



City of Malden

Malden City Hall
200 Pleasant Street
Malden, MA 02148

Meeting Minutes - Final City Council

Tuesday, September 1, 2015

7:00 PM

City Council Chambers

1. CALL TO ORDER

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

3. ROLL CALL

Present - Councillors: 11 - Neal Anderson, Peg Crowe, David D'Arcangelo, Deborah DeMaria, Neil C. Kinnon, Barbara Murphy, James M. Nestor, Jadeane Sica, Craig Spadafora, Steven Ultrino and John P. Matheson

4. GUESTS, CITIZEN ACHIEVEMENT AND ANNOUNCEMENTS

5. APPROVAL OF MINUTES

[442-15](#) Minutes of the meeting of June 23, 2015.

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

[443-15](#) Minutes of the meeting of June 30, 2015.

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

[444-15](#) Minutes of the meeting of August 4, 2015.

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

Yea: 11 - Anderson, Crowe, D'Arcangelo, DeMaria, Kinnon, Murphy, Nestor, Sica, Spadafora, Ultrino and Matheson

6. APPOINTMENTS & ELECTIONS

[445-15](#) Mayor's Appointment: Christopher J. Webb as Director of Permitting, Inspections and Planning (Term Expires: July 1, 2018)

Dear Members of the Council:
Pursuant to the provisions of Section 3.1 of the Revised Ordinances of 1991, I hereby reappoint Christopher J. Webb, 11 Shirley Road, Medford, Massachusetts, as Director of Permitting, Inspections and Planning Services, said term to expire July 1, 2018.

If you have any questions, please do not hesitate to contact me. Thank you.

Sincerely,

GARY CHRISTENSON, Mayor

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

[446-15](#)

Mayor's Appointment: Robert P. Knox Jr., 54 Davis St as Director of Public Works (Term Expires: July 1, 2018)

Dear Members of the Council:

Pursuant to M.G.L. Ch. 291, Section 3 of the Acts of 2012, I hereby reappoint

Robert P. Knox Jr. of 54 Davis Street, Malden, Massachusetts, as Director of Public Works, said term to expire July 1, 2018.

If you have any questions, please do not hesitate to contact me. Thank you.

Sincerely,

GARY CHRISTENSON, Mayor

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

[447-15](#)

Mayor's Appointment: Jessica Wolff, 12 Savin St. as member of the Planning Board (Term Expires: March 1, 2020)

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

[448-15](#)

Mayor's Appointment: Candace Julyan, 5 Ridgewood Rd as member of the Cultural Council (Term Expires: July 16, 2018)

Dear Members of the Council:

Pursuant to M.G.L. Ch. 10, Section 58, I hereby reappoint Candace Julyan, 5 Ridgewood Road, Malden, Massachusetts, as a member of the Cultural Council, said term to expire July 16, 2018.

If you have any questions, please do not hesitate to contact me. Thank you.

Very truly yours,

GARY CHRISTENSON, Mayor

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

[449-15](#)

Mayor's Appointment: Michele Marcinowski, 12 Garden St. as a member of the Cultural Council (Term Expires: June 21, 2018)

Dear Members of the Council:

Pursuant to M.G.L. Ch. 10, Section 58, I hereby reappoint Michele Marcinowski, 12 Garden Street Court, Malden, Massachusetts, as a member of the Cultural Council, said term to expire June 21, 2018.

If you have any questions, please do not hesitate to contact me. Thank you.

Very truly yours,

GARY CHRISTENSON, Mayor

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

[450-15](#)

Mayor's Appointment: Erika Field, 26 Upland Rd. as member of the Cultural Council (Term Expires: July 16, 2018)

Dear Members of the Council:

Pursuant to M.G.L. Ch. 10, Section 58, I hereby reappoint Erika Field, 26 Upland Road, Malden, Massachusetts, as a member of the Cultural Council, said term to expire July 16, 2018.

If you have any questions, please do not hesitate to contact me. Thank you.

Very truly yours,

GARY CHRISTENSON

Mayor

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

[451-15](#)

Mayor's Appointment: Paula Spizziri, 5 Beacon St. as a member of the Cultural Council (Term Expires: August 7, 2018)

Dear Members of the Council:

Pursuant to M.G.L. Ch. 10, Section 58, I hereby reappoint Paula Spizziri, 5 Beacon Street, Malden, Massachusetts, as a member of the Cultural Council, said term to expire August 7, 2018.

