

METHUEN CITY COUNCIL REGULAR MEETING
MONDAY, MAY 18, 2009 – 7:00 P.M.
GREAT HALL, SEARLES BUILDING

Chair Deborah Quinn called the May 18th regular City Council meeting to order at 7:00 p.m. Councilor Giordano was absent.

ACCEPTANCE OF THE AGENDA

MOTION BY: Councilor Zanni, seconded by Councilor Cronin to accept the agenda.

MOTION BY: Councilor Kannan, seconded by Councilor Zanni to take TR-09-27 and TR-09-34 out of order as items 6a and 6b (after public participation).

MOTION BY: Councilor Zanni, seconded by Councilor Kannan to accept as amended.

UPON VOTE: UNANIMOUS.

Invocation/Pledge of Allegiance

Councilor Kannan gave the Invocation for the evening. Everyone remained standing for the Pledge of Allegiance, led by Boy Scout members from Troop 53.

ACCEPTANCE OF MINUTES

MOTION BY: Councilor Zanni, seconded by Councilor Cronin to waive the reading and accept the minutes of May 4, 2009. UPON VOTE: UNANIMOUS.

PROCLAMATION/CORRESPONDENCE

Councilor Cronin read and presented a Proclamation to Mr. Joseph Melia for his participation and dedication for more than 35 years of volunteerism and founder of the Methuen Instructional T-Ball program, and declared May 18th as “Joseph Melia Day”.

MOTION BY: Councilor Willette, seconded by Councilor Pappalardo to proclaim.
UPON VOTE: UNANIMOUS.

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On behalf of the team participants, coaches, parents, and his sons, Mark Shepard thanked Mr. Melia for his many years of service and dedication to the children and thanked the Council and Mayor for recognizing Mr. Melia's efforts honoring him this evening. He congratulated Mr. Melia and noted he is quite an inspiration. They appreciate and recognize all of his efforts.

Mr. Melia also thanked the Council. Working with children offers great rewards and it is fun to watch them grow and play. He acknowledged hundreds of coaches and staff that have helped him over the years.

Councilor Kannan read and presented a Proclamation to Elvira "Vera" Proctor honoring her for her volunteerism, recently receiving the Dr. Nina E. Scarito Leadership award given annually by the Quota International of Lawrence and proclaiming Vera Proctor a "METHUEN CITIZEN EMERITUS".

Mayor Manzi presented Elvira "Vera" Proctor with a Mayoral Citation

PUBLIC PARTICIPATION

Eric Smith, Troop 53, stated he is working on the Citizenship and the Community merit Badge

Chris Gingereau, Troop 53, stated he is present for a Merit Badge for citizenship in the community.

Ben Maroon, Troop 53, stated he is working on the Citizenship and Community Merit Badge.

Otis Vehuex, leader of the cub scouts, accompanied the above mentioned boy scouts this evening and noted they are teaching them a little bit about citizenship this evening and how the process works.

Dorothy Kalil, 8 Oakridge Street, Methuen, spoke about the parking situation at the Searles Building and several instances where she had to drive through the parking area several times before finding a parking space. She noted that the fifteen minutes parking area is not enforced, stating that employees use it. She happened to be in the parking lot collecting signatures and because of the lack of spaces available she was collecting payments and placing them in the mail slot at the lower level parking area. She suggested expanding the number of spaces and designates an area for employee parking. Mrs. Kalil also spoke about the recent appointments made, overlooking veterans, and noted comments made by Councilors and employees relative to family members being appointed are absurd and insulting to the citizens of Methuen.

Jack Burke spoke about the resolutions pertaining to gifts of land. The resolutions state Methuen residents donate the land; but he found that one person lives in Derry, NH, one person in Wilmington, MA, and another person lives in Lawrence, MA. He stated that TR-09-31, which is a resolution declaring a parcel of land as surplus property is property around the corner from his house on Danielian Avenue. In 2005 the City Council designated this land as a conservation easement. The land is not buildable and floods. He asked that the Council table this item and look up the former resolution. If this were truly conservation land, he would like to leave it as such and not sell it.

