



# Committee on Ordinances

February 23, 2015 – 6:35 PM - **Minutes**  
City Hall, 133 William Street, City Council Chamber, Room 214

**MEETING: COMMITTEE ON ORDINANCES**

**DATE: FEBRUARY 23, 2015**

**TIME: 7:07 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; BRIAN GOMES; JOSEPH LOPES; LINDA MORAD; DANA REBEIRO; KERRY WINTERSON**

**ABSENT: COUNCILLOR DEBORA COELHO**

\* \* \*

Councillor Martins called the Ordinance Committee Meeting to order and took attendance. Councillor Martins read a Communication from Councillor Coelho stating she would not be in attendance due to a prior personal commitment and it was received and placed on file on a motion by Councillor Alves and seconded by Councillor Lopes.

Notice, City Clerk of reference of a Public Hearing on a Communication, Mayor Mitchell to City Council, submitting an amendment to Appendix A Table of Principal Use Regulations of Chapter 9 of the Code of Ordinances to exclude a Contractor's Yard from Mixed Use Business and Planned Business Districts, said change has been requested by the Planning Department because this use is a Mixed Use Business or Planned Business District is inconsistent with the City's planning objectives and is not compatible with the other allowed uses in those zones (Ref'd 12/18/14, duly advertised in the Standard-Times on Thursday, February 12, 2015 and Tuesday, February 17, 2015) 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 February 11, 2015, to discuss the proposed amendments of Chapter 9 of the Code of Ordinances to amend Appendix A, Table of Principal Use Regulations, to exclude a Contractor's yard from Mixed-Use Business and Planned Business Districts; the Planning Board voted to send a **FAVORABLE RECOMMENDATION** to the Ordinance Committee. (1, 1a, 1b)

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

\* \* \*

Notice, City Clerk of reference of a Public Hearing, on a Written Motion, Councillor Winteron, requesting, on behalf of Mr. Thomas Melanson, owner, 204 Court Street, Plot 51/Lot 273, that said property be REZONED, from Residential "B" to MIXED-USE BUSINESS, all three corners of the

intersection are already zoned Mixed-Use Business (Ref'd 12/18/14, duly advertised in the Standard-Times on Thursday, February 12, 2015 and Tuesday, February 17, 2015) 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 February 11, 2015, to discuss the proposed zoning change, submitted by Councillor Winterson, on behalf of Mr. Thomas Melanson, owner, requesting that 204 Court Street, Assessor's Map, Plot 51, Lot 273, be rezoned from Residential B to Mixed-Use Business; the Planning Board voted to send a **FAVORABLE RECOMMENDATION** to the Ordinance Committee. (2, 2a)

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

\* \* \*

Notice, City Clerk of reference of a Public Hearing on a Written Motion, Councillor Gonsalves, on behalf of Joe and Ana Vinagre of 5 Bay Street, requesting that the portion of the property located at 44 Dartmouth Street (Plot 36/Lot 19) that is zoned Residential be rezoned to MIXED-USE BUSINESS so that the zoning is consistent for the entire property (Ref'd 10/24/13, 12/12/13, in Committee, duly advertised in the Standard-Times on Thursday, February 12, 2015 and Tuesday, February 17, 2015) 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 December 11, 2013 to discuss the proposed rezoning of Plot 36, Lot 19 in its entirety to Mixed-Use Business from the current mix of Mixed-Use Business and Residential B. The Planning Board voted to send a **FAVORABLE RECOMMENDATION** to the Ordinance Committee (12/11/13) were received and placed on file by Councillor Morad and seconded by Councillor Lopes. (3, 3a)

A motion to open the hearing was made by Councillor Bousquet and seconded by Councillor Lopes. The hearing was opened.

The Chairman recognized Mr. Joe Vinagre of 5 Bay Street, New Bedford, owner of the property at 44 Dartmouth Street. He explained that they now own 44 Dartmouth Street and they currently have a florist and gift shop at another location and would like to be able to open their shop at 44 Dartmouth Street. The property is not zoned properly to allow this to happen and they are asking that it be rezoned from Residential to Mixed-Use Business so that the zoning is consistent for the entire property.

Councillor Alves asked if it was his desire to make the property all one continuous zone property and he said yes it was.

Councillor Winterson asked if there were any upgrades going to be done to the building and Mr. Vinagre responded that yes they are going to put a florist shop in the building.

The Chairman asked if anyone else would like to speak in favor of the zoning change, there were none. He asked if there was anyone who wished to be recorded in favor of the zoning change, there were none.

