

**REPORT – ORDINANCE COMMITTEE**  
**August 9, 2023**

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 Councilor Farwell, 2<sup>nd</sup> by Councilor Rodrigues.

**#2 on agenda**

having considered the same, report FAVORABLE AS AMENDED by Councilor Lally, 2<sup>nd</sup> by Councilor Rodrigues.

**#3 on agenda**

having considered the same, report FAVORABLE by Councilor Lally, 2<sup>nd</sup> by Councilor Rodrigues.

**#4 on agenda**

having considered the same, report TABLED by Motion of Councilor Rodrigues, 2<sup>nd</sup> by Councilor Lally.

**#5 on agenda**

having considered the same, report TABLED by Motion of Councilor Rodrigues, 2<sup>nd</sup> by Councilor Lally.

**MINUTES – ORDINANCE COMMITTEE**  
**August 9, 2023**

The Standing Committee on Ordinances and Rules was called to order at 6:04 p.m. by Councilor Asack, Farwell, Lally, and Rodrigues present.

Agenda read into the record.

The Committee first considered the following:

**#1 on agenda**

Comments by Councilor Asack

(Minichiello not able to attend due to conflict, this item was postponed from last meeting, Solicitor Bridges and Deputy Chief Edward Williams unable to attend)

Comments by Councilor Lally

(zones under discussion and proximity to R1 and R2 zones, sheets reviewed, did not have a chance to hear from Director May last meeting)

Comments by Rob May, Director of Planning and Economic Development

(building height does not have much on residential development in R3-R4 zone, mostly by lot sizes, unintended consequences, historic homes in the R3 districts, encourage the demolition of a historical building for a 6 story building, C1 district is smaller district, okay with changing other districts because it's just going up a floor, projects, community two chances to discuss and potentially object, variance can be challenged in court and drag a process for development, zoning to fit businesses and development where we want it, floor amendment, 130 feet suggestion for special permit, 61-130 feet)

Comments by Councilor Lally

(don't want to leave the doors open, will be making amendment to add height and feet being discussed and to leave stories where they are R3, R4 and C1 with provision that all 3 zones are still eligible for a special permit, if someone wants to make a motion to include special permit suggestion from Director May, would be okay with that)

Comments by Councilor Farwell

(R3 and R4 and C1 to stay the same, what is the limit with special permit)

Comments by Councilor Lally

(example given)

Comments by Director May

(amendment suggested on accessory structures)

Comments by Councilor Farwell  
(brief recess)

Recess return.

#### MOTIONS

Motion by Councilor Lally to restore R-3, R-4 and C1 to language in existing ordinance (for R-3 and R-4 to remain at 3 stories or 45 feet\*, C-1 to remain at 2 stories or 35 feet), 2<sup>nd</sup> by Councilor Rodrigues. Motion carried.

Motion by Councilor Lally to add under the words “60 stories” on the tables the following language “or 60 feet”, 2<sup>nd</sup> by Councilor Rodrigues. Motion carried.

Motion by Councilor Rodrigues to add the following language, “3. For I-1, no accessory structure shall be erected, reconstructed or structurally alter to exceed in height the limit hereinafter designated for the district in which such building is located except by special permit.”, 2<sup>nd</sup> by Councilor Lally. Motion carried.

Comments by Councilor Asack  
(structure language, as suggested does this work)

Comments by Director May  
(included in language suggested by legislative counsel)

Comments by Councilor Asack  
(inquires of Deputy Plouffe)

Comments by James Plouffe  
(satisfied by the ordinance and amendments)

Motion to report FAVORABLE AS AMENDED by Councilor Farwell, 2<sup>nd</sup> by Councilor Rodrigues. Motion carried unanimously.

Next the Committee considered the following:

#### **#2 on agenda**

Comments by Councilor Asack  
(gives thanks to the Committee, to do what is best for the residents and to try to come together, believes this is going to work, can always come back if it needs to be reviewed, thanks to Councilor Farwell, took this and was the head of it, thanks Councilor Nicastro and Councilor D’Agostino)

Comments by Councilor Farwell  
(introduced March 13<sup>th</sup>, team efforts, thanks to Patrick Hill and Solicitor Venckauskas, Councilors, and Troy Clarkson, talked a lot about in the City,

created a new ordinance by deleting the original ordinance, new storm water authority to be chaired by DPW commission, 5 other members, conservation commission agent, CFO, 3 residents for citizens input, meeting, setting fees to be approved by the Council, specifically exempted single family homes, owner occupied up to 3 family homes, churches and cemeteries, we will still comply with EPA, will be collect some fee, we will establish fees only intended to support staff and be the lowest possible, have a budget and know what you have to do, collect the necessary fees, thanks the attorneys)

Comments by Councilor Rodrigues  
(concerned about small businesses and their bills)

Comments by Council Asack  
(Brockton Housing Authority language, how is this different from Father's Bills, or BAMSI)

Comments by Councilor Farwell  
(stormwater fees charged to Housing Authority as adjunct of city, able to perform their services without worry about these fees)

Comments by Councilor Rodrigues  
(small business owned properties, stormwater bills are higher than sewer bills, wants to see this in the ordinance, for small agencies or businesses, housing authority rents their properties, it's based on income, game plan to protect those small businesses)

Comments by Councilor Farwell  
(agrees, but written to have 3 residents on the board to recommend fee schedule for the Council to prefer, appeal process)

Comments by Commissioner Hill  
(appeal process, can request relief like an abatement, heard before the authority)

Comments by Councilor Farwell  
(agrees, fail safe with the appeal process, citizen input and council approval, mindful to help out small businesses)

Comments by Councilor Rodrigues  
(relying on an appeal?)