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Gerald McCall, 165 Hampshire Road Methuen Mass spoke about the water main break that occurred on May 4th on Houston Avenue. He's talked to the engineers. The contractor had a dig safe plan. He's a little concerned about what happened primarily because the pipe is approximately 100 years old so he'd like to know more information on the pipe and what transpired especially if this water main or the new sewer connection was passed perpendicular to the water main. Both mains, the sewer and water, should be encased in concrete. He is also interested in finding out if a piece of the pipe was taken and subject to some kind of analysis, for example, stress test, tension strength or compression and that way we'd be able to determine what the longevity or the life of this pipe is now, keeping in mind it is already 100 years old. Generally pipes like this, cast iron they become infested with tubercles. You lose diameter on the inside. They're more prone to break and shatter so it would be important to know if a piece of that pipe was taken and subject to these types of tests. At least we'll know whether that pipe will be replaced in the very near future and my other question was this pipe was installed in the 1890's, 1900's in order to supply this particular area of Methuen at this particular time. He supposed the insurance; fire flow studies would look at that. The most important thing that he was concerned about was we lost an awful lot of water and we lost pressure in that particular area. It's my understanding that the elevation in the tank dropped six to eight feet, a lot of water, big drop in pressure. If we had a co filtration in the area, how would we fight it? We were in a very dangerous situation the other thing is the boil order was placed in affect and in the future he was wondering if our local board of health could be the spokesperson after all they are the health agency for the City of Methuen. It would be their responsibility to articulate the situation and also the boil order. It's my understanding that the microbiological testing was conducted for two days. They were negative. The chlorine residuals although he didn't see the order he knows that they must have been – if the bacteria was zero, then the chlorine must have been up there but the most important that wasn't even talked about is the potential for back syphonage when you have very, very, low pressure I'll given you an example of back syphonage, for example if you are filling a swimming pool and you leave the hose dangling into the pool and you have a fire in that area, you have a back syphonage into the water main. You could contaminate the whole neighborhood. These little devices that you fill up with chemicals or pesticides and you spray your fruit trees - they don't have what is called protection on them and if you get additional back syphonage as a result with them especially when you have this low pressure situation, a fire in the neighborhood or something like that when pressure drops from fifty five down to fifteen pounds per square inch. So, these are the things that concern me most and I know that you've read about back syphonage. Look we wiped out the entire Holy Cross football team was wiped out because a cross connection between the valve pit and the public water supply. All of the football players were served drinks from that particular source and they all end up with Salmonella. So, cross connection very important we had a situation in Lawrence where a plumber hooked up the coke machine to the firewater form the canal. We had a deluge at the Lawrence General Hospital. We had eight people with Salmonella. So, this is most important. The other thing, I won't talk about the appointments tonight because I think I'll let the tribune do the talking and Dorothy Kalil has already articulated but it looks like we are establishing some kind of a blog or a sound off record. One day we had 13 sound offs about this particular situation. The next day we had 24, 59 only two in favor.

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MOTION BY: Councilor Kannan, seconded by Councilor Pappalardo to take TR-09-37 out of order as the next item after TR-09-27. UPON VOTE: UNANIMOUS

TR-09-27 Resolution Amending Orders #4573, #4647, and #4857; Order Authorizing Borrowing for Water Treatment Plant Improvements

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

TR-09-37 Order Authorizing a Borrowing to Pay a Judgment

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

Councilor Pappalardo noted this is long overdue and asked Mr. Kelly how long after second read would the family receive the money.

Mr. Kelly responded that it would be 30 days after the second adoption.

Councilor Pappalardo noted the family would receive a check in their hands 30 days later. Mr. Kelly responded, yes.

Councilor Cronin asked if the bond has already been set in place.

Mr. Kelly responded, no, Palmer and Dodge, our legal advisor on bonding, wrote this and our bond advisor is cued up in the system to borrow.

