Appropriations Committee

Chairman Brodeur, Tramontozzi, Boisselle, Buonopane, Conn, Forbes, Heavey, Infurna, Seaboyer, Wright, Mortimer
In attendance: Mayor Dolan, Deputy City Solicitor Robert Van Campen, Police Chief Mike Lyle, Substance Abuse Prevention Coordinator Kara Showers

Appropriations called to order by Chairman Brodeur at 7:10 p.m. He says the Committee has about 45 minutes to conduct business and asks that the members keep that in mind as they frame their questions and comments.

President Mortimer motions to open Public Participation, 2nd by Alderman Boisselle. All in favor. No one comes forward. Alderman Tramontozzi motions to close Public Participation, 2nd by President Mortimer. All in favor.

Order No. 08-028, Amending Melrose Revised Ordinances, Chapter 4 – Administration of Government, Sections 4-11. Advertisement for proposals and 4-12. Contracts as set forth herein.

Chairman Brodeur asks Atty. Van Campen to address the committee. Atty. Van Campen says the purpose of the order is to repeal some requirements currently in place that restrict the ability of the City to do business on a day-to-day basis. This will repeal the two sections in their entirety and incorporate Chapter 30B in its place.

Alderman Wright says Chapter 30B strictly regulates services and supplies and asks if he is looking to change anything beyond the scope of 30B in this ordinance change. Atty. Van Campen says not as presently proposed that he is aware of. Construction related contracts will continue to be governed as they are presently. Alderman Wright asks if all exemptions in 30B would apply to these contracts; Attorney Van Campen says yes.

President Mortimer moves to recommend, 2nd by Alderman Boisselle. All in favor.

Order No. 08-035, Amending Melrose Revised Ordinances, Chapter 177 – Peace and Good Order by adding: Section 177-2**.**1 Social Host Liability as set forth herein.

Chairman Brodeur says this is a fairly complicated ordinance, running about eight pages in length. He expects the prudent thing to do is have the Administration explain the particulars and entertain the Board's questions tonight, and the Board would have debate and possibly make amendments at a subsequent meeting. He asks the Administration to speak to the particulars.

Alderman Boisselle asks if the Board will seek public input. Chairman Brodeur says as always, public input is welcome during the Public Participation phase of the meeting when the order is on the agenda – agendas are always posted on the City's website – or via email to the Clerk of Committees who will distribute the messages to the Board.

Mayor Dolan says he is here before the Aldermen in support of the Social Host Responsibility Law. The law is intended to do two things. First, to hold people accountable for loud and unruly gatherings that occur on their properties that have the potential of detrimentally impacting the quality of the City's neighborhoods. Secondly, it allows the City of Melrose to recover costs of those resources that must be deployed each time public safety personnel have to respond to these types of loud and unruly gatherings. He asks that as the Aldermen begin deliberations that they understand that this ordinance is a proactive approach by the Administration to preserve the tranquility and integrity of the City's neighborhoods. He says he has received calls over the years about houses in each Ward that are out of control, have absentee landlords who do not hold their tenants accountable, houses with little respect for the law-abiding families around them, parents that condone or do not take strong action against underage drinking or drug use. These calls are not one-time incidents or about one child showing poor judgment one time. These are properties and individuals that are very well known to law enforcement and very well known to everyone living around them.

Mayor Dolan says this Social Host Responsibility Law is the first of its kind in the Commonwealth of Massachusetts. Melrose will become a model for other communities that want to preserve the tranquility of their neighborhoods. In a nutshell, this law is entirely about quality of life. The proposed ordinance says when a gathering gets out of control that whoever is responsible – the host, the tenant, the property owner – will be sanctioned. On the first offense they will receive a warning from the Chief of Police of the Melrose Police Department. However if there is another loud and unruly gathering at that same address within 12 months, they'll be fined. If it happens again they'll be fined again. In addition, because these parties tie up the City's scarce resources, the ordinance allows the City to charge the host for the cost of responding to the party – police, firefighters, whatever it takes. Most people will never have to think about this law. If kids are yelling in the back yard, this law doesn't kick in. Graduation parties, block parties, welcome home celebrations, family reunions and the many other peaceful gatherings loved by the community are encouraged. However if a host continually has people over and they're drinking and yelling and playing loud music all night and the neighborhood is continuously negatively affected, he will be held responsible with first a warning by the Police Chief and then with fines and potential costs. He says if someone lives in a neighborhood that is suffering with the type of continuous, negative activity spoken about this evening, he hopes to soon have a stronger tool to deal with it and improve the neighborhood.

