

REPORT – ORDINANCE COMMITTEE
March 29, 2022

The Standing Committee on Ordinances and Rules to which was referred the following reports as follows:

#1 on agenda

having considered the same, report FAVORABLE AS AMENDED by Motion of Councilor Thompson, 2nd by Councilor Farwell.

#2 on agenda

having considered the same, report FAVORABLE by Motion of Councilor Thompson, 2nd by Councilor Mendes.

#3 on agenda

having considered the same, report FAVORABLE by Motion of Councilor Farwell, 2nd by Councilor Thompson.

#4 on agenda

having considered the same, report FAVORABLE by Motion of Councilor Mendes, 2nd by Councilor Farwell.

#5 on agenda

having considered the same, report POSTPONED until the Next Ordinance Committee Meeting by Motion of Councilor Thompson, 2nd by Councilor Mendes.

#6 on agenda

having considered the same, report POSTPONED until the Next Ordinance Committee Meeting by Motion of Councilor Farwell, 2nd by Councilor Mendes.

#7 on agenda

having considered the same, report TABLED by Motion of Councilor Thompson, 2nd by Councilor Mendes.

MINUTES – ORDINANCE COMMITTEE
March 29, 2022

The Standing Committee on Ordinances and Rules was called to order at 6:04 p.m. by Councilor Asack with Councilors Asack, Farwell, Mendes, Minichiello and Thompson present.

Agenda read into the record.

The Committee first considered the following:

#1 on agenda

Comments by Councilor Asack
((\$300 on chart)

Comments by Cynthia Scrivani, Executive Director of Elections Commission
(supports this, higher than other communities)

Comments by Councilor Asack
(partial hours to be stricken)

Comments by Councilor Thompson
(typical hours per day? Payments previously?)

Comments by Cynthia Scrivani, Executive Director of Elections Commission
(15hrs average, 6am-9pm, may be more for presidential election, \$150 for poll workers right now, and \$200 for wardens/clerks, hourly rate would be over \$500, civic duty to be involved, already the highest paid community, may be able to draw quality workers, have not paid the hourly rate yet, pricey for the City)

Comments by Councilor Thompson
(pro rate? \$300 for 15 hour day?)

Comments by Cynthia Scrivani, Executive Director of Elections Commission
(correct, may take longer)

Comments by Councilor Asack
(past practice)

Comments by Cynthia Scrivani, Executive Director of Elections Commission
(20 years has been paid on a daily rate, partial hours for emergency circumstances)

Comments by Councilor Thompson
(wants to make sure ordinance allows for partial payments when needed, questions that the amount in the ordinance will allow for)

Comments by Councilor Farwell

(passed in December, wrote in an hourly rate, worried about not having enough poll workers, worried about those who worked partial hours and could pay them on an hourly basis, 2 elections per year, red herring to account for poll workers 2 days a year, instances where a poll opened late, mechanism to have more poll workers, pick and choose those who work the entire day, likes accounting on an hourly basis, mathematically way, who is “we” on wanting to change this?)

Comments by Cynthia Scrivani, Executive Director of Elections Commission

(she thought it was an awful lot of money, over 300 people, need at least 190 during an election, lucky to have 190 go to work, would need 380 people for a half-day option, not oppose to an hourly rate and oppose to the amount they were making per day)

Comments by Councilor Farwell

(Mayor approved, Council approved, CFO approved)

Comments by Cynthia Scrivani, Executive Director of Elections Commission

(didn't know about the raise, was never called, does not watch these meetings)

Comments by Councilor Asack

(works elections, brought it up herself during the ordinance committee meeting, poll workers are trained for an election day, not practical to have someone come in for partial hours, can't be swearing people in at different times of the day, accountability, training, worked polls for 20 years, thinks \$28-\$35 per hour is too much)

Comments by Councilor Farwell

(was not aware she was not informed of the change, focus on election, hourly rate consideration, broad of pool to train and swear in, wardens to keep track of workers and hours, does not see this as overly burdensome, bothered that the ordinance process was followed and no push back from the Mayor, we just passed this in December)

Comments by Councilor Mendes

(confused by this Amendment, question about the original)

Comments by Cynthia Scrivani, Executive Director of Elections Commission

(poll workers \$150, wardens \$200, other communities pay by day, Boston just went up to \$200, already one of the highest paid community)

