

**METHUEN CITY COUNCIL REGULAR MEETING  
MONDAY, DECEMBER 18, 2006 – 7:00 P.M.  
GREAT HALL, SEARLES BUILDING**

Chairman Zanni called the regular meeting of the Methuen City Council, scheduled for Monday, December 18, 2006 to order at 7:00 p.m. with all members present with the exception of Councilor Giordano.

ACCEPTANCE OF THE AGENDA

MOTION BY: Councilor Andrew, seconded by Councilor Lahey to accept as posted. UPON VOTE: UNANIMOUS.

INVOCATION/PLEDGE OF ALLEGIANCE

Sister Susan Frederick of the Presentation of Mary gave the Invocation for the evening. Everyone remained standing for the Pledge of Allegiance.

ACCEPTANCE OF MINUTES

MOTION BY: Councilor Corey Rahme, seconded by Councilor Leone to table the minutes until the next meeting for the necessary revisions requested.

UPON ROLL CALL VOTE: 6 yes, 2 no (Clr. Willette, Clr. Cronin)

PROCLAMATION/CORRESPONDENCE

Mayor Manzi stated that Methuen is privileged to have Rose Maria Redman as a resident in our community. She is the Principal of the Presentation of Mary Academy who received the Catholic Leadership Award, granted for extraordinary work inside the Catholic community. She is an English major from the Class of 1989 and the first lay principal of her alma mater, Presentation of Mary Academy in Methuen MA, entrusted by the Sisters of the Presentation of Mary to bring their school into the 21<sup>st</sup> century. Rose Maria has done so with courage, vision, grace, creativity and uncommon faith in God and an unwavering faith for her church. It is a faith and love that have always been there. He noted that Rose Maria is here tonight with her parents, Ray and Kay DiFiore, family and

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staff members from the Presentation of Mary. We also recognize the Presentation Of Mary Academy itself as a great institution in Methuen. Next year PMA will celebrate its 50<sup>th</sup> anniversary, with festivities and celebrations to be announced shortly. Chairman Zanni joined the Mayor in the presentation of a citation for her great work and acknowledgement of the fabulous award that she received.

On behalf of the Presentation of Mary, Rose Maria thanked the Mayor and Council for this honor. She also thanked her family and the staff at the Presentation of Mary, noting that PMA is a very important part of the City of Methuen. PMA is in the center of Methuen and they do try to make sure they participate whether it is the Santa Parade or the Festival of Trees or taking part in the citywide clean up. She hopes everyone will be there and be part of the 50<sup>th</sup> anniversary celebration next year.

Councilor Corey Rahme read a Proclamation honoring the Methuen Ranger Band Association. She introduced the individual Executive Board members and acknowledged Principal Arthur Nicholson and Judy Sousa who were also present

MOTION BY: Councilor Cronin, seconded by Councilor Andrew to proclaim.  
UPON VOTE: UNANIMOUS. Councilor Corey Rahme presented the Proclamation to the Methuen Band Parents organization.

On behalf of the band parents, Ken DesLauriers, President of the Methuen Ranger Band Association, thanked the Council and noted it takes a group of dedicated people to run the events, to support the incredible music program that we have here in the City of Methuen. The organization has grown over the last few years and has over 200 hundred parents now, most of which are active in the organization.

Chairman Zanni declared a brief recess.

PUBLIC PARTICIPATION

Jim Demarco, 2 Cameron Way, referred to the article he read and stated that he didn't quite understand how we could go from having a 1.5 million dollar deficit as was related in the article to a \$38,000 surplus and he is questioning how long of a time period that happens over. He voiced his concerns regarding the increases, the proposed upgrades at the Greater Lawrence Sanitary District, irrigation rates and his water usage noting the substantial differences and percentage increase this would have on his bill. He understands the need for infrastructure improvements and wondered if other alternatives have been considered to cover these costs. He suggested a change in the tier system used for billing, i.e., the first two tiers at 500 cubic feet of usage, the third and fourth tier at 1500 cubic feet of usage, and then everything above 2500 gets the higher rate assessment. Unfortunately this issue is being discussed at the time of year where people are not even paying attention. It is important to let people know when this is going to happen and it is only fair that before it happens the city read the meters one more time so they are not assessed for water already used, at the higher rate.

