

NEW BEDFORD, MASSACHUSETTS

MEETING: COMMITTEE ON ORDINANCES
DATE: OCTOBER 17, 2017
TIME: 7:04 P.M.
PLACE: CITY COUNCIL CHAMBER, ROOM 214, MUNICIPAL BUILDING

PRESENT: COUNCILLORS STEVEN MARTINS, CHAIRMAN; LINDA MORAD, VICE CHAIRPERSON; NAOMI CARNEY; DEBORA COELHO; HUGH DUNN; BRIAN GOMES; JOSEPH LOPES; DANA REBEIRO (7:16); KERRY WINTERSON

ABSENT: COUNCILLORS IAN ABREU; JAMES OLIVEIRA

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Councillor Martins called the Ordinance Committee Meeting to order and took attendance. The Clerk read Communications from Councillors Abreu and Oliveira explaining their absences and a Communication from Councillor Rebeiro explaining her tardiness. These Communications were received and placed on file by Councillor Lopes and seconded by Councillor Winterson.

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Notice, City Clerk of reference of a COMMUNICATION, Mayor Mitchell to City Council, submitting four (4) ORDINANCES, updating the City's processes for issuing Outdoor Café Permits: AN ORDINANCE, AMENDING Chapter 15, Article VI – Planning Board Licenses and Permits – Article VI stricken in its entirety; AN ORDINANCE, amending Chapter 5, Article I – In General, by inserting Section 15-15 OUTDOOR CAFÉ PERMIT; AN ORDINANCE, amending Chapter 17, Section 17-18 Noncriminal disposition of violations of certain Ordinances, Rules and Regulations; AN ORDINANCE, amending Chapter 17, Section 17-28 Chapter 40U of the Massachusetts General Laws (Ref'd 7/20/17) were received and placed on file by Councillor Lopes and seconded by Councillor Winterson. (1, 1a, 1b, 1c, 1d)

Councillor Martins read an email received from Christina Connolly from the Mayor's Office stating that the Solicitor's Office had some concerns on the revisions and asked that the item be tabled. He noted that the email was received today at 5:18 p.m. This email was received and placed on file by Councillor Lopes and seconded by Councillor Winterson.

Councillor Morad expressed frustration at the lateness in sending the communication, that the Solicitor should review the item and have the Mayor send them to the Council once completed.

On motion by Councillor Morad and seconded by Councillor Carney, the Committee VOTED: To recommend to the City Council to take "No Further Action" on the COMMUNICATION, Mayor Mitchell to City Council, submitting four (4) ORDINANCES, updating the City's process for issuing Outdoor Café Permits. This motion passed on a Roll Call Vote of Yeas 7, Nays 1, with Councillor Lopes opposed and Councillor Rebeiro not present for the vote.

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Notice, City Clerk of reference of a REPORT, Committee on Appointments and Briefings, recommending to the City Council that the Committee on Appointments & Briefings refer to the Committee on Ordinance a motion to have the Election Commission and Election Commissioner appointment process reviewed (Ref'd 7/20/17) Was received and placed on file by Councillor Morad and seconded by Councillor Coelho. (2)

Councillor Martins read a text he received from Christine Arsenault of the Mayor's Office asking that the item be tabled. The text was received at 4:05 p.m.

Councillor Morad asked Attorney Gerwatowski to give an overview of the process of appointing the Chairperson of the Election Commission.

Attorney Gerwatowski explained the process of selecting an Election Commissioner is granted by State Law 51-16A which allows the Mayor to be the appointing authority of the members of the Election Commission. The members in turn, have the authority to appoint its Chairperson, who oversees the department. The City Council approves the Mayor's submissions for members of the Commission. In April, the Board chooses their Chairperson; if they are unable to agree, the Mayor has the ability to appoint the Chairperson. Where the Election Commission has the ability to choose their own Chairperson, it could effectively be a different person each year; which was not the case with Maria Tomasia, the former Election Commissioner.

