



Committee on Ordinances

September 20, 2016 – 7:32 PM - **Minutes**

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

MEETING: COMMITTEE ON ORDINANCES

DATE: SEPTEMBER 20, 2016

TIME: 7:32 P.M.

PLACE: CITY COUNCIL CHAMBER, ROOM 214, MUNICIPAL BUILDING

PRESENT: COUNCILLORS STEVEN MARTINS, CHAIRMAN; DANA REBEIRO, VICE-CHAIRPERSON; IAN ABREU; HENRY BOUSQUET; NAOMI CARNEY; DEBORA COELHO; JOSEPH LOPES; LINDA MORAD; JAMES OLIVEIRA; KERRY WINTERSON

ABSENT: COUNCILLOR BRIAN GOMES

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Councillor Martins called the Ordinance Committee Meeting to order and took attendance. The Clerk read a Communication from Councillor Gomes stating he would not be in attendance to tonight's meeting due to a prior commitment. This Communication was received and placed on file by Councillor Lopes and seconded by Councillor Bousquet.

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Notice, City Clerk of reference of a Written Motion, Councillor Lopes, requesting that the Committee on Ordinances draft an Open Consumption Ordinance that would make it illegal to smoke, roll or ingest marijuana in public (Ref'd 3/22/16) was received and placed on file by Councillor Lopes and seconded by Councillor Abreu. (1)

Attorney David Gerwatowski, Legal Counsel to the City Council and Police Chief Joe Cordeiro were present to answer questions from the Committee, regarding the draft Ordinance by Attorney Gerwatowski.

The Chief reviewed the draft and recommended that in order to enforce such an Ordinance it would need to have teeth. Even though you can be fined, it should be worded so it is an arrestable offence; fines alone simply do not work. The Chief recommended that criminal language be added to it, so it would be enforceable.

Although, Massachusetts General Laws 94C addresses the public use of marijuana, there isn't anything on the books that would address it locally; this Ordinance may very well be the first of its type. The question of legally ingested marijuana, medicinally used, would such an Ordinance affect that, the answer was unknown. As it is now, there is an open container law which prohibits drinking alcohol near a playground in public buildings, schools parks and beaches.

Councillor Lopes informed the Committee that he would like to see an Ordinance similar to the open container law put into place as it related to marijuana.

Councillor Morad asked if the Ordinance passed would they need to change the operating under the influence language as well. She was told no; the State regulates operating under the influence laws, if we were to add language to the proposed Ordinance it would more than likely be overturned by the State.

The Chief stated the language to add should include the ability of a warrant less arrest.

On motion by Councillor Lopes and seconded by Councillor Morad, the Committee VOTED: To amend Sec. 17-10.1 (a) by striking the word “ingest” and adding the word “to”; and in (c), striking it entirely and adding in its place the following: “Whoever violates the provisions of this ordinance shall be subject to a criminal arrest and/or a fine as provided in section 1-9 of this code. The provisions of this ordinance shall also be enforced by criminal indictment or criminal complaint. This motion passed on a voice vote.

On motion by Councillor Lopes and seconded by Councillor Abreu, the Committee VOTED: To recommend to the City Council, ADOPTION of the ORDINANCE AS AMENDED, Relative To The Use of Marijuana In Public. This motion passed on a Roll Call Vote of Yeas 8, Nay 2, with Councillors Oliveira and Rebeiro opposed.

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Notice, City Clerk of reference of a Written Motion, Councillors Winterson, Coelho, Gomes, Abreu, Lopes, Martins, Bousquet and Carney requesting, that the Committee on Ordinances draft an Ordinance for Chapter 23, Traffic in the City Code, to deal with uninspected motor vehicles; and further, that violations be added to said section dealing with uninspected vehicles and said enforcement would include both Police Officers and Parking Control Officers (To be Referred to the Committee on Ordinances) (Ref'd 5/26/16) was received and placed on file by Councillor Morad and seconded by Councillor Lopes. (2)

Scott Downing, Traffic Commission Secretary was present to answer questions from the Committee. He spoke about the benefits in allowing the Traffic Attendants the ability to identify and ticket vehicles with expired inspection stickers. He explained that currently it is a moving violation and citations are issued by the police. However, if they had the ability to issue tickets it may cut down on the number of vehicles being stored on people's property. There was concern that this would be taxing on those individuals who did not have the current funds to say replace a catalytic converter or muffler. Mr. Downing stated that you would be allowed to appeal the ticket and that as the person who hears the appeals would take such hardships into consideration. Councillor Winterson thought the motion and the discussion was worth having.

