

In City Council September 11, 2023

Notice is hereby given that the regularly scheduled meeting of the City Council was held on Monday evening September 11, 2023 at 7:00PM in the Council Chambers, City Hall, 45 School St., Brockton, MA. The meeting was called to order at 7:01 PM with ten members present. Councilor D'Agostino absent.

President Nicasastro had a moment of silence to honor lives lost in the 9/11 tragedy 22 years ago .

1186.Acceptance of the Minutes of the August 28, 2023 City Council meeting.

Accepted and placed on file

HEARINGS:

Petition of Hopkinton LNG Corp., of 800 Boylston St. 17th Floor, Boston, MA 02199, for a Flammable Storage (Aboveground) License Transfer located at 10 Oak Hill Way, Brockton, MA 02301.

Kelly McMahon Plant Supervisor appeared in favor of the petition and was there to answer any questions.

President Nicasastro commented.

Hearing held.

No one was in opposition.

Granted by a hand vote. Councilor D'Agostino absent.

UNFINISHED BUSINESS:

1145.Appointment of Stephen R. Kelley of 45 Stonehill Street, Brockton, MA 02301 to the Elections Commission as a Commissioner for a four (4) year term, ending August 2027. (FAVORABLE)

Confirmed by a roll call vote take by “yeas” and “nays”; ten members present and all voting in the affirmative. Councilor D'Agostino absent. Councilor Lally motioned to file for reconsideration with the wish it not prevail and was properly seconded. reconsideration failed by a hand vote.

961.Ordinance: An Ordinance amending Appendix C – Zoning, Article III, Section 27-20 “Accessory Structures” to establish new provisions for fence heights. (FAVORABLE) (PASSED TO A THIRD READING BY A HAND VOTE.)

Ordained by a roll call vote take by “yeas” and “nays”; ten members present and all voting in the affirmative. Councilor D'Agostino absent.

962.Ordinance: Be it ordained by the City Council of the City of Brockton, Appendix C – Zoning, Article III, General Regulation and Permitted Modifications is hereby amended as follows:

Home Occupation – As a Right

One home occupation may be allowed on any premises as a right, provided that the home occupation:

371. (UNFINISHED BUSINESS CONT.)

1. Is conducted solely within a dwelling and solely by the person(s) occupying the dwelling as a primary residence;
2. Is clearly incidental and secondary to the use of the premises for residential purposes;
3. The business itself is conducted indoors wholly within the confines of the residential dwelling or an accessory structure;
4. Excludes the sale of retail on premises;
5. Does not utilize exterior storage of material or equipment;
6. Does not produce offensive noise, vibration, smoke, dust, odors, heat, lighting, electrical interference, radioactive emission or environmental pollution;
7. Does not exhibit any exterior indication of its presence or any variation from residential appearance;
8. Does not produce traffic generated by such home occupation in greater volume than would be normally expected in the immediate neighborhood;
9. Parking is limited to no more than one commercial motor vehicle, which shall not be parked on the street or on permeable land;
10. Is registered with the City Clerk; And
11. Is properly licensed, as required, if applicable.

The term commercial vehicle as used in this ordinance shall mean a sport utility vehicle or passenger van, or a pickup truck or cargo van with markings on the vehicle. Prohibited vehicles include any vehicle which has a vehicle weight, or curb weight, of more than six thousand pounds, as per the manufacturer's description of said vehicle, and any vehicle which has five or more wheels on the ground, except for a pick-up truck that is registered to an individual and is used exclusively for personal use.

Home Occupation – By Special Permit

A home occupation may be allowed by special permit issued by the Board of Appeals provided that it:

1. There are no employees other than full time residents of the premises, aside from a family day care licensed by the Commonwealth of Massachusetts to provide family day care, as defined in G.L.c.28A;
2. Does not exhibit any exterior indication of its presence, or any variation from residential appearance, except for a sign or name plate;
3. A special permit for such use is granted by the Board of Appeals, subject to conditions, including but not limited to, restrictions of hours of operation, maximum floor area, off-street parking, and maximum number of daily customer vehicle trips. Such special permit shall expire upon transfer of the property and the new owner shall require a new special permit.

