



# *Committee on Ordinances*

October 19 2015 – 7:06 PM - **Minutes**

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

**MEETING: COMMITTEE ON ORDINANCES**

**DATE: OCTOBER 19, 2015**

**TIME: 7:06 P.M.**

**PLACE: CITY COUNCIL CHAMBER, ROOM 214, MUNICIPAL BUILDING**

**PRESENT: COUNCILLORS STEVEN MARTINS, CHAIRMAN; JAMES OLIVEIRA, VICE-CHAIRMAN; DAVID ALVES; HENRY BOUSQUET; DEBORA COELHO; BRIAN GOMES (7:23); JOSEPH LOPES; LINDA MORAD; KERRY WINTERSON**

**ABSENT: COUNCILLORS NAOMI CARNEY; DANA REBEIRO**

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Councillor Martins called the Ordinance Committee Meeting to order and took attendance. The Clerk read a Communication from Councillor Gomes explaining he would be late in attending this meeting due to a prior work commitment. This Communication was received and placed on file by Councillor Winterson and seconded by Councillor Bousquet.

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Notice, City Clerk of reference of a Public Hearing, on a Written Motion, Councillor Alves, requesting, that the lot on Oakdale Street (Map 73 Lot 68) be reclassified from a half Residence “A” and half Residence “B” lot, to just Residence “B”, to allow for reconstruction/replacement of building destroyed by fire. (Ref’d 09/10/15, duly advertised in the Standard-Times on Tuesday, October 06, 2015 and Tuesday, October 13, 2015)

Councillor Alves made a motion to WITHDRAW his motion due to the discrepancy in the plots and lots, which was seconded by Councillor Morad.

Councillor Martins ruled the hearing out of order to be revisited and advertised in the future.

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Councillor Morad asked that items three (3) and five (5) be taken up also with number two (2) as they are all related, there was no objection.

Notice, City Clerk of reference of a Related Motion, Councillor Morad, requesting that the Committee on Ordinances review the current laws related to the granting and renewal of Private Livery Licenses in the City to ensure the public’s safety and benefit by enforcing timely renewals by livery license holders; and further, that the City Clerk and the Chief of Police be invited to attend the Committee on Ordinances meeting in order to provide their input as it relates to this issue (Ref’d 6/25/15) was received and placed on file by Councillor Morad and seconded by Councillor Alves. (2)

Notice, City Clerk of reference of a Related Motion, Councillor Morad, requesting that the Committee on Ordinances review the current procedures and regulations as related to the granting of renewals for Private Livery Licenses, to consider what actions that may be taken against those companies who are operating in the City of New Bedford with an expired Livery License (Ref'd 4/09/15) was received and placed on file by Councillor Morad and seconded by Councillor Alves. (3)

Notice, City Clerk of reference of a Related Motion, Councillor Morad, requesting that the Committee on Ordinances, in conjunction with the City Clerk, Commissioner of Inspectional Services and the Police Chief review the City's options as it relates to enforcing the annual Livery License renewal process and/or the city's options available to revoke said Livery Licenses (Ref'd 05/28/15) was received and placed on file by Councillor Morad and seconded by Councillor Alves. (5)

Dennis Farias, City Clerk was present to answer questions from the Committee.

Councillor Morad expressed her concern that when licenses are up for renewal that the livery companies are choosing to ignore the renewal process. She would like to get a handle on how we can address this issue.

City Clerk Farias explained that he had recognized that this is an issue and that they are taking steps to make recommendations to the Council on how best to address this problem. He has found that most vendors allow their licenses to expire six, seven months, and may blow off the renewal, even though a reminder is sent about renewal. Unfortunately, the city does not have recourse to enforce delinquent renewals. He has discussed the issue with many Councillors as well as Attorney Gerwatowski to come up with some recommendations in addressing this issue.

1. Apply a late fee to those who neglect to renew the license.
2. If the licensee does not renew after the time allowed institute a higher fee/fine.
3. If after 30 days perhaps suspend the license and notify the livery companies insurance company that they have suspended the license and notify the police department as well.

Right now the city has 30 livery licenses issued and 6 of those are delinquent more than 6 months; the longest going back to July of 2014. The current fee for a livery license is \$25.00 annually and \$10.00 per vehicle. They must also provide proof of insurance for the vehicles used. Currently livery drivers unlike cab drivers are not CORI'd and they should be, in his opinion.

