

METHUEN CITY COUNCIL REGULAR MEETING
MONDAY, DECEMBER 15, 2008 – 7:00 P.M.
GREAT HALL, SEARLES BUILDING

Chairman Lahey called the regular meeting of the Methuen City Council to order at 7:00 p.m. with all members present, with the exception of Councilor Quinn.

ACCEPTANCE OF AGENDA

MOTION BY: Councilor Kannan, seconded by Councilor Leone to amend the agenda to add contract C-09-14. UPON VOTE: UNANIMOUS.

MOTION BY: Councilor Cronin, seconded by Councilor Leone to accept the agenda as amended. UPON VOTE: UNANIMOUS.

Invocation/Pledge of Allegiance

Rev. Wilkes gave the Invocation for the evening. Everyone remained standing for the Pledge of Allegiance.

ACCEPTANCE OF MINUTES

MOTION BY: Councilor Cronin, seconded by Councilor Zanni to waive the reading and accept the minutes of December 1, 2008, regular meeting. UPON VOTE: UNANIMOUS.

CORRESPONDENCE/PROCLAMATION – None

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PUBLIC PARTICIPATION

Dawn Carbone and Melissa Woodbury, owners of Gracey's Place, introduced their new business, hours of operation, items for sale, as well as their job experience. Their intent is to open on Friday, December 19th and the Grand Opening will be Saturday, December 20th. (informational packets distributed)

Jack Burke, 49 Canobieola Road, commented on TR-08-92, Resolution Establishing an MTBE Fund to the Stabilization Fund. The settlement for the MTBE lawsuit deals with MTBE was put into gasoline between 1979 and 2006 and the lawsuit covered municipalities, which were dealing with public water supply, mostly dealing with wells. He said he agrees with the stabilization fund concept but under Mass General Law, Chapter 40, Section 5B, a municipality can create multiple stabilization funds and because this money, \$400,000 plus, is coming to the community. His belief is that this money should be in a stabilization fund that's part of the Water Enterprise System because the monies were specifically for public drinking water. The Water Enterprise Fund is what controls public drinking water in the City of Methuen. He recommended that Council consider creating a stabilization fund within the water enterprise system and putting the money there. This money is only the first amount to be given to communities. There is still an ongoing lawsuit for a number of other oil companies. The terms of the current lawsuit allow for over the next thirty years if any MTBE is found, the current participants in a lawsuit will pay up to 70% of the cleanup costs of the water supply for any of the people who are getting the money, which is Methuen. He'd like to see this fund established in the water enterprise area. In addition, he'd like to see Methuen create a group between the health department and the water department to manage the MTBE problems that occur within the city. This group would need to identify all of the gas and service stations which were in existence between 1979 and 2006, compile a list of all the automotive repair shops, all the automotive junk yards and any storage locations which have also been in existence for that period of time because they are all subject to MTBE contamination. He'd like them to identify all the well fields within Methuen and then he set up a monitoring program which would be ongoing over the next thirty years to test for MTBE on a regular basis. If any contamination arises in this city, in any of our public or private drinking systems, we know right away and we can start to ask for the funds to help with the cleanup, which is very expensive and requires massive charcoal filtering. He asked the Council to consider these points.

PUBLIC SERVICE:

A) Grants: None

B) Licenses: Second Hand Dealer Application – Gracey's Place, 55 Broadway, Methuen, MA

MOTION BY: Councilor Zanni, seconded by Councilor Cronin to approve.

UPON VOTE: UNANIMOUS.

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Billiards Parlor License (renewal) Vinny's Billiards, 687 Prospect Street, Methuen, MA

MOTION BY: Councilor Leone, seconded by Councilor Zanni to approve.

Councilor Pappalardo said on the front of the application it asks for a name, address, and social security number. The second page asks for their name, corporate office and social security (voluntary). They have to include it on the front page but not the second. She asked if there are any privacy laws regarding these social security numbers.

Attorney McQuillan said there was always a privacy law regarding a social security number. If people want to transact business with the community, or require any sort of public licensing, normally the standard operating procedure is to have a PIN # (federal identification number for a business). But for the purposes of transacting, short of that and if the number is required in an application, it should be filled out completely. If the number is already on one page and is similar to what is on another page, he would say that would satisfy the requirement.

Councilor Pappalardo noted that anyone could go to the City Clerk's office and look up this license and their social security number would be on it. She asked if there are any privacy laws to prohibit that.

Attorney McQuillan said unfortunately in a business or commercial domain, its there. Councilor Leone asked if a business's FID number would appear there.