Mayor Dolan says that ultimately the Social Host Responsibility Law is about two things: people taking responsibility for their actions and preserving the peace in their neighborhoods. Both of these are critical to preserving the community and for that reason he asks the Board of Aldermen to vote in favor of this ordinance.

Chairman Brodeur thanks Atty. Van Campen for supplying the Aldermen with the document well in advance of the meeting and asks him to give an overview.

Atty. Van Campen says that Section 2, the preamble, spells out the purpose of the ordinance and the needs of the community. Section 3 defines the essential purposes of the ordinance to protect the public and recover the costs of services provided by police, fire and emergency response services. Section 4, Definitions, describes the terms used in the ordinance. He says the language for "loud or unruly gathering" was drafted using

an existing model used on the west coast. There are nine factors that fall under the definition but there is also a reasonableness standard.

Alderman Conn says he would like to see Section 4 refined: two or more persons constituting a party or gathering, excessive noise, excessive traffic, littering. He also wants to mention that a lot of this is covered as criminal activity.

Alderman Wright says he supports the idea behind this ordinance but he does have concerns about the reasonableness standard. Noncompliance with the noise ordinance tends to be determined by decibel levels. He is concerned with the issue of turning the table against the City as to what reasonableness is. He asks if the west coast has been challenged. Atty. Van Campen says not that he knows of.

Alderman Boisselle asks how the description of residence or other private property in Section 4(h) relates to Memorial Hall, which has become a function hall with events every night with some loud gatherings and residences nearby. Atty. Van Campen says this is what Alderman Wright commented about as well: what standard is executed across the board. The police department utilizes broad discretion. He understands that the Board of Aldermen wants this tightened up.

Chief Lyle says the current police department standard is a call for service. This ordinance is for the repeat offender, not a birthday party.

Chairman Brodeur says it looks as though Section 4(h) doesn't reach public property places. Atty. Van Campen says one could make the argument that a hall/meeting room could include Memorial Hall and Mount Hood.

Alderman Conn asks if the intention is to include or exclude public property. Atty. Van Campen says that wasn't part of the discussion. Chairman Brodeur says the administration may want to include it.

Alderman Buonopane says the criteria states there must be alcohol beverages consumed by underage persons. Atty. Van Campen says that is one of the criteria but serving alcohol to minors isn't needed to hook this ordinance. It's only one of the criteria.

Alderman Boisselle asks if the definition of Social Host is included in Section 4. Atty. Van Campen says Massachusetts General Laws Chapter 139 §34 defines the sale, delivery or furnishing of alcoholic beverages to persons under twenty-one years of age by persons owning property or controlling property. Again, this ordinance is aimed at parties without serving alcohol as well.

Alderman Buonopane asks what this ordinance does to people protesting or in picket lines and at what point this ordinance would infringe upon people's civil rights. Atty. Van Campen says the ordinance doesn't attach to certain circumstances, only those occurrences on private property. Those types of gatherings, protests and picket lines, wouldn't occur in neighborhoods but in business districts. They are not the same type of gatherings.

