



City of Malden

Malden City Hall
200 Pleasant Street
Malden, MA 02148

Meeting Minutes - Final City Council

Tuesday, May 10, 2016

7:00 PM

City Council Chambers

1. CALL TO ORDER

The meeting was called to order at 7:05 p.m. by Council President Murphy.

2. PLEDGE OF ALLEGIANCE & MOMENT OF SILENCE IN HONOR OF SERVICEMEN & WOMEN

3. ROLL CALL

Present - Councillors: 11 - Neal Anderson, Peg Crowe, Paul Condon, David D'Arcangelo, Deborah DeMaria, Neil C. Kinnon, John P. Matheson, Ryan O'Malley, Jadeane Sica, Craig Spadafora and Barbara Murphy

4. GUESTS, CITIZEN ACHIEVEMENT AND ANNOUNCEMENTS

Representatives of the Master Planning Steering Committee appeared to provide an update on Master Planning activities.

5. APPROVAL OF MINUTES

[251-16](#) Minutes of the meeting of April 26, 2016.

A motion was made by Councillor D'Arcangelo that the Council Minutes be approved. The motion carried by a unanimous vote.

[252-16](#) Minutes of the meeting of May 3, 2016.

A motion was made by Councillor D'Arcangelo that the Council Minutes be approved. The motion carried by a unanimous vote.

[253-16](#) Minutes of the meeting of May 5, 2016.

A motion was made by Councillor D'Arcangelo that the Council Minutes be approved. The motion carried by a unanimous vote.

6. APPOINTMENTS & ELECTIONS

[254-16](#) Council Appointment: Member of the Board of Health (Term Exp: 3/1/2019)

A motion was made by Councillor Matheson that the Appointment be referred to the Compliance/Appointments Committee. The motion carried by a unanimous vote.

[255-16](#) Mayor's Re-Appointment: Francis Boudrow, 48 Essex St. Malden, as

Labor representative member of Malden Housing Authority Board (Term Exp: May 4, 2021)

A motion was made by Councillor Matheson that the Appointment be referred to the Compliance/Appointments Committee. The motion carried by a unanimous vote.

[256-16](#)

Mayor's Re-Appointment: Stacy VanDeveer, 6 Lebanon Terrace, Malden to Commission on Energy Efficiency (Term Exp: May 4, 2018)

A motion was made by Councillor Matheson that the Appointment be referred to the Compliance/Appointments Committee. The motion carried by a unanimous vote.

[257-16](#)

Mayor's Re-appointment: Joshua Ward Smith, 44 Greystone Rd. as member of the Energy Efficiency Commission (Term Exp: May 4, 2018)

A motion was made by Councillor Matheson that the Appointment be referred to the Compliance/Appointments Committee. The motion carried by a unanimous vote.

[258-16](#)

Mayor's Appointment: Victoria Parsons, 37 Medford St., Malden, MA as member of the Conservation Commission (Term Exp: May 3, 2018)

A motion was made by Councillor Matheson that the Appointment be referred to the Compliance/Appointments Committee. The motion carried by a unanimous vote.

7. HEARINGS, PETITIONS, MEMORIALS AND REMONSTRANCES

[259-16](#)

Petition: National Grid & Verizon have filed a joint petition to install (1) JO Pole in the centerline of the intersection of Medford and Green St.
(HEARING REQUIRED)

Hearing Held.

A motion was made by Councillor Crowe that the Petition be tabled. The motion carried by a unanimous vote.

[260-16](#)

Petition: National Grid & Verizon to relocate JO poles on Eastern Ave. near the intersection of Crystal St. and to lay and maintain underground cables and wires in and above the public way.

(HEARING REQUIRED)

Hearing Held.

A motion was made by Councillor Kinnon that the Petition be granted with the following condition: 1. that Engineering be notified when Dig Safe is called and 2. that the street/sidewalk be repaired to the satisfaction of the Public Works Director. The motion carried by a unanimous vote.

