



Committee on Ordinances

April 29, 2014 – 7:00 PM - **Minutes**

City Hall, 133 William Street, City Council Chamber, Room 214

****View Agenda****

MEETING: COMMITTEE ON ORDINANCES

DATE: APRIL 29, 2014

TIME: 7:00 P.M.

PLACE: CITY COUNCIL CHAMBER, ROOM 214, MUNICIPAL BUILDING

PRESENT: COUNCILLORS STEVEN MARTINS, CHAIRMAN; JAMES OLIVEIRA, VICE-CHAIRMAN; HENRY BOUSQUET; NAOMI CARNEY; DEBORA COELHO; BRIAN GOMES (7:06); JOSEPH LOPES; LINDA MORAD; DANA REBEIRO (7:25); KERRY WINTERSON

ABSENT: COUNCILLOR DAVID ALVES

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Councillor Martins called the Ordinance Committee Meeting to order and took attendance. The Clerk read a Communication into the record from Councillor Alves stating he is unable to attend due to a previous commitment. This Communication was received and placed on file by Councillor Morad and seconded by Councillor Lopes. Councillor Martins also informed the Committee that Councillor Rebeiro called to say she would be late in attending tonight's meeting due to her attending a Global Learning Charter School Meeting.

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Notice, City Clerk of reference of a Public Hearing, on a Communication, Mayor Mitchell, to City Council, submitting AN ORDINANCE, Amending Chapter 9, Section 4400, Flood Hazard Overlay District (FHOD) (Ref'd 02/27/14, duly advertised in the Standard-Times Friday, April 4, 2014 and Friday, April 11, 2014) and a Communication, City Planner Jill Maclean to Councillor Steven Martins, Chairman, Committee on Ordinances, notifying the Committee that the Planning Board held a Public Hearing on April 9, 2014, to discuss the proposed Ordinance to amend Chapter 9, Section 4400, which updates the Bristol County Flood Insurance Rate Map (FIRM); the Planning Board voted to send a **FAVORABLE RECOMMENDATION** to the Ordinance Committee. (04/14/14) was received and placed on file by Councillor Morad and seconded by Councillor Lopes. (1, 1a, 1b)

The Chair opened the Public Hearing.

Councillor Lopes asked to hear from Jim Quigley from Congressman Keating's Office. Mr. Quigley stated that the flood zone mapping for Bristol County that FEMA has adopted was based on a West Coast model. In the opinion of many, including Congressman Keating, the West Coast model is not appropriate for the East Coast and is therefore going to result in homeowners designated to be in

“flood zones” will face extremely high flood insurance premiums. This is specifically going to be a problem for residents in many areas of the south end. However, he informed the Committee that there are consequences for not passing the proposed zoning ordinance, which would adopt the flood zone maps adopted by FEMA. Those consequences are:

A: Homeowners would not be able to buy traditional flood insurance through traditional insurance carriers. Instead, they would have to go to a place like Lloyd’s of London, and that would be extremely expensive.....even completely unaffordable for most homeowners in New Bedford.

B: The city would be ineligible to receive federal funds to help with disaster relief.

Mr. Quigley stressed that Congressman Keating does not endorse either approach – adopting the flood zone maps or rejecting them. He simply wanted New Bedford officials to have all of the information.

Councillor Lopes asked Attorney Jane Medeiros-Friedman of the Solicitor’s Office, if the Solicitors Office ever appealed the decision to utilize the west coast model, as both he and Councillor Gomes had requested the Administration to do on at least three occasions.

Attorney Jane Medeiros-Friedman replied that the Solicitor’s Office was not involved with this, but rather it went to DPI, and no reason to appeal was found.

Councillor Lopes stated that he finds it hard to believe that the Mayor and Ron Labelle would find no reason to appeal the decision to use these maps that are based on the inappropriate west coast model, especially when the county right up the road from us successfully appealed and was granted a four year delay. He continued that now, due to this decision, it appears that many homeowners in the south end, if not most, will not be able to find affordable flood insurance for their homes, nor will they be able to sell their homes due to the high cost that a potential buyer would incur in buying flood insurance.

