

Ordinance Committee

Wednesday, June 5, 2024

Video of meeting can be found at <https://youtu.be/ixydb8ESaNw?feature=shared>

Members present: Chair Israel Rivera, Vice Chair Linda Vacon, Jenny Rivera, Meg Magrath-Smith, David Bartley

Other councilors present: Carmen Ocasio

Chair I. Rivera called the meeting to order at 6:35 PM

Councilor Vacon made a motion to suspend the necessary rules to allow Councilor Ocasio to join the committee for the purposes of making a quorum to start the meeting. Chair I. Rivera seconded the motion. Motion adopted.

*Note: Committee members Councilor J. Rivera, Councilor Magrath-Smith, and Councilor Bartley later arrived.

Councilor Vacon made a motion to remove item 1 from the table and open the public hearing. Councilor Ocasio seconded the motion. Motion adopted.

Item 1: PUBLIC HEARING 6-4-24 Special Permit Application of Blue Fox Brands Inc. for an adult- use cannabis manufacturing (non-chemical extraction) establishment at 1 Cabot St (048-01-010)

---> Approved with 9 conditions, 5-0.

DISCUSSION:

Chair I. Rivera recognized Ezra E. Parzybok representing the applicant.

E. Parzybok, 30 Norwood Avenue, Northampton, stated that Steve Kiouis as well as Kosta Marselis were also in attendance. He then stated that he was a consultant for the company and would be presenting their project.

S. Kiouis, 1985 West Big Beaver Road, Suite 210, Troy, Michigan, stated that he was general counsel for the company.

K. Marselis, 1289 Creek Point, Rochester, Michigan, stated that he was CEO of Blue Fox Brands.

E. Parzybok stated that Blue Fox Brands was an established cannabis business with operations in Michigan, California, and Colorado, and now were choosing Holyoke to enter into Massachusetts, to be located at 1 Cabot Street, and would be the second largest business in the building among other cannabis businesses. He then explained they were a repackaging company, taking cannabis flower that had been ground up for pre rolls as well as placing labeling for other brands. He added that they would also be filling vaping cartridges. He then emphasized that there would not be any chemical extraction, no trimming machines, there would be no cultivating, and it would not be a public business with retail sales. He then presented the site plan. He also stated that they would be hiring 20 employees, which would require 5 parking spots to be available for them per requirements. He highlighted parking areas, space for bike rack, entrance for employees, the location of a shared sallyport, as well as shared dumpster. He also noted the location in relation to the surrounding business and parking areas. He then described the various areas of their space, including product processing areas, vault area, entrances, storage area, offices, and loading dock area. He also presented visuals of their production area at their Michigan facility. He also highlighted odor control and air filtering devices.

Documents and plans can be found through the link at the bottom of these minutes.

Chair I. Rivera opened the floor to any members of the public who may want to speak. Nobody sought to speak at the moment.

Councilor Magrath-Smith noted that their plan included their intent to hire from within the neighborhood. She asked for an explanation of how that would proceed as well as any footwork they had already done.

E. Parzybok stated that since there were several steps in the approval process to work through over several months, they had not yet begun any hiring activities. He then explained that in using services such as Indeed, ads could be targeted to towns and even neighborhoods. He also stated that they would be working with local organizations such as EforAll, programs at Holyoke Community College, as well as other nonprofits in the city.

K. Marselis stated that in their Lansing, Michigan location, 93% of their 113 employees were from Lansing. He then stated that they chose Holyoke because there was a lot of workforce available.

Chair I. Rivera noted that EforAll was an entrepreneurial program for those starting small businesses but not necessarily for those in search of employment. He suggested that MassHire, New England Farmworkers, and a variety of other nonprofit organizations in the area would be appropriate. He also noted that the programs at HCC tended to be more for growing and bud-tending, not necessarily what appeared to be needed at this business. He emphasized the Flats section of the city where this would be located was where people who would benefit from this kind of opportunity lived.

Councilor Vacon asked for more explanation of the parking area. She recalled that the building was going to develop a master plan. She then expressed her understanding that it appeared parking was being handled on a first come, first served basis, but that there was adequate parking for everyone.

E. Parzybok stated that was accurate but agreed that it did seem challenging. He added that the way the engineers calculated the parking needs, there was between 38 and 42 spots altogether and was compliant with all of the building requirements that there be 1 spot for every 4 employees. He noted that the building owner did establish a designated parking area for customers visiting the retail area, but the rest was around the back for employees.

Councilor Vacon noted there was a letter from the Planning Board dated May 31st, and asked Mr. E. Parzybok to address an open questions the letter may have.

E. Parzybok stated that the primary issue was not having the approval letter for the security plan from the Police Department, which had since been provided.

Councilor Vacon noted the committee had that in the packet. She noted that she did not see the provisional license in the packet.

E. Parzybok stated that the state rules allowed for companies to hold licenses that can be bought and sold. He then explained that they had purchased a licensed from another entity that was in Holyoke, and that the license would then become the property of Blue Fox Brands following approval of the state. He emphasized that they still had to go through the submission process of plans for approval by the state.

Councilor Vacon asked how much the host community agreement for this business differed from earlier agreements, noting that much had changed with the state on those and some issues had come up.

E. Parzybok stated that the process had been that the city had submitted previous HCA's to the state for review and if any were deemed to be noncompliant, the city would be requested to update them. He noted that the City Solicitor's office had been rightly frustrated with the state because they didn't really list what would be at issue with an HCA, and the city had decided to go with the model HCA put out by the CCC (Cannabis Control Commission), making them easier to approve. He then explained that as each entity had their HCA up for renewal or expiration, the city was going to a model HCA. He added that for social equity applicants, there was a consensus to doing a waiver of an HCA.

Councilor Vacon asked if that meant businesses would be relieved of mitigation fees from the early days.