If you have any questions, please do not hesitate to contact me. Thank you.

Very truly yours,

GARY CHRISTENSON, Mayor

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

Yea: 11 - Anderson, Crowe, D'Arcangelo, DeMaria, Kinnon, Murphy, Nestor, Sica, Spadafora, Ultrino and Matheson

7. HEARINGS, PETITIONS, MEMORIALS AND REMONSTRANCES

[452-15](#) Petition of ExteNet Systems, Inc. for Modifications to Existing Distributed Antenna Systems for Telecommunications Wires and Appurtenances on Cargill St., Lebanon St., Forest St. and Bayrd Rd. (HEARING REQUIRED)

Hearing Held

A motion was made by Councillor Murphy, seconded by Councillor Ultrino, that the Petition be tabled indefinitely. The motion carried by a unanimous vote.

Yea: 11 - Anderson, Crowe, D'Arcangelo, DeMaria, Kinnon, Murphy, Nestor, Sica, Spadafora, Ultrino and Matheson

[453-15](#) Taxi Driver: John Anthony Danca, 36 Highland Ave.

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

[454-15](#) Taxi Driver: ValMichael Funicella 185 Washington Ave. Chelsea

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

[455-15](#) Outdoor Parking: Spadafora Trust 35 Canal 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.

[456-15](#) Outdoor Parking: Robert McNulty 28 Cedar St. (Renewal)

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

[457-15](#) Outdoor Parking: Malden Auto Brokers Inc. 160 Eastern Ave.

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

[458-15](#) Class II: Autotech II Inc. 1236 Eastern Ave.

vote:

Yea: 11 - Anderson, Crowe, D'Arcangelo, DeMaria, Kinnon, Murphy, Nestor, Sica, Spadafora, Ultrino and Matheson

8. MOTIONS, ORDERS AND RESOLUTIONS

[459-15](#) Be it ordained that Section 8.35 of the Revised Ordinances of 1991 be amended relative to the Chairman of the Board of Assessors.

Be it ordained that Section 8.35 of the Revised Ordinances of 1991 be amended to provide that the Chairman of the Board of Assessors be Classified as M2; and be it

Ordered that the present Chairman be paid as M2 Step 3 retroactively to July 1, 2015.

Sponsors: John P. Matheson

A motion was made by Councillor Anderson that the Ordinance be referred to the Rules & Ordinance Committee. The motion carried by a unanimous vote.

Yea: 11 - Anderson, Crowe, D'Arcangelo, DeMaria, Kinnon, Murphy, Nestor, Sica, Spadafora, Ultrino and Matheson

[460-15](#)

Be it ordained that the Revised Ordinances of 1991 be amended to add a new Section 10.25 establishing a Parking Department that consolidates management and operations of on-street enforcement, parking meters, and residential stickers.

Sponsors: David D'Arcangelo and Craig Spadafora

A motion was made by Councillor D'Arcangelo to refer this Ordinance to Rules and Ordinance Committee.

A motion was made by Councillor Kinnon, seconded by Councillor Murphy, that the motion be amended to refer the Ordinance to a joint Committee of Finance and Ordinance. The motion carried by a unanimous vote.

A motion was made by Councillor D'Arcangelo that the Ordinance be referred to the Rules & Ordinance Committee and Finance Committee. The motion carried by a unanimous vote.

[461-15](#)

Order: That the Ordinance Committee review and make recommendations for amendment to parking and open space requirements in the Central Business District, RIO and RIO-B.

Sponsors: Craig Spadafora

A motion was made by Councillor Spadafora, seconded by Councillor Ultrino, that the Order be referred. The motion carried by the following vote:

Yea: 11 - Anderson, Crowe, D'Arcangelo, DeMaria, Kinnon, Murphy, Nestor, Sica, Spadafora, Ultrino and Matheson

[462-15](#)

Ordered: That the city provide communication in the next water bill relative to the schedule and budget process for all road repaving work.

Sponsors: John P. Matheson

A motion was made by Councillor Murphy, seconded by Councillor Anderson, that the Order be referred to the Finance Committee. The motion carried by a unanimous vote.

Yea: 11 - Anderson, Crowe, D'Arcangelo, DeMaria, Kinnon, Murphy, Nestor, Sica, Spadafora, Ultrino and Matheson

[463-15](#)

Order: That the City accept the provisions of Mass General Laws Chapter 60A Section 1 Paragraph 8, relative to excise tax for persons in full-time active military service.