Attorney Medeiros-Friedman stated that the Solicitor’s Office did not look at this because DPI knows more about the engineering and other issues involved with this process.

Councillors Lopes, Gomes, Oliveira and Morad all expressed great frustration with the fact that the decision of whether or not to appeal FEMA’s decision was left up to only one person. They stressed that Ron Labelle is very capable at his job, but something like this should have been looked at by more than one person. Councillor Lopes specifically referred to this as “weak leadership by the Mayor.”

Councillor Morad asked what the time table is to appeal. Attorney Medeiros-Friedman informed her that the window to appeal is closed, and that the new maps need to be accepted by the city via this ordinance no later than July 16th. She cautioned the Committee that the time frame is a concern in that if this is not passed tonight, she fears that there will not be time to “start over and pass another ordinance” in time for July 16th.

Councillor Morad stated that according to the representative from Congressman Keating's Office, the city should not be in this predicament right now, because, as another county had done, perhaps we should have appealed when we had the chance. Perhaps New Bedford would have also received a four year delay.

Attorney David Gerwadowski was asked his opinion on whether or not there would be time to reject this ordinance, acquire more information and still pass another one by or before July 16th.

Attorney Gerwadowski replied that once a hearing is held, the Council has 90 days to adopt or reject a zoning ordinance. However, the Council does not have to "start over". He stated that the Committee can hold on to this proposed ordinance while seeking other alternatives in the meantime.

Councillor Lopes asked Jill MacLean, City Planner, if she was asked for her opinion or input regarding these proposed maps and the ordinance. Ms. MacLean replied that she was not.

No one spoke or was recorded in favor or in opposition.

Councillor Morad asked Attorney Gerwadowski if it is best to close or continue the hearing. Attorney Gerwadowski replied that the Committee could continue it, but it has to be closed within 65 days of the date it was referred from City Council, which was 2-27-14, so it is best to close the hearing and request an appeal, and then either pass or reject the ordinance no later than July 16th.

The Chair closed the hearing.

On motion by Councillor Lopes and seconded by Councillor Morad, the Committee VOTED: To refer this to the City Council without a recommendation from the Ordinance Committee. This motion passed on a Roll Call Vote of Yeas 10, Nays 0.

On motion by Councillor Gomes and seconded by Councillor Bousquet, the Committee Voted: That the Committee on Ordinances send a letter to Congressman Keating, both United States Senators and our entire State Delegation asking that they join the New Bedford City Council in addressing this issue by pressing FEMA to reconsider its use of these maps and the west coast model, as the Council is holding its determination of whether or not to adopt a zoning ordinance establishing flood zones that are based on these maps. This motion passed on a Roll Call Vote of Yeas 10, Nays 0.

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Notice, City Clerk of reference of a Public Hearing, Written Motion, Councillor Bousquet, requesting that 671 Summer Street (Plot 91/Lot 152), be REZONED, from "RESIDENCE B" to "MIXED USE BUSINESS" (Ref'd 3/13/14, duly advertised in the Standard-Times Friday, April 4, 2014 and Friday, April 11, 2014) and a Communication, City Planner Jill Maclean to Councillor Steven Martins, Chairman, Committee on Ordinances, notifying the Committee that the Planning Board held a Public Hearing on April 9, 2014, to discuss the proposed zoning change of Plot 91, Lot 152, from "RESIDENTIAL B" to "MIXED-USE BUSINESS", in its entirety; the Planning Board voted to send a

FAVORABLE RECOMMENDATION to the Ordinance Committee (04/14/14) was received and placed on file by Councillor Lopes and seconded by Councillor Bousquet. (2, 2a)

The Chair opened the Public Hearing.

Jill MacLean, City Planner, stated that this made sense to the Planning Board because this property, and the one next to it, has always been used for commercial use, and never a residential use. Planning Board Chairperson Colleen Dawicki agreed.