The Chairman asked if anyone would like to speak in opposition to the zoning change, there were none. He asked if there was anyone who wished to be recorded in opposition, there were none. The hearing was closed.

On motion by Councillor Bousquet and seconded by Councillor Alves, the Committee VOTED: To recommend to the City Council APPROVAL of the rezoning of the portion of the property located at 44 Dartmouth Street, Plot 36, Lot 19, from Residential to Mixed-Use Business. This motion PASSED on a Roll Call Vote of Yeas 10, Nays 0.

\* \* \*

Notice, City Clerk of reference of a Communication, Mayor Mitchell to City Council, submitting AN ORDINANCE amending Chapter 23, Section 25.1, said amendment is designed to update the language which requires motorized vehicles to be equipped with reflective devices for safety purposes (Ref'd 12/18/14) was received and placed on file by Councillor Alves and seconded by Councillor Oliveira. (4, 4a)

Councillor Alves asked Cynthia Wallquist, Community Services Director, if the proposed language applied to wheelchair and other motor operated accessibility vehicles. Ms. Wallquist informed the Committee that the Ordinance primarily relates to motorized wheelchairs. Councillor Alves asked how many reflectors have been distributed to date. Ms. Wallquist replied that twenty-seven (27) have been passed out to date at a cost of \$5.00 per reflector.

On motion by Councillor Alves and seconded by Councillor Lopes, the Committee VOTED: To recommend to the City Council ADOPTION of the ORDINANCE amending Chapter 23, Section 25.1, said amendment is designed to update the language which requires motorized vehicles to be equipped with reflective devices for safety purposes. This motion PASSED on a voice vote.

\* \* \*

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, 1/20/15 - tabled) (5)

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

\* \* \*

Notice, City Clerk of reference of a Public Hearing on a Communication, Mayor Mitchell to City Council, submitting an amendment to Appendix A Table of Principal Use Regulations of Chapter 9 of

the Code of Ordinances to exclude a Contractor's Yard from Mixed Use Business and Planned Business Districts, said change has been requested by the Planning Department because this use is a Mixed Use Business or Planned Business District is inconsistent with the City's planning objectives and is not compatible with the other allowed uses in those zones (Ref'd 12/18/14, duly advertised in the Standard-Times on Thursday, February 12, 2015 and Tuesday, February 17, 2015) 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 February 11, 2015, to discuss the proposed amendments of Chapter 9 of the Code of Ordinances to amend Appendix A, Table of Principal Use Regulations, to exclude a Contractor's yard from Mixed-Use Business and Planned Business Districts; the Planning Board voted to send a **FAVORABLE RECOMMENDATION** to the Ordinance Committee was tabled earlier in the meeting and on a motion by Councillor Oliveira and seconded by Councillor Carney, the Committee VOTED: To remove this matter from the table. This matter was received and placed on file and the hearing was opened on a motion by Councillor Oliveira and seconded by Councillor Lopes. (1, 1a, 1b)

Councillor Bousquet asked Jill Maclean, City Planner, what is a contractor yard, to which Ms. Maclean replied it is a plot/lot of land specifically where you store heavy equipment. The issue is that some businesses are using small neighborhood lots; to store heavy equipment. Councillor Bousquet asked if this Ordinance would be enforceable across the board. Ms. Maclean said yes, it would address that it only be used in mixed use business areas and business areas.

Councillor Alves asked would the process of bringing dirt and storing dirt in a corner lot be considered a violation. Ms. Maclean informed him that it would not fit within this Ordinance. He then asked what are the criteria are and what is the size of the equipment. Ms. Maclean responded that typically more heavy equipment, heavy trucks, based on the volume of business. The violation would be determined by the Building Commission.

Councillor Morad asked if the Building Commission was aware of this Ordinance and if they had any concerns.

City Solicitor Mikaela McDermott said she believe that the Building Commission was included in discussions when drafting this Ordinance, which was drafted by Attorney Jane Medeiros-Friedman.

Councillor Morad said she would review with the Commissioner to see if there were any concerns.

The Chairman asked if there was anyone who would like to speak in favor of this proposal, there were none. He then asked if there was anyone who would like to be recorded in favor of this proposal, there was none.

The Chairman asked if there was anyone who would like to speak in opposition of this proposal, there were none. He then asked if there was anyone who wished to be recorded in opposition to this proposal, there was none. The hearing was closed.