E. Parzybok stated that the state law was amended over the last couple years to ensure that it followed the original intent of the law, which was that impacts reasonably associated with an entity allowed the city to collect fees up to 3% of the gross revenue of an entity. He noted that many towns interpreted that as allowing them to assess 3% of gross

revenue across the board. He added that the CCC clarified that impacts had to be proven to be related to a specific entity. He then explained that the HCA's still referenced collecting impact fees, but differed in that the previous one stated that the city would, rather than may, collect up to 3% of gross revenue.

Councilor Ocasio asked if extra people driving to this business would create a problem with traffic for that ward because it was in a residential area. She noted that the South Canal Street and Cabot Street areas were already congested. She asked for plans to avoid that congestion.

E. Parzybok stated that in the traffic plan, they looked at the calculations and found the number of vehicles in that corridor was in the magnitude of several thousand cars per day, adding an entity that would result in an additional 40 vehicle trips in the morning and then in the afternoon were less than 1% of the total volume of traffic.

Councilor Ocasio reiterated that this area was often congested, and expressed concern that adding more traffic would cause chaos. She added a lot of traffic was coming in from Chicopee near that building. She then expressed concern if the applicant was planning to use the public parking lot if they needed extra parking. She emphasized that was a residential area and they needed all the parking.

Chair I. Rivera asked if the description of traffic impact being miniscule was referring to just this business or every business in the building.

E. Parzybok stated that he was referring to the entire facility, adding that he was calculating it based on if every parking spot was being used and each one represented a vehicle trip in and out. He emphasized that this one business represented less than half of that possible total.

Chair I. Rivera stated that his concern was not about Blue Fox but more about the situation the building owner had going on with all of the businesses being opened there. He suggested that it appeared it would eventually become a catastrophe. He also suggested that an order could be filed to bring in the building owner to discuss that concern. He then reiterated that this was not a Blue Fox problem.

Councilor Vacon expressed her understanding that it appeared there would be about 10 extra trips related to this business. She then suggested that the impact would be similar to those going in and coming out and the beginning and end of their shift. She also suggested that some traffic mitigation measures might be appropriate.

E. Parzybok stated that there would be two shifts with Blue Fox, spreading them out over the day and not all happening at once.

Councilor Vacon asked if the hours would be 8 a.m. until midnight, and if they would be 7 days a week.

E. Parzybok stated that the hours were correct.

K. Marselis stated that it probably be 5-6 days a week. He added they ran 3 shifts in Lansing, were off on Sunday, and typically did not run on Saturdays unless they needed to.

Councilor Vacon asked if the special permit would need the flexibility to be open on the weekend in case they needed it.

K. Marselis stated they would like that, if possible. He stated that Sunday may be a cleaning crew or inventory day, but not a production day. He then noted that if they ran on a Saturday, it would typically be 8 a.m. until 2 p.m.

Councilor Vacon suggested that if the permit allowed for 7 days, it would give the flexibility if it was needed.

K. Marselis asked what was needed if they wanted to do a third shift.

Councilor Vacon stated that there was a clause recommended by the Planning Board where small changes could be added as amendments to the special permit while substantial changes would require a new hearing to amend the permit.

K. Marselis stated that they were not sure how busy they could get until they see the sales. He then asked if they could allow for a third shift, if possible.

Chair I. Rivera noted that the ordinance established certain times for the closing of the businesses. He then asked Atty Bissonnette if that was specific to retail or all cannabis businesses.

Atty Bissonnette stated that it was only for retail.

Chair I. Rivera asked if that third shift could be incorporated into the special permit.

Atty Bissonnette stated that the Council could grant that, noting that Holyoke was built on three shifts.

Councilor J. Rivera echoed Councilor Ocasio's concerns, adding that was also a big traffic area for trucks as well as PVRTA buses. She suggested that it would be less of an issue if traffic coming out of the building made a right onto Cabot rather than a left to cross the Willimansett Bridge.

Councilor Bartley noted that there was a letter from the Planning Department. He then asked where they were at with the Planning Board.

Councilor Vacon clarified that they gave recommendations.

Councilor Bartley confirmed there were no more steps with Planning.

Chair I. Rivera stated that was correct.

Councilor Bartley noted there were recommendations that should be incorporated to cover those concerns. He then suggested that it wasn't organized to give a special permit with 8 a.m. to midnight hours, and expressed an expectation that the applicant would not wait in advance if they needed to amend the special permit. He added that it would also allow the Council another opportunity to see the effect of the traffic if they came back. He then asked for confirmation that the petitioner had read the Planning Board letter.

E. Parzybok stated that he was.

Councilor Bartley asked if they were familiar with the standard conditions for marijuana special permits.

E. Parzybok stated that he was.

Councilor Bartley asked if he would be okay with the hours of operation structured to what was discussed. He noted that Saturdays would be until 2 p.m., and asked what would be done for Sundays.

E. Parzybok suggested also until 2 p.m. for a cleaning crew, if necessary.

Councilor Bartley suggested hours of 8 a.m. - 2 p.m. on the weekend and then 8 a.m. - 12 midnight during the week.

E. Parzybok stated that was correct.

Councilor Vacon suggested that in addition to the standard condition, one condition out of the Planning Board letter be added, reading that "In the event that there are any proposed changes to the approved plan, the applicant will be required to come back to the City Council for review and approval prior to their implementation and file as an amendment to the Special Permit."

Chair I. Rivera read the standard conditions:

1. That the owner of the building always pay the commercial property tax rate to the extent allowed by federal, state, and local laws for the duration of the Special Permit.
2. That the business retains a minimum 30% Holyoke residents for non-security jobs.
3. That the hiring preference be given to security personnel that are retired Holyoke police or are a retired member of another police department that now lives in the city of Holyoke.
4. There shall be no marijuana consumption allowed on site.
5. That the hours of operation be Monday - Friday, 8am-12am, Saturday and Sunday, 8am-2pm.
6. That the applicant must abide by Massachusetts General Laws and guidances from

the Cannabis Control Commission.