Attorney McQuillan said it should appear there. In the normal course of business, its advisable if you are in business to have a 04 number as opposed to a social security number. That would take place in lieu of a social security number and satisfy for the purposes of taxes, both on federal and state level. Short of that, we ask for a social security number.

Councilor Leone said if the application specified an FID #, FID #'s are easy to get. They are free, available on line.

Attorney McQuillan noted that the application should say social security number and/or FIN#.

Councilor Zanni noted that the previous application has that number.

Attorney McQuillan said that is the appropriate number for a commercial enterprise.

Councilor Pappalardo commented that when you go to get your license, they no longer allow you to keep your social security number on your license.

Attorney McQuillan said that is the new state statute.

Councilor Pappalardo said she is wondering how old these forms are and suggested drawing up something new.

Mayor Manzi said they were revised but this is the same rough form used for a long time.

Councilor Pappalardo asked if there is a way to block out the social security number.

Attorney McQuillan said it could be eliminated from the application.

UPON VOTE: UNANIMOUS.

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Contract C-09-14 Police Chief – Employment Contract MOTION BY: Councilor Leone, seconded by Councilor Kannan to adopt, for discussion purposes.

Councilor Leone said he didn't have the opportunity to look at the contract and asked if it would cause any undue difficulty if this were handled in two weeks.

Mayor Manzi said he hoped to get this done tonight. Council can make that decision. What we have essentially is the provisions mirroring the statute and paying this Chief less than the prior chief. The only add-on is the restoration of the differential that she was earning as a Captain, which was eliminated when she became the Chief. That is the only thing that deviates slightly from the statute. Other than that, the wage scale is an exact replica of what she is entitled to statutorily. The Auditor can provide the number on the differential. He deferred to the Solicitor to confirm that but that is the only difference that was included for Chief Lavigne.

Councilor Kannan asked for a number.

Mayor Manzi said the differential amount would be \$8300. She was earning that differential as a Captain. The reason he included it in the contract submitted to Council was because he didn't think she should be penalized for becoming the Chief. It still leaves her below what the prior Chief was earning and her 2X's amount is 2X's according to the statute, which was not the case with the prior Chief. She is making less than the prior Chief.

Councilor Kannan asked how long the contract would be in affect.

Mayor Manzi said they designed it so that the opening date corresponds to her interim appointment, which would effectively be a two-year contract, but three years technically because they included the prior service. The said they would come with a two-year contract

Attorney McQuillan explained that the starting date would be July 1st, 2007, which was during the course of her interim appointment and the ending date would be June 30th, 2010.

Councilor Pappalardo said she received this contract via email and stated that she has a problem receiving this at the last minute. This is something she needs to review before voting on it. Council doesn't have any figures in it, 2X's the highest paid police permanent officer, she doesn't know what that is and didn't have time to look it up. She spoke with Attorney McQuillan about a week ago and happened to ask him about the contract (not knowing that it might come before Council tonight). He said he had it but had to add something. She supports the Chief but would like to have the contract at least a week in advance in order to review it.

Mayor Manzi stated he's going to submit contracts when they're done. Council considers them at their leisure. They submitted it today because they actually completed the language this morning. It is up to the Council, as a body, when they consider it. There are certain legal issues that the Solicitor, he, and the Chief felt were important enough that they continue to talk through them. It was submitted this morning because it was first available to us this morning. It's fine with him if Council doesn't want to consider it tonight.

Councilor Willette said he doesn't like receiving things at the last minute. We're a coequal body and should have time to deliberate over these contracts. He has no problem approving a contract for Chief Lavigne. But he needs to have a contract that stipulates

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the length of the contract, not something that's put in after the contract is approved. He appreciates the caveat in the last couple of paragraphs regarding the Solomon case. He doesn't want to arrive at the meeting, view a contract, and make a rapid decision. He has no problem meeting next week on this. He understands it's the prerogative of the Mayor to submit contracts to Council that he believes in a timely fashion. He doesn't particularly have a problem with the contract but he also has some questions on it.

Councilor Zanni said Council has to be cognizant of the fact that there is an ongoing civil service hearing. We haven't received a decision on that as of yet. To him, it would be wise to wait until we get that decision. He knows what Councilor Willette mentioned at the end there is a null and void clause there and he understands that. It would be very difficult if he were to come back, her being pushed back as Captain, would be a very difficult situation. Council should wait for a decision. He looks at top management positions in our community, the Fire Chief and Police Chief (its says 24/7), along with other department heads, should be living in our community, because they then would be vested in what our community really needs and there's a couple of other things in the contract that he feels should be looked at. The Chief has done an outstanding job and doesn't have any problem giving a contract but Council should wait until this hearing is over.

