

City of New Haven
Journal of the Board of Aldermen
Legislation Committee

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Monday, March 23, 2009

7:00 PM

Aldermanic Chambers

ALDERMANIC NOTICE - NEW HAVEN

THE LEGISLATION COMMITTEE WILL MEET ON MONDAY, MARCH 23, 2009 AT 7:00 P.M.
IN THE ALDERMANIC CHAMBER OF CITY HALL, 165 CHURCH STREET, TO HEAR:

Ordinance Amendment amending the Code of Ordinances of the City of New Haven to provide a new section titled "Marshals" to govern the use of Marshals for city related business.

ORDINANCE AMENDMENT TO CHAPTER 78 OF THE CODE OF
ORDINANCES REGARDING STREETS, SIDEWALKS AND PUBLIC WAYS

THESE ITEMS ARE FILED WITH THE CITY CLERK, ROOM 202, 200 ORANGE STREET,
WHERE THEY ARE AVAILABLE FOR PUBLIC INSPECTION. PER ORDER ROLAND J.
LEMAR, CHAIRMAN, ATTEST: RON SMITH, CITY CLERK.

IF YOU NEED DISABILITY RELATED ACCOMMODATION, PLEASE CALL THREE
BUSINESS DAYS IN ADVANCE OF THE MEETING: 946-8122 (VOICE) OR 946-8582 (TTY).

MINUTES

Legislation

March 23, 2009

Chairman Lemar called the meeting to order at 7:05 P.M. in the Aldermanic Chamber of City Hall, 165 Church Street. Also present were Committee member Aids. Lehtonen, Perez, Sandman and Plattus. Aid. Goldfield also attended.

1. Amendment to the New Haven Code of General Ordinances to provide a new Section titled "Marshals" to govern the use of marshals for city related business.

Speaking for was sponsor Aid. Jorge Perez.

Chairman Lemar gave a brief history of the item, noting previous hearing and the substitution amendment prepared by a working group of himself, Aids. Perez and Goldfield and city staff. He also noted actions considered by the Connecticut General Assembly; then introduced State Representative Robert Megna, present to speak in support of the proposal.

State Representative Robert Megna (D-97), 40 Foxon Hill Road, New Haven read prepared testimony in favor. He said that proposal could save hundreds of thousands and would help those involved in foreclosure. He told the Committee to look into "alias tax warrants", which do not require services of an attorney. In response to Committee questions, Rep. Megna described his bill to limit marshals' copying costs, adding that other related proposals may come before

the General Assembly. He said that he expects the New Haven ordinance to have greater impact than his own bill. In closing, Rep. Megna said that (the proposed ordinance) preserves and assures a good collection rate, while lending a helping hand to taxpayers in foreclosure.

Chairman Lemar then called Michael Fumiatti, Purchasing Agent, who drafted the Request for Proposal associated with the proposed ordinance.

Mr. Fumiatti described the proposed Request for Proposal process and answered questions from the Committee, including the following points:

- Attorneys and agencies using marshals hired under the RFP process would forward their records to the purchasing agent.
- Marshals fees would be approved by the head of the agency using marshal services.
- Marshals would collect fees, but the fees would be made payable to the City.
- Marshals would have a vendor code, and would submit an invoice to the City. They would be paid by check issued by the Controller's office.

Public Testimony

H. Mark DeAngelis, P.O. Box 185471, Hamden CT.

Mr. DeAngelis spoke against the proposal, making the following points:

- Most are unaware of the wide range of marshals' duties.
- Foreclosure work is done in close association with attorneys, each of who has particular requirements.
- Foreclosures vary greatly. It is difficult to set a fixed price for foreclosure procedures.
- Marshals bear their own associated costs, including cars, insurance and other professional expenses not covered in the fee.

In response to a Committee question, Mr. DeAngelis said that he is not currently doing city work, but could, depending on the attorneys.

William J. Nolan, P.O. Box 1177, New Haven

Mr. Nolan told the Committee that, "the service of process is a function of government, not politics". He said that as a result of "bidding wars" at the Housing Authority, the fees were down and the level of marshal service diminished. He said that some conscientious marshals would not do the work. Others, he said and that others would assign a low priority to Housing Authority work, so the work would be late or left undone. Mr. Nolan said that bidding to get a low price for city marshal services could result in poor service.