7. That the petitioner/applicant shall conform with city and state health laws, rules, and regulations, including odor nuisance controls, for the duration of the permit.

8. That if substantial progress has not occurred within 2 years of issuance of the Special Permit, an extension shall be required.

He then asked if there was a process for received the extension.

Councilor Vacon stated that a process had been created between the Planning Department and the City Clerk's office where letters were going out to applicants.

Councilor Bartley made a motion to add an additional condition to be in compliance with items 2a and 2b on the Planning letter.

Chair I. Rivera asked if they agreed to those conditions.

S. Kiouisis stated that the work hours sometimes had shifts starting at 6 a.m. He then asked if that would be an issue.

Chair I. Rivera suggested outlining what they were looking for now.

S. Kiouisis stated that it would be better to set it at 6 a.m.

Chair I. Rivera asked if it would be the same for the weekend.

S. Kiouisis stated that the weekend would be 7 a.m.

E. Parzybok expressed confidence that they would not need to worry about the 2 year deadline, emphasizing that they already have a lease and were paying rent.

Councilor Bartley made a motion to close the public hearing. Councilor Vacon seconded the motion. Motion adopted.

Councilor Bartley made a motion to approve 1 with the following conditions:

1. That the owner of the building always pay the commercial property tax rate to the extent allowed by federal, state, and local laws for the duration of the Special Permit.

2. That the business retains a minimum 30% Holyoke residents for non-security jobs.

3. That the hiring preference be given to security personnel that are retired Holyoke police or are a retired member of another police department that now lives in the city of Holyoke.

4. There shall be no marijuana consumption allowed on site.

5. That the hours of operation be Monday - Friday, 6am-12am, Saturday and Sunday, 7am-2pm.

6. That the applicant must abide by Massachusetts General Laws and guidances from the Cannabis Control Commission.

7. That the petitioner/applicant shall conform with city and state health laws, rules, and regulations, including odor nuisance controls, for the duration of the permit.

8. That if substantial progress has not occurred within 2 years of issuance of the Special Permit, an extension shall be required.

9. That items 2a and 2b on the Planning Board letter, dated May 31, 2024, be adhered to.

Councilor Vacon seconded the motion. Motion adopted, 5-0.

(57:00)

Councilor Bartley made a motion to remove item 2 from the table. Councilor J. Rivera seconded the motion. Motion adopted.

Item 2: 8-1-23 GIVNER -- With community support, order that the City of Holyoke establish, in the Schedule A, a Homeless and Housing Liaison position.

---> Laid on the table, 5-0.

DISCUSSION:

Chair I. Rivera recognized Personnel Director, Kelly Curran, in attendance for this item. He then stated that this order was part of trying to develop a community response division within the city and this would be a first step. He then noted that there was another potential approach that could incorporate this piece, but would be a more strategic approach. He further explained that it was about building an Office of Community Response in a way that would strategically build out support services. He noted the job description was in the packet. He reiterated that it was just a piece of the overall umbrella of things happening out of this division.

K. Curran stated that the position was originally recommended by the Mayor and previous Board of Health Director, but they had since discovered that some of the needs had changed, prompting them to consider calling it a Community Response Coordinator or Director that could help the greater community beyond just the unhoused population. She then deferred to Garcia to further explain it.

Mayor Garcia stated that the intent was to have a conversation and build this out into what it could look like. He added that the goal was to address various quality of life issues to avoid displacement. He emphasized that it was about acting proactively to resolve issues before they become the bigger problems that lead to people becoming unhoused. He further emphasized the intent was to built it with the Council.

Chair I. Rivera noted that residents filed a petition asking the city to cerate an Office of Tenant Protections, adding that this was about responding to their concerns, illustrating that they were being heard.

Councilor Vacon stated that the city had a longstanding history of collaborating with community providers, some local and some regional. She then asked how this would interface with them. She also expressed concern with building this within the local government when the city was already at the tax ceiling. She also asked why the city would want to recreate what was already out there.

Chair I. Rivera noted that Holyoke HUB was another piece, adding that they handle one or two issues a week. He then explained that the issue were larger one or two cases a week. He added that the HUB was more of a referral agency with a variety of different service providers coming together to discuss a particular situation. He then explained that this Division of Community Response would work in collaboration with the HUB to make sure these things were not just servicing one or two people but capture any other people going into the office. He noted that there were a variety of other service providers in the city but nothing was centralized. He added that this would also allow the department to seek out grants that could help mitigate costs of addressing these concerns. He also emphasized that mental health, substance abuse, and homelessness all coincided in some ways. He added that with opioid funds, they could help build out something to provide these services. He added that it would allow people coming out of prisons and substance abuse facilities, or even the military, to find services locally rather than needing to go to Springfield.

Councilor Vacon stated that he understood all of that, and it was a good goal, but it should not forgotten that the city had a population of around 37,000 and was barely meeting the definition of a city and there were limited tax revenues to support more government positions. She then expressed interest in seeing that the funds coming in could be used for this purpose.

Chair I. Rivera stated that he agreed, adding that this was why he was pushing more for a Director of a Community Response division rather than just the housing liaison position. He also agreed that it did not make sense to add a position that would create more cost if it didn't produce for the city.

Mayor Garcia stated that they were looking at opioid funding to be the source of revenue to sustain this role. He suggested that the order could be refiled to change the title. He added that Community Development Director, Alicia Zoeller, and Board of Health Director, Tim Rivers, should be brought into the conversation as they were already going beyond their roles to fulfill some of what this position would cover.

Councilor Bartley expressed support for this, adding that this position would be someone who knew how to talk to people in the positions and be able to lead them to the services they needed. He suggested that this was going to be a perpetual issue. He also suggested that this would require a team. He also stated that he liked the idea of working with local organizations and nonprofits.

Chair I. Rivera suggested that reentry services, mental health, and substance abuse needs were going to one of the main focuses throughout the country in the next 5-10 years.

