COMPREHENSIVE ZONING - ENFORCEMENT, by replacing "Inspector of Buildings" with "Commissioner of Inspectional Services, Inspector of Buildings and all other Inspectors of the Department of Inspectional Services." (Ref'd 6/14/12, 10/23/12) (5, 5a, 5b)

On motion by Councillor Coelho and seconded by Councillor Saunders, the Committee VOTED: To take "No Further Action" on this matter at this time. This motion passed on a voice vote.

Councillor Saunders made a motion to adjourn, which was seconded by Councillor Coelho.

This meeting adjourned @ 8:47 p.m.

ATTEST:

Clerk of Committees