On motion by Councillor Winterson and seconded by Councillor Coelho the Committee VOTED: To table this matter for sixth (60) days at this time. This motion passed on a voice vote.

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Notice, City Clerk of reference of a Communication/Email, Councillors Bousquet and Martins, submitting, an email from Eddie Johnson, President, CLEAN, regarding, the cleanup of toxic contamination of the Parker Street dump site and also submitting a proposed Ordinance to the City of New Bedford, Article I, Section 12-11, for submission to the City Council, relative to environmental protection and economic development (Ref'd 8/18/2016) was received and placed on file by Councillor Lopes and seconded by Councillor Carney. (3)

Eddie Johnson, President, CLEAN, 634 Summer Street, was present and briefed the Committee on his proposal and presented the following:

That this issue was brought before the City Council in 2012 and sent from the Council to the Mayor's Office, but it never came back from the Mayor's Office.

He believes it was never returned to the Council from the Mayor's office because of the opposition of the Chamber of Commerce and the Greater New Bedford Industrial Foundation at the time.

CLEAN in the last year has worked with the organizations Toxic Action and the Conservation Law Foundation.

Eversource has agreed to a \$15,000,000 clean up in the harbor, but it will not be enough, CLEAN would like to sit down with Eversource.

He is not sure how the Council will act on the proposed Ordinance but would like a vote either up or down on it.

The fact that no one from the Mayor's Office was in attendance at this meeting is a concern to him.

There is a \$3,000,000 debt the city owes to the EPA, he is not sure how that is going to be paid, that this debt has yet to be brought to the attention of the City Council.

The Mayor's office and the City Council should have some type of discussion of the Ordinance CLEAN has submitted for review and consideration.

The Chair stated that this Ordinance has been discussed since 2012, it is important now as it was in 2012.

Councillor Bousquet asked if this would be forming another layer of government, as it related to environmental impact; he was told it would not. The EEO Officer can do this even though the EEO Officer was recently replaced by Attorney Eric Cohen, and the Human Relations Committee could handle something like this. Councillor Bousquet expressed his concern about creating another position/title for something that is already being done/overseen in the city by another department.

Mr. Johnson stated that he realizes the Ordinance may need to be tweaked by the Committee but if approved it will not cost the city's taxpayers any money to enforce the Ordinance.

Councillor Bousquet informed the Committee that he Mayor had sent information about the city's Environmental Justice Policy and that if the city has a policy in place that covers all the bases as CLEAN's proposed Ordinance then perhaps that is sufficient. Mr. Johnson explained that the city has a policy but the policy is not enforceable and an Ordinance would be. This is why CLEAN supports an Ordinance. Mr. Johnson said he feels the current policies in place are not being enforced by the city.

Councillor Carney stressed the need to make sure things are done properly when it comes to environmental cleanup and the like. Mr. Johnson said the problem is with the Mayor's office, they knew the meeting was this evening and no one from the Mayor's office showed. He stressed that once the Council votes the Mayor's office will need to take action.

On motion by Councillor Lopes and seconded by Councillor Winterson, the Committee VOTED: To recommend to the City Council that the Communication/Email from Eddie Johnson, President, CLEAN, regarding the cleanup of toxic contamination of the Parker Street dump site and the proposed Ordinance Relative to Environmental Protection and Economic Development be referred to the Mayor for his review. This motion passed on a Roll Call Vote of Yeas 8, Nays 1, with Councillor Morad opposed and Councillor Abreu not present for the vote.

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

This meeting adjourned @ 9:12 p.m.

ATTEST:

Denis Lawrence, Jr.,
Clerk of Committees