



# *Committee on Ordinances*

June 23, 2014 – 7:03 PM - **Minutes**

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

**\*\*View Agenda\*\***

**MEETING: COMMITTEE ON ORDINANCES**

**DATE: JUNE 23, 2014**

**TIME: 7:03 P.M.**

**PLACE: CITY COUNCIL CHAMBER, ROOM 214, MUNICIPAL BUILDING**

**PRESENT: COUNCILLORS STEVEN MARTINS, CHAIRMAN; JAMES OLIVEIRA, VICE-CHAIRMAN; DAVID ALVES; HENRY BOUSQUET; NAOMI CARNEY; DEBORA COELHO; BRIAN GOMES; JOSEPH LOPES; LINDA MORAD; DANA REBEIRO; KERRY WINTERSON**

**ABSENT: NO ONE**

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Councillor Martins called the Committee on Ordinance Meeting to order and took attendance, there were no absentees.

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Councillor Morad requested that item number five (5) be taken out of order as CFO Ari Sky has an engagement and needs to leave shortly. There was no objection so item number five (5) was taken out of order.

Notice, City Clerk of reference of AN ORDINANCE, Amending Chapter 19, Section 19-7(c) PERSONNEL by reclassifying pay grades of the CITY AUDITOR, ASSISTANT CITY AUDITOR and LIBRARY DIRECTOR (Ref'd 5/22/14) and a Communication, Councillor Martins submitting information on salaries of the City Auditor and Library Director from Massachusetts' Gateway Cities (Ref'd 5/22/14) were received and placed on file by Councillor Alves and seconded by Councillor Bousquet. (5, 5a)

CFO Ari Sky was present and addressed the Committee. He did a survey of the Gateway Cities for a comparison of the salaries for the City Auditor and Library Director, those cities were Barnstable, Brockton, Chelsea, Fall River, Lowell, Springfield, Taunton and Worcester. This is to bring New Bedford salaries in line with these other communities, in the hopes that it will draw more people to come in and apply for these positions. He believes it would be a great incentive

On motion by Councillor Alves and seconded by Councillor Winterson, the Committee VOTED: To recommend to the City Council ADOPTION of the ORDINANCE, Amending Chapter 19, Section 19-7(c) PERSONNEL by reclassifying pay grades of the CITY AUDITOR, ASSISTANT CITY AUDITOR and LIBRARY DIRECTOR. This motion passed on a Roll Call Vote of Yeas 10, Nays 1, with Councillor Morad opposed.

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Notice, City Clerk of reference of a Public Hearing, on a Written Motion, Councillor Carney, on behalf of Arnold Oliveira and Antonio Almeida, requesting that 175-177 Ash Street, Plot 45, Lot 85, be rezoned from “RESIDENCE B” to “MIXED-USE BUSINESS.” (Ref’d 5/8/14, duly advertised in the Standard-Times on Tuesday, June 10, 2014 and Tuesday, June 17, 2014) and a Communication, City Planner Jill Maclean to Councillor Steven Martins, Chairman, Committee on Ordinances, notifying that the Planning Board held a public hearing on May 14, 2014 to discuss the proposed zoning change on behalf of the property owners Arnold Oliveira and Antonio Almeida of 175-177 Ash Street, requesting that Plot 45, Lot 85 be rezoned in its entirety from “Residence B” to “Mixed-Use Business.” The Planning Board voted to send an *UNFAVORABLE RECOMMENDATION* to the Ordinance Committee. (Ref’d 5/16/14) Councillor Alves made a motion to open the Public Hearing, which was seconded by Councillor Rebeiro. The Hearing was opened. (1, 1a)

Jill Maclean, City Planner was present and addressed the Committee. She informed the Committee that this parcel is in a very dense neighborhood and there is not a lot of off-street parking to begin with. The owner of the property has owned it for over six (6) years and he has done nothing at all to the property and it has been a nuisance to the neighbors for many years now. The Board heard from many of the direct abutters, given the size of the property there is quite a few; they submitted a petition to the Planning Board with over forty (40) owner’s names on that petition. So with that the Planning Board decided to negatively recommend it to the City Council. She handed the petition with over forty (40) names to the Committee, which was received and placed on file by Councillor Alves and seconded by Councillor Bousquet.

Colleen Dawicki, 81 Carroll Street, Chairperson of the Planning Board, was also present and addressed the Committee. She explained this matter was heard by the Planning Board two times once in May and once in June. The Board wanted to avoid a decision that would constitute spot zoning. So they explained to the applicant at the May meeting that in order to note that this wasn’t spot zoning we needed to know there was a carefully considered plan related to the economic and surgical need of the neighborhood and we explained to the applicant and his Attorney that we would need to see that plan in June. That meeting was last week and no one came to the meeting to represent the applicant. We heard from all the neighbors telling their reasons why they do not want this rezoning and we did not hear from the applicant what the plans are for this parcel so to our knowledge there is no plan for the welfare of the neighborhood.

Attorney Peter Folino, 550 Locust Street, Fall River, representing the applicant Antonio Almeida, 851 State Road, Westport, MA. He informed the Committee that his client bought the property 175-177 Ash Street from the City of New Bedford at a tax sale. When he bought the property he immediately entered into negotiations with the City Attorney for the purchase or repurchase of the subject property, so it is not necessarily true to say that he let the zoning lapse by virtue of the passage of

two years rather due to the negotiations he entered into he lost the zoning of the subject property. The property at this time is unsellable, due to the fact that the zoning has reverted back to residential, so we can't even market it for sale. Mr. Almeida attempted to show up at a Neighborhood Association Meeting last Thursday at 7 pm with the plans and I guess no one was in attendance. We do have a plan we would like to introduce, which was received and placed on file by Councillor Alves and seconded by Councillor Carney.