Sponsors: Steven Ultrino, Neal Anderson, Neil C. Kinnon, David D'Arcangelo, James M. Nestor, Barbara Murphy and John P. Matheson

A motion was made by Councillor Murphy that the Order be referred to the Finance Committee. The motion carried by a unanimous vote.

Yea: 11 - Anderson, Crowe, D'Arcangelo, DeMaria, Kinnon, Murphy, Nestor, Sica, Spadafora, Ultrino and Matheson

[464-15](#)

Order: That the Treasurer be authorized to pay during the current fiscal year an additional \$11,310.00 in snow removal cost incurred in FY2015.

Sponsors: Barbara Murphy

A motion was made by Councillor Murphy that the Order be referred to the Finance Committee. The motion carried by a unanimous vote.

Yea: 11 - Anderson, Crowe, D'Arcangelo, DeMaria, Kinnon, Murphy, Nestor, Sica, Spadafora, Ultrino and Matheson

[465-15](#)

Ordered: That the controller provide an itemized accounting of all roads which have been repaved from 2012 to present from G.L. Chapter 90 and SRF funding sources.

Sponsors: John P. Matheson

A motion was made by Councillor Nestor that the Order be amended to add the words "within two weeks" after the words "That the controller provide". The motion carried by a unanimous vote.

Yea: 11 - Anderson, Crowe, D'Arcangelo, DeMaria, Kinnon, Murphy, Nestor, Sica, Spadafora, Ultrino and Matheson

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

Yea: 11 - Anderson, Crowe, D'Arcangelo, DeMaria, Kinnon, Murphy, Nestor, Sica, Spadafora, Ultrino and Matheson

[466-15](#)

Ordered: That the controller not release any funds, from any source, for the purpose of road repaving without first providing written notice to the City Council.

Sponsors: John P. Matheson

A motion was made by Councillor Kinnon, seconded by Councillor Nestor, that the Order be amended to provide as follows: "Ordered: That the Controller notify the City Council when bids are published for roadwork and prior to payments for completed roadwork."

Yea: 11 - Anderson, Crowe, D'Arcangelo, DeMaria, Kinnon, Murphy, Nestor, Sica, Spadafora, Ultrino and Matheson

A motion was made by Councillor Kinnon, seconded by Councillor Nestor, that the Order be adopted as amended. The motion carried by the following vote:

Yea: 11 - Anderson, Crowe, D'Arcangelo, DeMaria, Kinnon, Murphy, Nestor, Sica, Spadafora, Ultrino and Matheson

[467-15](#)

Ordered: That the city immediately advertise to fill the vacant position of city assessor.

Sponsors: John P. Matheson

A motion was made by Councillor Anderson, seconded by Councillor Sica, that

the Order be adopted. The motion failed by the following vote:

Yea: 4 - Anderson, Sica, Ultrino and Matheson

Nay: 7 - Crowe, D'Arcangelo, DeMaria, Kinnon, Murphy, Nestor and Spadafora

[468-15](#)

Order: That the city perform a comprehensive analysis of non-union salaries.

Ordered: That the city perform a comparative analysis of all significant non-union salaries by gathering data and comparing substantially similar positions in other substantially similar municipalities, and provide the city council with the average, mean and range.

Sponsors: John P. Matheson

A motion was made by Councillor D'Arcangelo that the Order be referred to the Personnel Committee. The motion carried by a unanimous vote.

Yea: 11 - Anderson, Crowe, D'Arcangelo, DeMaria, Kinnon, Murphy, Nestor, Sica, Spadafora, Ultrino and Matheson

[469-15](#)

Resolve: That the City Council support increased state investment in early childhood education

Sponsors: Deborah DeMaria

A motion was made by Councillor Anderson, seconded by Councillor DeMaria, that the Resolution be tabled. The motion carried by a unanimous vote.