Comments by Councilor Mendes

(never invited during the ordinance review? Process was not appropriate)

Comments by Cynthia Scrivani, Executive Director of Elections Commission

(no, the hourly rate would be more than her staff makes)

Comments by Councilor Minichiello

(coverage, need a rate that will attract workers, personnel problem in Ward 3, lots of polling places in the City)

Comments by Cynthia Scrivani, Executive Director of Elections Commission

(Warden called in sick, Clerk steps up but the Clerk sat on his hands, opened late, usually always have enough personnel, a little tough during Covid, trying to reach out to younger community, College aged kids, not oppose to paying \$17hrs for poll workers, hourly rate for wardens, oppose to overpaying them)

Comments by Councilor Thompson

(wants to get the ordinances right, comps help give us a better perspective, interested in Boston's numbers, Springfield? Attraction of \$250 per day, hourly increments?)

Comments by Cynthia Scrivani, Executive Director of Elections Commission

(we were at the previous rate one of the highest, everybody else was less, \$175-\$150)

Comments by Councilor Thompson

(re hourly rates)

Comments by Cynthia Scrivani, Executive Director of Elections Commission

(21 years has always been a flat rate, an easier payroll)

Comments by Councilor Thompson

(slipped through the cracks, might not have been wise enough to bring elections commission in to speak on the rate, want to be competitive but not a windfall)

Comments by Councilor Farwell

(questions CFO re prior discussion on poll workers pay?)

Comments by Troy Clarkson, CFO

(no, still putting together a transfer order that did not have enough funds to cover the ordinance change)

Comments by Councilor Farwell

(Boston pay? Ought to identify an hourly wage)

Comments by Councilor Asack

(issue when someone leaves, need full day workers)

Comments by Councilor Farwell

(we should specify an hour and a certain number of hours to work)

Comments by Cynthia Scrivani, Executive Director of Elections Commission
(difficult if a person signs up to only work half a day)

Comments by Councilor Asack
(has been a flat rate for years, very rare for something to happen)

Comments by Councilor Farwell
(we can find a better way)

Comments by Councilor Minichiello
(making sure we have enough people to fill the roll, hourly wage gives more options)

Comments by Cynthia Scrivani, Executive Director of Elections Commission
(need to be old enough to pre-register, so 16, we use high school students for November election, started off as a volunteer position)

Comments by Councilor Asack
(her kids have participated, we are using students, what is appealing is the lump sum)

Comments by Councilor Mendes
(hourly rate, lunch hour? Book keeping? Keep it simple, incentive because paying more)

Comments by Councilor Thompson
(sounds like she would like to advertise it as a flat rate so people don't assume an hourly rate and so they don't assume they work for the City of Brockton)

Comments by Councilor Nicastro
(served on Ordinance Committee last year, broad brush, great deal of work, this was a small potato, department head salary rises, compromise made that did not reflect all their hard work, didn't agree with the number, this number is too high for election workers, defers to Mrs. Scrivani and Councilor Asack, called 7-8 communities, spoke to City Clerks to find out what their workers make, number here is realistic and fair, need to take different approach in encouraging people to commit to public service, thinks hourly rate can be confusing to people who think they can go in for a few hours, nature of the job, language challenges, list the flat rate, need people there the whole day, need to be in line with other cities)

Comments by Councilor Farwell
(wants to advertise per day, bookkeeping for hourly rate, does not want to leave something to interpretation)

Motion to AMEND by Councilor Thompson to correct flat rate to \$300 for Elections Wardens and to insert “Partial Hours payable at Direction of Elections Commission” in Misc. for EL0W and EL-2, 2nd by Councilor Minichiello

Motion to recommend FAVORABLE AS AMENDED by Councilor Thompson, 2nd by Councilor Farwell. Motion carried unanimously.

Next the Committee considered the following:

#2 on agenda

Comments by Kevin Galligan

(meetings started at 7pm, many nights they went past 11pm, 12am, one time a 2am, might move lengthy meetings to be 2 meetings, not start cases after 11pm, vote taken after hearing, if they started at 6pm would make the nights not at long, meetings at 6pm worked)

Comments by Councilor Asack

(compliments the way meetings are run)

Comments by Councilor Thompson

(thanks Mr. Galligan for his service, Councilor Thompson had served on the Board previously, 6pm is appreciated by Board members and participants)

Comments by Kevin Galligan

(if person couldn't be there at 6pm, it was postponed to later in the night)

Motion to report FAVORABLE by Councilor Thompson, 2nd by Councilor Mendes. Motion carried unanimously.

