



## City Council Committee on Legislative Matters

### Members

Councilor Alex Jarrett, Chair

Councilor Marissa Elkins, Vice Chair

Councilor Stanley Moulton, III

Councilor Jim Nash

### MEETING MINUTES

Date: March 13, 2023

Time: 5 p.m.

### Video Conference

1. **Meeting Called to Order and Roll Call:** At 5:01 p.m., Councilor Alex Jarrett called the meeting to order. On a roll call, the following members were present: Councilor Jarrett, Chair; Councilor Stanley W. Moulton, III and Councilor Jim Nash. Vice Chair Marissa Elkins was absent. Also present were Ward 6 Councilor Marianne LaBarge, Office of Planning and Sustainability Director Carolyn Misch, DPW Director Donna LaScaleia and Administrative Assistant Laura Krutzler.
2. **Announcement that Meeting is Being Audio/Video Recorded**  
Councilor Jarrett announced that the meeting was being audio/video recorded.
3. **Public Comment**  
There being no general public comment, Councilor Jarrett moved to the next item on the agenda.
4. **Approval of Minutes of December 12, 2022**  
Councilor Moulton moved to approve the minutes of December 12, 2022. Councilor Nash seconded. The motion carried unanimously 3:0 by roll call vote.
5. **Items Referred to Committee**
  - A. **23.244 An Ordinance Relative to Parking on North Elm Street, referred by City Council - 2/16/2023**  
The ordinance proposes the elimination of five parking spaces directly adjacent to Childs Park as part of ongoing efforts to improve safety around the high school, DPW Director LaScaleia explained. Sometime last year, the city posted temporary 'No Parking' signs to open the area up around the crosswalk since parked cars obstruct the view of the crosswalk for motorists traveling west on Route 9 and force cars into the oncoming lane.

In a related process, the DPW had Fuss & O'Neill take a look at the entire area around the high school to improve safety along the whole corridor and one of its recommendations was that the temporary parking restriction be made permanent. The ordinance reflects Fuss & O'Neill's recommendation to permanently restrict parking on the Childs Park side of North Elm Street, she advised.

Members offered comments and asked questions.

In response to a question from Councilor Nash, Director LaScaleia confirmed that the bike lane on the Child's Park side of the street will remain. The bike lane and parking on the other side of the street will be looked at as part of the design of the overall project, she noted.

This is a break in a pretty much continuous bike lane starting from around the hospital and going all the way down to Smith College and downtown, Councilor Jarrett advised. Fixing this break on one side is certainly an improvement. As bicyclists approach the area now, they have to enter the main travel lane.

Councilor Moulton expressed his understanding that concerns about traffic have been heightened since several tragic accidents including one fatality. He's had concerns since his daughters attended school there in the 2000's. He agrees with Director LaScaleia that too much is going on in the area between Woodlawn Avenue and North Elm Street. He thinks making the first five spots 'No Parking' is an excellent first step.

**Councilor Moulton moved to forward the ordinance with a positive recommendation. Councilor Nash seconded. The motion carried unanimously 3:0 by roll call vote with Councilor Elkins absent.**

**B. 23.245 An Ordinance Relative to School Zones, referred by City Council - 2/16/2023**

Over the years she has been asked many times why the city couldn't designate the area around Northampton High School or Smith Vocational and Agricultural High School (SVAHS) as a school zone, Director LaScaleia related. The answer is that they have to follow the Manual on Uniform Traffic Control Devices (MUTCD) and Massachusetts amendments to that manual which govern everything related to traffic flow. She is very grateful that state government has updated the Massachusetts' amendments to the MUTCD to remove the restriction that school zones cannot include high schools. As soon as this tool becomes available they would like to avail themselves of it to designate sections of Route 9 in front of the high school and Smith Voke and sections of Elm and Milton Streets as school zones. With this designation, a 20-mph school zone would be superimposed over the regular speed zone for those areas when school is in session. (She screen-shared plans showing the location of the two zones.)

The zones will be marked with four flashing school zone signs which she hopes to have installed over the summer. Since the cost of the signs is over \$10,000, the city has applied for a grant to purchase them. If it is not received, they will have to look at more conventional signage. The school zone will be enforceable by the police, she confirmed.

Councilor Nash noted that Riverside Drive is not part of the school zone.

The manual of traffic control devices is very strict about what areas can be designated, Director LaScaleia said. School zones have to directly abut school property.

He asked where the beacons will be located.

It is unclear if the city will get the grant for the high school, Smith Voke or both. If they are fortunate enough to receive a grant, she will ask the city's consulting engineers where signs would have the most impact.