Councilor J. Rivera stated that in her capacity as Director of Operations at Enlace, they were placing 6-8 families a week into hotels. She added that they tried to help find apartments but there weren't many to apply to. She also stated that they held workshops, helped with English classes, and provided gift cards for food. She added that a lot of people end up homeless because of rents being raised and they can no longer afford to stay in their apartments.

Councilor Magrath-Smith commended Mr. Rivers for his recent transition into his role as Board of Health Director, noting that he had taken it on with real vision and energy. She added that the office had done a great job with their responses and treating people with a sense of dignity. She then expressed her understanding that it would be less a homelessness and housing outreach coordinator and more of a community care coordinator, and there should be a title change. She also stated that she would prefer stronger language than "advises and consults" in the duties that clarified they would be taking a lead. She added that she liked the focus on prevention rather than just reacting. She also emphasized that the opioid funding was going to be at least a 20 year source or revenue.

Councilor Vacon expressed her understanding that there was a plan to revise the language, and suggested this could be tabled for that to happen.

Chair I. Rivera agreed with that, and then would file another order to rename the position and take it up with a job description similar to this but incorporate more duties.

Councilor Vacon stated that statistics would also be helpful in order to develop goals. She emphasized that Holyoke was already doing more than its fair share in terms of providing affordable housing, but was also hearing that the city didn't have any available. She also expressed concern with not setting someone up to fail, keeping in mind what someone could accomplish.

Chair I. Rivera stated that was part of the intent in not just focusing on housing.

Councilor Vacon stated that she was looking for measurables as well as being able to anticipate better outcomes.

Councilor Bartley made a motion to lay item 2 on the table. Councilor Vacon seconded the motion. Motion adopted, 5-0.

(1:23:05)

Councilor Bartley made a motion to remove item 3 from the table. Councilor Vacon seconded the motion. Motion adopted.

Item 3: 3-7-23 MCGEE -- Ordered, that the Zoning Ordinance, Section 7.8 WIRELESS TELECOMMUNICATION FACILITIES AND ANTENNAS, be amended to include Small Wireless Facilities.

*Public hearings held 4-25-23, 5-23-23, 8-22-23, 11-28-23, 1-23-24.

Tabled 1-23-24, 3-13-24, 3-27-24, 4-10-24, 4-24-24, 5-8-24

--->Laid on the table, amended, requested final legal draft, 5-0.

DISCUSSION:

Chair I. Rivera noted that Atty Mantolesky provided a communication on this order.

Councilor Magrath-Smith noted that the letter reiterated the restrictions the city had on considering health concerns and the reality was that this could only be addressed in terms of aesthetics and make sure the facilities comply with FCC regulations. She then stated that since they were already going up and they did not need to tell anyone they were installing them, this needed to move forward. She stated that this would mean a special permit would be required, abutters would have to be notified, they would go through the site plan process, and the city could charge a maximum of \$270 a year, becoming a revenue stream for the city.

Chair I. Rivera made a motion to remove item 4 from the table as a package with item 3. Councilor Vacon seconded the motion. Motion adopted.

Chair I. Rivera read the letter into the record, which is available through the documents link at the bottom of these minutes.

Councilor Vacon made a motion to amend the language, adding:

1. as "M" under 7.8.3A Additional Development Standards for Small Wireless Facilities: "The failure to provide evidence of need/significant gap in service and/or the ability to meet current industry law and standards at the time of application may result in denial of the special permit."

2. to Duration of special permit: "The applicant shall provide proof of insurance to cover any claims brought against the facility. The city shall be named as an additional insured party."

3.. to the section on fees, after "an annual recurring rate of \$270 per year per facility," inserting the clause, "which may be changed from time to time as set by state or federal law,..."

4. After the language on insurance, adding in "Any small wireless facility that is abandoned shall be removed by the owner within 60 days of abandonment at the owner's expense."

She emphasized that the industry was going to change over time and the first amendment would take those changes into account. She then explained that while the language stipulated they must have insurance, there was nothing about providing evidence.

Councilor Bartley stated that there would be proof of insurance and the city should be named as an additional insured party.

Councilor Vacon noted that the fee was capped at \$270 and should have language allowing it to change without having to update the ordinance. She noted the fee was set by the FCC.

Councilor Bartley stated that the ordinance could reflect the FCC's changes. He added that the insurance could cover abandonment.

Atty Bissonnette suggested that the third item could reflect that the fee would be set at the maximum amount set by state, federal, or local laws.

Councilor Magrath-Smith noted that section 1 defined it as "Any exterior transmitting or receiving device mounted on a wireless telecommunications facility, building or structure...excluding any utility pole mounted equipment." She then questioned if small wireless facilities will be placed on telephone poles without noticing requirements. She asked if it should be amended to make sure people living next to those poles were noticed. She expressed her understanding that the goal was to make sure everyone knew where they were.

Councilor Vacon recalled an earlier discussion with HG&E where they stated they determined what could go on their poles.

Atty Bissonnette stated that was HG&E's plan and that should be with their petitions. He then explained that the balance of the licenses would at least give the city the opportunity to know where they were going. He emphasized that in most matters related to wireless telecommunications, there was no local control anymore, and this was a way to at least keep track and make revenue for the city.

Councilor Magrath-Smith asked if it was advisable to include language that anyone putting something on a utility pole would have to notify the city and notice abutters.

Atty Bissonnette stated that he was not certain if they had an exemption from these types of rules under federal regulations. He then suggested that if this was an additional revenue source for HG&E, it could be time to look at their PILOT payments.

Councilor Vacon asked if the amendments seemed reasonable.

Atty Bissonnette stated that he believed they would pass muster and would be added to the final language once approved by the committee.

Councilor Bartley seconded the motion to amend. Motion adopted.

Councilor Vacon made a motion to approve the ordinance, as amended. Councilor Bartley seconded the motion.

Councilor Bartley suggested having this come back for one more read.

Chair I. Rivera agreed having it come back, noting that language had not come back the same in the past.