Dorothy Kalil, 8 Oakridge Street, said she is thankful that the Council is going to have a subcommittee regarding the Sewer and Water Enterprise. They have seven people in their household and it would be difficult to conserve on water. She noted it is outrageous to place a surcharge on irrigation. She placed a deduct meter at her house specifically to save on the sewer cost. It saves the town on the sewer costs because it's

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not going into the sewer treatment plant. She does not mind raising the rates but refuses to pay a higher rate to water the lawn. She also noted there is a whole host of things being charged back to this account that are legal but it's not fair. They shouldn't be coming out of sewer and water. Our water account, the enterprise account, should be strictly for water, for what's going on with the water department, the needs that they have, the maintenance they have, the maintenance for our own outside water usage out in the streets. It should not be used for your salary, the Mayor's salary, the City Solicitor; everybody's salary is coming out of this account. Thousands of dollars probably could be saved if these were stopped

Jack Burke spoke on resolution TR-06-77 - a resolution-authorizing acceptance of funds from Target for infrastructure improvements, stating he has a problem with mitigation fund and doesn't understand how the city can accept money to mitigate something that is an unknown. According to tonight's paper, a study will be done on what needs to be mitigated in 2007 but Target was already charged \$200,000 to mitigate whatever it is we might find. He asked who controls that fund, who can take the money out of that fund and what the funds can be used for. He asked "how do we put a price tag on allowing people to not use the zoning codes we have in this town? And we call it mitigation but what is it mitigating? It's mitigating nothing." He said it's mitigating the fact that we don't balance our budget, using those funds to pay for things so that we don't raise taxes on people. But his taxes go up every year. It means hard earned money coming out of his paycheck and every other of the 40,000 citizens in this town, going to this city and he'd like to know what's being done with it. He did not recall seeing any discussion on these new rules in the minutes. The city has zoning laws and codes. It is time to enforce them. He understands that it is legal. Its just skirting the ethical boundaries of what are right and he for one does not agree with it.

Holly Stump, 263 Topsfield Road, Ipswich, MA, worked with the study group to revise the dog laws. She thanked the Council for their dedicated attention in this matter and in particular Chairman Zanni and Councilor Lahey. They put together a great committee, kept the process moving quickly, got a lot of feedback every meeting, got the ordinance rewritten, redrafted by the City attorney and the result is a really great dangerous dog law and she looks forward to hearing about its success.

PUBLIC SERVICE:

Grants: None

Licenses: Vinnys Billiards' Billiard License/Amusement/Entertainment

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

UPON VOTE: UNANIMOUS.

Contracts: None

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OTHER CITY OFFICERS AND COMMITTEE REPORTS – None

OLD BUSINESS

Resolutions: None

Ordinances:

TO-06-20 Ordinance Amending Chapter 23 of the Methuen Municipal Code: Proposed Amendments Methuen Dog Ordinance (Remove from the table) (Req. of Clr. Zanni and Clr. Lahey) (amended)

MOTION BY: Councilor Cronin, seconded by Councilor Andrew to remove from the table. UPON VOTE: UNANIMOUS.

Chairman Zanni announced that the amended version is the result of a number of meetings with the committee and input provided by members and Councilors.

MOTION BY: Councilor Cronin, seconded by Councilor Willette to adopt as amended. UPON VOTE: UNANIMOUS.

Councilor Leone said that the process used to develop this dog ordinance should be an example for many other ordinances in need of revision.

Councilor Lahey thanked all the members of the committee for their professional advice and information.

Attorney McQuillan suggested that the motion be to delete 23-28A in its present form and insert thereof the proposed ordinance as adopted by the City Council.

MOTION BY: Councilor Willette, seconded by Councilor Andrew to delete the existing 23-28A and insert the adopted ordinance 23-28A, B, and C.

Chairman Zanni said after a four-month period, the Advisory Committee would meet to evaluate how the ordinance is working and advise the Council accordingly.

Councilor Willette thanked the committee for their efforts and for including his suggestions regarding abutter notification and verification process.

UPON VOTE: UNANIMOUS.

TO-06-21 Ordinance Amending the Comprehensive Zoning Map (W/S Stateline LLC) (remove from the table) MOTION BY: Councilor Leone, seconded by Councilor Quinn to remove from the table. UPON VOTE: UNANIMOUS.

Councilor Willette requested additional information regarding the proposed plans for this site prior to the Joint Public Hearing.

Mayor Manzi said that generally the developer would give a presentation at the public hearing, but he will ask that they submit the information prior to the public hearing date.

MOTION BY: Councilor Leone, seconded by Councilor Corey Rahme to table to a Joint Public Hearing with Community Development and Planning.

UPON VOTE: UNANIMOUS.