Councilor Nash said his understanding is that the 20 mph speed limit is not just for times when school is in session but for the times in the morning and afternoon when school is starting up and letting out.

It is either/or, Director LaScaleia clarified. It is a local option to decide when the 20 mph is in effect, whether it be throughout the school day or at particular times. An internal conversation between school administrators, the Mayor's office and the police department will be needed make this decision.

If the intersection is being redesigned, can it be redesigned in such a way that the new design encourages drivers to follow the new speed limit? Councilor Nash asked. Is that something they can ask Fuss & O'Neill to do?

Already done, she responded.

He asked if there is way to get MassDOT to allow them to eliminate the 35-mph zone between the two school zones since only a short stretch of roadway lies between them.

The 20 mph school zone will not be in effect on weekends or off hours, Director LaScaleia pointed out. There is a pending question with the city solicitor as to what their flexibility is on this. They have to be mindful that the school zone is not 24 hours a day seven days a week and that it will revert to 35 mph in off hours. It is going to be a driver education and enforcement issue, she added.

As part of the same legislative action that gave them the ability to establish school zones near high schools there was a change to the process for making changes to speed limits on state highways, Councilor Jarrett volunteered. Under the new process, the municipality puts in the request and MassDOT has 90 days to respond. It is no longer necessary for the city to do an engineering study.

Councilor Nash said he is going to be like a dog with a bone on this. Having been a consultant for the high school for many years, he is really familiar with traffic circulation there and so is keenly aware of the hazard of having a 35 mph zone nearby. He was actually there when a young lady was struck by a car once around 10 a.m. For kids with disabilities struggling to make judgments about how fast drivers are moving, 35 mph leaves very little room for error.

They had a chance to improve safety when the high school was redesigned in 1995/96 and that's when they closed off the roadway and put in the traffic circle. Cumulatively, it just hasn't worked out well. With Fuss & O'Neill and some money, "this is our chance to get it right," he suggested.

He really hopes the school steps up to figure out where folks are going to park, how kids in wheelchairs are going to get into the building, etc.

Councilor Moulton said he would be the second dog on Jim's bone. When the school zone is in effect, his preference would be that the corridor between the two schools be a seamless 20 mph.

In following the metrics they could actually have started the school zone all the way down in Florence beyond Smith Voke's field, Director LaScaleia noted. One of the challenges in defining the zone is that they want to be careful to encourage driver compliance and avoid a sort of driver fatigue. The more spread out the zone is without the appearance of a school, the more people might be tempted to speed up.

Councilor Jarrett asked if there is any plan to redo Locust Street between the DPW and the hospital.

There are no plans at this time to do anything there, Director LaScaleia said.

In talking about the project internally, one option discussed was to take the entire Route 9 corridor and turn it into a TIP project, she pointed out. Of course, there is a call for more immediate action and, as everyone knows, TIP projects are years in the making. With this more limited project, they are trying to stabilize the difficult situation around the high school with local funds. The more the project grows, the more expensive it gets. If they were to expand the scope of work, it would turn into a TIP project with the prospect of taking years for a shovel to go into the ground.

He thinks it is a good move to establish the school zones but he is concerned about the differential between the current design speed of the roads involved and 20 mph, Councilor Jarrett said. Looking at a longer-term project is a good idea but he also thinks making some less expensive changes in the meantime such as striping the roadway differently to change the number of lanes or adding a bike lane in front of Smith Voke would be helpful. He is glad to see this moving forward.

**Councilor Nash moved to make a positive recommendation. Councilor Moulton seconded.**

Although a lot of discussion has been focused on the high school, Councilor Nash acknowledged that Smith Voke is part of this. They have some equally challenging turning situations there.

Going back over 30 years, she was the city's Saving Lives director for a national grant, **Wendy Foxmyn of Ward 7, Leeds** related. She appreciates what Councilor Jarrett said about the bigger picture. One of the major things that's changed since then is cell phones and people looking down all the time. People are just not paying attention. It is a separate but related issue. She hopes the city will put more effort into education around pedestrian, bicycling and motor vehicle safety since it is important to do that as well. That was a big part of the work they did back then.

**The motion carried unanimously 3:0 by roll call vote with Councilor Elkins absent.**

**6. Public hearing on proposed zoning changes**

**A. 23.246 A Package of Seven (7) Ordinance Amendments Related to the Form-Based Code**

They will open the public hearing even though not all the ordinances in the package require a public hearing, Councilor Jarrett noted.

**Councilor Moulton moved to open the public hearing. Councilor Nash seconded. The motion carried unanimously 3:0 by roll call vote.**

**The public hearing was opened at 5:47 p.m.**

Councilor Jarrett reviewed the process he would follow in conducting the hearing.