Yea: 11 - Anderson, Crowe, Condon, D'Arcangelo, DeMaria, Kinnon, Matheson, O'Malley, Sica, Spadafora and Murphy

[261-16](#)

Taxi Driver: John P. Melusky 136 Main St. Stoneham (New)

A motion was made by Councillor Anderson that the Petition be referred to the License Committee. The motion carried by a unanimous vote.

[262-16](#)

Taxi Driver: Scott Hilliard, 228 Bellingham Ave. Revere (New)

A motion was made by Councillor Anderson that the Petition be referred to the License Committee. The motion carried by a unanimous vote.

[263-16](#)

Outdoor Parking: Malden Evening News 277 Commercial St. (Renewal)

A motion was made by Councillor Anderson that the Petition be referred to the License Committee. The motion carried by a unanimous vote.

[264-16](#)

Fortune Teller: Angela Marks, 495 Broadway (Renewal)

A motion was made by Councillor Anderson that the Petition be referred to the License Committee. The motion carried by a unanimous vote.

8. MOTIONS, ORDERS AND RESOLUTIONS

9. COMMUNICATIONS

10. CLAIMS

11. COMMITTEE REPORTS

[266-16](#)

Committee Report: Finance (Paper #219-16 Transfer of \$5250.00 from Legal Professional Service to Legal Salaries)

The Standing Committee on Finance, to whom was referred Paper #219 Series of 2016, having considered the same make the following report: Committee recommends that this paper be reported out favorably.

Councillor Kinnon for the Committee

A motion was made by Councillor Kinnon that the Committee Report be received and filed. The motion carried by the following vote:

Yea: 11 - Anderson, Crowe, Condon, D'Arcangelo, DeMaria, Kinnon, Matheson, O'Malley, Sica, Spadafora and Murphy

[219-16](#)

Order: That \$5,250.00 be transferred from Legal Professional Services to Legal Salaries to compensate a temporary part time employee for the remainder of the year

A motion was made by Councillor Kinnon that the Order be adopted. The motion carried by the following vote:

Yea: 11 - Anderson, Crowe, Condon, D'Arcangelo, DeMaria, Kinnon, Matheson, O'Malley, Sica, Spadafora and Murphy

[267-16](#)

Committee Report: Ordinance (Paper #14-16 Prohibiting Replica Firearms)

The Standing Committee on Ordinance, to whom was referred Paper

#16 Series of 2016, having considered the same make the following report: Committee recommends that this paper be reported out favorably with the following amendments:

1. That Section 7. 28.1 be amended to add the following new sentence: "Specifically excluded from this definition are antique replica firearms and replica firearms used for ceremonial purposes."
2. That Section 7.27.2 paragraph C be amended by deleting the words "...is closed with an orange plug, permanently affixed, of the same material of which the imitation fire are is made, for.." and inserting in place thereof the following: "...has a permanent orange tip..."

So that the ordinance reads as follows:

Section 7.28 Regulation of Replica Firearms

.1 Definitions.

As used herein, the following word shall have the following meanings: Replica firearm shall mean any toy, imitation, facsimile or replica pistol, revolver, shotgun, rifle, air refile, B-B gun, pellet gun, machine gun, or other similar simulated weapon which because of its color, size, shape, or other characteristics, can reasonably be perceived to be a real firearm capable of firing a bullet or other projectile. Specifically excluded from this definition are antique replica firearms and replica firearms used for ceremonial purposes.

.2. Regulation.

No person shall sell, offer to sell, possess, use, display or give away, any replica firearm on a public property unless:

- .1 The entire exterior surface of the imitation firearm is colored white, bright red, bright orange, bright yellow, bright blue, bright pink, or bright purple, either singly or as the predominant color in combination with other colors in any pattern; or
- .2 The imitation firearm is constructed entirely of transparent or translucent materials which permits unmistakable observation of the imitation firearm's complete contents; and
- .3 The barrel of the imitation firearm, other than the barrel of a water gun, has a permanent orange tip, at a distance of not less than one-half inch from the front end of said barrel; and
- .4 The imitation firearm has legibly stamped thereon, the name of the manufacturer or some trade name, mark or brand by which the manufacturer can be readily identified; and
- .5 The imitation firearm does not have a laser pointer attached.

