

The Committee on Rules & Ordinances met on Wednesday, April 28, 2010.

The meeting was audio taped for the record.

Members present were Alderman L. Charles DiPerri, presiding, Alderman Mille Cardello and Michael Mangan, Councilors Peter Napolitano, Cynthia Sarnie, Lorrie Bruno and Daniel Napolitano. Non members present were Alderman Robert Van Campen and Councilors Rosa DiFlorio and Adam Ragucci.

Member absent was Councilor William Cardello.

Communication received from Councilor William Cardello that he would be on vacation and unable to attend.

The Committee considered a Resolution offered by Councilor Jason Marcus: That the Director of Code Enforcement and a Representative of the Police Department appear this meeting relative to discussing an update on the progress made toward cleaning up trash pickers.

City Solicitor Colleen Mejia, Director of Code Enforcement Frank Nuzzo and Mayors Chief of Staff Melissa Murphy were also present.

Councilor Daniel Napolitano noted that prior court rulings indicated that trash placed on the curb outside the curtilage of a home is not protected by the Constitution because it is left in a place "particularly suited for public inspection". He stated that based on these constitutional rulings there was not much the Code Enforcement Department could do to stop trash pickers unless they were tipping or dumping the contents of the bags/barrels onto a public way. Mr. Nuzzo confirmed that this was indeed the case and explained that his Officers have written Trash Pickers tickets based on the current City Ordinance but told the Committee that the tickets were overruled by the Court due to the reason outlined by Councilor Napolitano. Mr. Nuzzo acknowledged that his Department was able to go after some of the Trash Pickers by confiscating the shopping carts that these individuals had removed from some of the local businesses. Alderman Mangan expressed concern about the recycle bins being picked through by these individuals which resulted in less weight to the containers and therefore reducing the monetary incentive points that would have been obtained by the residents of these containers. Ms. Mejia agreed to research further, but indicated that she was of the belief that the recycling containers would be grouped together with trash as it related to the constitutional privacy issue once these items were placed in public for disposal. Alderman DiPerri remarked that this would defeat the recycling program if individuals were allowed to pick through the contents of the recycling bins. Alderman Mangan recommended that a new piece be introduced to determine if something could be done to prohibit the picking through recycling bins with a further recommendation that the matter before the Committee be referred back to Sponsor.

Accordingly, the Committee voted: To report back to the Common Council with a recommendation to refer back to Sponsor.

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Member absent was Councilor William Cardello.

Communication received from Councilor William Cardello that he would be on vacation and unable to attend.

The Committee considered an Ordinance offered by Alderman Robert Van Campen, as President: To amend Chapter 16 of the Revised Ordinances of the City of Everett by adding Section 16-26 (1) Requirements for storage of refuse and trash cans..

City Solicitor Colleen Mejia, Director of Code Enforcement Frank Nuzzo and Mayors Chief of Staff Melissa Murphy were also present.

Ms. Murphy noted that the proposal was similar to what was being done in Revere. Alderman DiPerri remarked that the intent was in a good direction, but suggested removing the reference to exterior wall based on a recent rash of fires to containers stored against the exterior walls of a home. Councilor Sarnie questioned what residents would do if they didn't have a backyard. Ms. Murphy explained that paragraph B of the proposal gave the Code Enforcement Director of City Services Director the authority to grant exceptions in neighborhoods where certain housing types prohibit compliance with storage requirements. Councilor Daniel Napolitano questioned how the City could constitutional impose regulations on private property. Ms. Murphy responded that the City could do so for public health reasons and stated further that the containers were a nuisance when stored in public view. Councilor Peter Napolitano reminded all that Everett was a small congested City and that some residences did not have a lot of room to store of their trash cans. Councilor Sarnie recommended amending by deleting "adjacent to an exterior wall" in paragraph a. iii.

Accordingly, the Committee voted: To report back to the Board of Alderman with a recommendation for favorable action as amended by deleting "adjacent to an exterior wall" in paragraph a. iii..

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Member absent was Councilor William Cardello.

Communication received from Councilor William Cardello that he would be on vacation.

The Committee considered an Ordinance offered by Alderman Robert Van Campen, Councilors Daniel Napolitano and William Cardello: In the interest of efficiency and accountability, that the City of Everett establish a Water and Sewer Enterprise Fund in accordance with GL C. 44.53F ½

City Solicitor Colleen Mejia, Water Superintendent Glen Doherty and Mayors Chief of Staff Melissa Murphy were also present.

Ms. Murphy provided the Committee with a list of Pro's and Con's for establishing an Enterprise Fund.

Alderman Van Campen acknowledged that this was his second attempt in having the City establish an Enterprise Fund. He stated that an Enterprise fund would allow more transparency in billing and in the way the City taxes. He stated further that the Enterprise would allow the Water Department to be self sufficient and bring the accounting system into the 21st century which would also allow the Department to more accurately track water/sewer usage. Councilor DiFlorio questioned that if the Water Department became self sufficient would the City Council still be able to review and approve its budget annually. Ms. Murphy confirmed that the City Council would still review the Water Department budget. Councilor Sarnie asked if the Administration could provide City Government with anticipated operating costs for the Water Department under the Enterprise Fund in comparison to prior operating costs. Ms. Murphy indicated that this could be done but noted that the operating costs would be more. She also informed the Committee that the Administration would need to bring in an outside consultant to help set up the Water Department under an Enterprise Fund. Alderman DiPerri remarked that he did not believe that this was a good idea and referenced increased rates, increased operating costs that would now include salaries, equipment and all other related expense. Alderman Mangan suggested inviting a representative of another community that has the Enterprise Fund to discuss how it works in that community. Ms. Murphy informed the Committee that approximately 70% of the Communities in Massachusetts now operate with an Enterprise Fund. Alderman Van Campen asked if Mayor DeMaria was now in support of an Enterprise Fund. Ms. Murphy responded that Mayor DeMaria was in favor of the Enterprise Fund. Alderman Van Campen concurred with Alderman Mangan on having the Administration invite either a representative of another community with the Fund or a DOR representative to the next Committee meeting on the subject matter with a further request that the Administration provide an overall presentation on costs. Ms. Murphy agreed that this could be done.

Accordingly, the Committee voted: To report back to the Board of Alderman with a recommendation to grant further time.

Respectfully Submitted,

John W. Burley
Clerk of Committees