

METHUEN CITY COUNCIL REGULAR MEETING
MONDAY, JANUARY 5, 2009 – 7:00 P.M.

Chairman Lahey called the regular meeting to order at 7:00 p.m. with all members present with the exception of Councilor Giordano.

ACCEPTANCE OF THE AGENDA

MOTION BY: Councilor Zanni, seconded by Councilor Leone to accept as posted.
UPON VOTE: UNANIMOUS.

Invocation/Pledge of Allegiance

There was no Invocation for the evening. Everyone stood for the Pledge of Allegiance.

Election of Council Chairman

MOTION BY: Councilor Cronin, seconded by Councilor Pappalardo to delay the vote until there is a full Council in attendance and that the present Chairman remains the Chair until a new Chairperson is chosen.
UPON VOTE: UNANIMOUS.

Election of Vice Chairman

MOTION BY: Councilor Willette, seconded by Councilor Zanni to delay the vote until there is a full Council in attendance and that the present Vice Chair remains the Vice Chair until another is chosen.
UPON VOTE: UNANIMOUS.

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Appointment of City Auditor

MOTION BY: Councilor Quinn, seconded by Councilor Kannan to appoint Thomas J. Kelly, City Auditor.

Councilor Quinn thanked Tom Kelly for all the service he's brought forth to Methuen and for the good job he's done. She asked him to talk a little about the CAFA award that he and his department received.

Mr. Kelly said the CAFA award is a Certificate of Accounting and Financial Reporting, the highest award that's bestowed upon municipal government by the GFOA. He and his staff have been working hard to try to get that secured for the city for a long time and it came to fruition in the fiscal year 2006 audit. His staff has been great. It's quite an award and they are working on it again for this year

Councilor Quinn asked how many people in the Merrimack Valley receive this award.

Mr. Kelly stated there are thirteen recipients in the Commonwealth of Massachusetts.

Councilor Quinn commended Mr. Kelly and his staff for all their hard work.

Councilor Pappalardo thanked Mr. Kelly for his help and responding to her requests within a reasonable time.

Councilor Cronin and Councilor Willette also commended and thanked Mr. Kelly for his efforts.

UPON VOTE: UNANIMOUS.

Appointment of Council Clerk

MOTION BY: Councilor Cronin, seconded by Councilor Zanni to appoint Linda Gagnon as Council Clerk.

Councilor Pappalardo thanked the Clerk for her patience and efforts.

Councilor Quinn thanked the clerks for all the work they do in the office.

UPON VOTE: UNANIMOUS.

Appointment of City Solicitor

MOTION BY: Councilor Zanni, seconded by Councilor Kannan to appoint Peter McQuillan as City Solicitor.

Councilor Quinn thanked the Solicitor for all his hard work and efforts.

Councilor Willette thanked Attorney McQuillan for his impeccable leadership, professionalism, and legal advice over the past few years, during these tumultuous times and ongoing legal controversies.

Chairman Lahey thanked all of the Council appointees for their assistance and hard work, particularly during this last year when he was Chairman.

Councilor Zanni said everyone has the same feelings for all three appointees and suggested the Chair prepare a letter to place in their personnel files for future reference (as their evaluation from Council) signed by all the Councilors.

Chairman Lahey agreed.

UPON VOTE: 7 yes, 1 no (Clr. Cronin)

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ACCEPTANCE OF MINUTES

MOTION BY: Councilor Cronin, seconded by Councilor Zanni to waive the reading and accept the minutes of December 9, 2008, December 15, 2008 and December 22, 2008.
UPON VOTE: UNANIMOUS.

