



City of Malden

Malden City Hall
200 Pleasant Street
Malden, MA 02148

Meeting Minutes - Final City Council

Tuesday, November 10, 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

[554-15](#) Minutes of the meeting of October 20, 2015

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

[555-15](#) Minutes of the meeting of October 27, 2015

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

6. APPOINTMENTS & ELECTIONS

[556-15](#) Mayor's Appointment: John Savino, 217 Emerald St. as a member of the Mystic Valley Development Commission (Confirmation not required)

Dear Members of the Council:

Pursuant to Chapter 294 of the Acts of 1996, I hereby appoint John Savino, 217 Emerald Street, Malden, Massachusetts, as a member of the Mystic Valley Development Commission. John will replace Nick Pernice, who has recently relocated out of the City.

John, a lifelong Malden resident, has extensive experience in the transportation industry managing large scale parking operations, along with working with DCR and local authorities on traffic patterns and plans. John is enthusiastic about the Commercial Street Corridor development and is also an active participant in the Malden community. I believe he will be an asset to the Mystic Valley Development Commission.

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 placed on file. The motion carried by a unanimous vote.

7. HEARINGS, PETITIONS, MEMORIALS AND REMONSTRANCES

8. MOTIONS, ORDERS AND RESOLUTIONS

[557-15](#)

Be it ordained that Section 1.2 of R.O. 1991 be amended relative to invalidity or unconstitutionality of ordinances.

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

-by adding at the end of Section 1.2 the following new paragraphs:
Any provision or part of this code which conflicts with state or federal law shall be invalid; provided that, for purposes of this section, federal law shall take priority over state law.

A written determination by the City Solicitor, the Massachusetts Attorney General, the United States Attorney General or any federal law enforcement official shall be sufficient to render a specific section or sections invalid.

No officer or employee of the city shall take action to enforce any section or part of this code which has been determined, in accordance with the preceding paragraph, to be invalid and, any action so taken, shall relieve the city of any obligation to indemnify said officer or employee for any damages arising therefrom.

Sponsors: Neil C. Kinnon

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

[558-15](#)

Be it ordained that Section 8.17 of the Revised Ordinances of 1991 be amended relative to certain non-union employee benefits

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

-by striking out the last paragraph of Section 8.17 and inserting in place thereof the following new paragraph:

Supervisory personnel in the Public Works Department shall receive such longevity benefits and clothing allowances as they would be entitled to if covered under the Public Works collective bargaining agreement. No other benefit granted to employees under a collective bargaining agreement shall be extended to any employee not included

in the bargaining unit.

Sponsors: James M. Nestor

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

9. COMMUNICATIONS

[559-15](#)

Mayor's Veto of Paper #224-14 (Reducing fees for Solid Waste Collection)

Dear Members of the City Council:

I write to let you know that I am returning, unsigned, the ordinance amending Section 9.28 of the Revised Ordinances of 1991 which reduces fees for the collection of solid waste. I submit the following objections for your review:

1. The legislation comes at a time when our finances remain in a precarious position. We continue to run a structural deficit of approximately \$3-4 million on an annual basis. I believe we need to thoroughly evaluate the financial impact of any changes to the current program so that we can all be assured that we can maintain the delivery of services that our residents have come to expect and deserve.
2. The ordinance does not address what many of those opposed to the program have advocated for which is the outright elimination of Pay As You Throw (PAYT) or at the very least an alternative which would preclude the need to purchase bags for the disposal of solid waste.
3. There is also the unknown factor that this amended ordinance would have on our current recycling rates. The positive impact of the current program has not only been the reduction in trash volume but also the increase in recycling. We presently recycle an average of 30 to 40 percent of our solid waste which translates into hundreds of thousands of dollars saved. Any change to PAYT could negatively affect this percentage.
4. This amendment does not address what we have repeatedly heard to be a prevailing problem which is the mess that the open 18-gallon recycle bins are making throughout the city. Public Works Director Bob Knox has stated that if he could change one thing it would be to increase the capacity of the recycling bins and require covers to better contain our recyclables.
5. Finally, this ordinance does not take into account the recommendations made by the panel of residents who spent over a year working on alternatives to improve our program. I believe it is a lost opportunity not to take advantage of their hard work and dedication.

