

REPORT – ORDINANCE COMMITTEE
May 17, 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 Farwell, 2nd by Councilor Thompson.

#2 on agenda

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

#3 on agenda

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

#4 on agenda

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

#5 on agenda

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

#6 on agenda

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

#7 on agenda

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

#8 on agenda

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

MINUTES – ORDINANCE COMMITTEE
May 17, 2022

The Standing Committee on Ordinances and Rules was called to order at 6:10 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
(re Mr. May not able to attend)

Comments by Councilor D'Agostino
(bringing food trucks into City, many cities and towns around the state have these, community comparison, best of everything, people look forward to it, event opportunities, may be some interest, interest in amending section (g) to be \$100 for 1st offense and \$200 for second offense)

Comments by Anthony Donegan, Jr., Assistant City Solicitor
(supports increasing fines, control on permitting, zoning concern in residential and commercial areas, applicant dependent, general concern about an explosion in food trucks)

Comments by Dr. Mondesir, Executive Health Officer
(have received requests from food truck operators, private events on private properties and are exempt language, how will it be enforced)

Comments by Councilor Thompson
(re food vendor permit, what will go in? is there an application ready?, food trucks are operating but have to be part of an event, modified to include these additional uses, food trucks at state level, are you expected to add anything?)

Comments by Inspector Butler
(states do not inspect food trucks, inspected by local, can do group inspections)

Comments by Councilor Thompson
(inspection by Board of Health, re inspecting food trucks for private property events)

Comments by Councilor Asack
(re tracking, application)

Comments by Councilor Thompson
(Board of Health in permitting process, authority passed on to Board to Health, Board of Health can add additional requirements, expertise is driven by Board of Health)

Comments by Dr. Mondesir, Executive Health Officer
(time period for compliance before the permit)

Comments by Councilor Thompson
(application, then permit issued)

Comments by Councilor Farwell
(switching language to shall, private party, tragedy in Miami, propane in a residential community, might need to consider a small fee for the permit, any stickers for the trucks?)

Comments by Inspector Butler
(yes, they are on ice cream trucks)

Comments by Councilor Farwell
(safety, spot checking, passage this summer?, regulations to be filed with the City Clerk and published on the city website)

Comments by Councilor Thompson
(re process by July 1st?)

Comments by Councilor Mendes
(limit the number?)

Comments by Councilor Thompson
(no idea what the demand is?)

Comments by Councilor Mendes
(re amount of fees, locations in zoning)

Comments by Councilor Minichiello
(re sanitation)

Comments by Dr. Mondesir, Executive Health Officer
(need to fine those regulations, will be some deviations, city location)

Comments by Councilor Minichiello
(re capacity to get this done?)

Comments by Dr. Mondesir, Executive Health Officer
(met with Mayor, have to limit overtime, this will require some funding)

Comments by Anthony Donegan, Jr., Assistant City Solicitor
(department of inspectional services, CMRs governs a good amount of this)

Comments by Councilor Asack
(priority to Brockton residents and existing businesses, number or limit)

Comments by Councilor Farwell
(re resident discount)

Comments by Councilor Thompson
(we don't know what the demand will be, we can go back and make a change,
permits expire December 31st)

Comments by Councilor Asack
(something for the businesses)

Comments by Councilor Farwell
(re growing pains, and beach parking permits in the cape as a comparison)

Comments by Councilor Thompson
(re annual permit)

Comments by Councilor Minichiello
(re inspections)

Comments By Inspector Butler
(restaurants inspected 2 times a year, likely to be the same for Food trucks)

Comments by Councilor Minichiello
(re events per cost?)