The appointed Chairperson oversees the department, the budget and the day to day operations. The Election Commission gives the Chairman they choose its duties and responsibilities and with those responsibilities comes a stipend. (The Department Head Salary)

Councillor Morad expressed her concern that the way it is set up now is an opportunity for chaos. Attorney Gerwatowski said that if something went awry with the Commission or the office, the fault would fall to the Election Commission and not the Council or the Administration. He stated this has not been an issue for so long because Ms. Tomasia was in the position of Election Commissioner for quite a while. The steps to appoint the Election Commissioner to oversee the Elections Office only came to light when she retired.

Councillor Rebeiro agreed with the concerns that Councillor Morad had. She said the appointment as the head of the Election Commission should be a transparent and fair process. She asked if the Council could create language to dictate the appointment. Attorney Gerwatowski told her this was not possible for the State dictates how the appointment is made, and it is not within the Mayor's or the City Council's responsibilities and that there is no room for the Mayor or the City Council to get involved with the Commission's duties other than submitting and approving their budget.

Councillor Morad stated, based on the information provided by Attorney Gerwatowski, that the issue was moot as far as the City Council was concerned.

On motion by Councillor Morad and seconded by Councillor Lopes, the Committee VOTED: To recommend to the City Council to take "No Further Action" on

the Report, Committee on Appointments & Briefings, recommending to the City Council that the Committee on Appointments & Briefings refer to the Committee on Ordinances a motion to have the Election Commissioner Appointment Process reviewed. This motion passed on a voice vote.

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Notice, City Clerk of reference of AN ORDINANCE, RELATIVE TO VEHICLES FOR HIRE (Ref'd 10/27/16) (3/21/17-Remain in Committee) was removed from table by Councillor Morad and seconded by Councillor Carney. (3)

The Clerk informed the Committee that an email was sent from Police Chief Cordeiro on 10/3/17 stating he would be unable to attend this meeting as he will be out of the State.

Dennis Farias, City Clerk, was present and addressed the Committee. He stated that working in conjunction with former Police Chief Provencher, current Chief Cordeiro and Attorney Gerwatowski, that the Ordinance as proposed will provide stricter guidelines in granting both taxi and livery driver licenses. He had looked into the possibility of finger printing applicants as a part of the CORI process but the City Clerk's Office is not a law enforcement office they did not have the authority to do so.

Councillor Carney expressed her frustration towards the CORI process and felt strongly that the City Clerk's Office should reach out to law enforcement agencies to see if the Clerk's Office could use their services. The Clerk stated he had reached out to a few public and private entities and they did not show an interest in assisting with such a service. She expressed her concern that if we only did a State CORI search that the applicants could very well be charged with items in other States that would affect the Clerk's decision in granting a permit to drive a taxi or livery. Clerk Farias explained the State language dictates three timelines to be considered when granting a license. He has more stringent guidelines in place than what the State dictates.

Councillor Morad asked the City Clerk if he was satisfied with the language now and he said he was and that the rate change is feasible and will place them higher than the City of Fall River. The only thing he would like to do is add language that addresses the issue of Pedi-cabs although the city does not have a Pedi-cab presence, there is always the possibility that there may be some in the future. He would like to see Attorney Gerwatowski add language to include Pedi-cabs. The fee should be the same annual fee as the other grants. Councillor Morad suggested the language be added and the motion be addressed in thirty (30) days, if approved a public hearing to include taxi and livery companies should be held by the Committee.

Councillor Carney expressed her concern on the three (3) year limitation and wants to see it increased to five (5) years. She asked if it was possible to add the language. She was told by Attorney Gerwatowski they could but as written, it leaves the judgment up to the Clerk, who has more stringent guidelines in place and allows the Clerk to adapt to CORI technology as it comes into light.

On motion by Councillor Carney and seconded by Councillor Rebeiro, the Committee VOTED: To recommend to Attorney Gerwatowski to change three (3) years to five (5) years under section 24-14 within the Ordinances. This motion passed on a voice vote.

On motion by Councillor Morad and seconded by Councillor Carney, the Committee VOTED: To table this matter for thirty (30) days, instructing Attorney Gerwatowski to add the Pedi-cab language into the Ordinance. This motion passed on a voice vote.

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

This meeting adjourned @ 7:51 p.m.

ATTEST:

Denis Lawrence, Jr.,
Clerk of Committees