



CITY OF NEW BEDFORD, MASSACHUSETTS

MEETING: COMMITTEE ON ORDINANCES
DATE: FEBRUARY 24, 2025
TIME: 7:01 P.M.
PLACE: CITY COUNCIL CHAMBERS, ROOM 214

PRESENT: COUNCILLORS RYAN PEREIRA, CHAIR; IAN ABREU;
DEREK BAPTISTE; SHANE BURGO; NAOMI CARNEY
(8:00); LEO CHOQUETTE; MARIA GIESTA; BRIAN
GOMES; LINDA MORAD; SHAWN OLIVER

ABSENT: COUNCILLOR JOSEPH LOPES

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Councillor Pereira called the Ordinance Committee meeting to order, took attendance and explained that the meeting was being recorded and live-streamed. The Clerk read a Communication into the record from Councillor Lopes explaining his absence and a Communication from Councillor Carney explaining her tardiness. The Communications were received and placed on file by Councillor Oliver and seconded by Councillor Burgo.

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WRITTEN MOTION, Councillors Choquette, Oliver and Abreu, requesting, that the City Council accept and adopt the provisions of the HERO ACT, passed by the Governor and General Court of the Commonwealth of Massachusetts, specifically with respect to tax exemptions outlined for disabled Veterans. (Matter ID #0020) (Referred – January 09, 2025.)

On motion by Councillor Oliver and seconded by Councillor Abreu, the Committee VOTED: To receive and place on file a copy of a drafted ORDER, accepting the provisions and clauses specifically with respect to tax exemptions outlined for disabled veterans.

Councillor Choquette clarified that the portion of the HERO ACT he is proposing for City adoption allows qualifying disabled veterans to apply for property tax exemptions.

Ms. Sherie Pinzino, Acting Administrative Assistant to the Board of Assessors, was recognized and noted that implementing this exception would effectively double the current exemptions available to disabled veterans. The existing \$400 exemption would rise to \$800, while the \$1,000 exemption would increase to \$2,000. She pointed out that if approved, the additional funding would not be reimbursed by the State, meaning the City would need to absorb the extra costs. Consequently, this would necessitate an increase in the tax rate to accommodate the higher exemption amounts.

Councillor Oliver inquired about the number of exemptions currently provided to disabled veterans in the City. Ms. Pinzino responded that there are 242 recipients of the \$400 exemption and 122 recipients of the \$1,000 exemption.

Councillor Abreu inquired about the application process for disabled veterans seeking this exemption. Ms. Pinzino explained that they would need to visit the Assessors Office to complete the form and present documentation proving their status as a disabled veteran.

Councillor Morad asked Atty. David Gerwatowski, Legal Counsel, if all provisions of the HERO ACT would extend to disabled veterans as well. Atty. Gerwatowski confirmed this is the case, but noted that for the tax exemption language to be implemented, both the Council and the City must approve the exemption process. This is the only aspect of the HERO ACT that requires approval by the municipality.

On motion by Councillor Burgo and seconded by Councillor Baptiste, the Committee VOTED: To recommend to the City Council ADOPTION of the ORDER, accepting the provisions of the “HERO ACT”, passed by the Governor and General Court of the Commonwealth of Massachusetts, specifically with respect to tax exemptions outlined for disabled Veterans.

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COMMUNICATION, Mayor Mitchell, to City Council, submitting AN ORDINANCE, amending Chapter 17, Section 17-14, Telephonic and Burglar Alarm System. (Matter ID #1098) (Referred – June 27, 2024.)

AN ORDINANCE, (Matter ID #1099) (Referred – June 27, 2024.)

On motion by Councillor Morad and seconded by Councillor Giesta, the Committee VOTED: To receive and place on file a chart detailing the number of alarm notifications received by the Police Department in 2024.

Police Chief Paul Oliveira was recognized and acknowledged that the current fee structure for false alarms is outdated and largely unenforceable as it stands. To address the misuse of false alarm calls, the proposal suggests allowing the first two false alarms to be free, with a \$50 fine imposed for the third. Chief Oliveira reviewed the chart shared with the Committee, noting that many parties that will be affected are indeed repeat offenders.

Councillor Oliver inquired whether the fee structure would apply solely to automated calls from third-party companies like ADT, to which he received confirmation. The Councillor also asked if habitual offenders would be notified; the Chief assured him that they would receive written notification, not just a billing notice.