Comments by Councilor Thompson
(clarify operations costs)

Comments by Dr. Mondesir, Executive Health Officer)
(clarifies)

Comments by Councilor Farwell
(may to shall, strike second paragraph, increasing fees, easy to understand,
committee work, progress)

Comments by Councilor Asack
(what is charged to restaurants)

Comments by Inspector Butler

(\$125 for annual license fee for restaurants, \$50 filing for first time applicants)

Comments by Councilor Asack
(then this fits for Food Trucks)

Motion by Councilor Farwell to Amend to include increase renewal application fee to \$50 fee, to insert the word may in sections where shall appears, to increase first offence fine to \$100 and second offense fine to \$200, to strike the section sentence under Mobile Good Vendor Permit, and to establish language to permit one-time fee for operation of food trucks on residential properties which shall still require inspection by the Board of Health, 2nd by Councilor Thompson. Motion carried unanimously.

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

Next the Committee considered the following:

#2 on agenda

Public Hearing Opened.

In Favor:

Comments by Councilor D'Agostino
(re models of other communities, field parks, trash concerns, limiting R-zones)

Comments by Councilor Asack
(re public sites)

Comments by Councilor D'Agostino
(tough part with parks, trash disposal, thinking downtown area, bit of an experiment with the City, don't want to limit it to much)

Comments by Councilor Farwell
(special events, for which authorization has been granted by city, permit on file)

Comments by Councilor Asack
(Westgate event)

Comments by Councilor Farwell
(let them have it, protect neighborhood)

Comments by Councilor Thompson
(permission from Property owner, not parked on public ways)

Comments by Inspector Butler
(carts are a major problem)

Comments by Councilor Minichiello
(re operating on private property)

Comments by Inspector Butler
(landowners having personal property, truck needs to still come to the inspector for no fee to be inspected)

Comments by Councilor Asack
(re Food Truck use in other communities)

Comments by Councilor D'Agostino
(where and how is fine, interest needs a response)

Comments by Councilor Farwell
(limiting to commercial and industrial zones, or an area to be approved by a food truck, looked at language for special sites)

Comments by Councilor Minichiello
(re graduation parties)

Comments by Councilor Mendes
(fee to operate on City land)

Comments by Councilor Asack
(spots designated outside of city hall)

Motion by Councilor Thompson to amend language to allow Food Trucks in C zones and Industrial Zones, permit operations in residential zones on a property for no more than two times per calendar year, to operations of food trucks on public ways, and to strike the remainder of the language in the proposed ordinance 2nd by Councilor Farwell. Motion carried unanimously.

In Opposition:

Comments by Councilor Rodrigues
(not really speaking in opposition, voice concern of restaurant owners, not approached in favor, great deal of money to stay open and stay afloat, parking food trucks in front of their business, preference to restaurant owners from Brockton, then available to trucks located outside the city, don't want to de-value restaurants in the city, restaurants relying on the traffic, need to give them an opportunity to compete)

Comments by Councilor Farwell
(as long as we don't limit license, what is the preference to give)

Comments by Councilor Rodrigues
(restaurants hiring, trash concerns, wants to make sure we take that into account)

Comments by Councilor Thompson
(no parking on public way)

Comments by Councilor Rodrigues
(how to enforce it? 2 inspectors)

Comments by Councilor Thompson
(violations have monetary fines, revocation)

Comments by Councilor Asack
(restriction on operating near a restaurant)

Comments by Councilor Farwell
(parking authority)

Comments by Councilor Rodrigues
(operations from licensed restaurant, interested in pilot program, phone calls from restaurants that think this is unfair)

Comments by Councilor Thompson
(no limit on number, how can we give a preference, food trucks operates in many cities and towns)

Comments by Councilor Asack
(we have more than 2 inspectors)

Comments by Councilor Farwell
(public way restriction, will probably need to be amended, starting off, not enough personnel, that shouldn't stop us from taking a step forward, Councilor Rodrigues is correct, but the public wants this, competition, let's see how it goes)

Comments by Councilor Rodrigues
(will push for distance)

Comments by Councilor Farwell
(Board of Health regulations authority)

Comments by Councilor Asack
(add to ordinance)

Comments by Dr. Mondesir
(defers to Council for zoning)

Comments by Councilor Asack
(brought this up to chairman of zoning)

Public Hearing Closed.