Councillor Morad asked if other communities have late fees/fines in place. She was told no other communities do. She expressed concern for those companies that are blatantly choosing to ignore renewing their licenses with the city. She believes we should create an ordinance with a built in mechanism that would allow the Police to have some teeth to enforce the licensing and renewal process.

Deputy Chief Lizotte was recognized and he stated that he does not know of any Communities that take action against those livery licenses in violation of the renewal process but he could check. He said the Police Department would be open to an ordinance with such mechanisms.

Danny Romanowicz, Building Commissioner was present to answer questions from the Committee.

Councillor Morad expressed her concern about complaints in neighborhoods where the livery companies were being operated from, e.g. early morning noises. Mr. Romanowicz explained that there are far too many loopholes in the current ordinances as it relates to livery license which the Council should address. Most of it is motor vehicle issues, moving violation issues.

Attorney Gerwatowski was recognized to speak on the issue. He explained there is a need to address the structure of the ordinance because as written, you really can't interpret the ordinance correctly. You have to go

from one chapter to another, etc. The biggest problem is the livery license language lists the vehicles as common carriers which they are currently not fully operating as such. Common carriers would need to have a designated route; but this is not the case because livery licenses allow vehicles to go places like an airport, wedding or to be contracted to pick up for example patients from their home and bring them to the doctor's office.

The Council needs to decide what type of vehicles needs to be included in the ordinance and what those vehicles are allowed to do. The ordinance should consider structuring late fees if a license expires perhaps allowing a 60-day grace period to renew and if they fail to renew their licenses that a late fee be imposed and if you do not do it within the 60-day grace period, that perhaps the license should be suspended; and that the vendor would not be allowed to apply for a license until the following year. He said that the ordinance needs to include language on what would happen if a vehicle was caught operating with a suspended license.

Councillor Morad asked if they need to change the ordinance so that the Police will be able to act upon suspended livery licenses. She was told yes. Councillor Morad explained she wants to play hardball with those who are intentionally bucking the system and not renewing the livery licenses that the City needs to put some kind of teeth into an ordinance that will hold those companies accountable.

Attorney Gerwatowski said he was in agreement, but the enforcement end of the ordinance may be difficult.

Councillor Morad asked that Attorney Gerwatowski and Dennis Farias City Clerk meet with representatives of the Police Department of discuss how to create the appropriate language.

Attorney Gerwatowski said that he would and sees that the Council's concern is situated around the renewal process and operating a livery license without the permit being properly renewed. He said he would review with the City Clerk and would put something together to present to the Council for review.

Councillor Lopes asked if everyone who drives for livery companies are CORI'd and/or fingerprinted. It was explained that currently when a CORI is done it only researches the applicant in Massachusetts and not countrywide, which means if you are in violation in some other state the report run in Massachusetts would not identify the problem.

There was also a discussion as to if you were issued a livery license in the City of Fall River and did not have one in New Bedford, is it still legal to have a Fall River vehicle transport people into the City of New Bedford. The Attorney was not sure.

Councillor Morad indicated that a lot needs to change and that all the necessary parties should get together to help create the proper language to enforce the livery license procedures. She said she is not opposed to the fact that all livery licenses should come due at the same time, this would eliminate the confusion of having to send renewal notifications out at various times throughout the year, and that if a permit is granted midyear that the fee is prorated for those months which would require that particular vendor to reapply at the beginning of the year. She asked how long the City Clerk and the Council Attorney would need to meet and draft language to present to the Committee. She was told 60 days.

On motion by Councillor Morad and seconded by Councillor Lopes, the Committee VOTED: To table item number two (2) for 60-days and take "No Further Action" on items three (3) and five (5). This motion passed on a voice vote.

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Notice, City Clerk of reference of a Written Motion, Councillor Gomes, requesting that the City of New Bedford establish an Ordinance adopting M.G.L. Chapter 256 of the Acts of 2010, "An Act Reforming the Administrative Procedures Relative to Criminal Offender Record Information and Pre- and Post-Trial Supervised Release", of which Chapter 6, Section 172B ½ creates an "umbrella statute under which municipal officials may enact Ordinances to require State and National criminal history record checks of applicants for licenses in specified occupations", by adopting such an Ordinance, the City will be authorizing the New Bedford Police Department, Massachusetts State Police and the FBI to provide criminal background history of Taxi and Livery License applicants to the City Clerk and City Council in order to ensure the safety of our City's residents (Ref'd 04/23/15) was received and placed on file by Councillor Gomes and seconded by Councillor Alves. (4)

City Clerk Farias handed out a packet on the State Law which was also received and placed on file by Councillor Lopes and seconded by Councillor Alves.