Next the Committee considered the following:

#3 on agenda

Public Hearing Opened

IN FAVOR

Comments by Councilor Asack

(recreational hours extended, two medicinal sites)

IN OPPOSITION

(None present)

Hearing Closed.

Motion to recommend FAVORABLE by Motion of Councilor Farwell, 2nd by Councilor Thomson. Motion carried unanimously.

Next the Committee considered the following:

#4 on agenda

Comments by City Solicitor Megan Bridges
(conversions with Councilor Lally and Attorney Resnick, City Ordinance as it exists as it attempts to regulate and enforce is unconstitutional as written, not regulating the content of the speech and need to have it tailored to the nature, need to look for content neutral regulations)

Comments by Councilor Thompson
(are we working on one?)

Comments by City Solicitor Megan Bridges
(Florida is working on one, opens up enforcement issue, no difference between those who solicit for donation and those who solicit for personal need, solicitation is protected by 1st amendment)

Comments by Councilor Thompson
(re SJC decision)

Comments by Councilor Thompson
(re police department enforcement?)

Comments by City Solicitor Megan Bridges
(they can't even tell people to move on)

Comments by Councilor Minichiello
(hazardous condition with panhandling, busy intersections, in cars, safety concern)

Comments by Councilor Mendes
(already ruled in unconstitutional, cannot continue to criminalize the poor, has an article to read on the SJC decision, civil rights and civil liberties)

Comments by City Solicitor Megan Bridges
(exposing the City to liability, further work to be done, happy to do that)

Comments by Councilor Minichiello
(understand content based decision of court, no problem repealing this, but creating hazardous conditions is a separate set of facts to be discussed later on)

Comments by Councilor Thompson
(any current mechanisms?)

Comments by City Solicitor Megan Bridges
(chapter 90 law as a fail-safe measure)

Comments by Councilor Asack
(nuisance ordinance, vague, can be used for many things)

Motion to recommend FAVORABLE by Motion of Councilor Mendes, 2nd by Councilor Farwell.
Motion carried unanimously.

Next the Committee considered the following:

#5 on agenda

Public Hearing Opened

IN FAVOR

Comments by Councilor Thompson

(begin process of modernizing city ordinances, found through research that C-5 zone is not conducive to quality development, it is professional office space, under use and development due to limitations of current zone, industry attraction, Massachusetts is an area growing in the bio-tech, IT industries, Brockton needs to be on the forefront of attracting these industry, good paying job attraction in Brockton, research and development office or laboratory are mostly professional office space but need a laboratory space for on-site research and development, no greater than 25% of floor area, area for elderly to age in place, limited capacity in Brockton to downsize and remain in Brockton, effort to keep elderly in the City, higher density in a commercial zone, old R5 Sky View development, considering striking "F" from ordinance, C-5 does allow for nursing homes, medical facility, assisted care senior residential is similar to nursing home use, current C-5 zones are under developed)

Comments by Rob May, Executive Director of Planning and Economic Development
(C-5 is restrictive district, bulk requirements, C-5 has minimum lot size, setbacks, also has a floor area ratio of .5, 4 stories, nursing homes, adult day care, are by right uses, special permitted uses include hotels, payphones, and tattoo parlors, limited number of uses, business incubator are commercial office operations, nursing homes seems natural to include assisted living facility, agricultural greenhouse is new one, developer for downtown, produce growing, would be nice for other areas, commercial tax rate, produce jobs, business incubator has multiple tenants that work with a professional that help them, see line item that allows for it)