PUBLIC PARTICIPATION

Lisa Saad, 177-179 North Lowell Street, one of the owners of 177-179 North Lowell Street condex. (she owns 177). In 2003 she had Greater Lawrence Community Action come in, along with their contractor, as part of weatherization and fuel assistance, to promote efficiency in her apartment. They changed some windows and blew in insulation. Community Action is a state run department. They did not pull permits and did not follow building code. As a result of them skipping corners, her house became infested with black mold, which can kill. She and her family became deathly sick. It caused a tumor in one of her children and asthma and can cause pulmonary hematomis, brain damage. It gets into your lungs, stomach, liver and kidneys, and all these things happened to her children. She realized something was wrong when the insulation started to look like mold instead of insulation. She called several specialists including two of her insurance adjusters. A State Housing Authority inspector inspected it along with several other contractors. She also contacted the Building Inspector to tell him what was going on and to make sure to find out what happened about the permit that was supposedly pulled. She stated she was given a fake document as the permit. No permits were pulled. The two mold specialists that she hired, along with the State inspector found the contractor at Greater Lawrence at fault for this damage. They all came to same conclusion because that work was done her side only. There was a very distinct line in the ceiling in the attic, where it was like a chalk line. Her side was black with mold and the other side was almost no mold. Even though mold is airborne, it wasn't as visible to see. Her side was covered in black mold. When the mold biologist found out about the nosebleeds and illnesses, she and her family were told to move out of the house that day. They had been spending every day at Children's Hospital of the local hospitals. Greater Lawrence told her that they were not going to submit this to the insurance agent and would fix it as they saw fit. That was unacceptable and she hired a lawyer. In the meantime Greater Lawrence Community Action contacted the other owner, at 179, who had not owned the house when the work was originally done. She was a new owner. They told her, look we're fixing things in your house, we'll give you new shingles if you allow us to come in and fix the interior of the attic, which is common area. The Condo documents strictly say that no work can be done to the roof without approval of both owners. Constance Cunningham, who owns the other side, Phil Laverriere of Greater Lawrence Community Action, Robin Rossi, Al Mickey, were laughing at her, saying they were going to do whatever they wanted, for her to try and stop them. They came in and did the work on her house. They re-shingled and did not pull out the moldy insulation or the old sheetrock. They came in and did cosmetic things. They added the vents that they were suppose to add before and cleaned the underside of the roof. It's cosmetic so it doesn't look so obvious as to where the mold started. She and her attorney told them not to tamper with evidence but they did anyway. Constance Cunningham is not a public official in this town but Gerry Deschene is and when she went down and told him what

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went on and showed him the large pile of documentation, he assured her that he was going to take care of this and promptly send Constance Cunningham a letter. Gerry Deschene wasn't calling her back and she couldn't understand why. She waited a month and when she spoke with Gerry on the 19th of December to ask what was going on, she was informed that he sent a letter and was given a copy (which Council has received). Constance called Gerry and assured him she was sorry about the illegal bedroom and would take care of it with Lisa. As explained to Gerry, Ms. Saad stated that she is suing the contractor and suing Greater Lawrence Community Action. The house is basically a tear down that these small repairs are really just cosmetic. She is going to have to tear off this new roof, on top of all the other expenses, to fix her side. She asked why some people in Methuen follow the building code, pull permits, and others do work without permits and why it's okay. Greater Lawrence and the contractor are in violation of the building code and should be fined every day until this is corrected. She asked why this is being pushed under the carpet. Her complaint is about her side of the roof not Constance's roof. Ms. Saad said the contractor was given access to her house, to put on a new roof with Constance Cunningham's permission. The contractor pulled no permit and put a new roof on her side of the unit.

Councilor Leone asked where Lisa was when the roofing works was done.

Lisa Saad stated that she had to vacate, is now homeless, paying a mortgage and staying with friends in Georgetown.

Councilor Leone said he wants to separate the two issues, the Community Action Council hired a contractor to do some work in the house. The contractor did not get a building permit.

Lisa Saad responded no and neither did Greater Lawrence. Councilor Leone said the contractor did work incorrectly. Lisa said yes.

Councilor Leone asked how that ties in with the issue of the bedroom.

