

MINUTES – ORDINANCE COMMITTEE  
November 5, 2020

The Standing Committee on Ordinances and Rules was called to order at 6:39 p.m. by Councilor Cruise with Councilors Cruise, Monahan, Eaniri, Rodrigues and Thompson present.

Agenda read into the record.

The Committee first considered the following:

1. Ordinance: An Ordinance Amending Article III, Section 2-186 of the revised City Ordinances of the City of Brockton. Be it Ordained by the City Council of the City of Brockton as follows: Sec. 2-186 of Chapter II is hereby amended. (relative to Assistant City Solicitor)

Comments by Councilor Cruise  
(Attorney Bridges unable to attend)

Comments by Councilor Eaniri  
(re do we still need this ordinance)

Comments by Councilor Thompson  
(re postponement)

Motion to report POSTPONED to the next City Council Meeting by Councilor Thompson, 2<sup>nd</sup> by Councilor Eaniri. Motion carried unanimously.

Next the Committee considered the following:

2. Ordinance: An Ordinance Amending Section 2-181 of the Revised Ordinances of the City of Brockton. Be it Ordained by the City Council of the City of Brockton as follows: Section 2-181 is repealed in its entirety and in its place the following is inserted: “The city solicitor shall be an active attorney at law in the Commonwealth of Massachusetts, properly licensed and in good standing with the Massachusetts Bar Association. He or she shall have a minimum of five (5) years of experience in the practice of law in Massachusetts with a thorough knowledge of Massachusetts General Laws including municipal law. He or she shall have demonstrated trial experience including the research, preparation, and management of civil or criminal cases during the various stages of litigation. The provisions of Section 2-110 of the Revised Ordinances shall not apply to this position. However, where two or more candidates have equal qualifications and experience as determined by the mayor, preference shall be given to a resident of the city or a candidate willing to move into the city within one (1) year of appointment.”

Comments by Councilor Cruise  
(filed when there were issues filling the position)

Comments by Councilor Thompson  
(wants to hear from Attorney Bridges)

Comments by Councilor Farwell  
(Mayor and Solicitor Bridges may shed light on comments, sole appointing authority is the mayor, no confirmation by the council, no real qualifications for solicitors, no defined term, hard in the future to attract a qualified candidate, same for removal, complex city, enormous authority for solicitor, re residency exemption, residency is important but highly technical positions, language re equal qualifications, change to Massachusetts Bar Association to Commonwealth)

Comments by Councilor Thompson  
(re term)

Comments by Councilor Cruise  
(re term as appointed by Mayor)

Comments by Councilor Farwell  
(need qualifications, articulate important functions of the office)

Comments by Councilor Rodrigues  
(tried to make a change last year, see issue with qualifications but hiring has nothing to do with the City Council, mayor hires and fires, what's the teeth to go after the mayor)

Comments by Councilor Farwell  
(re integrity, control of funds, options)

Comments by Councilor Rodrigues  
(re attracting candidate, concern re authority over the position, interested in language re reporting to the council, an attorney that also defends city council)

Comments by Councilor Farwell  
(re order on cases, consider a home rule petition to change dynamics of city solicitor)

Comments by Councilor Rodrigues  
(would prefer the home rule petition route)

Comments by Councilor Farwell  
(business is business, need meaningful qualifications, first step)

Comments by Councilor Cruise

(two different things here, gist was about residency, certain jobs that are very difficult to fill because of residency)

Motion to report POSTPONED until the next Ordinance Committee meeting by Motion of Councilor Thompson, 2<sup>nd</sup> by Councilor Eaniri. Motion carried unanimously.

Next the Committee considered the following:

3. Ordinance: An Ordinance to Provide Noise Control and Establish, and To Enforce, Civil Infraction for Violation

Be it ordained by the City Council of the City of Brockton, a new ordinance to be added to the Revised Ordinances, Chapter 14 – Offenses – Miscellaneous, as Section 14-49 or in the next section available.