- Comments by Councilor Minichiello
(definition for business incubator, same for agricultural greenhouse)
- Comments by Councilor Thompson
(wanted to make it clear that we are bringing business into Brockton)
- Comments by Rob May, Executive Director of Planning and Economic Development
(does not include marijuana)
- Comments by Councilor Asack
(better to define, need to be as detailed as we can)
- Comments by Councilor Minichiello
(excellent idea, need to understand the definitions)
- Comments by Councilor Thompson
(will work on that)
- Comments by Councilor Mendes
(greenhouse retail? Open to the public, high rise?)
- Comments by Rob May, Executive Director of Planning and Economic Development
(no retail, traffic needs to be avoided, wholesale distribution, max building height is 4 floors for 55 feet, not a high rise, bulk floor area ratio)
- Comments by Councilor Thompson
(need for senior living options in the City)
- Comments by Councilor Farwell
(greenhouse business downtown?)
- Comments by Rob May, Executive Director of Planning and Economic Development
(40R district, much larger mixed use development)
- Comments by Councilor Farwell
(study on C-5 district? Survey, data)
- Comments by Rob May, Executive Director of Planning and Economic Development
(not based on a study, but obvious looking at vacant sites in C-5, need something done to for redevelopment)
- Comments by Councilor Farwell
(re 16 opportunities in C-2, and C-5 have very few, should we include more principal permitted uses from C-2 to add to add more business)

Comments by Councilor Thompson
(professional office flavor, not retail, quieter area, do not want to subject to higher traffic use, other restrictions for C-5 like set-backs, etc.)

Comments by Councilor Farwell
(wants to go slowly for the public)

Comments by Councilor Thompson
(starting the conversation to make this a profitable zone for the city, interested in a postponement, wholesale reviewing of zoning needed)

Comments by Councilor Farwell
(funding for study?)

Comments by Rob May, Executive Director of Planning and Economic Development
(desperate need for zoning overhaul, agreed with Councilor Farwell)

IN OPPOSITION

Comments by Stephen Kelley, 45 Stonehill Street, Brockton
(C-5 near his lot, opposes residential use, not appropriate, need to spell out agricultural, it's a professional type, zoning was in place, bought in this area, keeping assisting living)

Comments by Councilor Thompson
(nursing home already allowed, assisted care senior residential defined by state)

Comments by Stephen Kelley
(needs to be defined)

Comments by Councilor D'Agostino
(heard from constituents, appreciates taking out independent senior residential, issue for some with assisted care senior residential, only 10 C-5 zones in the City, glad there will be a postponement, needs more definition, consider an overlay, need wholesale review of zones, instead of parts of the picture, several residents that reached out, clear definitions will help)

Comments by Councilor Minichiello
(no problem providing definition, need to look at definition)

Comments by Councilor Asack
(who else do we need to invite to the next meeting)

Comments by Councilor Farwell
(updated study, report is 3 years old, funding needed)

Motion to report POSTPONED until the next Ordinance Committee Meeting by Motion of Councilor Thompson, 2nd by Councilor Mendes. Motion carried unanimously.

Next the Committee considered the following:

#6 on agenda

Public Hearing Opened

IN FAVOR

Comments by Councilor Thompson

(Cristos Lots, most important development in the City, important to get the plan right, use studies conducted to determine how to properly develop location to determine its best use, all studies agree to keep this a commercial site, but the studies show that there is little demand for the C-2 uses or general office space, retail has taken a hit, Amazon has taken traffic away from retail sites, much more cost effective to move into existing retail property, too far from the highway, brought to constituents in September 2021, feedback was clear, very little appetite for high density residential, listened and went back to the drawing board, modernized C-5 zone would work well here, map of lot, all to be re-zoned as C-5, prime commercial real estate along route 27, gateway to east side, property is owned by the state, legislation to dispose of the land, direct the proceeds to Massasoit, need to act, overlay district would need the zone developed first)

Comments by Rob May, Executive Director of Planning and Economic Development

(have been looking at the property for years, studies performed, C-2 is a general commercial district, more professional office aimed at technology, overlay is not a guarantee, base zone or overlay district, could still develop the C-2 uses that community did not want there)

Comments by Councilor Mendes

(likes this map without the residential building, should we postpone because we did that on the prior item)

Comments by Councilor Thompson

(would seek to postpone as well)

Comments by Councilor Farwell

(agrees this is prime area, Councilor-at-Larges should meet to discuss, suggestion of international market place, successful in other communities)

Comments by Councilor Thompson

(we can't control what gets built there, only the zone)

Comments by Councilor Asack

(any existing commercial?)

Comments by Rob May, Executive Director of Planning and Economic Development
(just the state lots)

Comments by Councilor Thompson
(conference center, old theatre, parking area, 6.3 acres)

Comments by Councilor Asack
(tax difference?)