Councilor Leone said he didn't mean to imply he wanted a long delay here. He just wants a couple of days to look at it, as Councilor Pappalardo does. He doesn't want to wait and doesn't mind meeting again this week, 48 hours to look at it.

Councilor Willette said he doesn't want anyone to misconstrue his statements. He definitely supports a contract for Chief Lavigne but he is obligated as a City Councilor to review contracts. There are certain items he needs to have codified within the contract itself, the length of the contract, and he wants to make sure its in the contract that its not subject to civil service and there's no provision of re-enacting civil service within the contract. That's something he needs to have clarified as well. He has no problem meeting 48 hours or next week on this. He doesn't think anyone should be penalized because of action by the state. We need to correct a situation and have the Chief on a long-term contract. He appreciates the caveat at the end and at the same time he needs to ask additional questions. He has no problem with meeting next week

Chairman Lahey asked the Solicitor how this measures with the Fire Chief's contract.

Attorney McQuillan said it is similar in respect that Statutes, accepted by the City, establish both the Chief of Police and Fire Chief's salaries. The term is three years for Chief Gallant, very much similar in both, and he would have to check on the differential. This is a basic, bare bones contract from a fiscal point of view in that, again, the Chief is only being paid what is provided for by Statute. She is provided those benefits, provided to any department head, under the personnel ordinance. The only benefit only above the statutory requirement is the differential, but similar in most respects with the Fire chief's contract.

Chairman Lahey said there is no fluff, other than the 8% differential. Attorney McQuillan said that is correct.

Chairman Lahey said there should be a problem giving everybody a chance to ask questions before the next meeting. Councilors could give Attorney McQuillan a call regarding the language if necessary, prior to the meeting.

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MOTION BY: Councilor Giordano, seconded by Councilor Willette to table this contract to Monday, December 22, 2008 for a special meeting at 6:30 p.m. UPON VOTE: UNANIMOUS.

Mayor Manzi announced that the Emergency Management Director, John Santoro, is present to answer questions. The Mayor commended John and his team. There were a lot of difficulties for Methuen over this past weekend and for the second time in as many major disasters, John and his team performed – outstanding performance by the entire group. We had some major difficulties that the MVRTA helped us solve. Without them, we would have had a major problem at the Methuen Housing Authority. The MVRTA really came through for the City of Methuen in this crisis. From the School department, Brian Fowler was there night and day and helped us not only connect with the schools but helped us in everything we did, not just school related. Deputy Buote over at the Fire Department, our volunteers outstanding. We couldn't have got through it without them. Our friend, Jill Stackelin was there helping with the volunteers, DPW department. We had some issues that went beyond the ice storm. There were five water main breaks over the weekend and DPW responded to all of them. The entire DPW crew, all departments, deserve a lot of credit, 168 trees down, not counting branches and limbs, 375 truck loads of limbs and brush, 35 basements pumped, the water treatment plant and the water storage tanks on back up generator. He lives on Woodburn Drive and has a sewer pump station. All of those in the city had to be handled manually and he was happy to say we had no problems in that area. Our team was out there doing everything that they were supposed to do and then some. The Fire Chief was there continually. Our Police Chief and police department did a wonderful job for us. Methuen Housing Authority, we needed a full team effort and that was the MVRTA, John's team, but in particular our police department handled that with courtesy, with diplomacy, and tact and because of their professional efforts. Large groups of people were moved in a very short period of time to a safe environment. He would like to especially thank Chief Lavigne and her team because they really were outstanding in that respect. The American Red Cross set up a shelter for us with our volunteers and he is indebted to them, their volunteers were wonderful and he can't thank them enough. The staff at the Methuen Housing Authority worked with us and they are now part of our emergency management team and Mike Farelli and his team did a wonderful job. He apologized if he left anyone out. We do have a number of homes in Methuen still without power. The number was 1700 this afternoon and declining. Mass Electric, National grid is out there working. John and he spoke and the number dropped 50 in one hour. National Grid is working on it. Our DPW teams will be out there collecting brush and do the things we need to do to clear our sidewalks and our streets.