Councilor Cronin said he doesn't have a problem with this at all but feels this is a school department bill. Payment of this bond should be shifted on a yearly basis to the School Department, coming out of school department funds.

Mayor Manzi said the School Department, the School Committee and he have talked about it. They've left that as something that will be open to discussion. The school committee is very open about it, very supportive of that potential. He did not feel it was appropriate to come to Council now and start talking about that. He felt that we, as a city, ought to put this item behind us, let the family reach the settlement and then if there is agreement or disagreement, it would be discussed at a later date. He said he understands this point of view and has talked about it with the committee and Superintendent and will keep the Council apprised.

Councilor Cronin said no matter how it's handled, he does feel that it should be awarded.

Councilor Zanni said everyone is aware of what has happened and noted these individuals have waited a long time. He then asked if an EPA could be attached to this resolution.

Attorney McQuillan said he's not sure if it satisfies the definition of an emergency under the Charter. There is no immediate harm, threat, or anything pending that would cause any compromise to the health or safety of the citizens. He could review it but his initial response would be that it really doesn't satisfy the definition of an emergency in the sense that is intended in the Charter. He has discussed this at length with the Counsel for the family and they understand the process. They understand the time frame.

Councilor Zanni said he's just thinking an exception could be made here.

Attorney McQuillan said Council couldn't place an EPA on a bond order. It can't be done.

Mayor Manzi stated that on authorization for borrowing, its not a local rule, you cannot do that. He would be very supportive on it but on a bond authorization, there are

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certain strictures that you need to follow and an EPA would not be permissible under those restrictions.

Attorney McQuillan noted that is correct.

Councilor Lahey said it doesn't matter where the money comes from, the school side or the town side. What does bother him is this was an accident that should never have happened. It was negligent and there's been no responsibility, no blame taken.

Councilor Pappalardo said she asked Tom Kelly about the EPA and if anything deserves an EPA, this does because they've waited too long.

Mayor Manzi said it is not a local rule. It's a statutory provision for borrowing. Additionally, what Council has before them requires a filing of a Home Rule Petition and he suggested, if the Council chooses to do an expeditious route, that Council would entertain a motion to waive the public hearing requirement for a Home Rule Petition so that he may file it as soon as it is passed. That would be the most expeditious route that Council could take and if per chance if they come back into session before the next regular meeting, it would not be impossible to pass a bond order for a second read at a special meeting, if Council chose to do so. Council needs to waive the public hearing requirement that would be attached to the Home Rule Petition.

MOTION BY: Councilor Cronin, seconded by Councilor Pappalardo to waive the public hearing requirement for the Home Rule Petition relative to this resolution.

UPON VOTE: UNANIMOUS.

UPON VOTE: (main motion) UNANIMOUS

TR-09-34 Resolution Authorizing Order of Taking – Proposed Right of Way – New Portion of Wheeler Street, Methuen, MA

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

Mayor Manzi stated that Engineer Bill McLeod is present to answer any questions. The Mayor stated that this is a provision to enact something that will enable us to straighten and improve Wheeler Street and discontinue a portion of the old road. From the City's perspective, it's a significantly better project doing it this way rather than to leave and improve the old Wheeler Street. This is a more expensive and better proposal for the City. Individuals have asked him if there is any change in the initial outlook that has the traffic exiting onto 110 and not 113 and the answer is yes, it doesn't change that at all. It simply improves our ability to do that by straightening Wheeler Street out.

Chair Deborah Quinn asked if Mr. McLeod would come to the podium to answer questions. She noted that what the Mayor just said, all the traffic would go straight out to 110 and not to 113.

Mr. McLeod stated that is correct. It basically makes this the best route to go, both enter and exit the site. The traffic report that was done by the traffic engineer showed that this majority of the traffic would go to 110. As residents move into this new neighborhood, they're going to know anyhow that they are not going to go to Route 113. They are going to go to Route 110. This encourages the traffic to go to 110.

