

REPORT – ORDINANCE COMMITTEE
June 4, 2024

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 Nicastro, 2nd by Councilor Lally.

#2 on agenda

having considered the same, report POSTPONED by Motion of Councilor Lally, 2nd by Councilor Nicastro.

#3 on agenda

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

MINUTES – ORDINANCE COMMITTEE
June 4, 2024

The Standing Committee on Ordinances and Rules was called to order at 6:30 p.m. by Councilor Farwell, Lally, Nicaastro and Teixeira present.

Agenda read into the record.

The Committee first considered the following:

#1 on agenda

Comments by Councilor Farwell

(Councilor Thompson unable to attend, law department does not intend to weigh in or review it)

Comments by Attorney James Burke, North Pearl Street, Brockton

(statutory impingement are not there, proposal makes a lot of sense, developers will be pleased, pro-business and efficiency, planning board selects from the list)

Comments Scott Faria, J.K. Holmgren Engineering, Pearl Street, Brockton

(process most cities and towns follow, gives flexibility on pricing and timing, one firm in Brockton right now)

Comments by Councilor Lally

(concerned about process previously but spoke with Attorney Burke and Councilor Thompson and comfortable with control on setting up the line-up)

Comments by Councilor Nicaastro

(two concerns, applicant selects)

Comments by Attorney James Burke

(applicant to pick, planning board selects 3 and then the applicant picks final)

Comments Scott Faria

(flexibility, time could be more important than price)

Comments by Councilor Nicaastro

(“and said applicant” language fine, wants the applicant to pay, discussion re general law)

Comments by Councilor Farwell

(list of approved applicants furnished to the applicant)

Comments by Attorney James Burke

(thinks this will work)

Motion to Amend by Councilor Nicastro to strike “who” in paragraph 3 and insert in its place “and said Applicant” and to insert a 5th paragraph which states, “Nothing herein shall conflict with M.G.L. ch. 44 section 55G.”, 2nd by Councilor Teixeira. Motion carried unanimously.

Motion to report FAVORABLE AS AMENDED by Councilor Nicastro, 2nd by Councilor Lally. Motion carried unanimously.

Next the Committee considered the following:

#2 on agenda

Comments by Councilor Rodrigues

(sewer deficit of \$3 million dollars, needs a solution, considers what tax payers are paying, but unfortunately, need to do something, account is suppose to support itself, we are using general funds, rates have not gone up in some time, water and rubbish has increased)

Comments by Councilor Lally

(decades of kicking the can down the road with respect to utilities charges, how much will the average household see for an increase in their bill?)

Comments by Patrick Hill, DPW Commissioner

(about \$24 a quarter, about \$9.50 a quarter, based on usage, using retained earnings for this year, none projected for next year, steady increases in prices, cost of energy has gone up)

Comments by Troy Clarkson, Chief Financial Officer

(not a sustainable practice, retained earnings not for balancing budget, for capital project, moderate increase)

Comments by Councilor Lally

(can we stagger over the next few years?)

Comments by Councilor Teixeira

(when was the last increase? Tough, need to tighten up expenses, only so much the tax payer can take, it's a lot of money, calls from residents)

Comments by Patrick Hill, DPW Commissioner

(still short, further kicking the can down the road, not sustainable, not changed substantially since 2008, EPA mandates to fix down at sewer plant, rate study, need 18% for a balance budget, will need to come back next year to ask for more money to balance the budget, discussion re costs)

Comments by Troy Clarkson, Chief Financial Officer

(federal money available, sound decision not made to operations, used retained earnings to balance enterprise, not sustainable, significant reserves to address school deficits, margins are narrow, can't leave the funds with a negative balance so the general fund needs to replenish and we just don't have that any more due to school deficit, ongoing impact reduces the free cash every year, tax payers still footing the bill)

Comments by Councilor Rodrigues

(other payors into this enterprise that are not from Brockton so it's not fair to have the taxpayers subsidize the sewer users outside Brockton that don't share the tax dollars with us)

Comments by Councilor Nicastro

(spend a lot of time looking at this, interested in exploring what everyone pays us outside the city and what is an increased rate that will be fair, septic tank influx, reading on enterprise funds, feels it should be self-sustaining to protect the budget, does not impose an increase, but what should that increase be, where else can we increase fees before going to the rate payers)

Comments by Patrick Hill, DPW Commissioner

(IMAs, flow percentage, costs captioned for actual flow, rate charges for septic tanks, up substantially, money goes to the enterprise as well, other fee options)

Comments by Councilor Farwell

(report from CDMC Smith, anticipated capital expenditures for sewer in table 9, in 2026 need to do \$30,000,000 in sledge management improvement, \$25,000,000 for 2027 discharge permit, did we borrow money to address this?, are these mandated)

Comments by Patrick Hill, DPW Commissioner

(different, to remove nitrogen from effluent, sledge management is for inhouse work, approximate cost, RFP for design, drying the sludge initially, \$4 million a year cost to do it outside of town, borrowing would come before council for approval)