Comments by Councilor Farwell  
(discretion of the authority, carving out a maximum fee takes out the authority we are entrusting to the authority)

Comments by Councilor Rodrigues

(trying to avoid it, can see it happening, once this happens, smaller ones need to benefit from those particular, doesn't think the authority should get that much authority, a bunch of exemptions)

Comments by Councilor Lally  
(okay to give them the trust for year one)

Comments by Patrick Hill  
(add waiver/appeal process)

Comments by Councilor Farwell  
(concerned on metric for small business, means testing, tax returns, what would we use to judge this)

Comments by Patrick Hill  
(agrees, not able to figure out a fee for specific people, might be good idea to have a waiver or appeal, report to council when waivers or abatements are granted)

Motion by Councilor Farwell to include (e) for Waiver and Abatement. This Motion was withdrawn.

Comments by Councilor Rodrigues  
(too much power to the Authority, no one should be exempted from the fees, small business would have to go on a yearly basis to not pay full price on storm water, has to be some way to carve this out, gross income line, looking for language for income threshold to have protection for the little guys)

Comments by Councilor Farwell  
(government is imperfect, agrees, planning board decides how parcel of lands are to be developed, ZBA on variances, license commission does this, government is set up, hopefully, with good people with ethics, applications of laws rules and regulations, give this a chance, trusts we will have the appropriate people appointed, guidance from DPW Commission and CFO, if we are wrong, would entertain an amendment to this current ordinance)

Comments by Councilor Lally  
(agrees with Councilor Rodrigues, nonprofits with right intention, thinks for us to have a clean attempt at this, need to let the new Authority try, if they come back with something the Council is dissatisfied, hope we reject them, if it does not work out, propose a rate structure and give them less authority through ordinance, need to try to let them, if they fail we can step in, set of standards for a waiver)

Comments by Councilor Nicastro  
(pleased to be part of working group, trying to quantify number of non-profits that own property in city, how many are we really talking about, does not want to

exempt non-profits across the board, they are already exempt from taxes, this fee will do good but we need the funds for what it will cost us to implement it)

Comments by Councilor Rodrigues

(association owns the property, I am not against it, has to be a way to protect the little guys, small restaurants barely surviving, bill based on size of lot not what they use for sewer, does not want to leave it up to an authority, doesn't agree with a lot of the decisions of the volunteer boards, how diverse is this group going to be, thinks no one should be exempted, need to be realistic)

Comments by Councilor Niscastro

(looking for people who reflect the city)

Comments by Councilor Asack

(not in favor of including BHA in exemption list)

Comments by Councilor Lally

(what are exempted, would understand striking the BHA)

Comments by Councilor Rodrigues

(wants to keep 3)

Comments by Councilor Farwell

(in interest of compromise, would be okay to get rid of BHA exemption)

## MOTIONS

Motion by Councilor Farwell to include the following language, 2<sup>nd</sup> by Councilor Lally. Motion carried.

Section 23-132 "Definitions" shall be amended to include the following definitions:

*Dwelling unit:* A structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household

*Places of Worship:* a building wherein the primary purpose is for persons to regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship. Includes church, synagogue, temple, mosque or other such place for worship.

Motion by Councilor Farwell to Amend by striking the language "In place of said sections the following new Section 23-133 is inserted" and inserting in its place the following language: "In place of said sections the following new sections are inserted:", 2<sup>nd</sup> by Councilor Lally. Motion carried.

Motion by Councilor Farwell to Amend by striking subsections 23-133(a)-(j) and inserting the following language in its place, 2<sup>nd</sup> by Councilor Lally. Motion carried.

Section 23-133. – Stormwater Management Authority.

(a) Stormwater Authority (Authority) is the agency established by this Ordinance, by the City of Brockton to oversee the proper execution of regulations contained in this article. The article is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule Status, M.G.L. Chapter 40, Section 21, M.G.L. Chapter 43B, the regulations of the Federal Clean Water Act found at 40 CFR 122.34

(b) There is hereby established a Stormwater Management Authority (the “Authority”) composed of six (6) members. The commissioner of the department of public works shall be an ex-officio, non-voting member and chair of the Authority. The remaining five (5) members of the Authority shall be as follows: the chief financial officer or their designee, the conservation commission agent, and three (3) residents of the city. One (1) resident shall be appointed by the mayor and two (2) residents shall be appointed by the city council. Each resident shall be appointed for a term of one (1) year and may be reappointed for successive years.