Chair Quinn asked who pays for this expense.

Mayor Manzi stated there would be no expense to the city. The road improvement will be done 100% by Toll Brothers, the project developer.

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Councilor Pappalardo asked if this item requires a public hearing.

Attorney McQuillan said it requires a two reading procedure under the Charter.

Mayor Manzi said even though this is an Order of Taking, it is what is called a “friendly taking”.

Councilor Willette said there is mention of purchasing the property from Brox in the amount of \$100,000. It is not a neutral taking.

Mayor Manzi explained it is neutral. It is a three-part agreement between the city, between Brox and Toll Brothers. The new Wheeler Street would require some land from Brox and that land would be conveyed as part of this process. There will be a consideration of \$100,000. The city will pay Brox that \$100,000 and Toll Brothers will, at the same time, reimburse the city for the same. It would be done at the same time. There is no impact to the city. The city will be the permit taker on the project, as far as the road goes. The city is in the middle of that for legal reasons. There is no cost to the city.

Councilor Willette asked if this is incorporated in a side letter. There is no reference to Toll Brothers whatsoever in this agreement.

Mayor Manzi said it is incorporated in an agreement between the City and Toll Brothers. The Solicitor could explain that.

Councilor Willette said instead of talking about it, he'd like to have it presented to the Council's attention.

Attorney McQuillan said he didn't have the agreement with him this evening but there has been a previous agreement established between Toll Brothers and the City for purposes of re-compensation for the payment made to Brox. It has been codified into an agreement, which he will provide it to the Council.

Councilor Willette said that is something he would have liked to receive because that is part of the entire picture. What he has before him states the city is going to purchase land for \$100,000. There is no reference to anything presented to his attention.

Mayor Manzi said there were reasons why the compensation to the city was not included in this agreement. If Council would like, he will discuss those reasons in executive session. There is a separate agreement and it will be presented to Council before enactment. The city is held harmless here and we have an extension of a road. It's a major improvement done 100% at the expense of the developer. There were legal reasons why it was not incorporated into the document before Council.

Councilor Willette said he has been concerned all along about the expansion of traffic from the corridor of Dracut if Methuen allows for expansion of a roadway for improvement of a roadway from that area. He doesn't recall any instances in terms of the Town of Dracut working with the City of Methuen because the outflow of traffic from the Town of Dracut. He is very concerned about this and hopes to discuss it further.

Councilor Pappalardo commented to the Mayor that she didn't understand why Council didn't have the agreement tonight if it is going to be available on Tuesday.

Mayor Manzi said he would provide the document prior to final adoption. It happens frequently. There are no secrets. The city is held harmless in this agreement. There is no financial cost to the city.

Councilor Pappalardo referred to the first page where it states order of taking, it says the award hereby made is set forth in attachment B, the appropriation for which shall be taken from an appropriate budgetary account, which attachment B is not to be recorded in

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the Essex North Registry of Deeds. Then further on it kind of contradicts unless she is not reading correctly on the next page where Council signatures are required; it says and be it further ordered that the City of Methuen has caused this instrument to be taken to be recorded in the Registry of Deeds. She asked for clarification.

Attorney McQuillan said the agreement referenced to in the Taking is not recorded. The particular agreement, the Order of Taking itself, as signed by the Council, must be recorded at the Registry. The other is not done.

Councilor Pappalardo said it states the appropriation shall be taken from an appropriate budgetary account. Which would that be?

Mayor Manzi said the \$100,000 would have no impact because the \$100,000 will be transmitted to us and whatever account that would go into he would leave that to the Auditor and the disbursement would be made from the same account. We won't have a lag period where we put up front money and then wait for reimbursement. It will be transmitted at the same time. He deferred to the auditor as to which account that would go through, once the Council gives the proper authorization.

Mr. Kelly said it would be placed into the Capital Projects fund.

Councilor Pappalardo referred to the language "to improve Wheeler Street, north of Lowell Street for a distance of approximately >>>> feet. Do we know how many feet we're talking here? Is it 320 x 50 feet wide, or is it more than that?"