Comments by Rob May, Executive Director of Planning and Economic Development
(same)

NO OPPOSITION

Comments by Councilor Thompson
(will hold a community meeting, planning board will be holding a zoning meeting, in the newspaper)

Motion to report POSTPONED until the next Ordinance Committee Meeting by Motion of Councilor Farwell, 2nd by Councilor Mendes. Motion carried unanimously.

Next the Committee considered the following:

#7 on agenda

Comments by Councilor Farwell
(was going to file this last year but it was an election year and did not want this to be viewed as collecting votes, this is a reflection on being here for the people that got hit hard due to Covid, economic impact, rising gas and heating oil, not suggestion a rebate that we are going to change their life but hopes it's a small reflection of the human element of government, family budget, ARPA funds, how can we help the average person in Brockton, 23,000 plus bills, not all are business, this would cost the city about \$5 million, ARPA funds were used as stipends and in collective bargaining, \$3.6 million)

Comment by Councilor Asack
(asked why this was an ordinance as opposed to an order)

Comments by Troy Clark, Chief Financial Officer
(could cost over \$5.5 million dollars, judgment, is the expenditure of these funds conducted as a rebate or an investment in the infrastructure, will be appearing before the Council next week on ARPA funding projects)

Comments by Councilor Minichiello
(does this apply just to single family?)

- Comments by Troy Clarkson, Chief Financial Officer
(depends on intent of the ordinance)
- Comments by Councilor Minichiello
(ownership of property)
- Comments by Councilor Farwell
(mailed to an address that is in Brockton and receiving service at the address)
- Comments by Councilor Minichiello
(funds remain with ARPA funds for use toward infrastructure)
- Comments by Troy Clarkson, Chief Financial Officer
(yes, water and sewer needs, orders forthcoming, need to replace water and sewer pipes, some are over 100 years old, modernize waste water treatment at about \$30 million, federal assistance but commitment needed from the City, related road work)
- Comments by Councilor Thompson
(hard time taking money from an account to address critical infrastructure needs, Ward 5 is lined with 100s old pipes, what's more valuable, a one-time payment that is admittedly insubstantial or water pipe and road repairs, is this an ARPA eligible expense?)
- Comments by Troy Clarkson, Chief Financial Officer
(believes yes, but depends on how you word it, appropriateness for the council to decide, not a binary choice, discussion on best use of public funds, policy debate)
- Comments by Councilor Thompson
(\$5million to \$6million is about a 1/3 of ARPA funds, significant to type of projects we are trying to accomplish)
- Comments by Troy Clarkson, Chief Financial Officer
(repairs to city hall, senior center, war memorial, parks and playground, hoping for a total of \$50 million, had about \$300 million in requests, many detailed discussions are forth coming)
- Comments by Councilor Thompson
(interested in hearing from the DPW Commissioner)
- Comments by Councilor Asack
(would request him to attend future discussions)

Comments by Councilor Mendes

(important start of conversation, asks re passage of ordinance, needs complete package, what are we losing if we move forward on the rebate, thinks a vote here is premature)

Comments by Councilor Asack

(not a question of whether the residents deserve this, trying to do the responsible thing)

Comments by Councilor Farwell

(no problem postponing, ARPA funds to address economic impact, Mayor already promised \$2 million to non-profits, already spent \$4 million for collective bargaining, it's tax payor's money, \$53 million in ARPA funding)

Comments by Councilor Asack

(this is a rebate, water and sewer)

Comments by Troy Clarkson, Chief Financial Officer

(re projects and their complexity)

Comments by Councilor Nicastro

(4th quarter bill goes out in late April)

Comments by Councilor Mendes

(need to lobby the Mayor)

Comments by Councilor Minichiello

(need to think of the legality, qualifications, some may have done very well through Covid and some in the City did)

Comments by Councilor Farwell

(would suggest looking at use of ARPA funds, IRS already determined direct payment of ARPA funds would not be taxable event, could invite Mayor to the next meeting)

Comments by Councilor Minichiello

(also helps those with good incomes, no qualification of need)

Motion to report TABLE until by Motion of Councilor Thompson, 2nd by Councilor Mendes. Motion carried 4-1, with Councilor Farwell in opposition.

Motion to adjourn by Councilor Thompson, 2nd by Councilor Minichiello at 9:26 p.m.

The meeting was adjourned at 9:26 p.m.