Alderman Heavey asks if the "response costs" are applicable to persons receiving a warning. Atty. Van Campen says that warnings will be issued by the Police Department,

and the Chief of Police will determine whether or not to impose a fine. Alderman Heavey asks if the costs he is referring to cover fire, police and EMTs. Atty. Van Campen says the costs are defined in Section 4(c) and Section 8, and they are all factored into the cost, which would be borne by the property owner. Alderman Heavey says she would like to see the approximate dollar cost. Atty. Van Campen asks if she is referring per hour; Alderman Heavey says yes. Alderman Heavey asks if the fines would be deposited in the General Fund or another budget. Mayor Dolan says he thinks it would go into a special fund in the Police Department. Alderman Heavey says she would rather see it go to the General Fund to prevent accusations that the Police Department is being unfair.

Alderman Infurna says she too would like to see the definition of "excessive traffic" and "littering" in Section 4(f) tightened up. Chairman Brodeur says the dilemma is making it clear enough while allowing the Police Department to assess each situation.

Alderman Forbes asks if police back-up will be available in the event there is a controversial concert. Chief Lyle says yes. Alderman Forbes asks if the police need a search warrant to enter a building in the event of public drunkenness of a 22 or 23 year-old. Chief Lyle says the police don't have the authority to enter and the occupants don't have to let the police in. Alderman Forbes says there was a recent incident where someone was shot at a house party. He asks who would be responsible for medical bills and other costs if a police officer had been shot. Atty. Van Campen says that state law mandates that an officer injured in the line of duty collects his regular pay as long as he is injured.

Alderman Wright says he likes the idea of the ordinance but he wants to make sure it will withstand judicial scrutiny as a non-criminal disposition.

Chairman Brodeur asks Chief Lyle if this ordinance will gain the right for police officers to enter property. Chief Lyle says no.

Alderman Boisselle asks if a person who isn't serving alcohol would be charged in the event a group of kids arrive and the police are called. Mayor Dolan says that ultimately the Chief of Police will review the case. People want the City to get tough on underage drinking and drugs. Some parents are condoning this activity and this is as tough on them as the City can get. More often than not there are drugs at these parties which lead to fights, sexual assault, shouting and violence. The City needs to take the strongest stand possible and hold people responsible. Alderman Boisselle asks if there is any function in the City at which alcohol is served that doesn't require a police detail. Chief Lyle says private clubs do not need police detail. Alderman Boisselle asks about a family wedding at Memorial Hall. Chief Lyle says a police officer is needed for 50 or more people. Alderman Boisselle asks about the appeal process. Atty. Van Campen says that Section 10 allows an appeal but the procedures have not yet been established. Chairman Brodeur says Section 10 makes the Chief the initial reviewer and the appellate reviewer.

Alderman Tramontozzi expresses his thanks to Mayor Dolan and Chief Lyle for their efforts to control these unusual and seldom incidences of unruly behavior in the City by holding people responsible and recovering costs. Subsection (i) in the preamble imposes strict liability on the individual responsible. He says he understands and

appreciates the interest to control a situation in an apartment building where the landlord is not present but this could present problems. Maybe the owner could be notified about a particular tenant and incident and warning, but holding the owner responsible for the tenant or occupant is problematic. Atty. Van Campen says the strict liability standard also applies to the responsible person. This is not looking to hold a property owner liable for a tenant's behavior. Chairman Brodeur suggests that in future meetings it may be prudent to drill down on the scope of responsibility.

President Mortimer says he thinks everyone is in agreement that this is a great ordinance. Everyone wants to protect the tax payers and neighbors but there is a question of breaching Freedom of Association.

Alderman Buonopane says that given the scope of the ordinance referring to many visits and loud and unruly gatherings, he sees this heading in other directions than a party with underage drinking. He asks if this is aimed at incidents of domestic violence, too. Chief Lyle says that with domestic violence situations the police have the authority to gain access to the premises. Alderman Buonopane asks if this ordinance looks to recover costs for domestic violence incidents. Chief Lyle says as he sees it, yes.

President Mortimer motions to place the order on hold, 2nd by Alderman Buonopane. All in favor.

President Mortimer motions to adjourn, 2nd by Alderman Heavey. All in favor.

Appropriations adjourns at 8:05 p.m.

Maribeth Harrington
Clerk of Committees