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Consideration of Appointments

Historical Commission

Krista McLeod, 111 East Street, Methuen

Term to Expire

12/31/09

Arts & Cultural Affairs Council

Donna Jackson, 4 Meadowbrook Road

Mary Lee Moynihan, 255 Howe Street

Beverly Winn, 40 Elmore Street

Barbara D'Agata, 35 Ponderosa Avenue

Carla Friedrich, 3 Arbor Glen Lane

Phyllis Lungo, 38 Elmore Street

Term to Expire

12/31/08

12/31/08

12/31/08

12/31/08

12/31/08

12/31/08

MOTION BY: Councilor Cronin, seconded by Councilor Leone to confirm the above appointments. UPON VOTE: UNANIMOUS.

NEW BUSINESS:

Resolutions:

TR-06-77 Resolution Authorizing Acceptance of Funds from Target for Infrastructure Improvements

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

Councilor Cronin said he thought the dollar amount was \$300,000 and expressed similar concerns as stated by Mr. Burke.

Mayor Manzi said there was a higher number. The \$200,000 before Council to accept tonight was triggered by the issuance of the foundation permit. Attached to the resolution is an agreement stating that the foundation permit triggered the payment of \$200,000. The agreement may trigger a payment later on. In addition, Target agreed to do some direct mitigation.

Councilor Cronin asked if the total figure is \$300,000.

Mayor Manzi said he believed it to be in the area of \$340,000.

Councilor Cronin noted that he previously asked if this money would cover some improvements at that intersection and asked what type of account the funds would be placed into.

Mayor Manzi said it would be set aside. Regarding direct mitigation at that intersection, we are working already with the state and with Brooks Pharmacy on some issues and hope to begin a formal traffic study in conjunction with the commonwealth. The belief is that we'll need more than this for direct mitigation out there. There are problems that extend all the way up to Washington Street and it is fair to say that Target will have traffic impacts. What those are and how they develop is part of the reason we haven't come forward with a plan yet. The plan will evaluate and take into account the additional burden that Target will place out there as well as the retail operation of Mann's Orchard. For example if it is determined that there is a need for an additional lane on the bridge that money could be used to devise a plan and hopefully the state would execute it.

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Councilor Cronin asked if Target would have been able to obtain their building permit (within the zoning laws as they stood) without a zoning change or was the change made to accommodate them.

Attorney McQuillan said his best educated guess is ‘no’ and believed that the purpose of the zoning change was to accommodate the proposed use.

Mayor Manzi said he’s not sure he would agree with the Solicitor on that. Principally Target is within the old zone and believes that there is another parcel. Target has the store and the parking area, which may potentially touch a portion of the area that was rezoned. There is a split here.

Attorney McQuillan said there was also consideration of the split use of the land as the proposed residential use is being moved from one pre-existing non-conforming use to an accepted use for the purposes of the residences. There was a two dimensional purpose to the zoning change to accommodate the proposed residential location as well as the proposed commercial use.

Mayor Manzi said there is additional land up there that could be utilized for further retail depending on what the family would like to do. The zoning change occurred as the result of a petition from the landowner in advance of the prospective Target use. Any number of uses could have gone on that site. It was not a matter of the City of Methuen trading a payment of that nature for a zoning change. Target reached an agreement with the landowner. There are legitimate infrastructure issues there that occurred even without Target. With Target there, its clear that in this one instance the mitigation money will be well spent there and is justified by the fact that they’ll be adding an additional burden to our system, which is already overtaxed. There was no trade of zoning changes out there for mitigation.

Councilor Cronin asked if there is formula used to determine how much the mitigation will be because the drugstore paid \$650,000 and Target (twice the size of the drugstore) pays \$300,000.

Mayor Manzi said he didn’t think so and if the stated goal is to mitigate, we do the best we can. It would have been better for the City of Methuen if Target paid the same amount as Brooks. But, it’s a balance that we reach as a city in evaluating the equity of the proposal, how it will impact and also the tax revenue and the jobs that are created. All of that is considered. There is not a specific formula. Every situation is different and has different problems to evaluate as to how that is determined and he is not sure that a formula would work.

Councilor Rahme said she attended meetings when Target came in to discuss some of their plans. They had wonderful maps, traffic engineers and the planners there. She remembered that during their studies and review of the area they noted the problem with the signalization on Pleasant Valley Street. She is optimistic that the monies will be used to mitigate existing problems and actually add to the amelioration of the flow problems and we’ll see a much-needed relief in that area. It is to our advantage that that money is going to be used for that mitigation. The last Council acted wisely. A great deal of work went into it to meet with the neighbors, meet with the developers afterward, but the zoning change happened well before any perspective purchase of that property.

