



Committee on Ordinances

October 22, 2014 – 7:10 PM - **Minutes**

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

MEETING: COMMITTEE ON ORDINANCES

DATE: OCTOBER 22, 2014

TIME: 7:05 P.M.

PLACE: CITY COUNCIL CHAMBER, ROOM 214, MUNICIPAL BUILDING

PRESENT: COUNCILLORS STEVEN MARTINS, CHAIRMAN; JAMES OLIVEIRA, VICE-CHAIRMAN; DAVID ALVES; HENRY BOUSQUET (7:08); NAOMI CARNEY; DEBORA COELHO; BRIAN GOMES (7:13); JOSEPH LOPES; LINDA MORAD (7:08); DANA REBEIRO (7:20); KERRY WINTERSON

ABSENT: NO ONE

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Councillor Martins called the Ordinance Committee Meeting to order and took attendance. A Communication from Councillor Morad was read into the record stating that she would be late in attending tonight's Committee Meeting due to her attendance at the Mt. Pleasant Street Neighborhood Association Meeting. This Communication was received and placed on file by Councillor Lopes and seconded by Councillor Carney. Councillor Martins announced that he received a call from Councillor Bousquet stating that he would be late as he also attended the Mt. Pleasant Street Neighborhood Association Meeting.

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Notice, City Clerk of reference of a Public Hearing on a Written Motion, Councillors Oliveira, Alves, Morad and Gomes, requesting that the NS of Shawmut Avenue, Assessor's Map Plot 124, Lots 150, 48, 34, 162, 161 and 160 be rezoned from Mixed-Use Business to RESIDENTIAL B (Ref'd 9/11/14, duly advertised in the Standard-Times on Thursday, October 9, 2014 and Thursday, October 16, 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 October 08, 2014 to discuss the proposed zoning change, submitted by Councillors Oliveira, Gomes, Morad and Alves, to rezone Plot 124, Lots 150, 48, 34, 162, 161, and 160 (Shawmut Avenue) from Mixed-Use Business (MUB) to Residential B (RB); the Planning Board voted to send a **FAVORABLE RECOMMENDATION** to the Ordinance Committee (10/09/14) were received and placed on file by Councillor Alves and seconded by Councillor Oliveira. The hearing was opened. (1, 1a)

Colleen Dawicki, Chairwoman of the Planning Board was present to answer questions from the Committee. She gave a brief overview of the Boards favorable recommendation requesting that the north side of Shawmut Avenue, Plot 124, Lots 150, 48, 34, 162, 161 and 160 be rezoned from Mixed-Use Business to Residential B.

Councillor Martins asked if there was anyone present who would like to speak and/or be recorded in favor of the rezoning; there was not.

Councillor Martins read an email into the record from Jason Oliveira on behalf of the Airport Commission asking that the issue be put on hold so the Commission could review as they had just recently received notification of it. This email was received and placed on file by Councillor Lopes and seconded by Councillor Alves.

Councillor Lopes made a motion to close the hearing, which was seconded by Councillor Oliveira. The hearing was closed.

On motion by Councillor Morad and seconded by Councillor Lopes, the Committee VOTED: To recommend to the City Council APPROVAL of the rezoning of the NS of Shawmut Avenue, Assessor's Plot 124, Lots 150, 48, 34, 162, 161 and 160 from Mixed-Use Business to Residential B. This motion Passed on a Roll Call Vote of Yeas 10, Nays 0, Councillor Rebeiro not present for the vote.

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Notice, City Clerk of reference of a Written Motion, Councillors Bousquet, Gomes, Winterson, Morad, Alves, Council President Lopes and Councillor Coelho, requesting, that the Committee on Ordinances consider drafting an Ordinance governing "pop up" or "roadside" memorials, the intent of the Ordinances is to make it known publically that these memorials are appropriate for a short time only, thirty to sixty days perhaps, but beyond that time frame are often not maintained and become an eyesore in many cases (Ref'd 03/27/14) was received and placed on file by Councillor Lopes and seconded by Councillor Alves. (2)

New Bedford Police Chief David Provencher and Traffic Commission Secretary Scott Downing were present to answer questions from the Committee.

Councillor Bousquet asked Police Chief Provencher how the removal of roadside memorials was being handled in the city and for his thoughts on the proposed ordinance.