Councillor Abreu asked if the Police Department would conduct outreach to inform the public about the new Ordinance, should it be adopted. The Chief responded affirmatively, stating that his Department would take on that responsibility.

Councillor Morad questioned whether the Police Department charges an annual fee of \$25 for recording commercial alarm systems. The Chief clarified that a one-time fee of \$25 is charged initially, but there is no recurring annual fee. Assistant Deputy Chief Derek Belong added that if an alarm is not registered, the applicable fine would still be enforced.

On motion by Councillor Morad and seconded Councillor Oliver, the Committee VOTED: To recommend to the City Council APPROVAL of the ORDINANCE, Amending Chapter 17, Section 17-14, Telephonic and Burglar Alarm System.

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COMMUNICATION, Mayor Mitchell, to City Council, submitting AN ORDINANCE, Amending Chapter 9, Section 20, Accessory Dwelling Units (ADUs). (To be Referred to the Committee on Ordinances and the Planning Board.) (Matter ID #1322) (Referred – August 13, 2024.) (Duly advertised in The Standard-Times on Thursday, September 05, 2024 and Thursday, September 12, 2024.) (September 19, 2024 – public hearing held, matter tabled.)

AN ORDINANCE, (To be Referred to the Committee on Ordinances and the Planning Board.) (Matter ID #1323) (Referred – August 13, 2024.) (September 19, 2024 – public hearing held, matter tabled.)

COMMUNICATION, Jennifer Carloni, Director, City Planning, to Councillor Naomi R.A. Carney, City Council President, advising that the Planning Board held a public hearing on Wednesday, September 04, 2024, to discuss a request made by the City Council for the Planning Board to review and make a recommendation relative to amending Chapter 9 of the Code of Ordinances, Section 2340 and associated definitions in Section 1200, pertaining to the zoning of Accessory Dwelling Units (ADUs); the Planning Board voted to send a FAVORABLE RECOMMENDATION for the Ordinance amendment. (Received – September 10, 2024.) (September 19, 2024 – public hearing held, matter tabled.)

On motion by Councillor Giesta and seconded by Councillor Oliver, the Committee VOTED: To remove from the table.

The Chair explained that while the item remained in Committee, the timeline to have the item heard expired. He was informed by Atty. David Gerwatowski, Legal Counsel, that the Committee would need to call for a new public hearing.

On motion by Councillor Giesta and seconded by Councillor Baptiste, the Committee VOTED: To call for a new public hearing, and that the information received to date be reviewed at that time.

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COMMUNICATION, Mayor Mitchell, to City Council, submitting AN ORDER, accepting the provisions of M.G.L., Chapter 40, Section 57, and AN ORDINANCE amending Chapter 10, Section 10-45 of the City Code, pertaining to local licenses and permits; denial, revocation or suspension for failure to pay municipal taxes or charges. (Matter ID #0797) (Referred – May 24, 2018.)

AN ORDER, (Matter ID #0798) (Referred – May 24, 2018.)

AN ORDINANCE, (Matter ID #0799) (Referred – May 24, 2018.)

The Chair recognized Atty. Eric Jaikes, City Solicitor, who provided an overview of the proposed change to the Ordinance. Essentially, the State permits municipalities to suspend or revoke the personal licenses of residential and business owners who fail to pay their property or commercial taxes. The Administration is seeking to adopt this Ordinance to enable the City to impose this penalty, with the intention of encouraging timely tax payments by property owners.

Atty. Jaikes explained further that the new Ordinance would prevent individuals with outstanding taxes from renewing their licenses. Notably, it eliminates the previous twelve-month grace period before a license can be revoked. He clarified that an internal schedule would be established outlining the criteria under which licenses and permits may be denied to applicants based on the following delinquency timeline:

- General billing is set at 90 days overdue
- Real estate taxes are considered at 180 days overdue
- Personal property taxes also apply at 180 days overdue
- Excise taxes are assessed at the time of registry mark
- Tax titles are handled immediately or contingent upon a satisfactory payment arrangement

Councillor Pereira expressed concern regarding the current policy, which allows for the revocation or suspension of a person's license after twelve months of nonpayment. He noted that this policy enables individual departments to make subjective decisions, such as deciding to move forward with revocation after five months for one individual while granting another a full twelve months based on personal preference. He observed that, in its new form, the matter is straightforward.

