



City Council

CITY OF BROCKTON

CITY HALL

45 School Street • Brockton, Massachusetts 02301

TBL: (508) 580 - 7114

MINUTES – ORDINANCE COMMITTEE March 14, 2019

The Standing Committee on Ordinances and Rules was called to order at 6:09 p.m. by Councilor Sullivan with Councilors Sullivan, Cruise, Monahan, Farwell, and Derenoncourt present.

Meeting held at the Arnone School due to broken elevator.

Comments by Councilor Sullivan re late notice of ordinance meeting invitation to D.A. Timothy Cruise, possible Plymouth County Sheriff Joseph McDonald. Comments re Mayor not able to attend, appointed City Solicitor to attend as designee.

Councilor Sullivan read the agenda into the record.

The Committee first considered the following:

1. Acceptance of the minutes of the February 24, 2019 Ordinance Committee Meeting.

Motion by Councilor Farwell to Accept the Minutes and Report of the February 28, 2019 Ordinance Committee Meeting, 2nd by Councilor Cruise, motion carried.

MOTION BY COUNCILOR CRUISE TO TAKE AGENDA ITEM #3 OUT OF ORDER (to allow D.A. Timothy Cruz to speak on agenda item 3), 2nd by Councilor Monahan, motion carried unanimously.

Next the Committee considered the following:

3. Brockton United Ordinance: The purpose of this ordinance is to create unity among residents of Brockton, whether born here or abroad; to welcome newcomers; and to engage community members in building trust and solidarity between the different ethnic groups that make up the City of Brockton and the City's government. (Continued from Ordinance meeting February 27, 2019)

Comments by DA Timothy Cruz

(provides letter with his comments, also affects the DA's office, priority to keep community safe, includes immigrant community, protects all victims of crime, his staff will not make inquiry of immigration status of victim or witness, will proactively participate in helping to obtain protection U-Visa, witness protection is a priority, 1.2 million from federal assistance for gun violence and opioids, prevention and education programs, reliance on the funds, ordinance may preclude future federal funding, inconsistent with other Brockton agencies (state, sheriff), mix message, fluid gang areas, case by case basis preferred is ordinance is accepted by the council, funding programs to support victims and at-risk community, crime statistics down in Brockton)

Comments by Councilor Monahan

(not reporting crime because of afraid of immigration status, how to we establish Trust)

Comments by DA Timothy Cruz

(federal immigration laws, we don't enforce federal laws, need to develop relationships by getting the word out, let others know the police and DA's office are here to help, not certain if the proposed ordinance will accomplish that)

Comments by Councilor Farwell

(any instances of witnesses and victims thereafter being deported)

Comments by DA Timothy Cruz

(not that he is aware, by ICE did detain one person before a trial a few months ago)

Comments by Councilor Cruise

(police don't reach out to ICE anyways, immigration community wants it on paper for trust to be established, law of unintended consequences, joint task forces not affected by the City Ordinance)

Comments by DA Timothy Cruz

(every other department they work will won't be subject to the ordinance, Brockton is an under resourced community, we use state departments / state police not affected by the ordinance, doesn't want to see the City and DA's office hurt with funding, justice short changed when suspect fled country, DA's office worked with Federal Departments to get him back, still face issues like these)

Comments by Councilor Derenoncourt

(ordinance doesn't talk about state police, it talks about ICE and letting ICE do their jobs, ICE has done this)

Comments by DA Timothy Cruz

(that individual was already in custody awaiting trial, ICE never notified the DA's office, that was the only time he had heard of this happen, never seen ICE jackets)

in Brockton District or Superior Court, appreciates the ordinance as a conversation, he tells his office we are not telling ICE about immigration status of victim or witness)

Comments by Councilor Derenoncourt

(not sanctuary city proposal, voting in favor of this, funding concern, other town and cities that have already passed this, what makes the city difference)

Comments by DA Timothy Cruz

(applies for every grant, federal grants are usually bigger, concerned about ordinance affecting federal funding)

Comments by Councilor Derenoncourt

(amendment re arresting, he went through the immigration system, this is not bad for Brockton, simple language, let ICE do what they want to do, we are not suppose to work with ICE, elected official to do his job)

Comments by DA Timothy Cruz

(doesn't enforce federal law, enforces state law, this is federal immigration issue, needs to be straighten out with federal representatives, appreciates intent of ordinance, worthy conversation, agrees with level of distrust and need to bridge it)

Comments by Councilor Derenoncourt

(short police officers, why would we need to expand our own resources for helping ICE, if ICE comes for someone, they can come for the little people, believes this will improve by having something on paper, knows victims of crimes not reporting)

Comments by DA Timothy Cruz

(under resourced, bring in other units and resources into the City, DA's office is not getting in touch with ICE regarding immigration status of witnesses and victims, continued conversation, victims of domestic abuse whether immigrant or not don't always report or pursue a case)

Comments by Councilor Sullivan

(re thank you to DA for coming)

MOTION BY COUNCILOR CRUISE TO CONTINUE AGENDA ITEM #3 AND GO BACK TO AGENDA ITEM #2, 2nd by Councilor Monahan, motion carried unanimously.