Mr. Santoro said he checked prior to the meeting and we are down to just over 1200 homes and/or businesses that are affected. That number has gone down over 500 over the past five hours. They are really making headway. There is no guarantee that they'll have them all done by tonight. Hopefully it will be tomorrow. They're extended beyond belief. We started at 11,000 and they had already started repairing. That number has gone down dramatically. Crews came in from Georgia, Pennsylvania, and Montreal to help out. It hit all of New England. Three presidential declarations of National disaster,

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Maine, New Hampshire, and Massachusetts that he's been notified of so far since he's been in contact with MEMA and FEMA on all the issues.

Mayor Manzi said we continue to collate and compile the data relative to the finances and are working with John's team and DPW. With the President having declared an emergency, we are hopeful that there will be some federal reimbursement of the monies expended over this past weekend.

Councilor Pappalardo said she spoke with residents at Methuen Housing and they were quite pleased at the way they were evacuated. Ken Martin did a great job.

Mayor Manzi said Ken Martin did a comprehensive job and was on the scene as part of the team.

Councilor Pappalardo said she understood Mr. Martin knocked on all the doors to get the residents out. She also noted there was a lot of damage on Forest Street. DPW employees worked very hard. There were trees in the street and were cleared almost immediately.

Councilor Leone asked what neighborhoods are still without power.

Mayor Manzi said at 1200, it's impossible to pinpoint geography but based on the calls he's getting he would say it would most likely be the rural areas of the west district. He doesn't believe it is limited to the west. For the most part, he believes that would be the case. The geography of the outages was not something that National Grid was communicating, if they had it.

Councilor Leone asked if brush pick up is going to be an ongoing effort.

Mayor Manzi said it would be an ongoing effort. The transfer station was open all weekend. He neglected to mention Ray DiFiore who worked with him continually over the weekend. He had the transfer station open. All fees were waived for residents bringing brush in. We will probably be picking up brush for the next two to three weeks.

Councilor Leone asked if there would be a schedule precinct at a time.

Mayor Manzi said he would get back to Council on that, in terms of what the schedule is. It will be a scheduled pickup and they will most likely not deviate from the schedule. They will pick up according to the schedule outlined.

Councilor Leone said residents that want to clean their yard could put the material on the curb.

Mayor Manzi said he believed so but there will be limitation in terms of size of limbs and brush. He will put the details on the website.

Councilor Zanni thanked the Mayor and John Santoro. He said he had the opportunity to visit them at the fire station early in the a.m. and at 11:00 p.m. at night. The job coordinating everything was outstanding. He also had an opportunity to go over to CGS and see the Red Cross and commendable job they did. There were several issues in the west end, DPW came out right away and cleared the roads. He thanked John Santoro and his group for their efforts and professionalism.

Mr. Santoro said as the Mayor kept using the word team. It was completely a team effort from all the departments within the city, all the agencies, including the outside sources, MVRTA and the Red Cross. They sent their start team, which has twenty members to help. Some were able to make in and others couldn't make it but a call went out that we were looking for volunteers and the Town of Brookline sent a team up as well to help out our volunteers to give them some respite and to supplement efforts. It was definitely a team effort all around for everyone.

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Councilor Kannan commended Mr. Santoro as well. She said she took a ride around and noted Forest Street did get hit hard. She asked if the shelter is still open at CGS.

Mr. Santoro reported that the shelter closed mid-morning today. There were four residents left. Two went home and two were placed in alternative shelter at the Red Cross's expense. The shelter is officially closed. If someone comes up, the city will contact the Red Cross to make other arrangements.

Councilor Kannan said she noticed there were people cutting branches, not huge branches. The residents are putting them on the side of the road, getting them off their property, and DPW is working to pick them up.

Mayor Manzi said DPW is picking up brush and he'll provide Council with a schedule and place it on the website.

Councilor Kannan thanked the Mayor for a job well done.

Councilor Cronin said, in addition to all the people that were duly recognized, he had a chance today to speak with some people from the electric company. People in the call centers were on steady for over forty-eight hours. The people who went out on the line trucks should be commended for their training and for the organization that they have, being able to pinpoint and know which areas are out, which areas they could fix immediately, which ones to schedule on an ongoing basis. These individuals were out on the line trucks for three or four days straight without sleep and as John said, they were bringing them in from Canada, etc. It's a credit to training that they have over at National Grid, to the work that they did too.

Chairman Lahey agreed.

