

**20-020**  
**COMMITTEE OF THE WHOLE**  
**MEETING REPORT**  
**WEDNESDAY, MARCH 20, 2024 @ 6:00 P.M.**

To participate remotely outside of Zoom, please e-mail [AHurtubise@medford-ma.gov](mailto:AHurtubise@medford-ma.gov).

Attendees: Council President Isaac “Zac” Bears; Council Vice President Kit Collins; Councillor Anna Callahan; Councillor Emily Lazzaro; Councillor Matt Leming; Councillor George Scarpelli; Councillor Justin Tseng; Attorney Robin Stein, KP Law; other participants as noted in the body of this report.

President Bears called the meeting to order at 6:00 p.m. on March 20, 2024 in the Medford City Council Chambers on the second floor of Medford City Hall, and via Zoom. The purpose of the meeting was to discuss the proposed Food Truck Ordinance (Paper **20-020**).

President Bears thanked participants for attending. He detailed work done on the ordinance to date. The ordinance was originally offered by former Councillor Knight. He said we have a draft back from legal counsel. Vice President Collins said we last discussed the ordinance in November during the last term. The intent is to streamline the process by which one-day food truck vendors may obtain that license so they don’t have to come before the City Council; this would also prevent logistical issues of having to come before the City Council before the event. She said we requested feedback. She said the only real concern here is the potential for competition between food truck and brick and mortar restaurants. She said we have a draft ordinance and draft Board of Health regulations, and draft City Council regulations, but that the City Council doesn’t have any regulations.

Attorney Stein said that the ability to have a food truck implicates multiple regulatory schemes, particularly the Board of Health and the City Council. She said that there needs to be a Board of Health regulation consistent with the state sanitary code. She proposed an amendment to the city ordinances to clean up 74-2. The Council would be the entity under city ordinances that gives permission to use the public ways. She recommended a section of the ordinance that specifically addresses mobile food vendors. She detailed situations where regulations can be put into place. She said you don’t necessarily need to adopt a regulation. She said one purview is Board of Health and the other purview is City Council.

Vice President Collins said that the City Council licenses every food truck vendor. She said she wonders if there might be a more simplified, systematized way to get these permits. She said she does not want to see the City Council approving or denying food

truck permits without an consistent rubric. She said there might be a way to have DPW or the Police Chief involved.

President Bears said that the intent is to make this an administrative process that does not require a public hearing or public meeting. He said we would like to have a city staff member to have the procedural and administrative authority to issue food truck permits rather than requiring the approval of a public body in a public meeting.

Councillor Callahan asked if we know what other cities do on this front. President Bears said he was not sure.

Councillor Scarpelli said that the biggest piece that was concerning to businesses was the protection of brick and mortar businesses, and that out-of-city businesses could come in and take business from city businesses that are committed to the City. He said President Bears's points are well taken. He said that the Mayor has a program for school nights and that this could make that process easier. He said he would like to get to a point where this is streamlined and not cumbersome.

Vice President Collins said that hopefully we can have a streamlined process here. President Bears said that there are days when Riverside Avenue is shut down for Clipper Ship Day and we don't want to make an onerous process for events like that.

Attorney Stein said that the Council's jurisdiction is over public ways. She said the School Department could issue permission for an event at the schools.

Councillor Scarpelli said that the food truck permit would still come to the Council even if a food truck was on school grounds. He said that we have to protect brick and mortar businesses and that is why the Council would need to approve these permits.

Attorney Stein said she could look at this issue. She said that the City Council is only the custodian of property that it has been vested with. She said that the existing 74-2 deals with use on streets or other public ways. She said she is not aware of any other language in city ordinances that would place permission to use school property with the City Council.

President Bears said that we have not had anything to do with part of this process because it is not relevant to our ordinances. He said that all we are trying to do here is approve food truck permits or licenses. He said he would like to have the Health Department be responsible for this, and not the City Council.

Attorney Stein said that the Council could designate that authority. She said that the only public land that the City Council would need to give permission for would be the public ways. President Bears said that this would be a second level of permission.

Attorney Stein said that this would be a policy decision that the Council has to decide, and for the Administration as well. She said that the Council can designate someone else to make this call, and there can be a proposed regulatory scheme.