Be it further amended that “Home Occupation” as defined in Article II, Section 27-61 is hereby stricken. (FAVORABLE AS AMENDED) (PASSED TO A THIRD READING AS AMENDED BY A HAND VOTE.)

Ordained As Amended by a roll call vote take by “yeas” and “nays”; ten members present and all voting in the affirmative. Councilor D’Agostino absent.

963.Ordinance: Be it ordained by the City Council of the City of Brockton, Article III – General Regulations and Permitted Modifications of the City’s Zoning Ordinances, is hereby amended by inserting the following section where appropriate:

Portable Storage Containers

Section 1. Definitions.

372. (UNFINISHED BUSINESS CONT.)

“Portable storage container” means a portable, weather-resistant, receptacle designed and used for the storage or shipment of personal property, building materials or merchandise. The term shall not include yard waste containers nor construction debris containers.

Portable storage containers shall not include storage trailers registered with the Registry of Motor Vehicles.

Section 2. Restrictions.

No Portable storage container shall be stored or parked on a premise without a permit from the Building Department. The permitting and use shall be subject to the following requirements and restrictions.

(1) Residential Zones

- a. The permit shall not allow for more than three (3) storage containers or bulk transportation devices on the premises.
- b. The permit shall be for an initial period of ninety (90) days.
- c. The permit may only be extended one (1) time for an additional period not to exceed ninety (90) days.
- d. Placement of storage containers on the premises must comply with all accessory setback requirements for the subject Residential Zone.
- e. No portable storage container shall have a length greater than twenty (20) feet or a width greater than nine (9) feet or a height greater than nine (9) feet.

(2) Commercial and Industrial Zones

- a. The permit shall not allow for more than five (5) storage containers on the premises.
- b. A separate permit may allow for the number of storage containers on the premises to exceed five (5); however, site plan approval is required prior to the issuance of the permit.
- c. The permit shall be for an initial period of one (1) year. The permit may be renewed each subsequent year.
- d. The storage containers shall not be connected. There shall be a minimum of ten (10) feet between each unit.
- e. The storage containers shall not be located upon designated parking spaces.
- f. Placement of storage containers on the premises must comply with all accessory setback requirements for the subject Zone.

The issuance and extension of any permit shall be within the discretion of the Building Department. The Building Department shall affix fees for the initial permit and permit extension and shall assign a per unit fee for Commercial and Industrial Zones. There shall be a penalty of two hundred dollars (\$200.00) for any violation of this ordinance. Each day shall constitute a separate offense. (FAVORABLE AS AMENDED) (PASSED TO A THIRD READING AS AMENDED BY A HAND VOTE.)

Councilor Rodrigues commented.

Ordained As Amended by a roll call vote take by “yeas” and “nays”; ten members present and eight voting in the affirmative. Councilors Rodrigues and Tavares voting in the negative. Councilor D’Agostino absent. Councilor Asack motioned to file for reconsideration with the wish that it does prevail and was properly seconded. Reconsideration carried by a hand vote. Councilor Rodrigues motioned to refer to standing committee on Ordinance and was properly seconded. The motion carried by a hand vote.

964.Ordinance: An Ordinance amending Article III – General Regulations and Permitted Modifications of the City’s Zoning Ordinances, to establish special permit requirements for exterior stairways above the ground floor. (FAVORABLE) (PASSED TO A THIRD READING BY A HAND VOTE.)

373. (UNFINISHED BUSINESS CONT.)

Ordained As Amended by a roll call vote take by “yeas” and “nays”; ten members present and all voting in the affirmative. Councilor D’Agostino absent.

965.Ordinance: An Ordinance amending Article V – Special Uses of the City’s Zoning Ordinances, Section 27-38 “Standards” to delete Subsection 27-38(j) in its entirety, relative to standards on fire warning systems. (FAVORABLE) (PASSED TO A THIRD READING BY A HAND VOTE.)

Ordained As Amended by a roll call vote take by “yeas” and “nays”; ten members present and all voting in the affirmative. Councilor D’Agostino absent.