Mayor Manzi said he'd like to add to what Councilor Cronin just said. National Grid workers, like our DPW, were out there continually and really deserve some credit. They were professional, sent out huge teams, and were very concerned about safety. For three days National Grid conducted large conference calls where the Mayors, Managers, and Public Safety personnel all of the affected communities could patch in and get updates. They also set up a police and fire, dedicated line, for call ins of downed lines. Beyond that they set up a municipal line for questions and concerns that municipal leadership would have, be it police, fire, or Mayors and managers. They really tried to get the communications flowing and they did. The answers weren't always what we wanted to hear but they were trying and reached out to all of the affected communities and for that they really deserve some credit. They really did go beyond the call of duty on that.

Councilor Giordano said he received calls from residents on Cox Lane and asked about the schedule.

Mayor Manzi said they would set a schedule and distribute it to Council.

Chairman Lahey suggested giving a copy to the tribune.

Councilor Giordano thanked his son, who donated subway sandwiches.

Mayor Manzi thanked him as well for his donations to the center.

Councilor Willette asked if there is hotline for people to call regarding claims, in terms of the aftermath, personal claims and issues of that nature, or questions and concerns could be addressed, or if federal or state officials maybe some insurance officials might come to Methuen, either through MEMA or FEMA. The aftermath is very important for a lot of the residents.

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Mayor Manzi said they are somewhat acquainted with the potential for reimbursements because of what they went through with the floods. There are pretty steep limitations on a homeowner's ability to recover.

Mr. Santoro said right now MEMA and FEMA do what they call the PA, public assessment, where they go out and look at municipal buildings and facilities and critical infrastructure that were damaged. That's the first triggering mechanism to meet the criteria for he believes its eight million dollars for the state of Massachusetts, we need to meet and they need to do that right away. The second step for municipalities is to gather the hard numbers for all that. As that's working, FEMA and MEMA do a joint effort to do what's called a DRC, a Disaster Recovery Center. They met Monday in Danvers and the new pilot program for FEMA is to pre-designate DRCs throughout the states, every community. Wednesday morning they met at the Nevins Library, which was surveyed as a DRC location. He's not saying that is going to be the DRC but FEMA wants to pre-identify those locations as opposed to running around last minute when a disaster strikes. They been surveyed and it meets all the criteria. It hasn't even made it to the Website yet because it just happened on Wednesday. FEMA will be sending the city a message through MEMA to him. They will hear on the news, through newspapers, and probably on the city website where the DRCs will be in the future. Its up to the feds to pick one certain spot that's central and easy access for many communities. They don't open one in each community because it would be too much to man. In the floods of 06, they opened in the library in Lawrence or the high school in Lawrence. Approximately fifteen years ago, they used Sanborn Hall. They try to move that around to share the equity and share the access to the residents. It is forthcoming.

Councilor Willette said he works for a State Representative in the Milford area, and they have a regional shelter at their high school. But we're dealing with a situation that they have an antiquated emergency generating system. Now, in terms of a widespread outage, similar to this, we had the CGS as a designated shelter. He asked if there is a backup generator, capable of lasting days on end, in the event there is a widespread power outage, no power whatsoever.

Mayor Manzi responded, no, not to the extent that you would need it at the school. Though there would be other provisions made at that point, should we have not been able to have power at any school. The CGS is on the same circuit as the hospital and that is a priority circuit. We were fortunate in that sense. We'll look at the potential for backup generation and maybe we can pick one school. We are going to debrief and look at that potential.

Councilor Willette said he knows there are no grant programs per se for emergency generators. That's a major issue not only in Methuen but also across the entire state. There should be grant funding for emergency generators but his conversations with MEMA is that they would have a policy of lending emergency generators. Perhaps Methuen could submit a written request so that if something occurs that is widespread like this nature, there would be something available to use for emergency generator.

Mayor Manzi said he thinks that MEMA has a lot of assets and depending on how widespread statewide the incident is, if it tends to be wider spread like this last one, the assets are apportioned based on if you get there in time. They did have generators now.

Mr. Santoro said that is what happened this time.

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Mayor Manzi said they had other things like cots but if you get there last and the assets are not there any more cities and towns are out of luck. They do have a lot of assets and they are wonderful in sharing them. But there are limits to what they have.

Chairman Lahey said he spent Saturday with DPW and the individuals who were out in the trucks, hauling the brush, doing the cutting, etc., noting Methuen can count on them when there is an emergency like that. In two weeks when this is just a bad memory, the DPW workers will still be cleaning up the mess for at least two weeks, if not more.