Next the Committee considered the following:

2. Ordinance: Be it ordained by the City Council of the City of Brockton as follows: Chapter 11, "Licenses, Permits, and Business Regulations," is hereby amended by adding the following section: Section 1 (a). (relative to a Neighborhood Code Enforcement Program) (Continued from Ordinance meeting February 27, 2019. Conditional upon obtaining more information relative to more city positions that may need adjustments.)

Comments by Councilor Beauregard

(in favor of seeing more code enforcement to allow departments to enforce codes, building department hands are tied, safety and attractiveness concerns, strongly in support, grateful for filing by Councilors Rodrigues and Farwell)

Comments by Councilor Farwell

(ordinance is audit and oversight in nature, excellent work by Lieutenant LeGrice, looking for a shared program for entry of violations so that City Council can inform about proactive program, need to provide more information)

Comments by Building Superintendent James Casieri

(new program people GIS permitting program, inspectors have tablets and its entered in central location, health department has it, so this may be similar if police and fire department enter theirs, not a far reach, close to being able to do this)

Comments by Councilor Farwell

(can check with IT to see feasibility of this, what are we paying for, do we need more resources for code enforcement, looking for collaborating)

Comments by Police Chief Crowley

(open to working on this, will designate someone to work with Mr. Casieri to contact with IT)

Comments by Building Superintendent James Casieri

(weekly meeting, new items to their list, some on going, may even rise to level of litigation, these meetings let other departments know what the departments are doing)

Comments by Councilor Cruise

(seems more than just reporting, this will codify inspection teams within department, frustrating to constituents, thanks Lieutenant LeGrice for his work and informing the City Council, need to be more aggressive on code enforcement, supports codifying code enforcement team, many departments are involved)

Comments by Councilor Sullivan
(re grievance about this being outside the scope of work)

Comments by Building Superintendent James Casieri
(GIS entry shouldn't raise an issue)

MOTION by Councilor Farwell to CONTINUE until the next Ordinance Meeting, 2nd by Councilor Cruise. Motion carried unanimously.

Next the Committee considered the following:

MOTION By Councilor Cruise to waiver reading of the ordinance for the 2nd time (having already been read when the item was discussed earlier in the meeting), 2nd by Councilor Derenoncourt. Motion carried unanimously.

3. Brockton United Ordinance: The purpose of this ordinance is to create unity among residents of Brockton, whether born here or abroad; to welcome newcomers; and to engage community members in building trust and solidarity between the different ethnic groups that make up the City of Brockton and the City's government. (Continued from Ordinance meeting February 27, 2019)

Comments by Councilor Rodrigues
(proud American immigrant, country of immigrants, simple ordinance, victims who heard or saw didn't want get involved because of immigration status, these were neighbors, these victims could be your children, letter re immigrant awaiting deportation for j-walking in front of state police, discussions re "might losing funding" but jeopardizes public safety as we want neighbors and witnesses to pick up the phone without fear of deportation, not an issue for Boston, Cambridge, Lowell, New Bedford, all have done something like this, Brockton gets \$0 funding for immigration issues, nothing for educational/prevention piece, no money spend to help people become citizens or learn English, nothing in this ordinance about not working with FBI/DEA, it says we don't want to use City resources for ICE to incarcerate, needs more than a conversation)

Comments by Councilor Sullivan
(there will be a vote, whether favorable or unfavorable)

Comments by Councilor Rodrigues
(doesn't want to see this going into the election season)

Comments by Councilor Cruise
(cross jurisdictional issue, Councilor Rodrigues' example was not about action by Brockton Police, if the arrestees get sent to Plymouth Sheriff's jurisdiction the ordinance has no effect, re temporary visa applications for status)

Comments by Mr. Lawton

(30 seconds allotted, assurance to community that Brockton Police and School Department will continue to act as they already are, understands no protection with other departments, can think of 6-8 cases of women who would come forward if they weren't worried about deportation)

Comments by Police Chief Crowley

(supports long standing practice to serve all residents, police department does not inquire about immigration status but must reserve the right to cooperate with other authorities, cannot support ordinance that interferes with their ability to police and perform functions, concerned about full cooperation with other agencies)

Comments by Councilor Cruise

(police department doesn't ask about immigration status, if ICE calls them, how do they handle it)

Comments by Police Chief Crowley

(they don't reach out to ICE, but some instances were they have to work with ICE, arrestees are sent to Plymouth and those who don't make bail)

Comments by Councilor Farwell

(shooting and pushing drugs, still can pose a danger even if not convicted)