Atty. Jaikes stated the schedule must be applied consistently. For instance, if John Smith arrives at the 180-day mark, the same regulations would apply to him as they would to Sally Smith at the same interval. The Administration is working to shorten the period in which leverage can be used to prevent someone from obtaining a license or permit because of unpaid taxes.

Councillor Morad asked Atty. Jaikes about the reasons behind the proposed Ordinance. He explained that it would expedite the timeframe in which the City can enforce tax payments. In response, the Councillor remarked that this implies the process is not fundamentally flawed; rather, the Administration seeks to encourage prompt payment of bills. He confirmed that currently, taxpayers enjoy a twelve-month grace period before payment is required, and the Ordinance aims to reduce this period. The Councillor expressed her opposition to the request.

Councillor Gomes raised concerns about the adoption of this Ordinance, viewing it as a potential means to expedite revenue collection from individuals who may be struggling to meet their tax obligations, possibly due to illness or job loss. He feels that people in these situations should not face penalties for those challenges.

Atty. Jaikes clarified that the intention is not to hasten the collection of funds, but rather to address the issue of timely payments from those who consistently default. He acknowledged Councillor Gomes' viewpoint, noting that the directive is open to interpretation and does not guarantee implementation.

Councillor Gomes also asked Atty. Jaikes for details regarding the number of unpaid tax bills, but the Solicitor could not provide this information. The Councillor then inquired with both the Treasurer/Collector and the Acting Administrative Assistant to the Board of Assessors, but they were also unable to provide the information requested.

Councillor Pereira emphasized that the City should maintain its existing tax collection process. He inquired whether the Solicitor believed that adopting this Ordinance would lead to improved tax payments; the Solicitor responded affirmatively. However, the Councillor indicated his opposition, citing the example of the Livery License process, and argued that individuals facing tough times should not risk losing their licenses.

On motion by Councillor Morad and seconded by Councillor Giesta, the Committee VOTED: To table the matter at this time.

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The Chair called for a five-minute recess at 7:47 p.m. The meeting was called back to order at 7:52 p.m.

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WRITTEN MOTION, Councillor Morad, requesting that the Committee on Ordinances review the current application of Sections 19-7 and 19-7.1 of the City Code and consider any amendments should it be determined that the application of said Sections needs to be clarified. (Matter ID #1863) (Referred – November 14, 2024.)

Councillor Morad addressed the Committee regarding the reclassification of certain positions within the City Code, specifically for her colleagues who were not on the Council when the Unit C Schedule was revised and adopted. Previously, there was a distinct schedule for three positions: the Assistant Legislative Counsel (M-15), the Legislative Counsel (M-16), and the Clerk of Committees (M-7). These positions are neither part-time nor full-time; they are salaried positions with fixed annual compensation, regardless of the number of hours worked.

Councillor Morad noted that during the Code's revision, the Personnel Director at the time mentioned that a separate code for these positions might be unnecessary. However, this decision has led to complications, as the Assistant Legislative Attorney and the Clerk of Committees are now compensated at 50% of their designated salary levels, while the Legislative Counsel receives 75%. She intends to revert to the previous language to establish distinct classifications for these three positions. She emphasized that they should not be labeled as part-time, but could perhaps be categorized under a different coding system, such as A-1 or MA-15, which would allow for appropriate grades within the Munis system. This would clarify that these positions are compensated at 50% or 75% of the assigned grade. She expressed a desire to restore the effective language that existed in the City Code previously.

The Chair recognized Robert Ekstrom, Chief Financial Officer, who was asked by Councillor Morad if he understood the issue at hand and the intent behind it. Mr. Ekstrom confirmed his understanding and expressed no objections to the proposed change. He noted that the Unit C classification was implemented during his absence and stated he would support its application, including the appropriate percentage adjustments.

Atty. David Gerwatowski, Legal Counsel, was recognized and explained that the Ordinance was established alongside the new salary schedule, which outlines positions and corresponding pay. For instance, an Assistant City Solicitor is classified as an M-15 position; and the Ordinance specifies that “Employees of the City shall receive compensation in accordance with duly enacted ordinances or the provisions established by the schedule adopted by the City Council”. He emphasized that it clearly states, “No authorization shall be provided for utilizing any salary different from those listed on the steps of the grade established for said position”, indicating that no one is authorized to alter the salaries outlined in this Ordinance.