As always, I appreciate your time and effort on topics like this but I believe an amendment of this importance requires more time and thoughtful dialogue, both internally and with the public, prior to any change. As evidenced by the 5-4 vote to ordain the paper, it is clear the Council is divided on the matter.

If you should have any further questions, please contact me at 781-397-7000, option 6 or email me at mayor@cityofmaiden.org <<mailto:mayor@cityofmaiden.org>>.

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.

Yea: 3 - D'Arcangelo, Kinnon and Nestor

Nay: 8 - Anderson, Crowe, DeMaria, Murphy, Sica, Spadafora, Ultrino and Matheson

224-14

Amending Section 9.28 to reduce fees for collection of solid waste to \$1.00/bag

Sponsors: David D'Arcangelo

A motion was made by Councillor D'Arcangelo, seconded by Councillor Kinnon, that the Ordinance be tabled indefinitely. The motion failed by the following vote:

Yea: 3 - D'Arcangelo, Kinnon and Nestor

Nay: 8 - Anderson, Crowe, DeMaria, Murphy, Sica, Spadafora, Ultrino and Matheson

A motion was made by Councillor DeMaria, seconded by Councillor Sica, that the Mayor's veto be sustained. The motion carried by the following vote:

Yea: 6 - Anderson, Crowe, DeMaria, Sica, Spadafora and Ultrino

Nay: 5 - D'Arcangelo, Kinnon, Murphy, Nestor and Matheson

10. CLAIMS

11. COMMITTEE REPORTS

560-15

Committee Report (Ordinance): Paper #426 That the City establish a Historic District Study Commission pursuant to MGL Chapter 40C The Standing Committee on Ordinance, to whom was referred Paper #426 Series of 2015, having considered the same make the following report: Committee recommends that this paper be reported out favorably.

Councillor D'Arcangelo for the Committee

A motion was made by Councillor D'Arcangelo that the Committee Report be

received and filed. The motion carried by the following vote:

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

[426-13](#)

That the city establish a historic district study commission under MGL Chapter 40c

A motion was made by Councillor D'Arcangelo that the Order be amended to read as follows: Ordered: That there is hereby established under the provisions of Massachusetts General Law Chapter 40C, a Local Historic District Study Committee consisting of 5 members, which shall make an investigation and report on the historic significance of the buildings, structures, features, sites or surroundings included in such proposed local historic district or districts in the downtown and Corey Road areas as they may recommend, and shall submit a final report with its recommendations after a public hearing, together with a map of the proposed district or districts and a draft of a proposed ordinance, to the City Council. The motion carried by a unanimous vote.

A motion was made by Councillor D'Arcangelo 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

[564-15](#)

Committee Report: Appointments (Re: Paper #510 Mayor's Appointment of Patrick Fitzgerald, 45 Wesmur Rd. as an Associate Member of the Planning Board)

The Standing Committee on Compliance/Appointments to whom was referred Paper #510 Series of 2015, having considered the same make the following report: Committee recommends that this appointment be confirmed.

Councillor Anderson for the Committee

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

[510-15](#)

Mayor's Appointment: Patrick Fitzgerald, 45 Wesmur Road as Associate Member of the Planning Board (Term Exp: March 1, 2020)

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

[565-15](#)

Committee Report: Appointments (Re: Paper #535 Mayor's Appointment of Anthony Chiccaurelli, 22 Wesmur Rd. as Director of Human Resources)

The Standing Committee on Compliance/Appointments to whom was referred Paper #535 Series of 2015, having considered the same make the following report: Committee recommends that this appointment be confirmed.