As background, the recently-adopted form-based code was quite detailed and complicated and they knew there would be little bits and pieces that were missed, Director Misch said. A lot of this is really just clean-up. Some changes are in the zoning ordinance which requires a public hearing and others are in the regular code.

The zoning ordinances went to the Planning Board last Thursday and the Planning Board voted to recommend all the changes to the City Council, she advised. The change to the sign regulation simply changes the reference to the Central Business and General Business District to conform to the new zoning designations: i.e., Central Business–Core (CBc), Central Business–Side Street (CBs), Central Business–Gateway (CBg), Florence Village–Center (FVc) and Florence Village–General (FVg).

Similarly, the change to the table of off-street parking regulations (§8.1) clarifies that the specific parts of the Central Business District that don't require parking (except for a couple of uses) are CBc and CBs (not CBg). The Planning Board amended the heading of the third column to read "All *other* districts besides CBg," she noted.

As part of their discussion, Planning Board members said they are interested in revisiting parking requirements downtown and in Florence center to see if they should be eliminated altogether, she added.

### *Small Scale Marijuana Production*

The last of the zoning changes is to add small-scale marijuana production (less than a cumulative 5,000 s.f. of growing area) to the tables of use for the Central Business (CBc, CBs and CBg) and Florence Village zoning districts (FV-G and FV-C), Director Misch advised. No portion of the use would be allowed to front on a public way and the use could only occur at the back of a building or in a building behind another building. A footnote would require all such spaces to incorporate high-efficiency particulate air handlers with activated carbon filters and exhaust systems designed with vents that force air at least 10 feet above the roof line of the building. Alternative technology could be used with a finding from the Planning Board that it limits odors from marijuana to the extent practicable in any place where the public or clients are present.

Up to this point, marijuana cultivation and production has been differentiated from retail sales by zoning. Since most production and cultivation facilities are large buildings with blank walls, they were considered more appropriate for industrial districts. Office Industrial (OI), General Industrial (GI) and Planned Village (PV) districts all allow cultivation and include language requiring carbon filtration for production.

More recently, there have been modifications to the Cannabis Control Commission's permitting process to allow a combination of uses in a very small space, allowing so-called 'microbusinesses' to receive permits for small-scale cultivation along with packaging, marketing, sales and delivery. These types of permits are targeted to social equity candidates.

The idea for allowing this use downtown and in Florence is that smaller blank windowless buildings would not detract from the pedestrian vibrancy of a street front if only allowed in the back of buildings or behind other buildings. Under these conditions it seemed to make sense to allow them in all commercial districts, including downtown and Florence village.

Councilor Jarrett suggested discussing the three zoning amendments within the public hearing and then closing the public hearing prior to discussion of the general code amendments.

Councilor Nash expressed his understanding that micro cultivation is currently not allowed downtown or in Florence.

Director Misch clarified that it is not allowed anywhere in the city.

Councilor Nash mentioned that the ordinance uses the word 'marijuana' while, in recent discussions, the council has spent a lot of time talking about cannabis. He doesn't know which term is more appropriate, but it might be good to come up with a consistent term, he suggested.

Councilor Moulton expressed his understanding that this is the first mention of allowing microbusinesses in any zone. He asked what the rationale is for not including them in the industrial zone where larger production facilities are allowed.

They could also do that and there may be opportunities for this type of use in some industrial spaces, Director Misch allowed. It's not that it wouldn't be allowed; cultivation and production is allowed in those districts, it just wouldn't be defined as a microbusiness. What is not allowed in OI and GI is onsite sales. Micro-businesses as defined do not allow onsite sales either; they only allow sales through the internet.

Councilor Moulton echoed the important points he took away from Director Misch's presentation; namely, that these are not retail operations and that industrial and planned village districts allow cultivation of any size so a small operation like this actually *is* allowed in OI and PV.

He expressed his understanding that what they are doing is defining a subset of cultivation/production (less than 5,000 s.f.) and allowing it downtown and in Florence Village districts.

Councilor Jarrett agreed allowing this could give social equity applicants a leg up.

Councilor Jarrett said he appreciated Director Misch bringing up the issue of parking standards. The central business gateways are walkable neighborhoods so it's worth reconsidering parking requirements there. Parking adds to the total cost of housing so it is certainly a concern they should be addressing.

### **Technology for Mitigating Odor**

Councilor Nash asked about the effectiveness of high-efficiency particulate air handlers. Do they know how effective these are? He asked. His one concern is that, with production, the odor of marijuana is generally present.