960.Ordinance: Be it ordained by the City Council of the City of Brockton, Appendix C – Zoning, Article III, General Regulation and Permitted Modifications is hereby amended as follows:

Sec. 27-9. - Standards for residential zones (Table 1).

Building height (Maximum)	R-1A	R-1B	R-1C	R-2	R-3	R-4
Principal building	2 ½ stories or 35 feet	2 ½ stories or 35 feet	2 ½ stories or 35 feet	3 stories or 45 feet*	3 stories or 45 feet*	3 stories or 45 feet*

Sec. 27-10. - Standards for commercial zones (Table 2).

Building height (Maximum)	C-1	C-2	C-3	C-4	C-5	C-6
	2 stories or 35 feet	6 stories or 60 feet	6 stories or 60 feet	6 stories or 60 feet	6 stories or 60 feet	6 stories or 60 feet

Sec. 27-11. - Standards for industrial zones (Table 3).

Building height (Maximum)	I-1	I-2	I-3
Principal building	6 stories or 60 feet	6 stories or 60 feet	6 stories or 60 feet

Be it further amended that subsection (2) of Section 2-8 “Application of Regulations” is hereby amended to provide as follows:

2. For R-3, R-4 commercial, and industrial zones only, no building shall be erected, reconstructed or structurally altered to exceed in height the limit hereinafter designated for the district in which such building is located except by special permit.

3. For I-1, no accessory structure shall be erected, reconstructed or structurally altered to exceed in height the limit hereinafter designated for the district in which such building is located except by special permit. (FAVORABLE AS AMENDED) (PASSED TO A THIRD READING AS AMENDED BY A HAND VOTE.)

374. (UNFINISHED BUSINESS CONT.)

Ordained by a roll call vote take by “yeas” and “nays”; ten members present and all voting in the affirmative. Councilor D’Agostino absent. Councilor Lally motioned to file for reconsideration with the wish it not prevail and was properly seconded. reconsideration failed by a hand vote.

859. Ordinance: AN ORDINANCE AMENDING ARTICLE V, DIVISION 1 –
STORMWATER AUTHORITY

Be it Ordained by the City Council of the City of Brockton, Article V, Division 1 is hereby amended as follows:

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.

Sections 23-133, 23-134, 23-135, 23-136, 23-137, 23-138 and 23-139 relating to stormwater management policies, procedures and fees are hereby repealed in their entirety. In place of said sections the following new sections are inserted:

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.

Section 23-134. – Responsibility for administration.

375. (UNFINISHED BUSINESS CONT.)

(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 15th, 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 1st 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 1st. The fee schedule shall be subject to city council approval. The fee schedule shall be effective July 1st of the next fiscal year.

(d) The Authority shall submit to the mayor, chief financial officer, and city council, not later than March 1st, 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.

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.

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. (FAVORABLE AS AMENDED) (PASSED TO A THIRD READING AS AMENDED BY A HAND VOTE.)

Ordained by a roll call vote take by “yeas” and “nays”; ten members present and all voting in the affirmative. Councilor D’Agostino absent. Councilor Farwell motioned to file for reconsideration with the wish it not prevail and was properly seconded. reconsideration failed by a hand vote.

1069.Ordnance: An Ordinance Amending Article III, Division 2, Section 2-127 – Pay Plan to establish pay plan provisions for the positions of DPW Financial Business Manager and Grant Writer. (FAVORABLE) (PASSED TO A THIRD READING BY A HAND VOTE.)

Councilor Farwell motioned to refer to the standing committee on Finance and was properly seconded. The motion carried by a hand vote. Councilor D’Agostino absent.

376. (RESOLVES CONT.)

RESOLVES:

1187.Resolve: That the City Council request all members of the Brockton School Committee appear at a meeting of the council for the purpose of an inquiry into the recent announcement of a fourteen million-dollar (\$14,000,000) deficit because of overspending of appropriations and other revenues in Fiscal Year 2023.

Referred to Finance

LATE FILES

Councilor Thompson motioned to accept a late file and was properly seconded. The motion carried by a hand vote.