Comments by Councilor Cruise

(re Board of Health and Building department)

Comments by Councilor Thompson

(re amendment takes enforcement out of Board of Health and Superintendent of Buildings)

Comments by Interim Superintendent of Building, James Plouffe

(works during the day, not nights, their inspectors wouldn't be around, recognizes night time custodian)

Comments by Executive Director of the Board of Health, Dr. Monsesir

(no opposition of this being with the control of police, enforcing this code would be better in the police department with their resources and authority)

Comments by Councilor Thompson

(re conversations with Police Chief and Attorney Resnick, 11pm-7am restriction on the weekend, 10pm during the week, decibel level adjustment, sound level meters as a may but police department will use them for objective evidence for challenge, distance changed to 50 feet, took our vehicle noise restrictions because it applies generally, removed some of the designated noises to leave it to time frames and decibel levels, comment re log entry for the warning, codified police department's ability to make a log warning, violations are \$300, clearer and more bite, enforceable, comments about commercial spots)

Comments by Councilor Cruise

(re motions to amend)

Comments by Councilor Rodrigues

(violations, concern re community impact, minority impact and the \$300 fine, not a fair system, concern re “I don’t like that kind of music, I don’t like that community”, worried about these situations, wants black and white and written warning, then fines thereafter, needs this to be fairly implemented)

Comments by Councilor Monahan  
(re amending to a written warning)

Comments by Councilor Thompson  
(re warning as a log)

Comments by Councilor Rodrigues  
(re 1 year time period, neighbor complaints, worried about tensions)

Comments by Councilor Cruise  
(measure then warning)

Comments by Councilor Rodrigues  
(depends how the call is handled, official warning in the hands of the resident)

Comments by Councilor Cruise  
(warning has to be no judgment, this isn’t about a house being too loud, tools to the police to address real concerns)

Comments by Councilor Rodrigues  
(agrees to take out judgment calls)

MOTION by Councilor Thompson, 2<sup>nd</sup> by Councilor Monahan to Amend by inserting the following language as Sections 5 and 6:

**5. Time Restrictions**

*The general prohibition on unreasonable or excessive noise restrictions is prohibited during the following time periods:*

- (A) Between 10:00 p.m. and 7:00 a.m. Sundays through Thursdays; and*
- (B) Between 11:00 p.m. and 7:00 a.m. Friday and Saturdays*

**6. Measurement**

**A. Maximum Noise Levels**

*Noise levels shall not exceed 50 decibels (DBA) during the restricted hours.*

**B. Measure devices**

*The City of Brockton Police Department shall use standard electronic devices generally accepted as measuring tools of noise (tonal sounds, sound measurement*

level, etc.) for the purposes of determining the decibel levels of unreasonable or excessive noise.

C. Distance

Noise measurements shall be made at a distance of fifty (50) feet from the source, or from the nearest lot line, whichever distance is less.

Motion carried with 4 votes, Councilor Rodrigues abstained.

MOTION by Councilor Thompson, 2<sup>nd</sup> by Councilor Monahan to Amend by inserting the following language as Sections 7(10-12):

10. Emergency Vehicles. Any authorized police, fire, or emergency vehicle when responding to an emergency call, or when testing such police fire or emergency vehicles in the course of performing normal duties.

11. Emergency Warnings. The use and/or testing of emergency warning signals, beacons, and/or devises.

12. Building and/or Construction. Necessary permitted or emergency excavations and/or repairs of streets and/or highways by and/or on behalf of the City, County and State, at any time, especially when public safety, welfare, and convenience renders it necessary to have such work done at night and/or not during the daytime hours. Also, during daylight hours, necessary excavations for, and/or construction of approved building projects.

Comments by Councilor Rodrigues  
(re construction as permitted or emergency)

Motion carried unanimously.

MOTION by Councilor Thompson, 2<sup>nd</sup> by Councilor Monahan to Amend by striking "Clerk" from Section 7(B).

Motion carried unanimously.

MOTION by Councilor Thompson, 2<sup>nd</sup> by Councilor Monahan to Amend by inserting the following language as Section 7(B)(5):

5. Public Events. The use of stationary amplifiers and/or loud speakers in the course of the public address for public events and/or public gatherings, with applicable permits. Also, noise emanating from such public events as football games and other public happenings.

Motion carried unanimously.

MOTION by Councilor Thompson, 2<sup>nd</sup> by Councilor Monahan to Amend by striking Section 6 Noise Strictions in Vehicle in its entirety and Section 7 Specifically Prohibited Sounds/Noise in its entirety.

Motion carried with 4 votes, Councilor Rodrigues abstained.

MOTION by Councilor Thompson, 2<sup>nd</sup> by Councilor Monahan, to insert “and Violations” to the title of new section 8 Enforcement by Civil Infraction and to strike “Board of Health and Fire Department”.

Motion carried unanimously.