At the time of introduction of the original zoning ordinances for marijuana production, planners did some research from other states and carbon filters were the most effective kind of filters in use and working in other states at that time, Director Misch advised.

The language is exactly the same as has been adopted in the industrial and GB districts for production facilities, she added.

Councilor Jarrett asked if the facility on Ladd Avenue is for production or just processing. He hasn't heard any complaints about that.

The Planning Board raised the issue that downtown and in Florence commercial areas some adjacent roofs may be higher than the roof of the facility, Councilor Moulton pointed out. He asked if there is a best practice standard for the height vented air is required to be forced upwards. The height of different rooflines

adjacent to the facility might need to be taken into account. Generally, he wondered if there is newer data that ought to be brought to bear for regulating the particles and the odor associated with production.

The carbon filter was considered to be the top technology a few years ago, Director Misch asserted. As she recalls, the projection above the roofline was to prevent side venting and make sure it is vented straight up. The applicant has the opportunity to offer an alternative technology through the Planning Board process.

Councilor Nash asked who would handle the enforcement of odors.

It is zoning, so technically it would be the building department, Director Misch said. She believes it is also a requirement of the CCC so there is a double layer of enforcement. At some point, the perception of smell is subjective since what is offensive to some is sometimes not as offensive or objectionable to others, she noted.

If someone lodged a complaint, a city agent would make sure the operator installed the right equipment, that it is functioning and that they are changing the filters because there is a maintenance requirement. They would probably reach out to the CCC for guidance.

Councilor Jarrett asked why it is in zoning.

That's a good question. It could be in the general ordinance, she acknowledged.

If it is in the regular ordinance it would be retroactive while in zoning it would not be retroactive, he pointed out.

### **Public Comment**

Councilor Jarrett opened the floor to public comment.

**Jacqueline McCreanor** of **North Street** said she is concerned about odor because she has heard that some pretty noxious fumes go along with the processing and production of marijuana. It would be great to know that there was some more research done before putting it in effect. It sounds like there is a little uncertainty about what filters do what.

She asked members to refresh her memory about the other zoning ordinances under consideration.

One is about sandwich board signs and the other about parking standards. No change is being made, but the ordinance is clarifying that in Central Business-Core (CBc) and Central Business-Side Street (CBs) there are still no parking requirements while in Central Business-Gateway (CBg) and all other districts there are parking requirements.

Residents had many meetings on a potential marijuana production facility in her ward at the gravel pit on Ryan Road and there were huge concerns about the odors, Councilor LaBarge recounted. Odor is a huge factor. That company was going to put in a state of the art system. "The outcry was huge," she reported.

She shares concerns about odor, she indicated.

**Wendy Foxmyn, Leeds**, said she has concerns about sandwich board signs in most places but particularly in Florence. She liked Councilor Jarrett's idea of putting odor mitigation requirements in the general ordinance rather than 'enshrining it in the zoning bylaw' where it is problematic to apply to existing facilities.

In her reading of the ordinance, she didn't see that micro businesses are specifically tied to social equity applicants.

Her question is also "where does this come from?" Is it an idea coming right out of the planning department or was it brought forward by a business owner? She asked.

**Planning Department Response**

With regard to odor, the more product and the more processing, the more potential for more intense odors to be created, Director Misch pointed out. Planners looked a lot at big production/cultivation/manufacturing facilities on the west coast, which are different than smaller manufacturers. The space on Ryan Road was 175,000 square feet - a huge production facility. The applicant did propose state of the art filtration which she thinks she remembers as being carbon. Basically, they apply the same standard no matter what the scale. If it works for over 100,000 square foot facilities, it should work for very small-scale production.

She doesn't know if micro businesses are only available to social equity candidates. Under their zoning, it is about the use no matter who is operating it.

In 2018, planners decided to differentiate between production and sales. There have been applicants who have asked if they could locate in the CB and Florence Village districts and to this point they have said no. More recently there was an applicant who signed a lease for space in Florence Center that was previously industrial but now had been wrapped into the Florence Village district zone where the use is not allowed.

Planners thought maybe they should reevaluate because it is a different kind of use because of its scale. The [larger] scale and fact that production facilities have thick, blank walls made them [previously] not conducive to a downtown pedestrian-oriented center.

That's why this ordinance to allow micro businesses was introduced.

He has looked at the CCC regulations and definitions for microbusinesses and it is a two-part regulation, Councilor Moulton shared. 'Microbusiness' would allow cultivation or production or both and there is no restriction to either economic priority or social equity applicants. There is a second part which would allow microbusinesses to receive a delivery endorsement and this piece is only available to economic priority or social equity applicants.

