



Committee on Ordinances

January 20, 2015 – 6:35 PM - **Minutes**

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

MEETING: COMMITTEE ON ORDINANCES

DATE: JANUARY 20, 2015

TIME: 7:09 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 Ordinance Committee Meeting to order and took attendance.

A recess was called in order to review the new information received on the Problem Properties Ordinance. The meeting reconvened at 7:19 pm.

Notice, City Clerk of reference of a Communication, Mayor Mitchell, to City Council, submitting AN ORDINANCE, amending Chapter 6, BUILDINGS and OTHER STRUCTURES, this newly amended "PROBLEM PROPERTIES" Ordinance contains changes based on the Councillors input at the Committee on Ordinances Meeting on May 21, 2014 (Ref'd 08/21/14, 11/12/14 – Referred from Ordinances to the Ad Hoc Committee for Problem Properties Ordinance, 11/24/14 – Referred back to Ordinance to clean the vagueness of the Ordinance) was received and placed on file by Councillor Lopes and seconded by Councillor Gomes. (1, 1a)

Councillor Alves made a motion to receive and place on file the paperwork and supports as they relate to the Ordinance before the body, which was seconded by Councillor Carney.

Councillor Lopes began the conversation questioning where the money received would be kept, in the general fund or a separate fund for the Police Department. Attorney Gerwatowski explained it would go into a revolving fund to be used by the NBPD and not the general fund. Solicitor McDermott was asked to take that information back to the Administration.

A series of questions was asked of Councillors to Solicitor McDermott, Attorney Flor and the Police Chief.

The Administration is okay with notifying landlords of infractions on the second offence. The Chief agreed that notification on the second offence is okay, but he is not sure where he will get the manpower to issue letters, etc.

Councillor Bousquet asked Solicitor McDermott about the letter from the ACLU to the Landlords Association. Solicitor McDermott explained it was a 1992 letter that dealt with the Town of Barnstable; that is a philosophical argument and subject to interpretation whether or not a problem properties ordinance would work. She explained she spoke to the Solicitor of Barnstable and it has worked for them.

Councillor Bousquet asked if the Housing Authority was exempt from the Ordinance. Solicitor McDermott said they were not.

Councillor Winterson asked about the eviction timeline. Attorney Flor hold him thirty (30) days to three (3) to four (4) months depending on issues and court backlog.

Councillor Oliveira gave an overview of the Ad Hoc Committee Meeting and deemed it a success.

Councillor Morad asked Attorney Gerwatowski if the meeting went as Councillor Oliveira described. Attorney Gerwatowski said for the most part it did, but that his Ordinance and what he heard does differ from that of the Mayors. Attorney Gerwatowski has not heard from the Mayor's Office since he sent them the City Council's proposals on December 12, 2014.

Attorney Gerwatowski gave the City Council an overview of the Ordinance differences and changes.

Councillor Morad asked Solicitor McDermott why there was not back and forth between their office and the Council Attorney. Solicitor McDermott explained there are fundamental differences.

Attorney Gerwatowski explained that in all likelihood the Mayor would not agree to the changes proposed from the Council.

Councillor Morad expressed her frustration that this ordinance has been around for over two and a half years and that the Mayor and the Council's proposals are so different.

Councillor Lopes asked who gets the ticket (citation when issued) the answer was the place where the event occurred. Councilor Lopes discussed the hourly rate versus detail rate bothered him that he felt it should be the hourly rate not the detail rate.

Attorney McDermott said she would need to take that back to the Mayor.

Councillor Carney spoke to Solicitor McDermott about fees.

Councillor Martins asked Solicitor McDermott if there was any compromise between the Mayor's ordinance and the Council after the Ad-Hoc Committee. She said there were different views discussed. Councillor Martins asked Attorney Gerwatowski to review the differences and he did.

Solicitor McDermott stated that none of the changes that were recommended by Attorney Gerwatowski were illegal, but the Mayor is simply opposed to them.

Councillor Alves asked why the Council was wasting their time. How many more hours do they have to spend discussing this issue?

Councillor Gomes said he is in favor of the ordinance, He has read it and it makes sense to him.

Councillor Carney asked that a member of the Landlord Association be allowed to speak; Councillor Martins said he would allow just one.

Mr. Kevin Walsh, 1120 Acushnet Avenue, New Bedford, of the Landlord's Association discussed how the landlords vetted tenants coming into their rental properties.