Mayor Manzi said there are continuing issues there but as we go forward with Target and the traffic impacts Mass Highway is also involved. We are waiting for Mass Highway to issue the access permit. They were on site a week and a half ago and are

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expediting that process. The end result for the city will be a placement of a full traffic island across from Brooks, further resynchronization of those traffic signals and the re-striping of the bridge. Those three things should have been done already and we're hopeful that they'll be done in the spring once Mass Highway comes to an agreement and after we see what the Target impacts are. The last City Council also passed a resolution asking for a traffic study to be done there and it didn't get done. It is prudent to wait now until Target is here, do the study and try to partner with the state to get some real solutions out there. The landowner gave up a substantial amount of land to mitigate the impacts to the surrounding neighborhood.

Councilor Andrew asked if the total figure of \$340,000 would be used for improvements in that area.

Mayor Manzi responded yes.

Councilor Andrew asked what happens with the balance of the money if only \$280,000 or \$300,000 is spent because he doesn't want to see it used in budget as done by the previous administration with the Brooks money. All of this money has to go towards taking care of the problems that are in that area for that reason.

Mayor Manzi said he is in agreement with that.

Councilor Andrew said he doesn't have a problem with any balance of the money being used in some other area in town, i.e., the problem we're going to have on Pleasant Valley Street or on Merrimack Street but he doesn't want to see it go to balance the budget.

Mayor Manzi said he doesn't anticipate having money left over but if there were any changes he would come back to the City Council and ask for approval for any expenditure beyond direct improvements in the area.

Councilor Andrew said the neighborhood would like the \$300,000 spent there because this is disrupting to their neighborhood.

Mayor Manzi if there is a change in that or as you point out, we spent what we consider to be sufficient, he'll bring any change back to the City Council.

Councilor Willette said during discussions last year, one of the alternatives on that site with the pre-existing zoning, was a massive housing development.

Mayor Manzi said if an accommodation in zoning was not made, the potential was not only to have a large housing development, but also to potentially lose both the farming aspect that we continue to have and the retail barn that we've all come to treasure. It could have also led to a closure of the barn and the full scale phasing out of the farm.

Councilor Willette said it would have been a loss of open space and the farming space. It would have entailed the possibility of a massive housing development on that site which would have overtaxed our school system.

Mayor Manzi said it was a distinct possibility. In his view, the landowner acted honorably.

Councilor Willette said he had no problem with making that decision. He knows that a lot of people were up in arms, including him, that the Brooks pharmacy money was diverted. There was a discussion on that and reform of that entire system and now it has to be approved by the City Council directly. There has to be a proposal from the administration that the City Council approves all mitigation money and the uses for that mitigation money.

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Mayor Manzi said Councilors would be included in the discussion of how to effectuate good change out there and also have a public process.

Councilor Willette said different access issues were talked about: access away from the site, accessing through the site, signalization, improving the roads, and as the neighborhood mentioned sidewalk access. The ADA is a valuable tool that could be used in discussions with the developer to try to alleviate some of the concerns that the neighborhood had about the sidewalks and the lack thereof.

Mayor Manzi said he is aware that the extended neighborhood had some issue with sidewalks all the way onto Milk Street and will do whatever they can to help with that.

Councilor Leone asked if the Mayor anticipates waiting for Target and the new Mann's to open before doing a traffic study and before Target expends any of their direct mitigation funds.

Mayor Manzi responded, no, not entirely, but principally some of the upfront money that they're going to use to help with some of the traffic out there will be spent in advance of their opening. But, for us, we'll probably wait, take a look at the impacts, after the opening and go from there. He doesn't anticipate waiting too long and we are working with their engineering team now.

Councilor Cronin asked if the city is going to receive another \$100,000 or will the \$100,000 be on their own internally.

Mayor Manzi said some portion of both. He will provide the breakdown on that to the Council because they are direct spending some. If there are any additional cash payments to the city, he will come back to Council the same way.

Chairman Zanni said, according to the signed agreement, Target is going to provide us with a study for the traffic signals system evaluation. They're including \$10,000 of the \$200,000 allocation. He asked if the Council would receive a breakdown of how the money is expended.

Mayor Manzi said the expenditures depend on who is going to do the work. Without question, the Council will receive a breakdown. Contracts will go before Council. Beyond his legal requirement, he'll provide a full breakdown of everything that happened, an advance look on the expenditure of every dollar.