Councilor Vacon amended her motion, approving the legal language and requested the Law Department to provide the final legal form. Councilor Bartley seconded the motion. Motion adopted.

Councilor Bartley made a motion to lay item 3 on the table. Councilor Vacon seconded the motion. Motion adopted, 5-0.

Item 4: 6-4-24 From Attorney Jane Mantolesky, letter regarding small wireless facilities ordinance.

---> Laid on the table, 5-0.

Councilor Bartley made a motion to lay item 4 on the table. Councilor Vacon seconded the motion. Motion adopted, 5-0.

Councilor Vacon noted that as this had been a long process over years, she thanked Kirsten Beatty for the ton of work she had done in this area. She added that Ms. Beatty had raised some big concerns. She expressed her own concern that a lot of this stuff was flying around and there was no capacity to measure it.

(1:42:55)

Chair I. Rivera made a motion to remove item 5 from the table. Councilor Magrath-Smith seconded the motion. Motion adopted.

Item 5: 4-2-24 GIVNER -- With community support, order that \$15 pothole claims fee be reduced to \$0 to reflect practices of neighboring cities and towns. Charging a fee to residents for a service paid for by taxes seems redundant. Introduced by ordinance in 2018, this nominal fee generates +/- \$400 annually.

*Tabled 5-8-24

--->Approved, 5-0.

DISCUSSION:

Chair I. Rivera stated that Givner was not available and recommended tabling for another time when she could attend.

Councilor Vacon stated that this was a reasonable order and believed that most residents filing a claim were not looking for the hassle and were only doing so when they had something happen that would cost them big money. She suggested that it would be a discouragement to charge \$15 to fill out the form.

Councilor Bartley made a motion to approve item 5. Councilor J. Rivera seconded the motion. Motion adopted, 5-0.

(1:44:50)

Councilor Magrath-Smith made a motion to remove item 6 from the table. Councilor Bartley seconded the motion. Motion adopted.

Item 6: 12-5-23 I. RIVERA -- Order that the city council review noise ordinance and require a decibel meter reading before a ticket can be submitted or for music to be asked to be turned down. It is my understanding that the department has the necessary devices to measure readings and we want to be sure that they are being utilized in case citations are challenged in court.
*Tabled 5-8-24

---> Laid on the table, 5-0.

DISCUSSION:

Chair I. Rivera stated that the chief was unable to attend and he would prefer not to discuss it without having an opinion from the Police Department with regard to how it would play out.

Councilor Vacon expressed agreement, adding that it would be getting into micromanagement to ask the department to get a measurement before they could ask someone to turn down noise that someone else complained about. She added that forcing them to prove something would take away an officer's discretion. She suggested that if someone complained, the officer should be able to ask them to turn down a noise.

Chair I. Rivera clarified that the focus was on when tickets get issued, noting that the ordinance already specified what a reading had to say. He suggested that if someone challenged it in court, there should be proof.

Councilor Vacon suggested taking out the part about asking for music to be turned down.

Chair I. Rivera stated that he would be okay with that.

Councilor Bartley suggested that the noise ordinance be provided the next time this is brought up.

Chair I. Rivera asked Admin Asst Anderson-Burgos to attach it next time.

Admin Asst Anderson-Burgos stated that he could pull it up now.

Chair I. Rivera stated that it was going to be tabled in order to bring in the Police Department for the next meeting.

Councilor Bartley noted that he had spoken to people with loud bikes many times and found they don't usually have an issue if they're asked to behave themselves driving on the streets.

Councilor Vacon made a motion to lay item 6 on the table. Councilor Bartley seconded the motion. Motion adopted, 5-0.

(1:48:25)

Councilor Bartley asked if item 7 would be taken up, noting that Councilor Jourdain was not there.

Chair I. Rivera stated that he would be okay with keeping it tabled, but it did not necessarily need his presence.

Councilor Bartley asked if Personnel Director, Kelly Curran, should be here to discuss this.

Councilor Vacon stated that she believed Parks Director, Tom Reynolds, said that this was all set.

Councilor Bartley made a motion to remove item 7 from the table. Councilor Vacon seconded the motion. Motion adopted.

Item 7: 2-21-23 JOURDAIN -- Ordered, that the Ordinance relative to the payment of city lifeguards be revised so as to make sure we are being competitive to other communities in the highly competitive employment of Summer lifeguards. Moreover, that the Aquatics Director and/or other reps from the Recreation dept be invited to the Ordinance Committee to help us review and change as appropriate.

*Tabled 3-13-24, 3-27-24, 4-10-24, 4-24-24

---> Complied with, 5-0.

DISCUSSION:

Chair I. Rivera expressed his understanding, based on conversation with Ms. Curran as well as with the City Solicitor's office, that there was a range of what they could be paid, and the department was still within the range, so the ordinance did not need to be updated.

Councilor Vacon recalled that Mr. Reynolds stated that during the budget hearing.

Councilor Vacon made a motion that item 7 has been complied with. Councilor J. Rivera seconded the motion. Motion adopted, 5-0.

(1:49:50)

Councilor Magrath-Smith made a motion to remove item 8 from the table. Councilor Bartley seconded the motion. Motion adopted.

Item 8: 4-18-23 MCGEE -- Ordered, that the position of Chief Administrative and Financial Officer be created and added to Schedule A
*Tabled 2-7-24, 3-13-24, 3-27-24, 4-10-24, 4-24-24

---> Referred to the Law Department, laid on the table, 4-1 (Vacon).

DISCUSSION:

Chair I. Rivera stated that the Mayor was unavailable to discuss this. He then expressed his understanding that this was meant to roll out along with changes to the Treasurer's position being appointed. He suggested voting on it now to move it to the full Council for discussion.

Councilor Magrath-Smith suggested that this had been talked about enough.

Councilor Magrath-Smith made a motion to approve item 8. Councilor J. Rivera seconded the motion.

Councilor Vacon stated that she would be a no.

Councilor Bartley stated that he would like to hear more from the Mayor.