Comments by Councilor Rodrigues

(concerns and issues on community and racial impacts, worries about \$300 fines hitting families, issue with the second event being a \$300 fine, wants to see more notice to the homeowners, wants written warning and a letter from the police department, worried about complaints by neighbors because they don't like the people or the type of music)

MOTION by Councilor Thompson, 2<sup>nd</sup> by Councilor Monahan to strike “notice” in new Section 8 and insert the following:

*warning issued in the usual course of the operation of the City of Brockton police department. A written record will be stored in the police department's computer system, evidencing the date, time, place, decibel reading, and party receiving the warning, with the violating party receiving a written copy.*

Motion carried with 4 votes, Councilor Rodrigues abstained.

MOTION by Councilor Thompson, 2<sup>nd</sup> by Councilor Monahan to insert the following section to the end of the first paragraph in new section 8:

*Within seven (7) days, the police department shall send a copy of the written warning to the owner of record.*

Motion carried unanimously.

MOTION by Councilor Thompson, 2<sup>nd</sup> by Councilor Monahan to strike the language in new section 8 from “provide, that the...” and ending in “has been received.”

Motion carried unanimously.

MOTION by Councilor Thompson, 2<sup>nd</sup> by Councilor Monahan to strike the title of the section “violation” so that the language thereafter continues as new section 8, and to insert “As subsequent violation” in place of “Violation”, and to revise the order of violations to state as follows:

1. *First violation in any twelve-month period: Written Warning issued by the Police Department as stated above.*
2. *Any subsequent violations in any twelve-month period: \$300.00 fine.*

Motion carried with 4 votes, Councilor Rodrigues abstained.

Motion to report FAVORABLE AS AMENDED by Motion of Councilor Thompson, 2<sup>nd</sup> by Councilor Monahan. Carried with 4 votes, Councilor Rodrigues abstained.

Next the Committee considered the following:

4. **Brockton Social Equity & Economic Empowerment Ordinance:** An ordinance to (establish by public mandate) to prioritize the establishment of minority owned dispensaries and to ensure minority owned businesses have access to participate in the Commercialization of Cannabis.

Comments by Councilor Cruise  
(Attorney Bridges unable to attend)

Comments by Councilor Cardoso  
(prior discussions at last ordinance meeting, additional discussions, research, forums, asking for questions to be answered, additionally asked for Mayor and Attorney Bridges, sponsored ordinance due to need of social equality in this industry, urgency to add some language, 2018 language, wants to continue the conversation, wants to discuss amended original ordinance with some of the language from the citizen proposal, in particular deliveries, equity on all licenses available, interested in expanding on license numbers and prioritize licenses)

Comments by Councilor Cardoso  
(changes frequently, lots of other municipalities are having this discussion, want to position us to address social economic issues ahead,)

Comments by Councilor Rodrigues  
(how does this hurt our retail sites)

Comments by Councilor Cardoso  
(re be prepared)

Comments by Councilor Thompson  
(delivery licenses and café licenses to prioritize SE and EE applicants)

Comments by Jamal Brathwaite, 18 Parke Lane, Brockton, Neighborhood Association in Brockton

(100 homes, 400 residents, purpose is to increase city engage to improve overall community, the proposal is to establish public mandate, to ensure access to participate in commercialization of cannabis, survey 76 responses, 75 endorsed proposal, 55 are residents of Brockton, public endorsement of proposal, want public feedback, petition could be useful tool on this topic, public demand to amend 2018 ordinance to increase licenses to 12 and prioritize SE and EE applicant, ordinance for home delivery and social consumption, reduce spread of Covid-19, does not see negative impact on RMDs due to demand, demand is going up, home delivery promotes services for customers, home delivery can be access for equity owners and employment, city revenues, more economically viable options for downtown Brockton, Facebook page, will share link and survey, diversity commission, letter regarding host agreement allocation processes, home delivery not intended to be as capital preventative, appreciates discussion, subcommittee to monitor marijuana industry in Brockton)

Comments by Councilor Eaniri  
(re revenues from In good Health)

Comments by Councilor Rodrigues  
(re spending of revenue, question re support license expansion)

Comments by Jamal Brathwaite, 18 Parke Lane, Brockton  
(report, subcommittee, expanding licenses to 12 so 30%, home delivery and social consumption)

Comments by Councilor Cardoso  
(likes the idea of subcommittee)

Comments by Councilor Cruise  
(wants to see what the CCC has to say)

Comments included updated and answers to questions from Councilor Cardoso by the Legislative Counsel.

Motion to report TABLED by Motion of Councilor Monahan, 2<sup>nd</sup> by Councilor Thompson.  
Motion carried unanimously.

Motion to adjourn by Councilor Rodrigues, 2<sup>nd</sup> by Councilor Thompson at 8:51 p.m. Motion carried unanimously.

The meeting was adjourned at 8:51 p.m.