Atty. Gerwatowski noted that the Assistant City Solicitor is classified as M-15, yet is not being compensated according to the M-15 pay scale; instead, they are receiving only a partial percentage of that amount. This raises the question of who determines that percentage and who holds the authority to make such a decision. According to the Code, no one has this authority, particularly since the City Council and the Mayor have defined the salary, which is incorporated into the Ordinance. He opined that the current situation is resulting in positions being paid less than what the Code stipulates. He stressed that these roles should receive proper compensation, as outlined in the existing Ordinance, or alternatively, the Ordinance should be amended to align with the intentions of the City Council and the Mayor.

Atty. Gerwatowski mentioned a potential second issue, which he has yet to verify: it appears the Mayor may have hired individuals for Unit C positions but is compensating them at an hourly rate as part-time employees. If this is indeed the case, there is no provision in the Code that grants the Mayor the authority to hire employees in this manner. To address this concern, he has prepared draft language for an Ordinance.

Atty. Eric Jaikes, City Solicitor, offered the Committee additional historical context, noting that the reclassification occurred in 2022. Prior to that, there were two tiers: one for full-time positions and the other designated as MPT. Within the MPT category, two Associate/Assistant City Solicitors were employed part-time in his office. This group also included the Council's Legislative Counsel, the Clerk of Committees, and the City Solicitor, all of whom were classified under the MPT designation. It is important to note that the previous Human Resources Director decided to remove that chart, considering it unnecessary.

Councillor Morad asked Atty. Jaikes about the necessity to clarify the intent of the pay scale for the positions being discussed. He expressed no objections to establishing a second pay table specifically for Unit C positions. While he has yet to discuss this with the Administration, he indicated that he is not opposed to it from a legal standpoint.

Councillor Morad emphasized her concerns regarding the classification of "part-time" work, stating that individuals contracted by the City, for whom a rate is paid, should not be classified as either part-time or full-time. She suggested that rather than reverting to the MPT designation, a different title such as M-16 would be more appropriate. Atty. Jaikes shared that the term used is "variable time". The Councillor acknowledged that this classification has been effective and appreciated the Solicitor's agreement on the matter.

The Chair recognized Jose Gouveia, Director of Personnel. Councillor Morad inquired if Mr. Gouveia was aware of the part-time Unit C issue; the Director confirmed his awareness. He indicated that he was first informed of the matter during a meeting with Atty. Gerwatowski. At that time, he did not possess all the relevant information regarding the issue; however, he had reviewed certain documents that indicated there were separate classifications previously that had been removed from the Ordinance. He agreed that there was a need for clarification and acknowledged that people are hired under variable-time, citing Parks & Recreation employees as an example.

Councillor Morad asked Mr. Gouveia whether the Administration was hiring Unit C employees and paying them on an hourly basis. He replied that he would review the employment reports to identify any exceptions and follow up with the Committee. The Councillor stressed the significance of this information because it could potentially lead to the establishment of additional categories, such as M-1a, M-2a, M-3a, etc. Mr. Gouveia stated that he believes the establishment of distinct language to address this matter would be a positive step forward.

The Chair sought clarification on whether any Unit C employees are currently compensated at an hourly rate. Mr. Gouveia stated that he was unable to provide an accurate response at this time but would review the matter and follow up.

Councillor Oliver expressed concern that if Unit C hires are compensated on an hourly basis, it raises budgetary questions. He noted that if a position is budgeted at \$50,000, yet the City is hiring part-time workers at an hourly rate that only utilizes \$25,000, he wonders what will happen to the remaining \$25,000. Mr. Gouveia acknowledged the Councillor's concerns and stated he would research the matter and report back to the Committee.

On motion by Councillor Gomes and seconded by Councillor Oliver, the Committee VOTED: To receive and place of file the Ordinance drafted by Atty. Gerwatowski, Legal Counsel, addressing the hourly compensation of Unit C employees.

On motion by Councillor Morad and seconded by Councillor Oliver, the Committee VOTED: To table the matter for 30 days.

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Councillor Oliver made a motion to adjourn, which was seconded by Councillor Burgo.

The meeting adjourned at 8:19 p.m.

ATTEST:

Denis Lawrence Jr.
Clerk of Committees