In Committee discussions, Aids. Lehtonen and Sandman voiced concern about getting the aggressive collection ne4eded by the city, and the possibility of blown legal deadlines. Aid. Perez stated that the ordinance contains provision for disciplinary action and removal for cause.

John Prokop, Director of Public Works, 86 Russell Street

Mr. Prokop said that he had served on the State Marshal Commission. He concurred with the previous testimony that there are many facets of executions, depending on what is ordered and signed by the court. He added that, as director of Public Works, he is very familiar with evictions; and that state law requires pick up (of belongings on the street) within 24 hours. He said that it is difficult for his crew to keep up with this when about 60% of evictions are canceled by partial payments within 24 hours. He said that the marshal is paid for each service and this process is often repeated many times.

Chairman Lemar then recalled Mr. DeAngelis to describe marshals' work in evictions. Mr. DeAngelis there are 3 separate processes, each with a fee. He added that marshals' fees are usually several hundred dollars for eviction, and that they are turned in to the attorney who then collects is from his client.

Committee action: Ald. Perez, seconded by Chr. Lemar, moved the substitution amendment item. Ald. Sandman said that he thought the Bar Association should have been notified. Chr. Lemar said that it had, though informally, as had all active marshals. Ald. Perez noted that the matter had been well publicized. Ald. Goldfield said that he hoped WPCA would participate. Chr. Lemar answered Ald. Goldfield's concern that the bid process may result in poor quality service by noting that any marshal could do city work if he/she agreed to the bid price. Ald. Perez said that he wanted to review the new process after one year to see if it did, indeed, get other marshals city work.

After some further discussion, Chr. Lemar said that he believed that the latest version of the ordinance would bring fairness and transparency to the city marshal selection process, would not impose an extravagant burden on attorney and would invite new people into the process. The Committee voted unanimously in favor of the substitution amendment.

Amendment to Chapter 78 of the New Haven Code of General Ordinances regarding streets, sidewalks and public ways.

Speaking for were John Prokop, Director of Public Works and Michael Barker Risk Manager.

Mr. Prokop began by describing the city streets as "in deplorable condition". He said the proposed ordinance amendments would help the city work more constructively with companies that need access to the city infrastructure. He said that the public works director and city engineer must work together to map out maintenance for city rights-of-way; and that the ordinance changes would better allow the city to do that. Mr. Prokop briefly outlined the major amendments, stating that the city will have more control over excavations. He said that companies will be required to pay more (\$1,000) for permanent patch, so the city is assured of a good job, adding that Public Works has obligation for due diligence in making sure that patch jobs are good.

Mr. Barker told the Committee that companies must give 24 hours' notice to public works and police for any excavation work. He said that flaggers will be required at the work sit, noting that 80% of work site injuries are to persons going past work sites. Mr. Barker said that the city will set up an inspection process according to specifications for each job. He added that the permit must be

posted at the work site and that there will be penalties for non-compliance.

The Committee continued to discuss the proposal at some length, including the following points:

- The permit is issued from start to completion of the job.
- Standards for permits are set by the city engineer; the information is available on application.
- Companies must be responsible for temporary patches for two years. This covers most work started at the end of the season and continued into the next - usually a maximum of 14 months.
- With the amendments, the city will be able to track all street cuts.
- The city contracts out for permanent patching. A good permanent patch should last up to 15 years.
- The proposal reflects work done on companies concerns as well as the city's concerns.
- The city engineer devised the formula for the cost of permanent patching. Chr. Lemar asked staff to obtain a copy of that formula for the city.

Mr. Prokop said that he believed that all public works foremen, police shift commanders and LCI right-of-way inspectors should be trained and certified to inspect street work.

Committee action: Ald. Perez, seconded by Chr. Lemar, moved the item. Ald. Perez said that the city must be sure that \$1,000 is enough from companies for permanent patching. Ald. Lemar noted the need to train enforcers.

The Committee voted unanimously to favorably refer the proposal.

The Committee voted to adjourn at 8:57 P.M.

Christina Plass, Legislative Aide.