Councilor Vacon stated that she did not see the money for it and the Treasurer matter had not been done.

Councilor Bartley stated that he wanted to support the Mayor in this but wanted to talk more. He then expressed a preference to table it rather than voting no.

Councilor Magrath-Smith suggested inviting the Mayor to the City Council meeting.

Councilor Bartley stated that was possible but perhaps not a great thing. He then asked when the next Ordinance meeting would be.

Chair I. Rivera asked Admin Asst Anderson-Burgos if another Ordinance meeting was scheduled.

Admin Asst Anderson-Burgos stated there was not yet one on the calendar.

Chair I. Rivera asked if a Wednesday was available before the end of June.

Admin Asst Anderson-Burgos stated that the 19th was a holiday and the 26th was open.

Councilor Bartley suggested taking it up in July and then deal with it at the August Council meeting.

Chair I. Rivera noted that would be after the budget was approved. He then asked if any Mondays or Tuesdays were available.

Councilor Vacon noted the next City Council meeting was the 18th, and no more until August unless a special meeting was called. She noted that free cash had not come back. She emphasized that if it did not come before the end of June, there would not be any until the next year. She noted the Council would have to meet again unless it was available before the 18th.

Chair I. Rivera stated that he was okay presenting this at the full Council, even though it may not be ideal.

Councilor Bartley suggested that it would be better to solidify it first but would be open to voting it out.

Councilor Magrath-Smith suggested moving the Charter and Rules meeting scheduled for the following Monday, and having Ordinance meet. She noted nothing was so pressing that they had to meet on the 10th rather than another day in June.

Councilor Vacon stated that while she had her position, votes out of committee did not have to be unanimous.

Chair I. Rivera suggested that to make this work, it needed to be done in a way where everyone was in a comfortable space to make it happen, even if everyone was not on the same page.

Councilor Bartley noted that the job posting was provided and asked if there was legal form.

Chair I. Rivera asked the administrative assistant if legal form was provided.

Admin Asst Anderson-Burgos stated that he had not yet received one based on the description.

Chair I. Rivera asked what others thought about meeting the following Monday.

Councilor Vacon noted it would have to be posted by the next day.

Councilor Bartley suggested meeting at 6, allowing the Charter and Rules meeting to follow after that. He then made a motion to refer item 8 to the Law Department to draft into legal form, and lay it on the table. Councilor Magrath-Smith seconded the motion. Motion adopted, 4-1 (Vacon).

(1:57:00)

Councilor Magrath-Smith made a motion to remove item 9 from the table. Councilor Bartley seconded the motion. Motion adopted.

Item 9: 5-21-24 J. Rivera -- Order for the removal of the handicap parking sign currently installed at 36 Northeast Street. The tenant, Lori Bresnahan, has relocated to Easthampton, making the presence of the handicap sign unnecessary at the specified location.

--->Approved, 5-0.

DISCUSSION:

Councilor Vacon made a motion to approve item 9. Councilor Bartley seconded the motion. Motion adopted, 5-0.

LAI

(1:57:25)

Councilor Vacon made a motion to remove item 10 from the table. Councilor J. Rivera seconded the motion. Motion adopted.

Item 10: 3-21-23 MCGEE -- Ordered, that an ordinance be established to address the 2/3 majority vote of the body for votes. Legal please provide the language necessary for review.

*Referred back 5-7-24

--> Approved form specifying 2/3 of those present and voting, 5-0.

DISCUSSION:

Chair I. Rivera stated that this was being taken up again because there was some earlier hiccups. He noted that the committee previously agreed to refer two sets of language and allow the full Council to pick one of the options.

Councilor Bartley stated that he would prefer to now pick just one.

Councilor Vacon recalled that there was confusion at the full Council, noting that the order suggested creating an ordinance to establish a two-thirds vote of the body. She then explained that the language referred to passage of measures requiring a two-thirds vote and the whole section should be passage of ordinances requiring a two-thirds vote of the City Council because that was the rule. She then read from the language, which stated, "unless otherwise mandated by Massachusetts General Laws or the charter, all adoptions of ordinances requiring a two-thirds supermajority vote for passage and shall be deemed passed if two-thirds of the entire body vote in favor that the legal form be ordained." She questioned where measures came in because that term had not been talked about. She emphasized that the debate was whether it would be of the entire body or of those members present. She recalled that one member of the body asked the committee to recommend one form. She then made a motion to look at the form that refers to the entire body and limit it only to the City Council and not any other bodies. Chair I. Rivera seconded the motion.

Chair I. Rivera asked Atty Bissonnette to define measures. He then suggested that if two-thirds of the body was being defined, it should be a City Council rule rather than an ordinance for the city.

Atty Bissonnette stated that this was an attempt to create a rule governing what constitutes passage of an ordinance. He noted that it was within the rules. He then stated that the term "measure" may not be appropriate and was an older charter term that did not apply here. He added that the question was about what it took to pass an ordinance, who got to vote, and who got to be counted. He emphasized that certain parts of state law required counting all bodies or conversely exclude any empty seats. He suggested that either of the two drafts would limit it to ordinances.

Chair I. Rivera stated that the question came up because one legal form would make a change to all voting bodies throughout the city.

Atty Bissonnette noted for example that the Planning Board had specific rules for voting under Chapter 40A. He added that the Conservation Commission also had their own sets of rules. He reiterated that this order could be done as only applying to City Council.

Chair I. Rivera asked Councilor Vacon to reiterate the amendments she was proposing.

Councilor Vacon stated that she was looking to add a new section stating, "Passage of ordinances requiring two-thirds vote of City Council. Unless otherwise mandated by Massachusetts General Laws or the charter, all adoptions of ordinances require a two-thirds supermajority vote for passage and shall be deemed passed if two-thirds of the entire body vote in favor that the legal form be ordained." She emphasized that while there were two previous steps, the final vote was that the passage be ordained. She noted that there was another version that referred to two-thirds of those present.