Councilor Willette said regarding the MTBE agreement, he realizes that we're going into a deep recession and possible cutbacks, likely ten percent, maybe more next year but there is a golden opportunity to consider the possibility of purchasing at huge discounts vehicles for public safety, whether it be fire and police, using a portion of that monies, that would be going into the stabilization fund and the possibility of receiving huge discounts right now because of the market place, of purchasing and replacing some of the vehicles that we've heard reports on that are really on their last legs. Given the market place right, he wanted to suggest a portion of that should be allocated.

Chairman Lahey noted there were some questions and concerns on the revolving account for the schools. He asked if that's been cleared up.

Mayor Manzi said if the City Council has concerns he would suggest that at the next meeting we have the School department come and explain them to Council directly.

Councilor Cronin said "as a point of information" he asked all the questions that he needed to ask and was satisfied with the response he got.

TR-08-82 Resolution Authorizing a Transfer of Funds from Other Expenses Accounts to Personal Service Accounts in the Following Departments; Information Technology, Economic and Community Development, and Law Enforcement (Mileage and Clothing Allowances)

MOTION BY: Councilor Giordano, seconded by Councilor Kannan to adopt. UPON VOTE: UNANIMOUS.

TR-08-83 Resolution Reducing the Current Bond Authorization of Miscellaneous Completed Projects

MOTION BY: Councilor Cronin, seconded by Councilor Zanni to adopt. UPON VOTE: UNANIMOUS.

TR-08-84 Resolution Establishing a School "Other Student Activities" Revolving Fund Pursuant to the Provisions of General Laws Chapter 44, Section 53E ½ (remove from the table)

MOTION BY: Councilor Cronin, seconded by Councilor Kannan to remove from the table. UPON ROLL CALL VOTE: 5 no, 3 yes (Clr. Cronin, Clr. Kannan, Clr. Lahey)

Councilor Cronin said he asked questions regarding this to School Committee members and found this has nothing to do with MCAS. Students wishing to take College Board exams pay these funds/fees. If they want to take the college boards, they pay to take these tests and it also falls in line with students that are applying for grants and for scholarships. In order to apply for these grants and scholarships and get these

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scholarships, they have to take these exams. A private group, who then hires monitors from within our school system to oversee the tests, administers the exams. Currently, the monies are commingled in with the principal's account. On the advice of the new accountant that they are using for the schools, he is suggesting that these monies be taken out of that account, and separated from that account so that there is no problems with finances. It makes it nice and clean and that's the reason for establishing the revolving account.

Chairman Lahey said he received the same information and he hoped someone would have been in attendance tonight from the School Department to explain this.

TR-08-85 Resolution Accepting Gifts (two vehicles) for the City of Methuen's Police Department – from the Commonwealth of Massachusetts
MOTION BY: Councilor Giordano, seconded by Councilor Zanni to adopt.
UPON VOTE: UNANIMOUS.

TO-08-09 an Ordinance Amending the Methuen Municipal Code, Chapter 10A, Section 23-Automatic Door Openers Requirement (Req. of Clr. Lahey)

MOTION BY: Councilor Willette, seconded by Councilor Pappalardo to adopt.

Councilor Leone asked the Chairman to establish a subcommittee and conduct a public hearing. This has some ramifications that he doesn't believe are addressed in the ordinance. Council should have some input from the people who are directly affected.

Councilor Cronin suggested if the Council has a subcommittee the building inspector should be part of that subcommittee and people of that nature to provide some input on the ramifications as to what could happen regarding small businesses.

Councilor Leone said he would like to table this until either the Chair or subsequent Chair establishes a subcommittee and conducts a public hearing.

Chairman Lahey said he would not support a subcommittee. He asked the Solicitor about the research he's done on this issue, noting it was extensive and he also had discussions with Sid Harris. He asked if this requires a subcommittee.

Attorney McQuillan said that is a political question, not a legal one. His conversations were with Mr. John Miller of the Assisted Living Center in Lawrence and the research he's done through other pieces of legislation similar to this as well as Canada. It really is at the pleasure of the Council. Any piece of legislation does have an impact, whether its negative or positive depends on the people directly affected. That's a question he would respectfully decline to answer, as it is a political question, not a legal question.

Councilor Willette said he is in full support of the issue and thinks there is a separate mechanism, what's called the Architectural Access Board, that if someone feels they are aggrieved as a business owner and again this would apply to new businesses, new operations, new construction, not existing operations or businesses. If they feel that, what the Americans with Disabilities act have a provision of reasonable accommodation and there is a certain benchmark that a person has to reach in order to have reasonable accommodation. There is a whole guidepost with the Department of Justice with the United States of different items that a business can implement reasonable accommodations that are cost effective that we receive tax deduction as a result that would not be cost prohibited towards your business. He asked Mr. Harris to come

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forward and clarify if a business feels it would adversely impact them beyond the scope of reasonable access, could they go to the Architectural Access Board for a ruling.