Councilor Willette asked if there is any money remaining from the Brooks pharmacy mitigation account.

Mayor Manzi said he believes there is some. Mr. Kelly could provide that information. If needed, we could apply that as well.

Councilor Willette said, as Councilor Cronin and Andrew mentioned, that money would not be used to balance the budget. Whatever money remains in the Brooks account would be used on site to mitigate traffic.

Mayor Manzi said he hasn't made that pledge but he did pledge the \$200,000. Whatever is derived from this point forward would come back to Council. He would like the opportunity to talk to the accountant.

Councilor Cronin said he gets pretty upset when people come in and propose to the Council an amount of \$300,000 in mitigation money and all of sudden it changes to \$200,000, agreements are changed after everything is voted, after everything's approved and after the neighborhood meetings. Nobody wants to turn down \$200,000. But on the

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other hand, we're leaving a \$100,000 on the table that from what he understood in the beginning was going to be \$300,000.

Mayor Manzi said the agreement between Target and the Planning Board in terms of the dollars has never been changed. It remains intact. The only thing that is not available is how the breakout is between direct expenditure by Target and further mitigation payment to the City. He will send the entire agreement to Council on Tuesday. If there were additional direct mitigation to the city, it would come in. The exact agreement with the planning board has not been changed. The foundation permit triggers the \$200,000. He will provide the breakdown.

Councilor Cronin asked if they've submitted building plans yet.

Mayor Manzi said they have.

Councilor Cronin asked if there is anything in the building plans that are going to require an additional zoning variance?

Mayor Manzi responded, no. They would need a special permit for the restaurant portion of the operation. He doesn't know if they've filed for that.

Councilor Cronin asked who issued the special permit?

Mayor Manzi said it would be the Zoning Board of Appeals.

Councilor Cronin asked if it comes before Council to amend the zoning.

Mayor Manzi responded, no. The Special Permit application will probably hold up their building permit. The building permit will not be issued until that issue is resolved. They were issued was a foundation permit.

Councilor Leone noted that Council received a copy of the pertinent page for the special permit, stating that the applicant shall pay the City of Methuen a lump sum of \$200,000 upon issuance of the initial building or foundation permit. Said fund shall be used at the sole discretion of the city to mitigate project impacts. That paragraph answers most of the questions that have been asked tonight.

Councilor Cronin said we were told \$300,000 and that's why he asked the questions.

Mayor Manzi said he recommends that the Council accept it. He recommended that the City Council accept it with one read because the check is here and he cannot deposit it until it is accepted. It is the original agreement. Nothing has been changed.

MOTION BY: Councilor Leone, seconded by Councilor Corey Rahme to adopt and emergency preamble for the good and welfare of the community. UPON VOTE: UNANIMOUS.

UPON VOTE: (main motion to adopt) UNANIMOUS.

TR-06-78 Resolution Accepting Chapter 59, Section 5L – An Act Providing for the Deferral of Taxes due by member of the Massachusetts National Guard while on active duty outside the Commonwealth.

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

Mayor Manzi requested an emergency preamble. It is new legislation before Council for acceptance. It is well justified and something we ought to do for our veterans.

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MOTION BY: Councilor Willette, seconded by Councilor Corey Rahme to adopt an emergency preamble for the good and welfare of the community. UPON VOTE: UNANIMOUS.

UPON VOTE: (main motion to adopt) UNANIMOUS.

Ordinances:

TO-06-22 Ordinance Exempting a Certain Parcel of Property from the Provisions of MMC, Chapter 14, Article II, (D) – Common Sewers (Req. of Clr. Leone & Clr. Cronin)

MOTION BY: Councilor Leone, seconded by Councilor Cronin to adopt.

Councilor Willette asked if this is a hardship case. He does not want to provide an exemption that could be duplicated in the future, by establishing precedence for this. A lot of times with wetlands, they provide exemptions, and with zoning variances, they provide exemptions for that. If there is a hardship, he could take that into consideration. He didn't see it within the language of the proposal. As a courtesy, he will vote for first read but he has some serious questions and this is something he is very concerned about.