Lisa said she had to explain the history of what's going on. She is not ungrateful that that a stranger came in and gave her a new roof, free of cost, with no permit. She's upset that a roof was put on.

Chairman Lahey asked the Solicitor if the Council had any authority over the problems Ms. Saad stated. He asked if there is anything that could be done to correct the situation other than what the building inspector has already done.

Attorney McQuillan said it sounds like an issue that has to be dealt with by both the Board of Health and Inspectional Services.

Lisa Saad stated that the Board of Health told her they are afraid to go against Phil Laverriere - that's what they said, and ran out of her house.

Chairman Lahey said Ms. Saad has a right to address the Council, but he doesn't exactly know what her expectations are, what she expects nine legislators to accomplish other than going through the Mayor and the Building Inspector and getting some advice from our Solicitor.

Lisa Saad said that is really all she is asking. What scares her is when she left Gerry Deschene's office she told him, "obviously I just can't walk away from this. This is my house." Her feeling is that he threatened her and said someday she would have to go back to him to get a permit to do the work on the house.

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Chairman Lahey said he would get in touch with the Mayor, since he has some knowledge of this because a cease and desist order was sent through the Building Inspector and ask him to follow it up with Gerry Deschene.

Lisa Saad came forward and left her phone number.

Councilor Leone asked that someone contact the Community Action Council on this and find out why they are doing work with no permits.

Councilor Pappalardo suggested that the Solicitor follow up on that.

Sharon Ployer, 2 Wilson Street, complained about the plowing, sanding, salting, and the lack thereof. She is a west end resident near the Lawrence line, the forgotten part of the city. She had to call the DPW twice and Councilor Pappalardo had to call them once to get a plow down her street. They have not seen a sander this year. There is a new plow contractor this year, who doesn't know what he is doing. Parts of Hemmingway are still full of ice. Some are complaining that they have too many sanders and plows. They're nonexistent in her area and are needed.

Jim Robertson, 2 Wilson Street, reiterated that between the two storms, no salt or sand was laid on their street whatsoever. He understands that the procedure is to plow and wind down towards the end of the storm, then salt and sand in order to get down to bare pavement for the safety of the people to drive their cars. He asked the Chair if his assumption is correct.

Chairman Lahey said they do all the plowing the best they can. Then they will go out and sand the main streets, the hills, and any calls that they get. They don't blanket the whole town anymore. That's the procedure, as he understands it.

Jim Robertson said he resides in the hilly section, known as Glenn Forest and hasn't seen any sand, salt, and like Sharon stated they had to call twice just to get it plowed. It wasn't even down to the pavement. He's plowed before and doesn't know the reason why they don't get down to bare pavement. Everything was snow covered. He's never seen a job like it. It was very deplorable.

Jack Burke, 49 Canobieola Road, spoke on TR-08-92, a Resolution Establishing MTBE funds to the Stabilization Fund. He stated the last time this came before Council and he still firmly believes that the funds should be a Stabilization Fund established within the Water Enterprise Fund because MTBE is a carcinogen which affects drinking water supplies in a town, and though the money is for any use, it really was generated because of contamination of water somewhere here in the US. The money should go into that fund. There are some actions that the city needs to take to make sure that they become quickly aware of MTBE contamination. He understands the city is going to accept \$400,000 of which \$55,000 has already been committed and asked for explanation how the city could commit funds from a lawsuit prior to acceptance of this money into the city's coffers.

Vice-Chairman Quinn read a memo from Gerald McCall, 165 Hampshire Road, relative to TR-09-92 MTBE funds.

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PUBLIC SERVICE:

Grants: None
Licenses: None
Contracts: None

2009 Municipal Election – Preliminary Election re-scheduling to September 15, 2009

MOTION BY: Councilor Zanni, seconded by Councilor Quinn to approve.
UPON VOTE: UNANIMOUS.