Speaking in favor were: Attorney Roy Quinton, representing the property owner also expressed the same sentiment that the building has always been a business, and that it has no bedrooms and no full bathrooms; Mr. Nelson Metil, 413 Cross Road – Unit 3, East Freetown, MA, property owner; Jeffrey Messier of 674 Summer Street.

Recorded in favor was Ms. Patricia Metil (property owner, wife of Nelson)

Speaking in Opposition was: Carol & Joseph Abraham of 537 Summer Street. They complained of noise issues that included motorcycles, revving for half an hour at a time at 8:30 pm and later, trailers bringing cars in and out at various times throughout the evening.

No one was recorded in opposition.

On motion by Councillor Lopes and seconded by Councillor Bousquet, the Committee VOTED: To recommend to the City Council ADOPTION of the zoning change at 671 Summer Street, Plot 91/Lot 152 being rezoned from RESIDENCE “B” to MIXED-USE BUSINESS. This motion passed on a voice vote.

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Notice, City Clerk of reference of a Written Motion, Councillor Gonsalves, on behalf of the Buttonwood Park Zoo, that City Code Chapter 4, Section 4-5, Relative to Beekeeping, be amended to allow the Zoo to develop an exhibit on Beekeeping. (Ref'd 4/11/13, 12/12/13 – Remain in Committee) (3)

On motion by Councillor Coelho and seconded by Councillor Lopes, the Committee VOTED: To table this matter at this time. This motion passed on a voice vote.

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Notice, City Clerk of reference of a Written Motion, Councillor Gonsalves, requesting that the Committee on Ordinances adopt the attached language relating to cars for sale on City Streets. (Ref'd 12/19/13) (4)

On motion by Councillor Lopes and seconded by Councillor Coelho, the Committee VOTED: To table this matter at this time. This motion passed on a voice vote.

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Notice, City Clerk of reference of a Written Motion, Councillors Bousquet & Gonsalves requesting, the City consider regulating on the premise dynamic display signage before the City has a repeat of the fiasco that took place at the corner of Route 140 and Route 6. (Ref'd 11/26/13) (5)

On motion by Councillor Bousquet and seconded by Councillor Coelho, the Committee VOTED: To table this matter at this time. This motion passed on a voice vote.

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Notice, City Clerk of reference of a Communication, Councillor Bousquet, submitting, AN ORDINANCE Amending Chapter 15, Article III, Section 15-71.8 RELATIVE TO FOOD TRUCKS (Ref'd 4/24/14) was received and placed on file by Councillor Morad and seconded by Councillor Lopes. (6, 6a)

On motion by Councillor Lopes and seconded by Councillor Bousquet, the Committee VOTED: To recommend to the City Council ADOPTION of the ORDINANCE Amending Chapter 15, Article III, Section 15-71.8 REALTIVE TO FOOD TRUCKS. This motion passed on a voice vote.

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Notice, City Clerk of reference of a Written motion, Councillor Rebeiro, requesting, on behalf of George Almeida, that 232 Dartmouth Street, Plot 28, Lot 50 be REZONED, from "RESIDENCE B" to "MIXED-USE BUSINESS (Ref'd 2/27/14) and a Communication, City Planner Jill Maclean to Councillor Steven Martins, Chairman, Committee on Ordinances, notifying the Committee that the Planning Board held a Public Hearing on April 9, 2014, to discuss the proposed zoning change of Plot 28, Lot 50, from its current mix of "MIXED-USE BUSINESS/RESIDENTIAL B" to "MIXED-USE BUSINESS", in its entirety; the Planning Board voted to send a **FAVORABLE RECOMMENDATION** to the Ordinance Committee. (04/14/14) (7, 7a)

On motion by Councillor Rebeiro and seconded by Councillor Winterson, the Committee VOTED: To recommend that the City Council grant permission to George Almeida to WITHDRAW his request to rezone his property at 232 Dartmouth Street, Plot 28, Lot 50 from RESIDENCE "B" to MIXED-USE BUSINESS. This motion passed on a voice vote.

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

This meeting adjourned @ 9:04 p.m.

ATTEST:

Clerk of Committees