Councilor Leone offered an explanation. He said this is a situation that has never come up in the past and most likely will never come up in the future. We have a property owner who owns a buildable lot. Across that buildable lot, another property owner, thirty years ago, put a sewer service into their house without benefit of an easement. Owner A has a sewer line going through his lot-servicing owner B. These people are not affiliated with each other. We have an ordinance on the books that says each residence shall have its own sewer service. At first glance the owner of the lot where the sewer line goes through would cut off the person who put the sewer service into his own house without benefit of the easement, leaving that resident with no sewer service and no route to get it. The owner of the parcel in question has a route to a 36" trunk line that's owned by the Greater Lawrence Sanitary District. However, to get to that about 100 trees have to be cut down adjacent to the river. He spoke to Joe Giarrusso and the preferred method to accomplish this is to allow both homeowners to utilize the same sewer stub with the provision that they would enter into a written agreement with one another and with the city that they would perpetually be responsible for operation and maintenance of that common stub. The city would have no liability and further that the engineering department has to approve the ultimate design before it can be installed. There could be a definite hardship imposed upon the person who's been using the line because they can be cut off by the person who owns the land where that line crosses. The alternative for putting a second system in impacts the wetlands directly and is not the preferred method that Mr. Giarrusso or the conservation commission would like to see. This lot preexists the River's Protection Act. The rules applying to this lot are much less stringent than if it was a newly created lot. It's an old lot. An elderly woman owns it and she's attempting to sell it. The only way she can sell it is with a sewer service. The DPW is comfortable with the language requiring the two land owners to enter into a common agreement to maintain it and his original inclination was to amend the ordinance to allow DPW to grant exemptions of this nature in the future. And they feel that the likelihood of that happening is so remote that they don't want to have it on the books and would rather have the situation addressed by the City Council on an individual basis.

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Councilor Willette thanked Councilor Leone for the explanation. The only concern he has is whether this would open up the floodgates. It would establish a legal precedent if someone was not granted this in the future, not for the same circumstances but if they want to do something else, this would establish a legal precedence. Between the first read and the next meeting, he'd like to have that explained.

Councilor Leone said it is not a hardship upon the person whose lot is being crossed by this line. They can utilize the line. It's definitely going to be a hardship on the person whose service is going to get cut off and that's what we are trying to avoid here. It is a very unique case. It's very unlikely that anything resembling this will come up in the future.

Councilor Willette said there is a good system in operation right now and there is responsibility for each homeowner.

Councilor Quinn asked what happens if the property changes hands. "Do they have to enter into an agreement with the new owner?"

Councilor Leone responded, yes, this exemption requires them to enter into an agreement with each other and with the city. It's going to be perpetual and run with the land.

Councilor Quinn said so if they sell somewhere down the road, this has to be part of the agreement.

Councilor Leone responded, yes. He pointed out that the Zoning Board exists to grant exemptions from the zoning ordinance. The Council writes the municipal code. There is no provision in the code, the way it's written, to allow the DPW even under deserving circumstances to do this. Therefore the only venue they have is to come to the City Council. The City Council is under no obligation in the future to grant a similar exemption, even under similar circumstances. It would be case by case at the Council's discretion.

Councilor Quinn said she feels comfortable on a case-by-case basis.

Councilor Andrew said if there are two different lots and each lot had a sewer line running to their lot, they would be responsible for that.

Councilor Leone agreed.

Councilor Andrew said what we have here is an agreement that two people in perpetuity will be responsible for one sewer line.

Councilor Leone said there wouldn't be any arguments over who is sharing it.

Councilor Andrew said two people would be taking care of it.

Councilor Leone explained that DPW's concern is that because two residents are sharing the same pipe, it could be viewed as a sewer main rather than a service. They want to make sure that its always defined as a service that two people are going to share.

Councilor Andrew said, no matter where on this service something happens, both landowners are going to have the problem and it's their problem to solve.

Councilor Leone responded, yes.

Councilor Corey Rahme asked if it is prudent to have a workshop on this in order to fully understand it prior to taking a vote and to ask the Solicitor to explain the waiver of liability indemnity.

Attorney McQuillan said if there are any problems that arise, whether it is maintenance or repair of these particular lines as they are located on private property, it falls within the responsibility solely of the two property owners. If we're giving an

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exemption, he wants any waiver of liability and any responsibility of problems with these connections not to fall on the city because they are located on private property. It's almost what they call a party wall agreement. It's an agreement that has to be comprehensive. It has to be between both private parties and it has to be recorded with the Registry of Deeds, if it is something that is going to be the responsibility of subsequent owners to the units. That is essentially the nature of Item 5

Councilor Andrew said there is a sewer service running through one piece of property to another piece of property that both owners realize and accept that it's their responsibility jointly. He asked if it would be pertinent to have those two property owners post a bond so that if something happens on that sewer line it could be resolved with the bond. If there is a bond posted, \$500, \$1000, that will stay in effect as long as those houses are standing.