Mr. McLeod said the section of Wheeler Street from Lowell Street to Lowell Blvd, said the right of way itself is 325' and 50' wide.

Councilor Pappalardo said she asked because that information is left blank in this agreement. She wanted to make sure that is what it was.

Councilor Pappalardo referred to the language, which states "six months provisions". She asked if this is from February 2009 or April 2009.

Attorney McQuillan said it would be from the date of the execution of the agreement, whenever Council authorizes the Mayor to sign.

Councilor Pappalardo asked about Attachment D, separate indemnity is the document Council doesn't have.

Attorney McQuillan said he would provide the indemnity agreement first thing Tuesday morning.

Councilor Pappalardo said the map depicts a paper street called Poppy Lane, which is on the Dracut side, and asked if anyone is aware of Dracut perhaps developing that into a subdivision because they would definitely benefit by what is going on over there now, on what we are planning on doing, benefiting by Wheeler Street and the sewer lines being installed by Toll Brothers.

Mayor Manzi said he is not aware of a benefit to Dracut and deferred to the engineers. He hasn't looked at a benefit to Dracut and is not sure that there is one. What we have here is a benefit in terms of the road improvement for the potential residents of the project and existing residents that are out there on the older end of Wheeler Street. But the entire impetus for the road improvement is to make it easier to access a development that is going in. It has nothing to do with Dracut per se. Literally, nothing to do with it.

Councilor Pappalardo noted it is going on that side of the street and taking property from Brox. It is on the Dracut side.

Mayor Manzi said he doesn't believe that is the case and asked the engineer if there is any property on the Dracut side that Brox is deeding to Methuen. Mr. McLeod

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responded, no. Mayor Manzi further stated that to the best of his knowledge Methuen would not have an ability to, even on a friendly basis, do a taking in Dracut.

Councilor Pappalardo said Toll Brothers is going to be doing the project and putting in the street. The city is not. Mayor Manzi stated that is correct. They are paying for it 100%.

Councilor Kannan agreed with Councilor Willette and stated she would like to review the additional information. She noted this does go through Dracut. Hopefully, this will benefit the people who live on North Lowell Street because when this ... when we had a particular Dracut deal come between us, those people on North Lowell were really looking for some type of improvement on. From people from Dracut to maybe exit through Lowell Blvd, where this is going through. She said she will support this for first read because of that reason, she feels if the Toll Brothers are picking up the tab, that's great for Methuen but she would want to see the additional information as well.

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

PUBLIC SERVICE:

Grants: None

Licenses: Second Hand Dealer Application: Methuen Senior Activity Center, Inc., 77 Lowell Street, Methuen, MA 01844 MOTION BY: Councilor Zanni, seconded by Councilor Pappalardo to approve. UPON VOTE: UNANIMOUS.

Contracts: None

Vote to set Public Hearing REF: Byrne Memorial Justice Administration Grant

MOTION BY: Councilor Cronin, seconded by Councilor Zanni to schedule a public hearing regarding the Byrne Memorial Justice Administration Grant, as requested.

UPON VOTE: UNANIMOUS.

OLD BUSINESS

Resolutions:

TR-09-23 Resolution Providing for Alternate Selection of Services Providers (Req. of Clr. Pappalardo, Clr. Cronin, Clr. Giordano) (verbatim requested)

Councilor Pappalardo: Madam Chairman, I'd like to make a motion to table this, this evening because Councilor Giordano had another commitment and I think that he should be here to vote on it.

Councilor Willette – second

Chair Deborah Quinn: I don't know - this would be the second time.

Councilor Lahey – privileged motion – privileged motion

Chair Deborah Quinn: I have to say I think I'll call the roll for that because this would be the second time we're holding it back for the same Councilor. I think that's kind of redundant though. So, Let's call the roll for that.

Councilor Lahey: to table?