Councillor Anderson for the Committee

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

[535-15](#)

Mayor's Appointment: Anthony Chiccuarelli, 22 Wesmur Rd. as Director of Human Resources (Term Exp: 3/1/2018)

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

[566-15](#)

Committee Report: Personnel (Re: Paper #551 That \$8,257.00 be transferred from Salary Reserve for Reclassification to Various Salary Accounts)

The Standing Committee on Personnel to whom was referred Paper #551 Series of 2015, having considered the same make the following report: Committee recommends that this paper be reported out favorably.

Councillor D'Arcangelo for the Committee

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

[551-15](#)

Order: That \$8,257.00 be transferred from Salary Reserve for Reclassification to various salary accounts.

Sponsors: David D'Arcangelo

A motion was made by Councillor D'Arcangelo 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

[567-15](#)

Committee Report: Finance (Re: Paper #550 That the Treasurer be authorized to borrow \$600,000 to pay the cost of constructing municipal outdoor recreational and athletic facilities)

The Standing Committee on Finance to whom was referred Paper #550 Series of 2015, having considered the same make the following report: Committee recommends that this paper be reported out favorably with the following amendment: that the words "constructing municipal outdoor recreational and athletic facilities, including the development of and the construction and reconstruction of facilities" and the words "the existing South Broadway project plan" be inserted in place thereof.

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.

[550-15](#)

Order: That the Treasurer be authorized to borrow \$600,000 to pay the costs of constructing municipal outdoor recreational and athletic facilities.

Sponsors: Barbara Murphy

A motion was made by Councillor Murphy that the Order be amended by striking out the words “constructing municipal outdoor recreational and athletic facilities, including the development of and the construction and reconstruction of facilities” and inserting in place thereof the words “the existing South Broadway project plan”. The motion carried by a unanimous vote.

A motion was made by Councillor Murphy, seconded by Councillor Kinnon, 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

[568-15](#)

Committee Report: Ordinance (Re: Paper #546 Be it Ordained that Section 8.3 of the Revised Ordinances of 1991 be amended relative to the composition of the Salary Review Committee)

The Standing Committee on Ordinance to whom was referred Paper #546 Series of 2015, having considered the same make the following report: Committee recommends that this paper be reported out favorably.

Councillor D’Arcangelo for the Committee

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

[546-15](#)

Be it ordained that Section 8.3 of R.O. 1991 be amended relative to the composition of the Salary Review Committee

Sponsors: David D’Arcangelo

A motion was made by Councillor D’Arcangelo that the Ordinance be enrolled. 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 that rules be suspended. The motion carried by a unanimous vote.

A motion was made by Councillor D’Arcangelo 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

12. TABLED PAPERS

13. PERSONAL PRIVILEGE

[562-15](#)

Councillor Anderson has requested executive session for the purpose of discussing an ongoing criminal investigation with the Police Chief.

The Council President declared that open discussion would be detrimental to the City's investigative position.

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

Yea: 10 - Anderson, Crowe, DeMaria, Kinnon, Murphy, Nestor, Sica, Spadafora, Ultrino and Matheson

Nay: 1 - D'Arcangelo

[561-15](#)

Councillor Spadafora has requested executive session for the purpose of discussing temporary relocation of City Hall Offices.

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

A motion was made by Councillor Spadafora 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

[563-15](#)

The Assistant City Solicitor has requested an executive session to discuss pending litigation.

The Council President declared that open discussion would be detrimental to the City's litigating position.

A motion was made by Councillor Sica 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

The open meeting was recessed and executive session convened at 8:04 p.m.

Executive session was adjourned and the open meeting reconvened at 8:30 p.m.

14. ADJOURNMENT

At 8:31 p.m., a motion was made by Councillor Sica that the meeting be adjourned. The motion carried by a unanimous vote.

KAREN ANDERSON, CITY CLERK