They talked about some of the problems surrounding the property, such as parking for the residents in the area. Mr. Almeida talked about renting parking spaces out to the residents, but he was not sure of what he was going to do with the property. The aesthetics of the property was also discussed as the property really needs to be cleaned up.

Councillor Martins asked if there was anyone who wished to speak in favor or be recorded in favor of this zoning change, there was no one. Councillor Martins closed that part of the hearing.

Councillor Martins asked if anyone wished to speak in opposition, they were as follows:

Nick Wildman of 38 Emerson Street, he is here to ask the Committee to uphold the decision of the Planning Board and deny the zoning change. He personally took around a petition throughout the neighborhood for them to sign who are against this zoning change.

Councillor Alves made a motion to receive and place on file the petition that Mr. Wildman submitted to the Committee, which was seconded by Councillor Oliveira.

Erin Burke, 38 Emerson Street, also spoke in opposition.

Scott Bettencourt, 18 Emerson Street, spoke in opposition.

Charles Drayton, 25 Emerson Street, spoke in opposition.

Councillor Martins asked if there was anyone who wished to be recorded in opposition to this zoning, they were as follows:

Bernadette Coelho, 19 Emerson Street

Eunice Sirianos, 19 Emerson Street

Stephen Neves, 15 Emerson Street

Maria Neves, 15 Emerson Street

Dorothy Curry, 21 Emerson Street

Gina West, 25 Emerson Street

The public hearing was closed on motion by Councillor Lopes and seconded by Councillor Alves.

On motion by Councillor Carney and seconded by Councillor Gomes, the Committee VOTED: To recommend that the City Council grant the petitioners Arnold Oliveira and Antonio Almeida permission to leave to withdraw their request that 175-177 Ash Street, Plot 45, Lot 85, be rezoned from “RESIDENCE B” to “MIXED-USE BUSINESS.” This motion passed on a Roll Call Vote of Yeas 9, Nays 2, with Councillors Alves and Morad opposed.

Attorney David Gerwatowski explained to the people in attendance what leave to withdraw means. By allowing the petitioners to withdraw their petition for rezoning means that they can come back with another proposal for the property and not have to wait two years in order to do so. Then they start the process all over again with a public hearing and the neighbors being invited with their input.

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Notice, City Clerk of reference of a Written Motion, Councillors Lopes and Martins, requesting that the Committee on Ordinances draft an Ordinance as it relates to House Bill 3074, An Act permitting the use of traffic control signal violation monitoring system devices as a means of prompting traffic safety in the City of New Bedford (Ref’d 5/9/13, 12/12/13 –Ref’d to Legal Counsel for drafting, 3/19/14 tabled for 30 days) was removed from the table by Councillor Alves and seconded by Councillor Lopes. (2)

On motion by Councillor Lopes and seconded by Councillor Carney, the Committee VOTED: That the Committee on Ordinances send a letter to Representative Cabral’s Office asking for the status of House Bill 3074. This motion passed on a voice vote.

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Notice, City Clerk of reference of a Communication, Mayor Mitchell, to City Council submitting AN ORDINANCE, Amending Chapter 15, Licenses and Permits, Business Regulations, by amending Section 15-103 “Exceptions” pertaining to wetlands protection (Ref’d 5/8/14) was received and placed on file by Councillor Oliveira and seconded by Councillor Alves. (3, 3a)

On motion by Councillor Alves and seconded by Councillor Winterson, the Committee VOTED: To recommend to the City Council ADOPTION of the ORDINANCE, Amending Chapter 15, Licenses and Permits, Business Regulations, by amending Section 15-103 “Exceptions” pertaining to wetlands protection. This motion FAILED on a Roll Call Vote of Yeas 0, Nays 11.

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Notice, City Clerk of reference of a Communication, City Planner Jill Maclean, to City Council regarding Zoning Request Changes, associated with fees and other Abutter Notifications (Ref’d 5/8/14) was received and placed on file by Councillor Morad and seconded Councillor Bousquet. (4)

City Planner Jill Maclean was present and addressed the Committee.

On motion by Councillor Alves and seconded by Councillor Coelho, the Committee VOTED: To table this matter pending clarification. This motion passed on a voice vote.

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Notice, City Clerk of reference of a Written Motion, Councillor Gomes, requesting, that Legal Counsel Gerwatowski draft an Ordinance requiring confirmation by the City Council of any person employed by the City Council Office or Clerk of Committees Office; and further, that the City Council President or his or her designee participate in the interviewing process of any candidates (Ref'd 5/22/14) was received and placed on file by Councillor Gomes and seconded by Councillor Carney. (6)  
On motion by Councillor Gomes and seconded by Councillor Lopes, the Committee VOTED: That Legal Counsel draft the Ordinance and place it where it needs to be, to give the City Council confirmation rights of any employee hired by the City Council. This motion passed on a voice vote.

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Notice, City Clerk of reference of a Written Motion, Councillor Carney, on behalf of Arnold Oliveira and Antonio Almeida, requesting that 175-177 Ash Street, Plot 45, Lot 85 be REZONED, from "RESIDENCE B" to "MIXED-USE BUSINESS." (Ref'd 2/27/14, time lapsed (65 days to hold public hearing) item was resubmitted on 5/8/14) (7)

On motion by Councillor Gomes and seconded by Councillor Winterson, the Committee VOTED: To take "No Further Action" on this matter at this time.

Councillor Bousquet made a motion to adjourn, which was seconded by Councillor Winterson.

This meeting adjourned @ 9:10 p.m.

ATTEST:

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Assistant Clerk of Committees