On motion by Councillor Alves and seconded by Councillor Bousquet, the Committee VOTED: To recommend to the City Council ADOPTION of the amendment to Appendix A Table of Principal Use Regulations of Chapter 9 of the Code of Ordinances to exclude a Contractor's Yard from Mixed Use Business and Planned Business Districts, said change has been requested by the Planning Department because this use is a Mixed Use Business or Planned Business District is inconsistent with the City's planning objectives and is not compatible with the other allowed uses in those zones. This motion PASSED on a Roll Call Vote of Yeas 10, Nays 0.

\* \* \*

Notice, City Clerk of reference of a Public Hearing, on a Written Motion, Councillor Winterson, requesting, on behalf of Mr. Thomas Melanson, owner, 204 Court Street, Plot 51/Lot 273, that said property be REZONED, from Residential "B" to MIXED-USE BUSINESS, all three corners of the intersection are already zoned Mixed-Use Business (Ref'd 12/18/14, duly advertised in the Standard-Times on Thursday, February 12, 2015 and Tuesday, February 17, 2015) 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 February 11, 2015, to discuss the proposed zoning change, submitted by Councillor Winterson, on behalf of Mr. Thomas Melanson, owner, requesting that 204 Court Street, Assessor's Map, Plot 51, Lot 273, be rezoned from Residential B to Mixed-Use Business; the Planning Board voted to send a **FAVORABLE RECOMMENDATION** to the Ordinance Committee was tabled earlier in the meeting and on a motion by Councillor Bousquet and seconded by Councillor Alves, the Committee VOTED: To remove this matter from the table. The hearing was opened. (2, 2a)

Councillor Winterson asked City Planner Jill Maclean be recognized to give an overview of the Ordinance before the body. He also asked if she had any concerns.

Jill Maclean explained that they were rezoning the property from Residential B to Mixed-Use Business as all three quarters of the intersection area already zoned mixed-use business.

No other questions, the Chairman asked if there is anyone who would like to speak in favor of the proposal, there were none. The Chairman asked if there is anyone who would like to be recorded in favor of the proposal, there were none.

The Chairman asked if there is anyone who would like to speak in opposition of the proposal, there were none. He then asked is there was anyone who would like to be recorded in opposition to the proposal, there were none. The hearing was closed.

On motion by Councillor Winterson and seconded by Councillor Gomes, the Committee VOTED: To recommend to the City Council ADOPTION of the rezoning of 204 Court Street, Plot 51/Lot 273 from Residential B to Mixed-Use Business. This motion PASSED on a Roll Call Vote of Yeas 10, Nays 0.

\* \* \*

On motion by Councillor Gomes and seconded by Councillor Winterson, the Committee VOTED: That the following matters remain in Committee, 6, 7, 11, 15, 16, 17, 18, 19, 20, 21, 23, 23a. This motion passed on a voice vote. They are as follows:

Notice, City Clerk of reference of a Written Motion, Councillors Gonsalves, Saunders, Lopes, Oliveira, Lawrence and Bousquet, requesting, that the Committee on Ordinances consider an Ordinance to set limits on the number of Yard Sales held per household per year. (Ref'd 06/14/12, 09/12/12 – Letters to MIS, 10/23/12 – refer to legal counsel for drafting, 12/12/13 – Remain in Committee) *Invite former Councillor Jane Gonsalves to meeting.* (6)

Notice, City Clerk of reference of a Written Motion, Councillors Gonsalves and Martins, requesting that the Committee on Ordinances review the current Ordinance in the City of Boston regarding the placement of satellites, antennas and receivers on residential properties throughout the City. (Ref'd 06/14/12, 09/12/12 – Letter, Gerwatowski to draft Ordinance, 10/23/12 – tabled, 12/11/12 – table, letters to Mayor) *Invite former Councillor Jane Gonsalves to meeting.* (7)

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 05/09/13, 12/12/13 – Refer to Legal Counsel for drafting, 03/19/14 – tabled, 06/23/14 – rft, letter to State Rep, 11/12/14 - tabled) (11)

Notice, City Clerk of reference of a Written Motion, Councillor Alves, requesting, that the Committee on Ordinances meet with Michael Patenaude 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, 10/22/14 – tabled for 60 days-December) (15)

Notice, City Clerk of reference of a Communication, City Planner Jill Maclean, to City Council, regarding Zoning Request Changes, associated with fees and Abutter Notification. (Ref'd 05/8/14, 06/23/14 – table pending notification) (16)

Notice, City Clerk of reference of a Written Motion, Councillor Bousquet and Council President Lopes, requesting, that the Committee on Ordinances draft an Ordinance encouraging food services, supermarkets, and other users of expanded polystyrene foam to discontinue their use of the product and move to recyclable to recycled paper based materials, expanded polystyrene foam is a tremendous threat to our oceans and its ecosystems, and as a community who makes its living from the ocean we should be concerned for its health. (Ref'd 05/22/14, 11/12/14 - tabled) (17)