Yea: 11 - Anderson, Crowe, D'Arcangelo, DeMaria, Kinnon, Murphy, Nestor, Sica, Spadafora, Ultrino and Matheson

ENROLLED ORDINANCES

[289-15](#)

Be it ordained that Chapter 12 of the Revised Ordinances of 1991 be amended to add use, dimensional, parking controls and a definition of "Adult Day Care"

Sponsors: Peg Crowe

A motion was made by Councillor D'Arcangelo, seconded by Councillor Spadafora, that the Ordinance be amended by striking everything after the enacting clause and inserting in place thereof the following
-Amend Section 300.3 Table of Use Regulations, to add the following:

Section 300.3.4.27 Adult Day Health Center

A	B	C	RO	BN	BC	BH	I1	I2
No	No	No	No	No	No	No	SP	SP

-Amend Section 400.1 Table of Intensity Regulations, to add the following:

Section 400.1.4.22 Adult Day Health Center

Area	Frontage	Front	Side Space	Both Principal	Rear	Min. Open	Coverage
10,000	50'	10'	10'	20'	20'	--	50%

Coverage Density Height
 Accessory
 20% -- 30' and 2 stories

-Amend Section 500.1 Table of Offstreet Parking and Loading Regulations, to add the following:

	Minimum Number of Parking Spaces	Minimum Number Of Loading Bays	Minimum Number of Loading Spaces
500.1.4.27 Adult Daycare Center	12 per 1,000 sq. ft. of gross floor area	0	Section 500.3.5

-Amend Section 800.6 Definitions, to add the following:
 Section 800.6.2.XX Adult Day Health Center A program and facility licensed by the state Department of Public Health or otherwise operated pursuant to equivalent federal or state government approval and authority, however organized, whether conducted for profit or not for profit, that: is community-based and non-residential; provides nursing care, supervision, and health related support services in a structured group setting to persons 18 years of age or older who have physical, cognitive, or behavioral health impairments; and supports families and other caregivers thereby enabling the participant to live in the community. Services provided may be activities of daily living and personal care activities, including but not limited to, bathing, dressing, grooming, toileting, transfers, ambulation, personal hygiene and eating; recreational activities; and social services. All services shall be provided on an outpatient basis and shall not include provisions for overnight stays or any form of residential living. An Adult Day Health Center may be allowed as an accessory use only to a Medical Center or Hospital use and shall not be allowed as an accessory use to any other use. Licensed Massage Therapy Salon, Medical Center, Medical Marijuana Treatment Center and Substance Abuse Treatment Center are specifically excluded from this definition and may not be accessory to an Adult Day Health Center.

-Amend Sections 800.6.2 Definitions of Licensed Massage Therapy Salon, Medical Center, Medical Marijuana Treatment Center and Substance Abuse Treatment Center, to specifically exclude "Adult Daycare Center" from these definitions.

The motion carried by a unanimous vote.

A motion was made by Councillor D'Arcangelo, seconded by Councillor Crowe, that the Ordinance be enrolled as amended. The motion carried by the following vote:

Yea: 11 - Anderson, Crowe, D'Arcangelo, DeMaria, Kinnon, Murphy, Nestor, Sica, Spadafora, Ultrino and Matheson

A motion was made by Councillor D'Arcangelo, seconded by Councillor Ultrino, that rules be suspended. The motion carried by a unanimous vote.

A motion was made by Councillor D'Arcangelo, seconded by Councillor Crowe, that the Ordinance be ordained. The motion carried by the following vote:

Yea: 11 - Anderson, Crowe, D'Arcangelo, DeMaria, Kinnon, Murphy, Nestor, Sica, Spadafora, Ultrino and Matheson

9. COMMUNICATIONS

470-15

Communication from the Mayor relative to the 2014 Management Letter from auditors Roselli, Clark & Associates and the city's response.

Dear Members of the City Council:

I am submitting for your review an updated 2014 Fiscal Year Management Letter from Roselli, Clark & Associates which now includes the City's responses designated in blue.

The report shows that despite our ongoing economic challenges we are meeting them head on in an effort to keep Malden moving forward.

The report also notes that the level of comments and observations have decreased significantly over the past 4 years which is another indicator that we are implementing measures to maximize our financial position.

Each finding and recommendation has been reviewed and discussed with the appropriate Department Head and the necessary action plans have been put in place. We will continue to diligently initiate and monitor all corrective measures so that we maintain our consistent progress and improvements.

The information will be made available on the City website and I welcome the opportunity to discuss the report and the City's responses with you. Please contact me at 781-397-7000 or by email at mayor@cityofmalden.org <<mailto:mayor@cityofmalden.org>>. Thank you.