Chief Provencher explained that they normally allow them to stay up for sixty (60) days from the day of the death. They are then removed after the time. The Chief was comfortable with present ordinance but did agree that some changes could be made as proposed. The Chief explained that those memorials that prove to hinder public safety are removed immediately, e.g. lit candles, etc.

Traffic Commission Secretary Downing was recognized to provide his input. He suggested the language should be changed to thirty (30) days as opposed to sixty (60).

Councillor Morad spoke in favor of this motion.

Councillor Lopes asked Attorney Gerwatowski to review the drafted ordinance. Attorney Gerwatowski stated that roadside memorials are essentially illegal, and he provided an overview of the ordinance.

On motion by Councillor Gomes and seconded by Councillor Lopes, the Committee VOTED: To amend Section 22-74 Section B to read fourteen (14) days instead of twenty-one (21). This motion passed on a voice vote.

On motion by Councillor Morad and seconded by Councillor Lopes, the Committee VOTED: To amend the ordinance after the words public property to include the words poles or trees erected on public property. This motion passed on a voice vote.

On motion by Councillor Lopes and seconded by Councillor Morad, the Committee VOTED: To amend Section 22-74 to include Traffic Commission and no alcoholic bottles. This motion passed on a voice vote.

On motion by Councillor Gomes and seconded by Councillor Morad, the Committee VOTED: To recommend to the City Council ADOPTION of the ORDINANCE, AS AMENDED, Relative to Roadside Memorials, by adding in Chapter 22 of the Code of Ordinances after Section 22-73, the following new Section 22-74 – Exception – Roadside Memorials. This motion passed on a Roll Call Vote of Yeas 9, Nays 2, with Councillors Martins and Rebeiro opposed.

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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 04/11/13, 12/12/13 – Remain in Committee, 04/29/14 – tabled, 09/17/14 - tabled); Written Motion, Councillor Alves, requesting, that the Committee on Ordinances meet with Michael Patnaude to discuss the potential benefits of allowing bee keepers to operate in the City of New Bedford (Ref'd 05/08/14, 9/17/14 - tabled); and Communication, Councillor Martins, submitting an Ordinance from the City of South Bend, Indiana, regarding Honey Beekeeping Regulations (Ref'd 08/21/14, 09/17/14 – tabled) were removed from the table by Councillor Alves and seconded by Councillor Morad. (3, 3a, 3b)

Present for this matter were: Dr. Brenda Weiss, Director of New Bedford Health Department; Michael Patnaude, 1089 Dewey Street, New Bedford; Lucy Nesbeda, Mechanics Lane, New Bedford, on behalf of the Bristol County Beekeepers Association; Patrick Rodgers, 17 Timberlane Road, New Bedford and Maria Vasquez, 17 Timberlane Road, New Bedford.

A conversation between Councillors and the above ensued on the proposed bee-keeping ordinance. The discussion included:

The necessity for requiring permitting for beekeepers

Lot size what would allow for beekeeping

Requiring certification for beekeepers in the city

The ability to inspect bee hives by the Health Department

It is believed by the body that a well-crafted ordinance could successfully allow for beekeeping in the city.

Mr. Rodgers submitted a packet of state and other communities' guidelines and laws as they related to Beekeeping. It is understood that New Bedford is the only community in Massachusetts that currently restricts Beekeeping.

Councillor Morad made a motion to receive and place on file the packet to be distributed to all Councillors. This motion passed on a voice vote.

On motion by Councillor Morad and seconded by Councillor Coelho, the Committee VOTED: To table this matter for sixty (60) days while Attorney Gerwatowski drafts the ordinance for review. This motion passed on a voice vote.

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Notice, City Clerk of reference of a Written Motion, Councillor Martins, requesting that the Committee on Ordinances review the Special Permit requirement for Home Day Care providers (Ref'd 06/12/14, 09/17/14 – letter to Legal Counsel, draft an Ordinance) removed from the table by Councillor Morad and seconded by Councillor Lopes. (4)

Attorney Gerwatowski gave an overview of the drafted ordinance as it relates to Family Day Care Facilities.

Danny Romanowicz, DIS Commissioner voiced his support of the ordinance.

Councillor Lopes made a motion to amend section 2 Chapter 9, Section 4920a, b) by striking after the word fee, the following words, established by the Commissioner that shall not exceed; and in Section 4930a, c) by striking after the word approval, the words that shall be established by the Commissioner not to exceed, and inserting the words of \$50.00; this motion was seconded by Councillor Coelho.