Councilor Leone said it is a reasonable viewpoint. Prior to the next meeting he'll make sure that each Councilor gets a sketched plan showing exactly what the existing situation is.

Mayor Manzi said whatever the Council decides is fine with him. He cautioned against posting the bond with the city because if you post the bond with the city, there is some acceptance of responsibility there for maintenance beyond the bond and we wouldn't want that. That would be between the parties.

Councilor Leone said it could be a homeowners association.

Mayor Manzi said the city would not accept the posting of the bond.

Attorney McQuillan said it would place the city in the position of responsibility of being a referee. This has to remain the responsibility of the two private parties.

Councilor Andrew said the reason he suggested the bond is because if there isn't a bond and something happens, homeowner #1, three generations from now, could say the City Council allowed this and are partly responsible. Then we've got a situation that we're involved with again. By posting the bond, we're not involved in it. We're approving what they need to do

Attorney McQuillan said Council could put a provision in the agreement where the parties themselves post a common bond to be held by a designated third party, other than the City.

Councilor Andrew said that way it takes the City out of the picture completely.

Councilor Leone said that is workable.

Chairman Zanni said there are questions the Council raised this evening and it would be prudent to have a Workshop on this.

Councilor Leone said he would have a sketch ready for the Council to review the situation on the ground

Councilor Willette requested a legal advisory on the question he raised as to the establishment of a potential precedent on this matter.

UPON VOTE: (first read) UNANIMOUS.

#### REQUEST OF COUNCILORS

Councilor Quinn stated that the Mayor put together a committee, which is about green government. She and Councilor Corey Rahme went to U Mass Lowell on Saturday to participate in a forum and Governor Elect Duval Patrick and Congressman Meehan were present as well. There are many important issues to be considered, such as solar

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power, wind power, and addressing carbon monoxide that's coming into the atmosphere. She asked if the Mayor would like to have a public forum.

Mayor Manzi suggested a public forum be held prior to submitting recommendations because the formation of this committee has peaked a great deal of public interest. Mayor Manzi said he did not have the opportunity to attend but understood one of Councilor Quinn's questions was chosen.

Councilor Quinn acknowledged that she spoke with Jack Burke about planting trees, especially in the former Bea's site and he offered to plant a tree there. Perhaps that could be incorporated.

Councilor Quinn then spoke of the danger driving down 213 to 93 south, under the bridge. There is a jersey barrier that lines 93. When it rains, you cannot see that Jersey barrier. It is an accident waiting to happen. Perhaps, we should speak with Senator Baddour. A simple improvement would be some kind of a reflector placed on the entire barrier.

Mayor Manzi asked Councilor Quinn to send him a note and he would forward it to Senator Baddour. Hopefully Mass Highway would come out, gives us an evaluation, and make some changes that would make it a little safer.

Councilor Willette announced to the interested residents of Forest Street that there is a meeting scheduled for Tuesday, December 19, at 6:30 p.m. in the Great Hall to discuss the proposed project. He encouraged all the residents if they want to speak on this project to attend.

Mayor Manzi said after close of business Friday, the developer called the Economic Development office and has indicated that they will not be here to make a presentation.

Councilor Willette said he just wanted an opportunity for the residents to speak on the record.

Councilor Andrew said all of the Councilors received an anonymous letter "Methuen Taxes jump again, city budget passes". He doesn't usually pay attention to anonymous letters. But this had some pretty nice points in it and he would like the lady or gentleman, whoever wrote it to get in touch with him. The individual would remain anonymous. He'd like to talk to them about some of the things that are in the letter. Some of them are good ideas and some may not have merit. If they are serious about helping the city to control taxes and have some ideas, don't be afraid to come forward. He would be more than happy to talk to the individual.

Councilor Andrew referred to the City Council meeting two weeks ago, noting that Dr. Chahraban was the name of the person who said we were ethnic profiling – he still has a problem with that. He asked for an apology letter from him and has not received it yet. This Council still deserves an apology letter for that. If he says he was addressing it to the Tribune as said in a letter from Mrs. Getchell, he has a problem with that. There is also insinuation here that our Chairman that he was agreeing with the Tribune, that he was following along on the same routes. He has a problem with that and doesn't believe that anyone on this Council was ethnic profiling. He expects and would like to get a letter of apology for that, both for himself, our Chairman, and the Council. This was not warranted nor deserved.