(c) The purpose of the Authority shall be to ensure that property owners comply with the requirements laid out by the Authority and the City of Brockton Ordinances, and to ensure the city complies with requirements of the United States Environmental Protection Agency (EPA), the Massachusetts Department of Environmental Protection (DEP) or any other regulatory agency having authority over stormwater management within the city. The Authority and the city shall have the power to enforce all provisions contained herein, and within the Stormwater Authority Manual, as well as all regulations and orders pertaining to the management of stormwater.

Motion to Amend by Councilor Rodrigues to insert the following language as a new subsection, 2<sup>nd</sup> by Councilor Asack. Motion carried.

(a) The Authority shall be required to publish a stormwater management guide. The guide shall contain summaries of regulations, policies and requirements for the management of stormwater and for any permits issued by the Authority. The contents of the guide shall be determined by vote of the members. The guide shall be reviewed by the Authority on an annual basis not later than April 15<sup>th</sup>, and updated as needed. After approval by the Authority, the requirements contained in the guide shall be effective for the following fiscal year beginning July 1<sup>st</sup> and incorporated by reference within this ordinance.

(b) The Authority shall establish fees relative to stormwater management for various types of properties. The fee schedule is intended only to support stormwater management staffing, operations, and mitigation. The following properties shall be exempted from fees:

- (1) Owner-occupied residential properties of not more than three (3) dwelling units;
- (2) properties owned by places of worship and cemeteries; and
- (3) properties owned by the City of Brockton.

(c) The fee schedule shall be submitted annually by the Authority to the city council not later than March 1<sup>st</sup>. The fee schedule shall be subject to city council approval. The fee schedule shall be effective July 1<sup>st</sup> of the next fiscal year.

(d) The Authority shall submit to the mayor, chief financial officer, and city council, not later than March 1<sup>st</sup>, the projected costs for stormwater management for the next fiscal year, including, but not limited to, staffing costs, operational expenses, expenses for consultants, and purchase of goods and services. Further, documentation shall be submitted for salary costs which shall include job title, anticipated salary, job description, and minimum qualifications for each position.

Motion to Amend by Councilor Farwell to insert the following new subsection, 2<sup>nd</sup> by Councilor Lally. Motion carried.

Section 23-135. – Severability.

The provisions of this ordinance are severable, and if any provision, sentence or paragraph is found to be invalid, this shall not affect the other provisions contained herein.

Motion to Amend by Councilor Farwell to insert the following new subsection, 2<sup>nd</sup> by Councilor Lally. Motion carried.

Section 23-136. –Meetings.

Meetings of the Authority shall comply with the requirements of the Open Meeting Law. No meeting shall be held prior to 6:00PM on the date scheduled so as to accommodate attendance by residents and other interested persons, except for the case of an emergency meeting.

Motion to recommend FAVORABLE AS AMENDED by Councilor Lally, 2<sup>nd</sup> by Councilor Rodrigues. Motion carried unanimously.

Comments by Councilor Farwell and Council Asack  
(expresses thanks to everyone who worked on this)



Next the Committee considered the following:

**#3 on agenda**

Comments by Troy Clarkson, Chief Financial Officer

(discussed during budget hearings, DPW business manager, retirement of position of “contract manager”, need a position well beyond a contract manager, budget is larger than most small towns in Massachusetts, grants that are processed through Chapter 190, contracts, use the money but use it in a much smarter way, consistent with pay ordinance, comparable, believes it is an appropriate pay scale, not yet written a position description, but believes given the level of work, scope of work and challenges, position in similar communities, good time to introduce this because of a retirement position that will not be filled because this is a smarter way to spend this money)

Comments by Councilor Lally

(in support of this, respect for the department, tripping hazard with another position that was funded recently, the job description, would you be willing to put that description, before the final vote)

Comments by Troy Clarkson

(has done some research already)

Comments by Councilor Farwell

(good move, should do a study of the DPW, this position will be helpful to the City)

Comments by Councilor Rodrigues

(who will this person report to)

Comments by Troy Clarkson

(includes a grant writer position, new financial analyst position created a few years ago, paid for by the DPW but supervised by Finance, this would be similar, for the Grant Writer position, re-dedicated priority of one the analyst in Finance Department, in that time the City has received over \$10 million in grants, Mayor would like to have a more robust grant writing operation, extra revenue from grants, notice of award for \$7.8 million grant, reimbursement for support, good investment, allows us to focus even more, money well spent)

Motion to recommend FAVORABLE by Councilor Lally, 2<sup>nd</sup> by Councilor Rodrigues. Motion carried unanimously.

Next the Committee considered the following:

Motion to take Item #4 and 5 collectively, by Councilor Lally, 2<sup>nd</sup> by Councilor Farwell. Motion carried unanimously.

**#4 and #5 on agenda**

Comments by Councilor Rodrigues  
(as this issue has been resolved by creating position in Mayors office, looking to table)

Motion to report TABLED by Councilor Rodrigues, 2<sup>nd</sup> by Councilor Lally. Motion carried unanimously.

Motion to adjourn by Councilor Lally, 2<sup>nd</sup> by Councilor Rodrigues. Motion carried unanimously.

The meeting was adjourned at 7:36 p.m.