.3 Enforcement.

If any individual under 18 years of age is found with a replica firearm by a member of the Malden Police Department, the officer shall contact his or her parent or guardian to inform them that the individual has been found with a replica firearm on public property. Parents or guardians shall be informed that they will be able to pick up the replica firearms at the district station after twenty-four hours. The officer shall confiscate the replica firearm and bring it to the district station for holding.

If the individual is 18 years of age or older, the officer shall confiscate the replica firearm(s) and inform the individual that they can pick the item(s) up at the district station after 24 hours.

4. Penalties.

Any individual found in violation of any provision of this section in a second or subsequent instance shall forfeit the weapon, contraband, or dangerous device giving rise to the violation of such section and be subject to a fine of Fifty Dollars (\$50.00).

Councillor Spadafora for the Committee

A motion was made by Councillor Spadafora that the Committee Report be received and filed. The motion carried by a unanimous vote.

14-16

Be it Ordained that the Revised Ordinance of 1991 be amended relative to prohibiting replica firearms

Sponsors: Craig Spadafora

A motion was made by Councillor Spadafora that the Ordinance be amended as follows:

1. That Section 7. 28.1 be amended to add the following new sentence: "Specifically excluded from this definition are antique replica firearms and replica firearms used for ceremonial purposes."
2. That Section 7.27.2 paragraph C be amended by deleting the words "...is closed with an orange plug, permanently affixed, of the same material of which the imitation fire are is made, for.." and inserting in place thereof the following: "...has a permanent orange tip...". The motion carried by the following vote:

Yea: 7 - Anderson, Crowe, Condon, DeMaria, Kinnon, Matheson and Spadafora

Nay: 4 - D'Arcangelo, O'Malley, Sica and Murphy

A motion was made by Councillor Spadafora that the Ordinance be enrolled as amended. The motion carried by the following vote:

Yea: 7 - Anderson, Crowe, Condon, DeMaria, Kinnon, Matheson and Spadafora

Nay: 4 - D'Arcangelo, O'Malley, Sica and Murphy

268-16

Committee Report: Ordinance (Paper #161-16 Communication from the Planning Board relative to Paper #15-16)

The Standing Committee on Ordinance, to whom was referred Paper #161 Series of 2016, having considered the same, make the following

report: Committee recommends that this paper be placed on file.
Councillor Spadafora for the Committee

A motion was made by Councillor Spadafora that the Committee Report be received and filed. The motion carried by a unanimous vote.

[161-16](#)

Communication from the Malden Planning Board relative to #15-16 (Amending zoning ordinance relative to Recreation for Gainful business, Secondary to Principal Club/Lodge Use)

A motion was made by Councillor Spadafora that the Communication be received and filed. The motion carried by a unanimous vote.

[269-16](#)

Committee Report: Ordinance (Paper #15-16 Amending Chapter 12 of R.O. 1991 to add Recreation for Gainful Business Secondary to Club/Lodge)

The Standing Committee on Finance, to whom was referred Paper #15 Series of 2016, having considered the same, make the following report: Committee recommends that this paper be reported out favorably with the following amendments:

1. That the words "No" as appearing under the Column "RO" and "Yes" as appearing under Columns "BC" and "BH" be stricken and "SP" inserted in place thereof; and
2. That the following definition be added to Section 800:
Recreation for Gainful Business Secondary to Club/Lodge: A recreation for gainful business that is secondary to a Club or Lodge, as defined by this ordinance. A recreation for gainful business use secondary to club/lodge shall be restricted to a specific occupant or tenant and may only be for one of the following types of recreation for gainful business: dance studio, fitness studio, gym, karate studio, martial arts studio, yoga studio, or similar type of recreation for gainful business. The following types of recreation for gainful business use are expressly excluded: arcade, billiards/pool hall, bowling alley, movie theatre, playhouse/theatre and radio-controlled car track. Only movable, non-permanent equipment may be used and no permanent equipment or fixtures may be installed at the property to accommodate a recreation for gainful business use secondary to club/lodge. No building or structure may be erected or enlarged to accommodate the recreation for gainful business use secondary to club/lodge.