Notice, City Clerk of reference of AN ORDINANCE, RELATIVE TO SMOKING MARIJUANA IN PUBLIC. (Ref'd 06/12/14) (18)

Notice, City Clerk of reference of a Written Motion, Councillors Martins and Morad, requesting, that the Committee on Ordinances amend Chapter 15-72, FOOD TRUCKS, by including the enclosed attachment, relative to ice cream trucks. (Ref'd 06/26/14) (19)

Notice, City Clerk of reference of a Written Motion, Councillor Coelho, requesting, that in light of the recent incidents where the theft of copper resulted in dangerous house fires, that the Committee on Ordinances revisit the existing Ordinances, Chapter 15, License and Permits; Business Regulations, Section 33-51, in order to strengthen the guidelines and the enforcement of same; and further, requesting that a representative from the Police Department attend the Committee on Appointments and Briefings meeting to inform the Council as to what is being done in other communities regarding this problem. (Ref'd 05/23/13, 07/15/14 – Refer to Ordinances, 11/12/14 - tabled) (20)

Notice, City Clerk of reference of a Communication, Councillor Martins, submitting an Ordinance from the City of South Bend, Indiana, regarding Honey Bee Keeping Regulations. (Ref'd 08/21/14, 09/17/14 – tabled, 10/22/14 – tabled for 60 days-December) (21)

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, 1/20/15 - tabled) (23)

Notice, City Clerk of reference of a Communication, Representative Koczera, to 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, 1/20/15 - tabled) (23a)

On motion by Councillor Gomes and seconded by Councillor Winterson, the Committee VOTED; To take “No Further Action” on items 8, 9, 10, 12, 13, 14, 22. This motion passed on a voice vote. They are as follows:

Notice, City Clerk of reference of a Written Motion, Councillors Martins, Lopes and Saunders, requesting, that the Committee on Ordinances review the enclosed recommendations submitted by Mr. Allan Wolstenholme, relative to the regulation of dynamic sign displays in the City of New Bedford, and that Legal Counsel Gerwatowski review said documentation for the purpose of drafting an Ordinance to stem the proliferation of these types of signs; and further, that DIS Commissioner Danny Romanowicz also be asked to submit his recommendations in writing to the Committee on Ordinances. (Ref'd 02/14/13, 12/12/13 – remain in Committee) (8)

Notice, City Clerk of reference of a Written Motion, Councillors Gonsalves and Gomes, requesting, that the Committee on Ordinances explore the possibilities of creating an Ordinance similar to the City of Cambridge's Historic Properties Ordinance, in order to protect significant properties in the City of New Bedford, and/or explore the expansion of the City's Local Historic Districts in accordance with the authority granted under the Historic Districts Act, Chapter 40C of the General Laws of Massachusetts, adopted by the City Council and Mayor by the provisions of the New Bedford City Code, Section 2-150 through 2-157. (Ref'd 02/14/13, remain in Committee – *Invite former Councillor Jane Gonsalves to meeting*) (9)

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, 04/29/14 – tabled, 09/17/14 – tabled, 10/22/14 – tabled for 60 days-December) (10)

Notice, City Clerk of reference of a WRITTEN MOTION, Councillor Bousquet, requesting, that the City Council place a moratorium on citing anything student centered at the Parker Street Waste site and encourage green space development in the interest of public safety. (Ref'd 05/23/13, 12/12/13 – remain in Committee, 03/19/14 - table) (12)

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 adding Article VIII, RENTAL HOUSING LICENSING, which assist law abiding landlords by certifying the condition of their rental units while at the same time holding the scofflaw absentee landlords accountable. (Ref'd 08/13/13, 12/12/13 – remain in Committee) (13)

Notice, City Clerk of reference of AN ORDINANCE, (Ref'd 08/13/13, 12/12/13 – Remain in Committee) (13a)

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 had a repeat of the fiasco that took place at the corner of Route 140 and Route 6. (Ref'd 11/26/13, 04/29/14 – tabled, 5/21/14 - tabled) (14)

Notice, City Clerk of reference of a Communication/email, Councillor Bousquet, submitting a copy of an email from Mr. Jay Rodrigues, landlord, 106 Chestnut Street, New Bedford, MA, relative to tenant problems at said address. (Ref'd 09/11/14) (22)

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

This meeting adjourned @ 7:36 p.m.

ATTEST:

---

Clerk of Committees