Mr. Harris explained that reasonable accommodations in most cases only apply to existing facilities. If you do new construction, then you are mandated by the building code, which is part of the Architectural Access Board. This is a special ordinance, a city ordinance to which he believes that the Council has the privilege of establishing. If somebody disagrees with this in most cases, he believes they would come in front of City Council for consideration because the Architectural Board isn't going to govern something that they don't mandate. And they simply don't mandate that in their rules and regulations. We are establishing this particular rule for new construction for all public facilities, businesses that cater to the public in providing goods and services. It is not an expensive venture. The Disabilities Commission has already put in eight door opener systems through the school system and the library and just passed at their last meeting to put one in the Central Administration Building. The cost is usually between \$2500 and \$3000, which doesn't apply to a depreciated value and individuals could receive a tax write off that year. That is a provision through the IRS. He and Mr. Lahey discussed sending a greeting letter for all the businesses in the community to educate them as to the advantages of the open door mechanisms. It would not be mandated because they are existing buildings. It would just explain the convenient fact that they'd be providing their customers at the same time letting them know what the incentive is and we would actually include the tax incentive within that letter. He has that information and could provide it to the Council to keep on record or place on the city's website and to the building inspector.

Councilor Kannan asked for clarification on the ordinance.

Chairman Lahey said it is for businesses/commercial properties for public access.

Councilor Leone said Council should hold a public hearing on this issue.

MOTION BY: Councilor Cronin, seconded by Councilor Leone to table for a Public Hearing.

UPON VOTE: 5 yes, 3 no (Clr. Giordano, Clr. Kannan, Clr. Willette)

Consideration of Appointments

MOTION BY: Councilor Cronin, seconded by Councilor Zanni to approve the following appointments:

<u>Disability Commission</u>	<u>Term to Expire</u>
Sidney Harris, 2 Appleblossom Way, Methuen, MA	07/01/11
Rose Choquette, 9 Nelson Avenue, Methuen, MA	07/01/11
Gregory DeBrocke, 2 Hobart Road, Methuen, MA	07/01/11
Eileen Lee, 43 Weybossett Street, Methuen, MA	07/01/11

UPON VOTE: UNANIMOUS.

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NEW BUSINESS

Resolutions:

TR-08-87 Resolution Re-Authorizing Fire Department Private Grant from 3 M Grant Touch Systems Accepted on Order #4804

MOTION BY: Councilor Zanni, seconded by Councilor Cronin to adopt for first read.
UPON VOTE: UNANIMOUS.

TR-08-88 Resolution Authorizing Acceptance of FY 2009 Community Policing Grant, Executive Office of Public Safety

MOTION BY: Councilor Zanni, seconded by Councilor Giordano to adopt for first read. Councilor Pappalardo asked if this is for the four officers already in place.

Chief Lavigne said that is correct. It is a five-year contract. This is our second year, with three years remaining.

Councilor Giordano asked who would oversee the grant.

Chief Lavigne noted she would oversee the grant. There will be several working with it but she will oversee it.

Councilor Giordano asked if the cell phones and blackberries was a continuance.

Chief Lavigne noted it is the monthly fees.

Councilor Zanni asked if anyone receives a stipend for this grant. Chief Lavigne responded, no. She wrote the grant.

Councilor Zanni said the individuals at hand are the four patrolmen. Chief Lavigne noted that is correct. The Captain will be assigning the overtime and the supervisors will be supervising the officers out there.

Councilor Cronin said these officers have been on the force a long time and we wouldn't be losing them, even though they are going to be funded through this grant. These are not officers that just got out of the academy.

Chief Lavigne noted these are not our four most junior officers. If the city didn't get the grant this year, she would need \$231,000 to come from another source.

Councilor Cronin asked if the overtime is distributed equally with all police officers.

Chief Lavigne said the overtime would be available to others as well.

Councilor Cronin noted that in a previous grant there was quite a bit of funding that went to five particular people.

Chief Lavigne said they implemented a new program where a lot of the overtime goes by a list. The person that has the least amount of overtime rises to the top of the list.

UPON VOTE: UNANIMOUS.

TR-08-89 Resolution Authorizing Expenditure from the Castle Fund

MOTION BY: Councilor Giordano, seconded by Councilor Zanni to adopt for first read. UPON VOTE: UNANIMOUS.