So that the amendment will read as follows:

Be it hereby ordained by the Malden City Council that Chapter 12 of the Revised Ordinances of 1991, as amended, be and same are hereby further amended as follows:

- By amending Section 300.3.4.10 Table of Use Regulations, as follows:

To Add Section 300.3.4.10.1 Recreation for Gainful Business,
Secondary to Principal Club/Lodge

A B C RO BN BC BH I1 I2

No No No SP No SP SP SP SP

- By amending Section 400.1 Table of Intensity Regulations, as follows:
 - Add Section 400.1.5.10.1 Recreational for Gainful Business, Secondary to Principal Club/Lodge
- By amending Section 500.1 Table of Offstreet Parking and Loading Regulations, as follows:
 - Add Section 500.1.5.14.1 Recreational for Gainful Business, Secondary to Principal Club/Lodge
- By amending Section 700.1 Nonconforming Uses, Lots, Buildings and Structures, as follows:
 - Add to Section 700.1.3.1 Preexisting nonconforming uses, lots, buildings or structures in the Residence A, Residence B and Residence C zoning districts
 - Subsection 5. Recreation for Gainful Business, Secondary to Existing Principal Club/Lodge
- By amending Section 800.6 by adding the following definition:

Recreation for Gainful Business Secondary to Club/Lodge: A recreation for gainful business that is secondary to a Club or Lodge, as defined by this ordinance. A recreation for gainful business use secondary to club/lodge shall be restricted to a specific occupant or tenant and may only be for one of the following types of recreation for gainful business: dance studio, fitness studio, gym, karate studio, martial arts studio, yoga studio, or similar type of recreation for gainful business. The following types of recreation for gainful business use are expressly excluded: arcade, billiards/pool hall, bowling alley, movie theatre, playhouse/theatre and radio-controlled car track. Only movable, non-permanent equipment may be used and no permanent equipment or fixtures may be installed at the property to accommodate a recreation for gainful business use secondary to club/lodge. No building or structure may be erected or enlarged to accommodate the recreation for gainful business use secondary to club/lodge.

A motion was made by Councillor Spadafora that the Committee Report be received and filed. The motion carried by the following vote:

Yea: 10 - Anderson, Crowe, D'Arcangelo, DeMaria, Kinnon, Matheson, O'Malley, Sica, Spadafora and Murphy

Recused: 1 - Condon

[15-16](#)

Be it Ordained that Chapter 12 of the Revised Ordinances of 1991 be amended relative to Recreation for Gainful Business Secondary to

Principal Club/Lodge

Sponsors: Craig Spadafora

A motion was made by Councillor Spadafora that the Ordinance be amended as follows:

1. That the words “No” as appearing under the Column “RO” and “Yes” as appearing under Columns “BC” and “BH” be stricken and “SP” inserted in place thereof; and

2. That the following definition be added to Section 800:

Recreation for Gainful Business Secondary to Club/Lodge: A recreation for gainful business that is secondary to a Club or Lodge, as defined by this ordinance. A recreation for gainful business use secondary to club/lodge shall be restricted to a specific occupant or tenant and may only be for one of the following types of recreation for gainful business: dance studio, fitness studio, gym, karate studio, martial arts studio, yoga studio, or similar type of recreation for gainful business. The following types of recreation for gainful business use are expressly excluded: arcade, billiards/pool hall, bowling alley, movie theatre, playhouse/theatre and radio-controlled car track. Only movable, non-permanent equipment may be used and no permanent equipment or fixtures may be installed at the property to accommodate a recreation for gainful business use secondary to club/lodge. No building or structure may be erected or enlarged to accommodate the recreation for gainful business use secondary to club/lodge.