Councillor Coelho asked Solicitor McDermott to give the percentage of chronic problem properties. The Chief answered this question with thirty plus properties with ten complaints at this time. Councillor Coelho also reviewed page 6 of the ordinance for her own information with Solicitor McDermott.

Councillor Rebeiro asked about the effectiveness of the ordinance in other communities and that people who have their quality of life affected need help and getting the landlords to the table is an important step. Attorney Flor explained this ordinance would help and will have a positive effect on those landlords that will not step up to the plate.

Councillor Rebeiro asked if the ordinance will be applicable to commercial establishments; she was told they would be.

Councillor Rebeiro made a motion to recess in order for Councillors to draft their amendments, if any, which was seconded by Councillor Lopes. The recess began at 9:10 p.m. and the meeting reconvened at 9:19 p.m.

Councillor Martins opened the floor to the following motions:

On motion by Councillor Lopes and seconded by Councillor Rebeiro, the Committee VOTED: on page 2 Notification Paragraph A change five (5) valid complaints to three (3). This motion PASSED on a Roll Call Vote of Yeas 7, Nays 4, with Councillors Gomes, Morad Oliveira and Winterson opposed.

On motion by Councillor Lopes and seconded by Councillor Alves, the Committee VOTED: on page 3 Paragraph III that the City will bill at the Police Detail Rate. This motion FAILED on a Roll Call Vote of Yeas 5, Nays 6, with Councillors Alves, Bousquet, Coelho, Lopes and Martins in favor.

On motion by Councillor Lopes and seconded by Councillor Alves, the Committee VOTED: on pages 3 & 4, Paragraph III Section C letter e, add business after fourteen and add business after thirty and add business after anything that has days in it. This motion PASSED on a Roll Call Vote of Yeas 9, Nays 2, with Councillors Gomes and Winterson opposed.

On motion by Councillor Lopes and seconded by Councillor Morad, the Committee VOTED: on page 5, Article VI Paragraph A, by striking the Problem Properties Appeals Panel shall be a three-person panel whose members are appointed by the Mayor and confirmed by the City Council; and replace with "Hearing Officer appointed by the Mayor has been changed to problem properties appeal panel comprised of "one member appointed by the Mayor, one member appointed by the City Council and one member appointed by the Mayor and confirmed by the City Council". This motion PASSED on a Roll Call Vote of Yeas 10, Nays 1, with Councillor Winterson opposed.

On motion by Councillor Alves and seconded by Councillor Morad, the Committee VOTED: on page 3 & 4 Article III Paragraph C after e. adding f. Any assessment or cost is made such cost must be assessed to both the landlord and responsible tenant or not at all 50/50. This motion FAILED on a Roll Call Vote of Yeas 5, Nays 6, with Councillors Alves, Bousquet, Coelho, Martins and Morad in favor.

On motion by Councillor Alves and seconded by Councillor Morad, the Committee VOTED: on page 3 & 4, Article III Paragraph C after e. adding f. the assessment cost shall not exceed \$500 for any valid complaint. This motion FAILED on a Roll Call Vote of Yeas 3, Nays 8, with Councillors Alves, Coelho and Morad in favor.

On motion by Councillor Alves and seconded by Councillor Morad, the Committee VOTED: on page 3 & 4 Article III Paragraph C after e. adding f. The Police Department shall have the authority to consider the nature of the incidents underlining the valid complaints in making their decision to assess costs. This motion PASSED on a Roll Call Vote of Yeas 6, Nays 5, with Councillors Carney, Gomes, Oliveira, Rebeiro and Winterson opposed.

On motion by Councillor Carney and seconded by Councillor Alves, the Committee VOTED: on page 5, Section VII strike in its entirety and add the following: In the event the property owner has, in good faith, commenced eviction proceedings against the tenant(s) responsible for the incidents at the property that results in the assessment of cost. The assessment of cost shall be reduced to zero for the particular incident. The Police Chief may continue police response at the particular property on location, at his or her discretion, at all times after the eviction proceeding have been completed; provided, however, that such costs shall not be assessed to the property owner. This motion PASSED on a Roll Call Vote of Yeas 10, Nays 1, with Councillor Morad opposed.

On motion by Councillor Bousquet and seconded by Councillor Alves, the Committee VOTED: Adding III. Prevention A landlord may request, in writing, that the City provide the landlord with a list of any valid complaints involving a prospective tenant occurring within one (1) year prior to the date of the written request. The City shall provide the information to the landlord within fourteen (14) business days of the written request. Failure of the City to provide such information that is found to have existed at the time of the written request shall cause this ordinance to be invalid against the landlord for any valid complaints involving the prospective tenant for whom the written request was made. This motion

PASSED on a Roll Call Vote of Yeas 7, Nays 4, with Councillors Carney, Gomes, Lopes and Oliveira opposed.