Comments by Councilor Cruise

(ICE wouldn't contact police about crime in another jurisdiction, not criminal jurisdiction, has issue with theoretic situation posed by Councilor Farwell)

Comments by Councilor Farwell

(ICE would be aware that they are convicted of prior crimes, agrees can't hold for ICE detaining, ordinance is a policy statement)

Comments by Councilor Derenoncourt

(no knowledge by Brockton PD of ICE contacting the Brockton PD, this ordinance will help the police to solve more crimes, sacrifice people for money, innocent until proven guilty)

Comments by Police Chief Crowley

(interest in needing to work with other departments, short 24 officers, community needs to pass the word that the Brockton police does not have a practice of asking for immigration status, worried about his own job, focus in the Brockton Police, not going to hold for ICE detaining)

Comments by Councilor Sullivan

(re prior meetings with activists, oath re federal law re requiring of sharing information, issue re Brockton Police officer for not following the City Ordinance, re suit by City of Brockton)

Comments by Police Chief Crowley

(no advocates spoke to him, agrees grievance may be issued)

Comments by Councilor Sullivan

(Mayor not here, wants to here from Mayor and wants to continue because he wants to here from the Mayor)

Comments by City Solicitor Phil Nessralla

(Mayor is under doctor's care, Assistant City Solicitor Sean Murphy re research, interpretation of law, comments re 3A, 3C, and federal law 8 USC 1373 local may not prohibit sending to and receiving information regarding immigration status, constitution put federal law as to supersede, respects what ordinance tries to accomplish, concern re police officer grievance, against ordinance)

Comments by Councilor Derenoncourt

(re other communities)

Comments by City Solicitor Phil Nessralla

(not popularity contest, mistake for Brockton to due it, not going to speak about other Cities, would advise Mayor what his opinion is)

Comments by Assistant City Solicitor Sean Murphy

(conflict of law between local ordinance and federal statute, cases referenced by ACLU are not binding on our jurisdictions, 9th Circuit, 2nd Circuit, 3rd Circuit, funding cases not conflict of law, not an issue with ICE detaining language, liability for the City, false arrest cases will look a policy of the city and compare to federal law, conflict can help reach verdict, money to defend, issue with section 3C)

Comments by Councilor Farwell

(include public schools, bargaining issue re impact re disciplinary in nature)

Comments by Councilor Derenoncourt

(ICE different than homeland security, still voting in favor of it)

Comments by Assistant City Solicitor Sean Murphy

(federal law conflicts, federal court can ultimately determine 8 USC 1373 is unconstitutional but that hasn't happened yet)

Comments by ACLU Attorney Rotolo

(not providing legal advice, opinion re federal law and conflict, has worked with 2 dozens cities that have done something like that, about 40 documented cities/towns with similar ordinances in Massachusetts 8 USC 1373, no city has ever lost their funding, does not conflict with 8 USC 1373, focus on section C,

limits to certain information, says 8 USC 1373 does not prohibit release of this information, nationwide injunction to preclude denial of funding for not cooperating with ICE, this is about getting trust to report crimes)

Comments by Councilor Farwell

(sincere advocating, federal/congressional problem, how does section C help safety of Brockton, other law enforcement agencies are just untrusted by community)

Comments by Councilor Sullivan

(need someone from school department)

Comments by ACLU Attorney Rotolo

(no attorney, criminal vs. civil)

Comments by Councilor Farwell

(re studies for crime reporting)

Comments by Councilor Cruise

(3C language re effect of arrestees versus witnesses, state police presence, gang units, these other officers could call ICE/cooperate with ICE)

Comments by ACLU Attorney Rotolo

(written policy re state police not asking for immigration status, Brockton to be a leader, ordinance is first step)

Comments by Councilor Farwell

(re carving out arrested parties, re amendments, no willingness to compromise, immigrant contact for full faith and trust)

Comments by Councilor Derenoncourt

(re change to conviction)

Comments by Councilor Farwell

(still a danger/safety concern, agrees police shouldn't be proactive to call ICE, but provide the information if asked, different for victim and witness)

Comments by Councilor Sullivan

(figure out how to get to end purpose, wants superintendent, union reps for teachers and police, Mayor carpenter, Sheriff)

Comments by Councilor Rodrigues

(public safety talk, excuses when we come up with something to help)

Comments by Councilor Sullivan

(re need to hear from the Mayor)

Comments by Councilor Rodrigues
(re not pushing this out into the summer)

Comments by Councilor Farwell
(not a delay)

Comments by Councilor Cruise
(not dragging this out, wants to know ramifications)

Motion by Councilor Cruise to Continue until Next Ordinance Meeting, 2nd by Councilor Farwell. Motion carried unanimously.

Motion by Councilor Farwell to adjourn, 2nd by Councilor Cruise. Motion carried.

The meeting was adjourned at 8:42 p.m.