The motion carried by the following vote:

Yea: 9 - Anderson, Crowe, DeMaria, Kinnon, Matheson, O'Malley, Sica, Spadafora and Murphy

Nay: 1 - D'Arcangelo

Recused: 1 - Condon

A motion was made by Councillor Spadafora that the Ordinance be enrolled as amended. The motion carried by the following vote:

Yea: 9 - Anderson, Crowe, DeMaria, Kinnon, Matheson, O'Malley, Sica, Spadafora and Murphy

Nay: 1 - D'Arcangelo

Recused: 1 - Condon

A motion was made by Councillor Spadafora that rules be suspended. The motion carried by the following vote:

Yea: 9 - Anderson, Crowe, DeMaria, Kinnon, Matheson, O'Malley, Sica, Spadafora and Murphy

Nay: 1 - D'Arcangelo

Recused: 1 - Condon

A motion was made by Councillor Spadafora that the Ordinance be ordained. The motion carried by the following vote:

Yea: 9 - Anderson, Crowe, DeMaria, Kinnon, Matheson, O'Malley, Sica, Spadafora and Murphy

Nay: 1 - D'Arcangelo

Recused: 1 - Condon

[270-16](#)

Committee Report: Ordinance (Paper #220-16 Amending Section 9.40.1 to require contact information for rental units

The Standing Committee on Ordinance, to whom was referred Paper #220 Series of 2016 having considered the same make the following report: Committee recommends that this paper be reported out favorably with the following amendments:

1. That the word "with their application" be stricken from the first paragraph and the words "to Permits, Inspections and Planning"
2. That this ordinance take effect September 1, 2016

So that the amendment will read as follows:

Be it hereby Ordained by the Malden City Council that Section 9.40 of the Revised Ordinance of 1991 as amended be and the same is hereby further amended as follows:

-by adding after the first paragraph of Section 9.40.1 the following:

All owners, lessors or person in control or in charge of a rental unit, who do not reside within the subject dwelling, shall submit their personal address and telephone contact information to Permits, Inspections and Planning. If this information changes, it must be updated with the Permits, Inspections and Planning Department within ten (10) days.

All owners, lessors or person in control of a dwelling comprised of three or more units, who do not reside within the subject dwelling, shall post and maintain or cause to be posted and maintained on such dwelling adjacent to the mailboxes or elsewhere in a location that is visible; a notice constructed of durable material, bearing his/her name, address and telephone contact information.

If the owner or lessor is a realty trust or partnership, the name, address and telephone number of the managing trustee or partner shall be posted. If the owner is a corporation, the name, address and telephone of the president of the corporation shall be posted. Where the owner employs a manager or agent who does not reside in such dwelling, such manager or agent's name, address and telephone number shall be included in the notice.

P.O. Boxes do not satisfy the address requirement of this section.

Any owner residing outside the Commonwealth of Massachusetts must designate an area resident agent authorized to accept service on the owner's behalf.

This ordinance shall take effect September 1, 2016.

A motion was made by Councillor Spadafora that the Committee Report be received and filed. The motion carried by the following vote:

Yea: 11 - Anderson, Crowe, Condon, D'Arcangelo, DeMaria, Kinnon, Matheson, O'Malley, Sica, Spadafora and Murphy

[220-16](#)

Be it ordained that Section 9.40.1 of the Revised Ordinances of 1991 be

amended by to require contact information for all units subject to Rental Unit Inspection

Sponsors: Craig Spadafora

A motion was made by Councillor Spadafora that the Ordinance be amended as follows:

- 1. That the word “with their application” be stricken from the first paragraph and the words “to Permits, Inspections and Planning”**
- 2. That this ordinance take effect September 1, 2016. The motion carried by a unanimous vote.**

A motion was made by Councillor Spadafora that the Ordinance be enrolled as amended. The motion carried by the following vote:

Yea: 10 - Anderson, Crowe, Condon, DeMaria, Kinnon, Matheson, O'Malley, Sica, Spadafora and Murphy

Nay: 1 - D'Arcangelo

A motion was made by Councillor Spadafora that rules be suspended. The motion carried by a unanimous vote.