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Councilor Cronin said he believed last week or the week before, the city recognized veterans. He reported that there is one present soldier who was not recognized for the past few years. For a long time he has not been a resident of Methuen. He graduated from Methuen High School in the Class of 1982 and went directly to the United States Military Academy, where he graduated in 1986. He has spent the last twenty years serving the United States at many bases in the United States and served honorably in the Gulf War in 1990. He went on to serve in Germany and Bosnia. Eventually, he returned to the states five years ago and was given a battalion command where he has been training soldiers for the present war, training over five hundred soldiers. He has risen to the rank of Lt. Colonel and is presently serving in Iraq. He left early December for Iraq. The soldier is Lt. Colonel Michael Higginbottom, son of Paul and Lorraine Higginbottom here in Methuen. Before leaving for Iraq, Colonel Higginbottom was able to visit with his first-born son Patrick Higginbottom who is in the Class of 2010 at the United States military academy right now in his hope to follow his father's career. He and his family had the opportunity to visit for the Thanksgiving holidays. Lt. Colonel Higginbottom had the opportunity to take a desk job in Washington DC but his statement to his parents was that "I trained five hundred people to go to Iraq and its only my position that is should go with them." This is a true leader. Councilor Cronin said he has the highest respect for Lt. Colonel Higginbottom and wishes him well. His duties in Iraq are of the highest importance and will represent Methuen well. Because Lt. Colonel Higginbottom has not been back in Methuen since he graduated from High School because of his many duties across the United States and abroad he kind of fell through the crack as far as his name being mentioned. His mother, Lorraine Higginbottom, was the founder of the ROTC program at Methuen High.

Mayor Manzi said he knows the family and apologized. We did have a very nice service here for returning veterans but we will draw something up in recognition for Lt. Colonel Higginbottom. His service record is outstanding and it has been a true credit to Methuen in his service and in his dedication. His family has moved back to Methuen and he's been a great, great credit to the city.

Councilor Quinn thanked everybody that came to the second West End neighborhood Association meeting. It really does make a difference when residents voice their opinion and opposition. The residents on Forest Street did so and their voices were heard. The developer will come back to the City Council with another proposal. Councilor Quinn noted that she, Councilor Andrew, and Councilor Corey Rahme were in attendance along with sixty residents. The meeting was a success. The Neighborhood Association is doing a great job and she thanked everyone for attending.

Councilor Corey Rahme mentioned the Holiday concert scheduled at Methuen High School this Wednesday, December 20<sup>th</sup> at 7:00 p.m. and wished everyone a Happy New Year.

Mayor Manzi said Merry Christmas and Happy New Year to everybody.

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Chairman Zanni said Councilor Giordano was unable to attend tonight's meeting and he wants to wish all his colleagues a Merry Christmas and Happy New Year. He thanked all the residents of Methuen for their support with the Foster children's Christmas party held this past Saturday, also the Councilors. It was a terrific party for the children.

Chairman Zanni mentioned the improvements that were done in the elevator, painting, a new rug, the installation of a metal protective plate and new Councilor signs in the parking lot. These were done as a result of a letter he sent to the Mayor's office.

Chairman Zanni reported that he received a packed from FERC and has been in contact with them. Today, he received a call from Adam Wilson who is the Deputy Project Director. There is going to be a pipeline coming into Methuen, running from 93 to 213. We currently have a 30" pipe. This will be a new 36" pipe along the existing pipeline. It will affect the neighborhoods, namely on Howe Street, coming across to Pelham Street to Mystic Pond area. He said it would basically be on the same route. Adam Wilson will be giving a presentation and homeowners will be notified. Everything is just being filed. He wanted the Council to be aware of what is happening. Chairman Zanni wished everyone a Merry Christmas.

Councilor Willette said we have a new CVS in the downtown area. The old CVS building would be an optimal post office. Maybe we can re-energize that effort because of the parking situation.

Mayor Manzi said anywhere down there would be optimal.

Councilor Willette said there is enough space; plenty of parking, and it is a good location.

Mayor Manzi said they'd make their best efforts.

Councilor Andrew asked for the status of the fire extinguishers.

Mayor Manzi said they are in the building.

Chairman Zanni announced that there is a meeting on Tuesday, December 19<sup>th</sup> at 6:30 p.m. he spoke with Jack McLeod at 4:30. The developer will be here for a half an hour 6:30 to 7:00 p.m. and will give an overview of what his intent is on that site, which the people will be very happy to hear.

Chairman Zanni wished everyone a Happy Holiday season.

MOTION BY: Councilor Leone, seconded by Councilor Willette to adjourn.

UPON VOTE: UNANIMOUS.

The meeting adjourned at 9:00 p.m.

COUNCIL CLERK