Chair I. Rivera asked for confirmation that the amendment should be added to both documents.

Councilor Vacon stated that was correct.

Councilor Bartley made a motion to amend, removing "super" from "supermajority."

Councilor Magrath-Smith noted that a rule existed, and then asked what the ordinances currently said was needed.

Atty Bissonnette stated that it was currently two-thirds of those seated.

Councilor Magrath-Smith clarified her question was asking to define what seated meant, present or full membership.

Councilor Vacon stated the body could determine what they wanted it to be. She added that it had historically been two-thirds of the entire body. She explained that this was meant to codify had been practice because one time on one issue, it had become a controversial matter.

Chair I. Rivera recalled it had been interpreted differently.

Councilor Vacon added that there were contradictory legal opinions saying the opposite of the other by the exact same person. She explained that this order was filed to discuss it and put it to rest. She clarified that the motion was just to amend the language for both forms, and the discussion was not yet on the two-thirds question.

Motion to approve amendments adopted.

Chair I. Rivera asked if the committee wanted to send one language or send both back.

All members suggesting picking one.

Councilor Magrath-Smith stated that most local councilors and other countries pass ordinances by majority vote.

Councilor Bartley stated that was not accurate.

Councilor Magrath-Smith questioned the value of needing two-thirds to pass ordinances versus just needing a majority. She noted that it was easier to pass laws and they would change more often. She stated that she had no issue defining what was meant by two-thirds.

Councilor Vacon stated that was a whole different debate.

Councilor Bartley suggested that ship had sailed, emphasizing that this was about putting into ordinance what was already in the rule. He then stated that he did not care at this point if it was two-thirds of the body or of those present.

Councilor Vacon stated that in the legal forms, the definition of entire body meant all currently elected members of the City Council currently serving. She then stated that if it was set at those present, it would be a calculation of those in attendance to determine what two-thirds was.

Councilor Magrath-Smith stated that while she may have thought differently about this in a different era, people being able to be present on Zoom changed what it meant to be present.

Councilor Vacon noted that could change in March.

Councilor Magrath-Smith expressed her understanding that was going to be extended.

Councilor Bartley suggested staying on point. He then expressed a preference for two-thirds of the whole body because it would consistent every time.

Councilor Vacon agreed.

Chair I. Rivera expressed a preference for two-thirds of those present. He suggested that it made more sense.

Councilor Bartley stated that he was fine with that.

Councilor Vacon acknowledged that it was a new day and a new way.

Councilor Bartley made a motion to request that the Law Department draft into legal form the version of those present, and that it be revisited at the June 10th meeting. Councilor J. Rivera seconded the motion. Motion adopted, 5-0.

Documents for this agenda's items can be [found here](#).

Meeting adjourned at 8:50 PM

Item 11: 8-1-23 ANDERSON-BURGOS -- Ordered, that when the use a building is changing requiring permits from city departments but not City Council approval, a communication be sent to the City Council informing of the change. This can help councilors keep constituents informed so that concerns can be addressed.

*Tabled 5-8-24

Item 12: 4-16-24 GIVNER -- Ordered the DPW install a handicap sign at 199 Beech St for Pablo Gonzalez. Handicap Placard PL2280794.

*Tabled 5-8-24

Item 13: 3-6-24 MAGRATH-SMITH -- That Section 8.1.9 be amended to include the following language after the last sentence: Requirement to submit new technical data
If the Town acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town will, within 6 months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s.) Notification shall be submitted to:

- NFIP State Coordinator

Massachusetts Department of Conservation and Recreation

- NFIP Program Specialist

Federal Emergency Management Agency, Region I

*Public hearing closed 4-24-24. Pending Planning Board recommendation.

Item 14: 12-19-23 MALDONADO VELEZ -- Zoning ordinance change proposal to allow cannabis businesses beyond the IG zone and allow priority for social equity applicants and those negatively impacted by war on drugs.

*Public hearing closed 4-24-24. Pending Planning Board recommendation.

Item 15: 3-7-23 MCGEE -- Ordered, that the Zoning Ordinance be amended to add a section for Short Term Rentals, in addition to amending Section 2 DEFINITIONS, and any other sections that may apply to this use.

*Public hearings held 4-25-23, 5-23-23, 8-22-23, 10-24-23, 1-23-24.

Tabled 1-23-24, 3-13-24, 3-27-24, 4-10-24, 4-24-24. Pending Planning Board recommendation.

Item 16: 3-7-23 MCGEE -- Ordered, that the Zoning Ordinance be amended to add a Section for Tiny Houses, in addition to amending Section 2 DEFINITIONS, and any other Sections that may apply to this use.

*Public hearings held 4-25-23, 9-26-23, 11-28-23, 1-23-24.
Tabled 1-23-24, 3-13-24, 3-27-24, 4-10-24, 4-24-24. Pending Planning Board recommendation.

Item 17: 10-17-23 MCGEE -- Ordered, That the DPW Commission return to reviewing and setting the Sewer Rate.

*Tabled 2-7-24, 3-13-24, 3-27-24, 4-10-24, 4-24-24

Item 18: 4-5-22 VACON, JOURDAIN, PUELLO -- Ordered, That a Legal opinion be issued to clarify allowed uses of marijuana impact fee money. For example, if odor from a facility is a problem in the community can the money be used for mitigation?

*Tabled 11-29-22, 3-13-24, 3-27-24, 4-10-24, 4-24-24

Item 19: 2-20-24 SULLIVAN -- Ordered, That the Vacant Building fee be adjusted to take into account the size (SF) of the building. Currently, a flat fee is assessed which is not reflective of the burden to the city and its taxpayers.

*Tabled 4-10-24, 4-24-24

Item 20: 1-22-24 (Referred back 4-2-24) DEVINE, GIVNER, J. RIVERA -- Ordered, to add the position of City Engineer to the Ordinance under Schedule A, Grade 13.