Comments by Councilor Farwell

(Abington, Whitman, Stonehill college collection, what is that implication)

Comments by Patrick Hill, DPW Commissioner

(IMAs are different, this is a percentage of flow, calculated different, sent all the IMAs, Gables pay more than the average consumer, comments re Stonehill based on top rate)

Comments by Councilor Farwell

(sweetheart deal to Stonehill, wants to know provisions of IMAs before can vote on this, should be more for those outside the City, unfavorable to the Brockton

taxpayer, wants to read the agreements, other fees charged, why aren't these part of the rate increase)

Comments by Patrick Hill, DPW Commissioner
(separate ordinance, not much of a financial adjustment on the budget)

Comments by Councilor Farwell
(needs to know as much as he can to justify his vote, wholistic way, working group, looking to postpone)

Comments by Councilor Lally
(postponing to obtain IMAs and summaries)

Comments by Councilor Rodrigues
(workings with the State to take care of fees to be increased, suggests doing this sooner rather than later, summer session coming up after budget)

Motion to report by POSTPONED by Councilor Lally, 2nd by Councilor Nicastro. Motion carried unanimously.

Next the Committee considered the following:

#3 on agenda

Comments by Councilor Asack
(business in her ward, West Gate Lanes, licenses for their video arcades was before license commission and need to look at this ordinance because it is exceeding the amount of allowable licenses, small number, asking for an increase, 200 per business, square footage, larger number of video games, hurry to get this done, up for renewal)

Comments by Councilor Farwell
(adding requirement to have minor accompanied by an adult during school hours, already in the ordinances)

Comments by Jeffrey Charnel, Chairman of License Commission
(establishments asking for more, its per machine, revenue generating thing for the city, 60 is really low, larger businesses that want to come to the city)

Comments by Councilor Nicastro
(60 to 100, Westgate Lanes has alcoholic beverages license)

Comments by Councilor Asack
(years since first written, new businesses opening soon, do we need to relook at the draft?)

Comments by Jeffrey Charnel, Chairman of License Commission
(establishments and history)

Comments by Councilor Nicastro
(it has been a long time since this was passed, why is there a difference)

Comments by Legislative Counsel
(application of draft, proposes language)

Comments by Councilor Lally
(can we make the change here, comfortable honoring the request, why we differentiate, reasonable to do)

Comments by Councilor Farwell
(history of video games)

Comments by Councilor Asack
(still goes before License Commission, Westgate lanes at 60-70, with expansion they will go past 100, just discussed this increase to 200 today so not to limit)

Comments by Jeffrey Charnel, Chairman of License Commission
(range to avoid violations)

Comments by Councilor Nicastro
(understands being business friendly)

Comments by Councilor Asack
(Licenses per machine, expansion, activities for the kids, regularly inspected, yearly)

Comments by Jeffrey Charnel, Chairman of License Commission
(plans reviewed before approval)

Comments by Councilor Teixeira
(discretion to the License Commission, ceiling set up the ordinance)

Comments by Councilor Asack
(investing, great things in Brockton, great place for youth)

Comments by Councilor Nicastro
(other cities?)

Comments by Councilor Lally
(bar and racing simulator, small area, would suspect its well beyond, scouting economic development)

Comments by Councilor Farwell

(consistent with what the License Commission does, comfortable with 200 as long as License Commission oversight, could apply to any vendor, not special legislation, reflection to have Brockton be business friendly, entertainment)

Comments by Councilor Nicastro

(from 60 to 200 seems like a lot)

Comments by Councilor Lally

(leaves it to the discretion of Commission, very different than when this was put in the 80s, video games are different and use is different, protectionist at the time, does not think going below 200 is needed, looking to leave to discretion of the Commission, would not support anything less than 200)

Comments by Councilor Asack

(200 came from clerk and chairman of license commission, leeway)

Comments by Jeffrey Charnel, Chairman of License Commission

(other businesses who have heard of the restrictions, checked by fire department, diligent License Commission, safety, example of property near West Bridgewater, business flexibility)

Comments by Councilor Nicastro

(two player machines?)

Comments by Jeffrey Charnel, Chairman of License Commission

(some, Dave and Busters would have many machines, driven by square footage, judgment by Commissioners on that, fee plus annual renewal, over time have added)

Motion to Amend by Councilor Lally so that the language contained in sections (a), (b) and (c) be stricken in their entirety and the following language be inserted in its place, "Amusement or entertainment businesses. An establishment which has as its principal business activity amusement or entertainment shall be allowed up to two hundred (200) automatic amusement devices.", 2nd by Councilor Teixeira. Motion carried unanimously.

Motion to report FAVORABLE AS AMENDED by Councilor Lally, 2nd by Councilor Nicastro. Motion carried unanimously.

Motion to adjourn by Councilor Nicastro, 2nd by Council Teixeira. Motion carried unanimously.

The meeting was adjourned at 8:01 p.m.

Documents Reviewed: CDM Smith report.