On motion by Councillor Lopes and seconded by Councillor Coelho, the Committee VOTED: To recommend to the City Council ADOPTION of the ORDINANCE, AS AMENDED, by inserting in Chapter 9, after Section 4800A, Sections 4900A, 4910A, 4920A and 4930A. This motion passed on a Roll Call Vote of Yeas 11, Nays 0.

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Notice, City Clerk of reference of a Communication, Mayor Mitchell, to City Council, submitting AN ORDER that the City Council and Mayor hereby approve the policy entitled "Investment of City Funds" for the purpose of establishing a policy for management of the City's investments (Ref'd 08/21/14) was received and placed on file by Councillor Alves and seconded by Councillor Lopes. (5, 5a)

CFO Ari Sky and Treasurer/Collector Renee Fernandes-Abbott were present to address the Committee and they gave an overview and need for the approval of the order before the Committee to approve the policy entitled “Investment of City Funds” for the purpose of establishing a policy for management of the City’s investments.

It was explained that while the city has always followed said policy, that it was never officially etched in stone. A number of Councillors asked questions as it related to its adoption and investment procedures currently in place.

On motion by Councillor Lopes and seconded by Councillor Morad the Committee VOTED: To recommend to the City Council ADOPTION of AN ORDER, that the City Council and Mayor hereby approve the policy entitled “Investment of City Funds” for the purpose of establishing a policy for management of the City’s Investments. This motion passed on a voice vote.

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Notice, City Clerk of reference of a Written Motion, Councillors Gomes, Oliveira, Rebeiro, Winterson, Bousquet, Alves and Morad, requesting, that the Committee on Ordinances amend Chapter 23, Section 24, Solicitation of Contributions On Public Ways, to read “No person or persons will be allowed to solicit on any public way without a permit issued from the City, said permit will be issued only if accompanied by an organization or corporate letter that can be verified; and further, any persons caught soliciting without the proper permit will be subject to immediate removal and fined up to three hundred dollars; and further, anyone not complying will also be subject to arrest”, this change in Chapter 23, Section 24, will not apply to Police, Fire or Emergency Services fundraising solicitation. (Ref’d 08/21/14) (6)

On motion by Councillor Gomes and seconded by Councillor Alves, the Committee VOTED: To take “No Further Action” on this matter at this time. This motion passed on a voice vote.

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On motion by Councillor Alves and seconded by Councillor Morad, the Committee VOTED: To follow the Chairs recommendation and take “No Further Action” on the items 7, 8, 9, 9a, 10, 10a, 11 and 12. This motion passed on a voice vote. These items are as follows:

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, 04/29/14 - tabled) (7)

Notice, City Clerk of reference of 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 08/13/13, 09/23/13 – Hearing continued, 10/16/13 – tabled, 12/12/13 – Remain in Committee) (9)

Notice, City Clerk of reference of a Communication, Jill Maclean, Acting City Planner to Councillor Steve Martins, Chairman of the 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. (9a)

Notice, City Clerk of reference of a WRITTEN MOTION, Councillor Saunders, requesting that Plot 100, Lot 139 (N.S. Davis Street) be REZONED from MIXED USE BUSINESS to INDUSTRIAL B. (Ref’d 09/12/13, 10/16/13 – Remain in Committee, 12/12/13 – tabled) (10)

Notice, City Clerk of reference of a Communication, Planning Board to Councillor Steven Martins, Chairman, Committee on Ordinances, notifying the Committee that the Planning Board held a Public Hearing on October 9, 2013, to discuss the proposed zoning change of P)lot 100/Lot 139, David Street from “Mixed Use Business” (MUB) to “Industrial B”. (10a)

Notice, City Clerk of reference of a Written Motion, Councillor Gonsalves, requesting that the Committee on Finance discuss a proposal to provide a credit on sewer charges to homeowners who disconnect their roof leaders from the City’s sewer system. (Ref’d 11/10/11, 01/31/12 – tabled, 05/9/12 – Referred from Finance Committee for drafting in Ordinance, 09/12/12 – tabled, 10/23/12, 12/12/13-Remain in Committee) (11)

Notice, City Clerk of reference of a Related Motion, Councillor Lopes, requesting that DPI Commissioner Ron Labelle provides the City Council with details of the installation and maintenance plans and budget for lights throughout the City. (03/19/14) (12)

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

This meeting adjourned @ 9:12 p.m.

ATTEST:

Clerk of Committees