*Tabled 4-24-24

Item 21: 8-1-23 (Referred back 4-2-24) JOURDAIN — Ordered, that the City Council review and adopt the Mayor's proposal for the city's financial policies by ordinance."

*Tabled 4-24-24

Item 22: 10-4-22 MURPHY-ROMBOLETTI -- Ordered that the City examine and study the Schedule A increases that were recommended by the salary study completed in 2014, so that we can implement salary adjustments that are competitive and more aligned with neighboring municipalities in order to retract and retain City employees.

*Tabled 4-25-23, 2-7-24, 3-13-24, 3-27-24, 4-10-24, 4-24-24

Item 23: 5-2-23 MURPHY-ROMBOLETTI -- Ordered, That schedules B and C of ordinance 2-35 be updated as appropriate with competitive salaries to attract and retain employees.

*Tabled 3-27-24, 4-10-24, 4-24-24

Item 24: 12-19-23 MALDONADO VELEZ -- Ordered, Order that the city creates a Housing Committee tasked with creating policy suggestions and implementation of office of tenant protections, office of returning citizens and homelessness liaison. Roles and committee to be created by Ordinance while bylaws to be created by the committee. The committee should included at least one of the following - 1 tenant in market rate housing, 1 tenant with section 8 voucher holder, 1 tenant with MRVP or continuum of care, 1 tenant of HHA, 1 tenant representative of local organization working on housing issues, 1 home owner, 1 landlord.

*Tabled 2-7-24, 3-13-24, 3-27-24, 4-10-24, 4-24-24

Item 25: 3-21-23 JOURDAIN -- Ordered, The City of Holyoke develop a personnel policy for the handling of administrative leave and codifying the rules into Ordinance as recommended

by the Personnel Dept including but not limited to when employees should or should not be placed on paid leave or unpaid leave. The current process appears lacking objective standards. Taxpayers should also be protected to ensure people who should not be out on paid administrative leave are placed on unpaid administrative leave.

*Tabled 5-23-23, 6-27-23, 9-12-23, 10-24-23, 12-12-23, 3-13-24, 3-27-24, 4-10-24, 4-24-24

Item 26: 2-21-23 PUELLO — in accordance with the city charter, create ordinance language that confirms, no sitting city councilor shall become a member of any board or commission in city government during the term of office. To Ordinance Committee

*Tabled 11-28-23, 12-12-23, 3-13-24, 3-27-24, 4-10-24, 4-24-24

Item 27: 11-21-23 PUELLO — That we consider crafting an ordinance stipulating requirements for expenditure of funds of the police special events line and requirements. Example: committee organized event, private businesses participating, alcohol served, who is profiting etc.

*Tabled 11-28-23, 12-12-23, 3-13-24, 3-27-24, 4-10-24, 4-24-24

Item 28: 6-6-23 PUELLO -- Ordered, That speed humps be placed on South Summer St. Petition attached.

*Tabled 6-27-23, 3-13-24, 3-27-24, 4-10-24, 4-24-24

Item 29: 3-21-23 PUELLO -- That the following entry be added to the City Ordinances Sec. 86-325. - Schedule IV: Stop streets, this will be directed to the Ordinance Committee to be heard.

Street Stopped/ Vernon St
Direction of Travel/ Southerly
Intersection/ Main St

*Tabled 4-25-23, 3-13-24, 3-27-24, 4-10-24, 4-24-24

Item 30: 4-6-21 Petition for Speed hump at Argyle Ave.

*Tabled 6-21-21, 2-28-23, 3-13-24, 3-27-24, 4-10-24, 4-24-24

Item 31: 10-4-22 GIVNER, ANDERSON-BURGOS, PUELLO -- Ordered, Collaborative order to create "don't block the box" painting and signage to accommodate traffic flow on Beech St at CVS entrance/exit.

*Tabled 2-28-23, 3-13-24, 3-27-24, 4-10-24, 4-24-24

Item 32: 11-15-22 From Mayor Joshua A. Garcia, letter of Veto regarding order on reporting damages:

The Committee on Ordinance to whom was referred an order That an ordinance be created that requires a department head to report (with an incident report explaining the cause) of any loss in their department over \$250 in value to the City Council and Mayor within 30 days Recommended that the order be adopted, as amended for losses over \$500.

*Tabled 11-29-22, 3-13-24, 3-27-24, 4-10-24, 4-24-24

Item 33: 1-18-22 MALDONADO VELEZ -- Order that we look into creating an ordinance around trash pick up that is similar to when it snows, where residents, business owners, and the city are responsible for the trash on their property.

*Tabled 5-11-22, 3-13-24, 3-27-24, 4-10-24, 4-24-24

Item 34: 5-18-21 VACON, BARTLEY, MCGIVERIN, LISI -- Ordered, that the setting of the sewer rate be returned from the City Council to the DPW Commission where it had been previously determined.

*Tabled 6-29-21, 1-25-22, 6-7-23, 3-13-24, 3-27-24, 4-10-24, 4-24-24

Item 35: 4-6-21 MURPHY, LISI -- Ordered that the city council consider adopting a wage theft ordinance for all contractors doing projects for the city or receiving special tax incentives by the city similar to Easthampton and Springfield with the following purposes: prevent misclassification of employees as independent contractors; assure that employers are paying all payroll taxes and workers compensation premiums; comply with state laws governing the payment of prevailing wages; assure that contractors provide opportunities for Holyoke residents, veterans, people of color and women.

*Tabled 5-25-21, 6-22-21, 9-28-21, 11-9-21, 11-23-21, 3-13-24, 3-27-24, 4-10-24, 4-24-24

Item 36: 5-16-23 (referred back 2-6-24) MURPHY-ROMBOLETTI -- Ordered, that the City Council amend Ordinance 2-336(a) and (b) to reflect a streamlined process for disposition of tax title properties and other properties not needed by the City for municipal purposes and to add a new section for the creation of an Abutter Lots Sale Program.

*Tabled 3-13-24, 3-27-24, 4-10-24, 4-24-24