TR-08-92 Resolution Establishing MTBE Funds to the Stabilization Fund

MOTION BY: Councilor Leone, seconded by Councilor Kannan to adopt for first read.

Councilor Pappalardo said you are putting this in the stabilization fund. She asked Mr. Kelly how many stabilization funds we have.

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Mr. Kelly responded, one. Its the General Fund Stabilization Fund and it was the Division of Local Services, the Department of Revenue, because all these cities and towns were getting this money in, they were getting inundated with phone calls from cities and towns wanting to know what to do with it. They gave us three options. Its non discretionary. The city council could take it and pro rate throughout the entire operating budget, go back for recertification of free cash, or place it in the stabilization fund (which is to him the stabilization fund and free cash are one in the same). If it is placed in the stabilization fund, nothing can be taken out of it without approval from the City Council.

Mr. Kelly explained that this way is the simpler way to get it on the books rather than trying to place into Free Cash and wait for recertification of free cash.

Councilor Pappalardo said Mr. Burke mentioned putting this into the Enterprise Fund and she asked Mr. Kelly what would be wrong with putting it into the Enterprise Fund.

Mr. Kelly said we don't have a stabilization fund in the Water Enterprise Fund but could establish one but for now, we are using the money to do clean up down at the DPW. There is a project that needs to be done and this money can be used for that. He will provide the DLS regulation that came out. The money that came in can be used to do any type of clean up out there and they were using some of it, when it first came in.

Councilor Pappalardo said that is quite an ongoing process and asked if we plan to use all of this money.

Mr. Kelly said he is hoping they don't have to. They stopped the expenditure out of that and put it into the stabilization fund until they know what is going on.

Councilor Pappalardo asked if he knew how money was spent there.

Mr. Kelly said, maybe \$25,000 so far. No one has given him a specific dollar amount.

Councilor Pappalardo said if money is taken out of this fund, it has to come before Council. Mr. Kelly responded, yes, for any amount.

Councilor Giordano asked what type of work is being done at the yard.

Mr. Kelly explained they are cleaning up the area, soil, oil tanks, gasoline contamination, etc.

Councilor Zanni asked how much money is left in that account.

Mr. Kelly said he would obtain that information as well as the DLS regulation. The \$371,000 is going into the stabilization fund. He will check with Ray DiFiore to find out how much was expended. He will get a report and distribute it to Council.

UPON VOTE: UNANIMOUS.

ANY OTHER BUSINESS FOR THE GOOD AND WELFARE OF THE COMMUNITY
– None

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REQUEST OF COUNCILORS

Councilor Giordano thanked the Solicitor for the update received.

Attorney McQuillan said given the fact that the Special meeting will contemplate discussion not only on the Chief's contract but also in relation to the pending civil service commission matter, he advised Council that it be conducted in Executive Session.

Councilor Willette said the contract itself is a public document. The Solicitor said it will be once it is adopted. Councilor Willette said he doesn't plan on going beyond the scope of asking questions related to the contract, about the status of the case.

Attorney McQuillan said Councilor Zanni made reference to the duration of the matter and certain occurrences happening that would probably motivate his vote one way or the other. That is something that he is compelled to address and the reasons why there is a time frame, reasons he's not going to discuss now in open forum. But if the matter is raised, it is appropriate to go into Executive Session because we are going to touch on pending litigation. Also, the City Council will be discussing the substance of the contract and there are certain matters that might require confidentiality. The possibility exists and he's advising to conduct an Executive Session.

Chairman Lahey indicated he would contact the Solicitor on Tuesday.

Councilor Pappalardo asked if any meetings have been set with the School Department.

Councilor Leone indicated that the Mayor is in the process of doing that.

Councilor Cronin noted that Councilor Giordano, because of a long-term commitment, would not be available for the first meeting in January. Therefore, he's going to request a waiver of the Council rules so that Council doesn't vote on the Chairman and the Vice-Chair until the second meeting in January as he feels all members should be present to vote.

Chairman Lahey expressed his thanks to Attorney McQuillan for his research and work he did and to Sid Harris for bringing the handicap issue to his attention

ADJOURN

MOTION BY: Councilor Pappalardo, seconded by Councilor Zanni to adjourn.

UPON VOTE: UNANIMOUS.

The meeting adjourned at 8:30 p.m.

I do hereby certify that at a meeting of which a quorum was present, the foregoing minutes were adopted by the Methuen City Council by a unanimous vote on January 5, 2009.

COUNCIL CLERK