Sincerely,

GARY CHRISTENSON, Mayor

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

471-15

Communication from the Mayor relative to establishing a separate revenue account for PEG Access and Cable Related Funds

To: Malden City Council

From: Mayor Gary Christenson

Date: August 28, 2015

Re: PEG Access and Cable Related Fund

The City presently accounts for public, educational and governmental ("PEG") access fees in a receipts reserved for appropriation fund. Recently, the Massachusetts Department of Revenue's legal division determined that this was not an appropriate way to account for the franchise fee portion of this arrangement as these revenues are required to be reported in the City's general fund.

Massachusetts General Laws, c. 44, §53F ¾, effective January 15, 2015, allows municipalities who accept this section to establish a

separate revenue account to be known as the PEG Access and Cable Related Fund, into which may be deposited funds received in connection with a municipality's franchise agreement with a cable operator. Otherwise, as stated in the 2014 Fiscal Year Management Letter from Roselli, Clark & Associates, the City will be forced to transfer those funds related to franchise fees into the general fund and account for the franchise fee portion of the PEG access activity in that fund. We are requesting that the City Council consider formally accepting MGL c. 44, § 53F $\frac{3}{4}$ as a local option. The relevant section of the statute is attached.

A motion was made by Councillor Murphy that the Communication be referred to the Finance Committee. The motion carried by a unanimous vote.

[472-15](#)

Communication from Mayor authorizing Jefferson Apartment Group to make application in connection with the property at 200 Pleasant St.

Re: The "Property": 200 Pleasant Street (City Assessor's Parcel ID #051 275 505)

No # Florence Street (City Assessor's Parcel ID#051 252 201)

Land known as Pleasant Street; Land known as

Congregational Way

Dear Councillor Matheson, Mr. O'Brien and Mr. Webb:

Reference is hereby made to a Land Disposition Agreement (LDA) relating to the Property (dated July 13, 2015 between the City of Malden and Jefferson Apartment Group (JAG). The City is the record owner of the Property. In connection with the project at the Property described in the LDA, the City hereby authorizes JAG to make and submit all filings with City departments, boards and agencies, including applications for building permits and appeals and petitions to the City Council for special permits, as may be necessary to enable JAG to pursue the zoning relief contemplated by the LDA.

Sincerely,

GARY CHRISTENSON, Mayor

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

Yea: 11 - Anderson, Crowe, D'Arcangelo, DeMaria, Kinnon, Murphy, Nestor, Sica, Spadafora, Ultrino and Matheson

[473-15](#)

Communication from the Malden Planning Board relative to the Proposed Complete Streets Policy

Re: Proposed Complete Streets Policy

Dear Councilors:

After reviewing and discussing the enclosed proposed Complete Streets policy at a public meeting on May 13, 2015 and again on July 15, 2015, the Planning Board recommends that the City Council adopt the

proposed policy.

I am available to discuss and answer any questions regarding the Planning Board's recommendation. Please do not hesitate to contact me. Thank you.

Sincerely,

Michelle A. Romero, City Planner

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

Yea: 11 - Anderson, Crowe, D'Arcangelo, DeMaria, Kinnon, Murphy, Nestor, Sica, Spadafora, Ultrino and Matheson

10. CLAIMS

[474-15](#)

Claim: Jeanette Siringano 630 Salem St. Apt. 408

A motion was made by Councillor Murphy that the Claim be referred to the Finance Committee. The motion carried by a unanimous vote.

11. COMMITTEE REPORTS

[475-15](#)

Committee Report: Finance (That \$700,000 be appropriated for repair of the DPW roof)

The Standing Committee on Finance to whom was referred Paper #441 Series of 2015, having considered the same make the following report: Committee recommends that this paper be reported out favorably.

Councillor Murphy for the Committee

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

[441-15](#)

Order: That \$700,000 be appropriated from the Capital Projects Reserve Account and transferred to the DPW Roof Replacement Account.

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

Yea: 11 - Anderson, Crowe, D'Arcangelo, DeMaria, Kinnon, Murphy, Nestor, Sica, Spadafora, Ultrino and Matheson

[476-15](#)

Order: That \$175,000 be transferred from Revenue Reserve to Fire Department Overtime

Sponsors: Barbara Murphy

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

A motion was made by Councillor Murphy that the Order be referred to the Finance Committee. The motion carried by a unanimous vote.

13. PERSONAL PRIVILEGE

14. ADJOURNMENT

At 9:45 p.m., a motion was made by Councillor Murphy that the meeting be adjourned. The motion carried by a unanimous vote.

KAREN ANDERSON, CITY CLERK