Councillor Gomes informed the Committee that he noticed there was a problem in the livery license process connected to the drivers that were being hired by livery companies. He noticed they were not properly CORI'd and he saw this as a necessity in protecting the residents of the City of New Bedford.

City Clerk Farias spoke on this issue and he agreed with Councillor Gomes, he explained that currently livery drivers are not CORI'd and agrees that they should be, but he would like to go beyond just the Massachusetts procedure and have the ability to do a national search when doing a CORI, for example what is happening now is when a CORI is processed it only checks for violations within Massachusetts and not nationally. This means if a driver is in violation outside of Massachusetts it goes unknown to city officials, by adopting the State Law as an Ordinance it will allow the City Clerk's Office to do a more thorough search on those individuals applying for a permit and/or driving for a livery company.

Councillor Gomes asked if accepting Chapter 256 of the Acts of 2010 would help and he was told by the City Clerk that it would.

On motion by Councillor Lopes and seconded by Councillor Gomes, the Committee VOTED: To refer this matter to Attorney Gerwatowski to draft the appropriate language for an Ordinance to adopt M.G.L. Chapter 256 of the Acts of 2010, "An Act Reforming the Administrative Procedures Relative to Criminal Offender Record Information and Pre and Post-Trial Supervised Release. 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 consider amending Chapter 24, Section 24-7, RELATIVE TO THE NUMBER OF CLASS A LICENSES (To be Referred to the Committee on Ordinances) (Ref'd 8/20/15) was received and placed on file by Councillor Alves and seconded by Councillor Winterson. (6, 6a)

A discussion ensued on the possibility of issuing seasonal taxi licenses. An example was given that during last year's severe winter storm there were not enough transportation alternatives to help get people around. It is thought that where the taxi companies could not keep up with the demand that perhaps seasonal licenses were the way to go. The City Clerk explained he understood what the Council was trying to do, but said it would be a very confusing process.

Councillor Lopes said he believed that it would be difficult to get the owners of the seasonal medallions to turn them in, that it is a nice theory but it's just not practical.

Councillor Martins asked when was the last time the medallion number was increased in the City of New Bedford and a review of the last Ordinance that increased the number of taxi medallions appears to go back to 2001.

There was a discussion on the possibility of increasing the number of medallions from the current 65.

On motion by Councillor Alves and seconded by Councillor Lopes, the Committee VOTED: To recommend to the City Council, ADOPTION of the ORDINANCE, Relative to the Number of Class A Licenses. This motion passed on a voice vote.

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Notice, City Clerk of reference of a Written Motion, Councillor Lopes, requesting that the second paragraph of Rule 1 of the City Council Rules of Order be amended to read – Additional regular meeting shall be held on the third Thursday of July, on the Third Thursday of August and on the **SECOND** Thursday of December in each year (Ref'd 3/26/15) was received and placed on file by Councillor Lopes and seconded by Councillor Alves. (7)

On motion by Councillor Lopes and seconded by Councillor Alves, the Committee VOTED: To recommend to the City Council ADOPTION of the ORDER, that the City Council Rules of Order Rule 1, in the second paragraph be amended to read: Additional regular meetings shall be held on the third Thursday of July, on the third Thursday of August and on the second Thursday in December in each year. (Beginning in 2016) This motion passed on a voice vote.

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Notice, City Clerk of reference of a Communication, Mayor Mitchell, to City Council, submitting AN ORDINANCE, amending Chapter 19 PERSONNEL, to place a one-year freeze on steps for the City's Unit C employees. (Ref'd 05/14/15) (8, 8a)

On motion by Councillor Alves and seconded by Councillor Lopes, the Committee VOTED: To waive the reading and follow the Chairman's recommendation of "No Further Action". This motion passed on a voice vote.

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

This meeting adjourned @ 8:44 p.m.

ATTEST:

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Clerk of Committees