Motion to amend by Councilor Asack, to include language to restrict operations of Food Trucks within 250 feet from entrance of licensed restaurant except with written permission of restaurant owner, 2nd by Councilor Farwell. All. Motion carried unanimously

Motion to report FAVORABLE AS AMENDED by Councilor Thompson, 2nd by Councilor Minichiello. Motion carried unanimously.

Next the Committee considered the following:

#3 on agenda

Public Hearing Opened

In Favor:

Comments by Councilor Rodrigues
(next phase is delivery, be on the forefront in establishing those orders)

Comments by Councilor Thompson
(state did not give local municipalities much leeway)

Comments by Councilor Farwell
(times? Enforcement?)

In Opposition:

None present.

Comments by Councilor Farwell
(hearing from Police Chief)

Comments by Councilor Rodrigues
(both medicinal sites are delivering)

Public Hearing Closed.

Motion to report FAVORABLE by Councilor Thompson, and 2nd by Councilor Mendes. Councilor Farwell in opposition. Passed 4-1.

Next the Committee considered the following:

#4 on agenda

Comments by Councilor Rodrigues
(safely operate, make the process easier, help the businesses)

Motion to Recommend Favorably by Councilor Farwell, 2nd by Councilor Mendes.

Comments by Councilor Thompson
(re building inspector still have authority)

Comments by Councilor Rodrigues
(process still applies)

Comments by Councilor Thompson
(outdoor dining license?)

Comments by Jeffrey Charnell, Chair of License Commission
(yes proper, had this authority with the state in response to Covid, inspections by license commission, allowed to operate as long as they are not on a street)

Comments by Councilor Thompson
(music, alcohol, entertainment issues)

Comments by Jeffrey Charnell, Chair of License Commission
(no bar outside, not an entertainment license, there have been requests for this)

Comments by Councilor Thompson
(bathrooms)

Comments by Jeffrey Charnell, Chair of License Commission
(outdoor dining, parking spaces, bathrooms, zoning requirements, adding capacity and taking away parking)

Comments by Councilor Thompson
(adding seats, more parking, building into a parking lot decreases the parking that exists creating an issue for the zoning board)

Motion to Recommend withdrawn.

Comments by Councilor Thompson
(building inspectors to be in charge of bathrooms)

Motion to Amend by Councilor Thompson to strike “Board of Health” from subsection (c) under operations and insert in its place “Building Department”, 2nd by Councilor Farwell. Motion carried unanimously.

Comments by Councilor Asack
(downtown restaurants)

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

Committee Motioned to take Item #6 out of order. Motion carried.
Next the Committee considered the following:

#6 on agenda

Public Hearing Opened

In Favor:

Comments by Councilor Rodrigues
(in favor of this, licensing process, makes senses to have this all together)

Comments by Jeffrey Charnell, Chair of License Commission
(continuity, in favor)

In Opposition:

Comments by Councilor Thompson
(parking)

Comments by Councilor Farwell
(seasonal)

Comments by Jeffrey Charnell, Chair of License Commission
(small)

Comments by Councilor Thompson
(will the License Commission consider the reduction of parking?, faith in License Commission to look at parking)

Comments by Councilor Asack
(parking always comes up in those meetings)

Comments by Jeffrey Charnell, Chair of License Commission
(not an issue at this time)

Public Hearing Closed.

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

Next the Committee considered the following:

#5 on agenda

Public Hearing Opened

In Favor:

Comments by Councilor Rodrigues
(defers to Legislative Counsel)

In Opposition:

None present.

Public Hearing Recessed.

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

Next the Committee considered the following:

#7 on agenda

Public Hearing Opened.