On motion by Councillor Morad and seconded by Councillor Coelho, the Committee VOTED: on page 1 Article I Definitions A & B, strike wherever it says misdemeanor or felony and insert criminal complaint issued for a criminal offense. This motion FAILED on a Roll Call Vote of Yeas 4, Nays 7, with Councillors Alves, Coelho, Morad and Winterson in favor.

On motion by Councillor Morad and seconded by Councillor Lopes, the Committee VOTED: on page 4 Article V Payments Section A, strike general fund and insert revolving fund under the control of the Police Department. This motion PASSED on a Roll Call Vote of Yeas 8, Nays 2, with Councillors Carney and Gomes opposed.

On motion by Councillor Alves and seconded by Councillor Coelho, the Committee VOTED: on page 5, Article 5 Payments Paragraph C the Landlord shall share the costs imposed in this ordinance. This motion FAILED on a Roll Call Vote of Yeas 3, Nays 8, with Councillors Alves, Coelho and Morad in favor.

On motion by Councillor Alves and seconded by Councillor Coelho, the Committee VOTED: on page 2 Article II Notification #4, Add after the property owner “and responsible tenant.” This motion PASSED on a Roll Call Vote on a Roll Call Vote of Yeas 6, Nays 5, with Councillors Carney, Gomes, Lopes, Oliveira and Rebeiro opposed.

On motion by Councillor Alves and seconded by Councillor Coelho, the Committee VOTED: on page 2 Article II Notification, striking #2 and replacing it with “The name of the tenant responsible with a valid complaint and the name of the person committing the crime for a particular valid complaint. This motion FAILED on a Roll Call Vote of Yeas 5, Nays 6, with Councillors Alves, Bousquet, Coelho, Martins and Morad in favor.

On motion by Councillor Morad and seconded by Councillor Alves, the Committee VOTED: on page 4 #2 item e. strike it in its entirety. This motion PASSED on a Roll Call Vote of Yeas 7, Nays 4, with Councillors Carney, Gomes, Oliveira and Rebeiro opposed.

On motion by Councillor Alves and seconded by Councillor Coelho, the Committee VOTED: on page 2 Definitions B add at the end the following: This term shall not include incidents involving an occupant of the premises who is the victim of domestic violence and who reported the incident of domestic violence to the police. This motion PASSED on a Roll Call Vote of Yeas 11, Nay 0.

On motion by Councillor Lopes and seconded by Councillor Carney, the Committee VOTED: To recommend to the City Council, ADOPTION of the Proposed Ordinance AS AMENDED, Amending Chapter 6, BUILDINGS and OTHER STRUCTURES. This motion PASSED on a Roll Call Vote of Yeas 8, Nays 3, Councillors Coelho, Morad and Oliveira opposed.

Notice, City Clerk of reference of a Written Motion, Councillors Alves, Gomes, Council President Lopes, Councillors Martins, Rebeiro, Winterson, Carney, Oliveira, Coelho and Bousquet, requesting that Legal Counsel Gerwatowski draft an Ordinance that would recognize and confirm the City Seal that has been used for over the past 50-100 years, recognizing and illustrating in detail the proud legacy and the history of our City, as the acknowledged world leader in/Whale Oil that lit up the world for years, and that also recognized our City as the hub of the textile industry and that the City Council acknowledges and declares that it should be recognized and acknowledged as the “Official Seal of the City of New Bedford” and is to be used on all official stationary and publications of the City. (Ref’d 12/18/14) (2)

On motion by Councillor Alves and seconded by Councillor Carney, 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 Carney, Bousquet, Gomes, Martins, Council President Lopes, Winterson, Oliveira, Rebeiro, Morad, Alves and Coelho, requesting, on behalf of our Senior Citizens, that the City Council file a Home Rule Petition establishing a Senior Citizens Safety Zone Ordinance, said Ordinance will give the City the authority to establish Senior Citizen Safe Zones and enable the City to reduce the speed limit to 20 miles an hour in these areas of concern located across the City (Ref’d 11/25/14) and a Communication, Representative Koczera, to the City Council regarding the filing of a Home Rule Petition similar to the City of Quincy establishing Senior Citizen Safety Zones. (Ref’d 11/25/14) (3, 3a)

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

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

This meeting adjourned @ 10:14 p.m.

ATTEST:

Clerk of Committees