A motion was made by Councillor Spadafora that the Ordinance be ordained. The motion carried by the following vote:

Yea: 10 - Anderson, Crowe, Condon, DeMaria, Kinnon, Matheson, O'Malley, Sica, Spadafora and Murphy

Nay: 1 - D'Arcangelo

[271-16](#)

Committee Report: Compliance/Appointments (Paper #134-16 Mayor's Reappointment of Deano Summers as member of the Board of Appeals) The Standing Committee on Compliance/Appointments, to whom was referred Paper #134 Series of 2016, having considered the same, make the following report: Committee recommends that this appointment be confirmed.

Councillor Matheson for the Committee

A motion was made by Councillor Matheson that the Committee Report be received and filed. The motion carried by a unanimous vote.

[134-16](#)

Mayor's Re-Appointment: Deano Summers 36 Gilbert St., as an associate member of the Board of Appeals

A motion was made by Councillor Matheson that the Appointment be confirmed. The motion carried by a unanimous vote.

[272-16](#)

Committee Report: Compliance/Appointments (Paper #129-16 Mayor's Reappointment of Andrew Zamagni as member of the Board of Registrars of Voters) The Standing Committee on Compliance/Appointments, to whom was referred Paper #129 Series of 2016, having considered the same, make the following report: Committee recommends that this appointment be

confirmed.

Councillor Matheson for the Committee

A motion was made by Councillor Matheson that the Committee Report be received and filed. The motion carried by a unanimous vote.

[129-16](#)

Mayor's Re-Appointment: Andrew Zamagni, 16 Cross St. as member of the Board of Registrar of Voters

A motion was made by Councillor Matheson that the Appointment be confirmed. The motion carried by a unanimous vote.

[273-16](#)

Committee Report: Compliance/Appointments (Paper #130-16 Mayor's Reappointment of William Coleman as member of the Public Works Commission)

The Standing Committee on Compliance/Appointments, to whom was referred Paper #130 Series of 2016, having considered the same, make the following report: Committee recommends that this appointment be confirmed.

Councillor Matheson for the Committee

A motion was made by Councillor Matheson that the Committee Report be received and filed. The motion carried by the following vote:

[130-16](#)

Mayor's Re-Appointment: William Coleman, 53 Kimball St. as member of the Public Works Commission

A motion was made by Councillor Matheson that the Appointment be confirmed. The motion carried by a unanimous vote.

[265-16](#)

Ordered: That the City Council meet with representatives of the Mayor's Office in Executive Session relative to union negotiations.

Sponsors: David D'Arcangelo

The Council President declared that open discussion would be detrimental to the City's negotiating position. Meeting went into Recess

at 9:13 p.m. Meeting Reconvened at 10:30 p.m.

A motion was made by Councillor D'Arcangelo that the Order be adopted. The motion carried by the following vote:

Yea: 11 - Anderson, Crowe, Condon, D'Arcangelo, DeMaria, Kinnon, Matheson, O'Malley, Sica, Spadafora and Murphy

12. TABLED PAPERS

[610-15](#)

Be it Ordained the R.O. 1991 be amended to establish a Community Preservation Committee

Sponsors: Neil C. Kinnon

[137-16](#)

Petition: National Grid to replace existing 25 psig to LP 4" Regulator

Station in the sidewalk area of 158 Washington St., Malden, MA

13. PERSONAL PRIVILEGE

14. ADJOURNMENT

At 10:30 p.m., a motion was made by Councillor D'Arcangelo that the meeting be adjourned. The motion carried by a unanimous vote.

KAREN ANDERSON, CITY CLERK