OTHER OFFICERS AND COMMITTEE REPORTS - None

OLD BUSINESS

Resolutions:

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)

No Action taken. Item remains tabled.

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

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

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

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

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

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

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

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

Councilor Pappalardo questioned the Malden Mills settlement, asking if all the money went into the General Fund.

Mr. Kelly responded, no. He explained that when they worked with Malden Mills on that, there were real estate and tax title money that was owed the General Fund, as was the Water liens and Sewer liens and there was a huge debt that the city had borrowed to put water and sewer meters in. The deal made with Malden Mills was that we would borrow the money and they would pay us the debt but never did. That went to the Enterprise Fund. He said he has a complete accounting of where the money went. Some did go into the General Fund but a lot of that went to the Enterprise Fund.

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Councilor Pappalardo asked for a copy of the breakdown and asked Mr. Kelly to explain why he wants to put this money into the stabilization account.

Mr. Kelly explained that a bulletin was issued by the Department of Revenue. It clearly states that in the case for proceeds payable to a city, town, or district in the settlement of litigation claims, the MTBE settlement monies are unrestricted revenues that belong to the General Fund and require an appropriation to spend. What they decided to do. There were three options –1) they could have come to City Council and ask to take this money and spend it throughout the budget, which they didn't do. 2) They could have gone back to the Department of Revenue and had it certified as Free Cash, or 3) appropriate it into the Stabilization Fund to be used for the purpose of stabilizing the budget. Its in that account, once the Council puts it in there, its actually a reserve for the city and cannot come out of that account unless they come back to the City Council and ask for a transfer. Councilor Pappalardo said no matter how much money it is. Mr. Kelly responded that's correct.

Councilor Pappalardo asked why he wouldn't want to put it back into the Water Enterprise Fund.

Mr. Kelly said it specifically stated in the guidelines, DOR, it stated that its General Fund money. It was a settlement, just in case, for that purpose.

UPON VOTE: UNANIMOUS

Ordinances: None

Consideration of Appointments:

Methuen Housing Authority

Scott Tisbert, 44 Newport Street, Methuen, MA

Term to Expire

1/05/14

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

UPON VOTE: UNANIMOUS.

NEW BUSINESS

Resolutions:

TR-09-01 Resolution Authorizing Acceptance of 2009 Shannon Anti-Gang Grant, Executive Office of Public Safety in the amount of \$220,000 Shared Grant (Methuen's share \$61,515.00)

MOTION BY: Councilor Zanni, seconded by Councilor Pappalardo to adopt for first read.

UPON VOTE: UNANIMOUS.

TR-09-02 Resolution Accepting a 2009 Firefighting Equipment Grant from the Commonwealth of Massachusetts, Executive Office of Public Safety (\$10,992.00)

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

UPON VOTE: UNANIMOUS.

TR-09-03 Resolution Authorizing Acceptance of Student Awareness of Fire Education (SAFE) Grant, Commonwealth of MA, Executive Office of Public Safety, fiscal year 2009 \$54,464.62

MOTION BY: Councilor Zanni, seconded by Councilor Quinn to adopt for first read.

UPON VOTE: UNANIMOUS.

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TR-09-04 Resolution Providing for Review of Notice to Residents (Req. of Clr. Pappalardo)

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

Councilor Quinn asked if this is a better notification.

Councilor Pappalardo responded, no, and then read the resolution. She stated that what prompted her to do this was the night Mr. Russo was here answering questions on Residential Lane. He mentioned he sent a letter to the residents regarding how much their betterment would be, giving them notice, and if they didn't return the letter or didn't call him, etc. Council did not know that a letter had been sent out nor did Attorney McQuillan know it was sent out. It would be in the best interest of the city if any letters are to be sent out they should be reviewed by the Solicitor. We need a little more protection for the city.

Councilor Quinn asked if the Zoning Board of Appeals or any other boards or departments have this requirement.