There being no further public comments, **Councilor Moulton moved to close hearing. Councilor Nash seconded. The motion carried unanimously 3:0 by roll call vote.**

**The public hearing was closed at 6:34 p.m.**

Director Misch reviewed the four general ordinance changes. The change to **§285-4 (4) Location of Mobile Food Vehicles** is simply to update the reference to the zoning districts to reflect their new names, she clarified.



Councilor Jarrett pointed out that food trucks are currently allowed in Central Business-Gateway (CBg) and that the change as proposed would no longer allow them there.

That was not the intent, Director Misch said. This could be remedied by limiting the prohibition on food trucks to the Central Business-Core (CBc) and Central Business-Side Street (CBs) zones, she noted.

Councilor Jarrett said he appreciates how the change to §285-17 expands the requirement to clear snow by 9 a.m. to the Central Business-Gateway (CBg) district.

With regard to mobile food trucks, CB-Side Street includes Hawley Street, and there is sometimes a food truck at the arts place on Hawley Street, Councilor Nash noted. He wondered if they wanted to hone down the restriction to CB-Core so as not to prohibit this.

They are not restricting any food truck on private property, Councilor Jarrett clarified. Hawley Street could have a food truck on its property. This is solely related to public parking. With the amendment, it will mimic the current situation.

Councilor Jarrett opened the floor to comments from the public.

Jacqueline McCreanor asked Director Misch to give examples of the core, side street and gateway zones.

Director Misch described the locations of these three districts.

Councilor Nash moved to put the package on the floor with a positive recommendation. Councilor Moulton seconded.

Councilor Jarrett moved the following amendment for §285-4:

**Mobile food vehicles may park and operate in legal public parking spaces outside of Central Business-Core (CBc), Central Business-Side Street (CBs) and Florence Village districts. Councilor Moulton seconded. The motion carried unanimously 3:0 by roll call vote with Councilor Elkins absent.**

Councilor Jarrett noted that the amendment to §285-4 was approved.

Councilor Moulton said he was comfortable moving everything with a positive recommendation except §350-22, 1-5 referencing microbusinesses. He doesn't feel they have done enough due diligence with regard to controlling odors related to marijuana production facilities to allow this to go forward in commercial districts. At most, he would support a neutral recommendation on that particular ordinance.

Members discussed the possibility of separating the package into two pieces with six ordinances being Part A and §350-22, 1-5 referencing microbusinesses being Part B

**Councilor Nash withdrew his motion.**

Councilor Moulton moved to separate the package into two pieces with the six ordinances being Part A and §350-22, 1-5 being Part B. Councilor Nash seconded. The motion carried unanimously 3:0 by roll call vote with Councilor Elkins absent.

Councilor Nash moved to send item A forward with a positive recommendation with the amendment to §285-4 as approved. Councilor Moulton seconded. The motion carried unanimously 3:0 by roll call vote.

Councilor Nash moved to send item B with a neutral recommendation. Councilor Moulton seconded.

Councilor Nash confirmed the odor concern is what needs to be figured out. He agrees with Councilor Moulton that they need to do a little more research before approving this change.

There are two issues for him, Councilor Moulton said. With regard to due diligence, his request would be to look to see if anything has changed in terms of national standards/best practices in the past five years. The other is the excellent question raised by Councilor Jarrett of whether this belongs in the general code rather than the zoning ordinance. He is open to a wider discussion of whether this ought to be a general ordinance.

He would want to know that any odor would be absolutely minimal and appreciates the additional point about where the ordinance belongs, Councilor Jarrett concurred. It would be great to have some information about where other towns have put this.

For folks battling an addiction, odor going out into the neighborhoods is a real hardship, Councilor Nash added. He believes some extra due diligence is in order.

The motion carried unanimously 3:0 by roll call vote with Councilor Elkins absent.

A. 23.247 An Ordinance to Clarify Reduced Lot Line Uses Allowed by Right, referred by City Council - 2/16/2023

Process note: This zoning ordinance amendment was expected to be taken up at today's public hearing but, due to a clerical error, the legal notice advertising the public hearing inadvertently omitted a reference to this change. Since it was not properly noticed, Legislative Matters will re-advertise the public hearing and take this up at its meeting on Monday, April 10th at 5 p.m.

Councilor Jarrett announced that the committee will take up 23.247 on Monday, April 10th at 5 p.m.

7. New Business  
None.

8. Adjourn  
There being no other business, Councilor Moulton moved to adjourn. Councilor Nash seconded. The motion carried 3:0 by roll call with Councilor Elkins absent. The meeting adjourned at 7:07 p.m.

*Prepared By:*  
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