In Favor:

Comments by Councilor Thompson
(matter back in February, discussion on what we are trying to accomplish, add more modernized uses to C-5 zone, quality development, additional permitted uses in this zone, further defined, worked with Legislative Counsel and Executive Director of Planning and Development, reads proposed definitions, excludes hemp from agricultural greenspace, clear restrictions, after further discussions, proposed putting independent and assisted residential as special permitted uses so there would be a hearing with the ZBA, need for senior living in Brockton)

Comments by Janice Fitzgerald

(need for senior housing, 2-3 plus years to find a place to live, frustrated, moving out of the city, we do not have enough housing options, phones ring all day, just lost an affordable living facility, challenge is more difficult each day, age friendly community, housing, put some effort, make hard decisions, residents that don't want these type of developments in their community but we have a serious problem with senior living options in the City)

Comments by Councilor Thompson

(appreciates Janice Fitzgerald for being here for our seniors, fair compromise to make this a special permitted use so there is an opportunity for input from people who live in the area)

In Opposition:

Comments by Steve Kelly, 45 Stonehill Street

(wants to see all as special permitted use, restrictions where seniors are going to be at, looked at 30 or so C-5 spots, very few spots that are even open at this time, defining it further, lot size, greenspaces, limited to 4 stories, concerned for overcrowding)

Public Hearing Closed.

Motion to Amend by Councilor Mendes to include Amendments of Councilor Thompson on the definitions created and special permitted use for Assisted Care Senior Residential and Independent Senior Residential and to create restrictions to Assisted Care Senior Residential to include minimum lot size of 1.5 acres, distance from the street and property line minimum of 40 feet, requirement of 2 parking spaces per unit, requirement to be in proximity to healthcare and educational facilities, public transportation must be accessible with sidewalks and handicap accessible, greenspace to be maintained by facility and to further amend to require Independent Senior Residential facility to be in proximity to an Assisted Care Senior Residential facility and be subject to the same conditions (minimum lot size of 1.5 acres, distance from the street and property line minimum of 40 feet, requirement of 2 parking spaces per unit, requirement to be in proximity to healthcare and educational facilities, public transportation must be accessible with sidewalks and handicap accessible, greenspace to be maintained by facility), 2nd by Councilor Farwell.

Comments by Councilor Thompson

(already restrictions in the C-5, might be making it non-buildable)

Comments by Councilor Farwell

(need but what is being proposed here, co-mingling commercial with residential, need city-wide review of zoning, so many petitions before the ZBA, project that has widespread pushback and if we adopt this the door would open for the developer who wants to go residential, residents are expending legal fees to challenge ZBA decisions, fund a city-wide zoning evaluation)

Comments by Councilor Thompson
(hotels, nursing homes)

Comments by Councilor Farwell
(not going to combine commercial with residential, hurrying to do something with the site, 6th largest city)

Comments by Councilor Thompson
(senior residential and assisted living hindrance)

Comments by Councilor Farwell
(C5 not intended, public policy C-5 zone cannot be turned into residential, legitimate restrictions for quality of life)

Comments by Janice Fitzgerald
(doing what she is hired to do, advocating for seniors, reminding council that the need is there, will be back at budget time to discuss about the need for housing)

Comments by Councilor Thompson
(does not feel this is being rushed, he has been working on this for 5 years, empty parking lot, what about doing just assisted living area)

Comments by Councilor Farwell
(function center, greenspace)

Comments by Councilor Minichiello
(expansion not wanted in Ward 1, sees passion on both sides, finding right fit for seniors)

Comments by Councilor Asack
(affects full City, small lot of C-5 in her lot)

Comments by Councilor Thompson
(parking space requirement to be removed)

Motion to Amend carried 4-1 with Councilor Thompson voting in opposition.

Motion to report FAVORABLE AS AMENDED by Councilor Farwell, 2nd by Councilor Mendes. Motion carried unanimously.

Next the Committee considered the following:

#8 on agenda

Public Hearing Opened.

In Favor:

Comments by Councilor Thompson
(Map Change to Cristos Lots)

In Opposition:

None present.

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

Comments Councilor Farwell

(Ordinance Committee to strongly recommend to Mayor strongly zoning analysis, funding in the upcoming budget).

Motion to adjourn by Councilor Farwell, 2nd by Councilor Thompson at 9:28 p.m.

The meeting was adjourned at 9:28 p.m.