COMMUNICATIONS:

1188.From the Chief of Police requesting authorization to expend grant monies related to the FY 2024 Jail Arrest Diversion Program of \$341,700.00 from the Department of Mental Health.

Accepted and placed on file

1189. From the Brockton Police Department Grant Writer requesting that the enclosed grant award documents be processed to allow the City of Brockton to expend funds authorized under the FY 2024 Jail Arrest Diversion Program in the amount of \$341,700.00. There is no match required.

Accepted and placed on file

1190.From the Mayor in accordance with the General Laws of Massachusetts, Chapter 44, recommending that the City Council authorize the acceptance and expenditure of the grant award in the amount of \$341,700.00 from the Department of Mental Health to the Police Department- FY 24 Jail Arrest Diversion Program.

FROM: THE DEPARTMENT OF MENTAL HEALTH \$341,700.00

TO: THE POLICE DEPARTMENT- FY 24 JAIL ARREST DIVERSION PROGRAM
\$341,700.00

Accepted and placed on file

1191.From the CFO in accordance with Section 5 of Chapter 324 of the Acts of 1990, certifying that the financial resources and revenues of the City of Brockton are and will continue to be adequate to support the acceptance and expenditure of the grant award in the amount of \$341,700.00 from the Department of Mental Health to the Police Department- FY 24 Jail Arrest Diversion Program, without detrimental impact on the continuous provision of the existing level of municipal services.

FROM: THE DEPARTMENT OF MENTAL HEALTH \$341,700.00

TO: THE POLICE DEPARTMENT- FY 24 JAIL ARREST DIVERSION PROGRAM
\$341,700.00

Accepted and placed on file

ORDERED:

1192.Ordered: That the following named sum be and the same is hereby transferred as the same was submitted by the Mayor as follows:

appropriation of \$341,700.00

FROM: THE DEPARTMENT OF MENTAL HEALTH \$341,700.00

TO: THE POLICE DEPARTMENT- FY 24 JAIL ARREST DIVERSION PROGRAM
\$341,700.00

Referred to Finance

377. (LATE FILESCONT.)

Councilor Farwell motioned to accept a late file and was properly seconded. The motion carried by a hand vote.

Councilor Farwell commented.

RESOLVE:

1193.Resolve: WHEREAS, As requested and voted by the Brockton School Committee, appropriations were approved for the operation of the public schools for Fiscal Year 2023, and,

WHEREAS, Spending in excess of the appropriations occurred, the exact amount not yet confirmed and,

WHEREAS, The overspending has broad implications for other departments in the city and for future municipal budgets, and,

WHEREAS, To accurately identify all outstanding issues, it would be prudent to examine both Fiscal Year 2022 and Fiscal Year 2023 school department appropriations, including specific categories where funds were allotted but overspending occurred;

NOW, THEREFORE, BE IT ORDERED:

The City Solicitor, acting through an outside vendor with no prior relationships with the City of Brockton, conduct an audit of the appropriations for Fiscal Year 2022 and Fiscal Year 2023 provided to the Brockton Public Schools. If sufficient funds do not exist within the Law Department for this purpose, the Solicitor shall request a supplemental appropriation from the mayor and city council for said purpose.

Referred to Finance

Councilor's Recognition

Councilor Asack stated that the Annual Greek Festival will be September 14-17 at the Annunciation Greek Orthodox Church. All are invited to attend. She also stated that wildlands trust BioBliz at D.W. Field Park had there first event last Saturday for kids to explore and identify plants and insects, and also at D.W. Field Park Fall Kids Road Race has begun every Saturday from September 9- October 20 9:30 AM is Registration and the Race begins at 10AM for and information visit KidsRoadRace.org.

Councilor Thompson stated its Hispanic heritage Month the second annual Latin Women's Association parade Saturday September 16 at 12PM. All are invited to attend.

Meeting adjourned at 7:30 PM

All council business as listed on the agenda have been emailed to the City Council members in their complete form, with exception of oversized material, such as maps, photos, etc. Recommendations are based on reports from committees.