President Bears said he would like to see, for example, that the DPW could give approval for a food truck in the public way. Attorney Stein said she didn't see anything in the law that allows the Board of Health to limit use of a private food truck on private property. She said if the Council is not the custodian of other public property, the Council cannot set rules for the use of that other public property.

President Bears asked if the custodian of another public property could issue food truck licenses for their property. Attorney Stein said yes. She said that under our zoning ordinance, the only explicitly allowed use of food trucks is for breweries. Zoning regulates private property. She said that zoning makes all public schools an exempt use. She said food trucks are explicitly permitted at breweries.

Councillor Scarpelli said that this is going to bring us all the way back to the beginning. He said that the reason we went this way is because businesses thought we would protect our brick and mortar businesses. He said that this leads to a slippery slope.

Councillor Callahan said that according to what Attorney Stein is saying, we only have authority to give permission over public ways, and that the Schools can give permission over their property, but it sounds like this has never been the practice of the City.

Councillor Scarpelli said we lose our sense of control if we take this out of the authority of the City Council and give it to the Board of Health.

President Bears said that we can only give permission for property over which we have authority or control. Attorney Stein said yes. She said you can designate the Board of Health to issue permits over properties over which the Council has jurisdiction. But the proposed food truck would need to be on land that the Council controls. She said she would be happy to look at prior opinions of counsel.

President Bears said that current practice is that the Council approves all requests for food trucks. Attorney Stein said she would be happy to take a look at prior opinions of counsel.

Councillor Scarpelli said that we are talking about two separate issues. He said that for the sake of public finance, he requested that we stop and reevaluate as a Council. He said that this is not something that started in 2022 or 2023. He said that this started years before that. He said that the Council gives the votes on these permits. He said that this is a gigantic issue in our brick and mortar community.

Councillor Scarpelli moved to table this until we can regroup as a Council and get all the information that the Council needs to move forward on this. With no second on the motion to table, the motion failed.

Vice President Collins said she agrees that we have gotten out of scope. She said she would like to get to a point of resolution on this project.

Councillor Scarpelli departed the meeting at 6:54 p.m.

Vice President Collins said she wanted to make sure that we emphasize that this is a one-day permit or license and not a de facto all-week permit. She said she thinks that there is a path forward. She said we are eager to get to a simpler place and proceed from there. She said she would like to scale this back to the basics and then convene again as a Council after legal review to finalize this.

Councillor Lazzaro said that the crux of the issue is that we would hope that the Board of Health would be able to approve the majority of one-day licenses. She said that in browsing the ordinances, there isn't enough specificity in there. She said some of our local businesses have food trucks and they may want to operate in the City as well. She said she would support Vice President Collins's position.

President Bears said that our past practice does not seem to be grounded in any of our legal authority. He said multiple mayors have requested that multiple Councils approve permits that did not to be requested or approved. He suggested to Attorney Stein that zoning amendments could create uses for food trucks on private property. Attorney Stein said that zoning could be changed to modify some of this. President Bears said that for public ways, the ordinance could require approval from the Council. Attorney Stein said that food truck permits are one-day licenses by definition.

President Bears said that on certain properties, we still want to issue food truck permits and that there may be conflicts, and that the City Council may not be able to have jurisdiction over this. Attorney Stein said that the occasional presence of a food truck on a public campus is under part of their exempt use. President Bears asked if there is

authority saying that we only want one-day or special-event food trucks to be licensed. Attorney Stein said that zoning regulates the use of the land, not the operations of the land. She said we could look at getting this as close as possible through zoning.

President Bears asked if the Council could designate the Board of Health as a special permit granting authority. Attorney Stein said no. President Bears said that he thinks we were not entirely accurate in assuming that we had the authority over these permits regardless of status of control of the land. He directed Attorney Stein to a variety of documents in which food truck permits were requested.

Vice President Collins moved authorize herself or President Bears to redraft the ordinance along the lines of the conversations in tonight's meeting, in consultation with Attorney Stein (Councillor Tseng second)—approved.

Vice President Collins moved to keep the paper in committee and adjourn at 7:11 p.m. (Councillor Leming second)—approved.

President Bears adjourned the meeting at 7:11 p.m.