Attorney McQuillan said some are required by statute to notify and there is a formal dictation as to what that notification has to contain. The intent here was, given the situation we had with the Presidential Lane issue, where a public project is going to be undertaken or some capital improvement where a neighborhood is going to be directly affected by whether it be the work, the noise, or the dust or anything like that or an assessment on their property, a betterment that's proposed. If any notice goes out, which is not obligated to be sent under statute, sent out as a courtesy as well as something the city feels obligated to do so, that it should be reviewed by his office for the purposes of content, for the purposes of giving the citizen the appropriate term or manner of response or something like that.

UPON VOTE: UNANIMOUS.

Ordinances: None

ANY OTHER BUSINESS FOR THE GOOD AND WELFARE OF THE COMMUNITY

REQUEST OF COUNCILORS

Councilor Pappalardo asked for the remaining balance in our sand and salt budget.

Mr. Kelly said the budget in DPW is over budget by \$154,000. Its \$54,000 in the red right now and there is a \$100,000 encumbrance for more salt and sand/salt. They put the \$550,000 in the reserve fund and have the other \$200,000.

Councilor Pappalardo asked how much money we may be receiving from the ice storm.

Mr. Kelly said he doesn't know. They appointed Frank Russo as the point person for reimbursement through MEMA and FEMA. As of today, its cost Methuen \$106,689.00 in damages.

Councilor Pappalardo announced there is going to be a meeting of the Rt. 93 Rotary on Tuesday, January 13, 2009 at 4:30 p.m. in the Great Hall, Searles Buildings. Residents are invited to attend.

Councilor Zanni asked how we stand financially until June.

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Mr. Kelly said that information is ready for the next meeting, including a breakdown.

Chairman Lahey asked Mr. Kelly if he is including the extra money when he said the snow budget is over budget.

Mr. Kelly responded, no, he's just referring to budget along, in DPW, where they appropriated \$215,000.

Chairman Lahey said for the amount of storms we had that's no big deal.

Mr. Kelly said they have money set aside in the reserve fund. By law, we could let that appropriation run in the red and that's what they are going to do and hopefully at the very end be able to transfer that money from the Reserve Fund to the DPW. Hopefully, it's not anything greater than \$950,000.

Chairman Lahey said if the streets aren't getting plowed, its not because the street hasn't been assigned. Maybe the one that is doing the plowing is not exactly doing his job. Something else you have to understand is we've had back to back snow storms that you haven't seen that significant amount of snow in numerous years. We've had some pretty easy winters the last four or five years and are getting hit hard this year. If residents are looking for salt as used in the past, they are trying to cut back on that. They are not using straight salt and are using sand and salt mix. They're using it on the main roads, the hills, and where they get calls for requests in bad areas. That's the way it used to be done years ago and with the economy and with the budget the way it is, its going to be a little bit tougher, especially when we've had storms that we've had so far this year.

Chairman Lahey said over the past year, year and half, Councilors have publicly and privately made mention to the fact they weren't exactly thrilled with our solid waste vendors. He knows Council will see a contract before them and are going to have the appropriation prior to the budget. He plans to send a memo to the Mayor requesting information as to who's going to be applying, and estimate of the increase, and also the fact that his understanding is that the bottom is just about falling out of the recycling game. He doesn't know where we are going to stand on that. He knows everybody was raving about all the money we were making on recyclables six or seven months ago. Those days are gone. Our recycling company that is suppose to be picking up recycling bins at the DPW yard don't want anything to do with it. It's a hazard down there. Five or six months ago the price for paper was up. He'd like Council to receive information prior to receiving a contract.

ADJOURN

MOTION BY: Councilor Cronin, seconded by Councilor Pappalardo to adjourn
UPON VOTE: UNANIMOUS.

The meeting adjourned at 7:45 p.m.

I do hereby certify at a meeting of which a quorum was present, the Methuen City Council adopted the foregoing minutes by a unanimous vote on January 20, 2009.

COUNCIL CLERK