Chair Deborah Quinn: Call a vote to table, yes

UPON ROLL CALL VOTE: Clr. Leone – no, Clr. Pappalardo – yes, Clr. Willette – yes, Clr. Zanni – no, Clr. Cronin – yes, Clr. Giordano absent, Councilor Kannan – no, Councilor Lahey – yes, Chair Quinn – no.

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The clerk announced the vote 4 – 4

Chair Deborah Quinn – Tabling fails – on the main motion?

Councilor Cronin – What is the main motion?

Chair Deborah Quinn – It's the resolution because its not tabled

Councilor Cronin: I make a motion we adopt for second reading to get it on the floor.

Councilor Lahey: second

Councilor Cronin: Now that it is on the floor – charter objection

Councilor Pappalardo stood to Charter Object. Councilor Lahey stood in Charter
Objection

Chair Quinn: Well this is the third time it's been on - you want to charter object? So,
we'll...

Councilor Willette - That's okay. Councilor Lahey: Three Councilors

Councilor Cronin: Three Councilors – that means it has to go to the next meeting.

Councilor Pappalardo: The next regular meeting.

Chair Quinn: and you know that we're doing this for the same Councilor on the
same subject.

Councilor Cronin: I understand

Councilor Pappalardo: He's one of the makers of the motion

Chair Quinn: you know what, I am not going to cross debate this but I think that it's
redundant for the City of Methuen to do this. I mean, I think that we were voted to make
decisions.

Councilor Willette: It doesn't matter. It's the Charter.

Councilor Lahey: It's been charter objected by three councilors.

Chair Quinn: Well, I think you are making a mistake here but.

Councilor Pappalardo: Well, I don't.

Councilor Cronin: I think you are making a mistake by voting against it. So,

Councilor Pappalardo: I do too.

Chair Quinn: well, I think that's very redundant for the people of Methuen.

Councilor Pappalardo: A lot of things are very redundant

Chair Quinn: You know, Councilor Pappalardo you are out of order (used the gavel)
you were not told to speak now and I'm speaking and the meeting is still going on
So, thank you.

Councilor Pappalardo: Thank you.

Chair Quinn: thank you. Council rules, Roberts Rules, transparency, Councilor
Pappalardo, thank you.

Councilor Pappalardo: absolutely

Ordinances:

TO-09-04 Ordinance Amending Chapter 9, Section 9-92 of the Methuen Municipal
Code – Prohibiting the Operation of Dirt Bikes (Req. of Clr. Zanni)(remove from the
table)

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

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

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Councilor Cronin referenced a memo from the Mayor requesting the distance from the lot line be changed from 150' to 300'.

MOTION BY: Councilor Cronin, seconded by Councilor Kannan to amend the ordinance to state 300'.

UPON ROLL CALL VOTE (amendment) 5 yes, 3 no (Clr. Leone, Clr. Zanni, Clr. Lahey)

Councilor Zanni said he received a couple of calls as other Councilors may have but not from a large list. He did go through the list of people that looked at the 500' and talked to a lot of them and said the 150', which if you think 150' is 50 yds. 300' becomes 100 yards. He's looking at something from 150' away, 50 yards away, from somebody's property line, it requires quite a distance. The areas that we are talking about, there are four in particular, three which were written with the petitions are in neighborhoods which have back yards no larger than this room and 150' would be more than adequate to substantiate any type of noise or any ATV or dirt bike moving in that area. That's why he went ahead to 150' ruling. 300' and he understands and is going to be supportive when you have the amount of the Councilors and they speak on it, is roughly 100 yards away. People who now might have two or three acres, a fairly good size, there are some properties on the west end that are fairly large, may not be able to use theirs because we do have some specifics in here. That was the reason he proposed 150'. He understands where Councilor Cronin and others are coming from with the 300' but if that is the wish of the majority of the committee, he doesn't have a problem with that. He just wanted Council to be aware of the people that he's contacted from the petitions were in favor of. Two calls he did get wanted 300' but again that's up to the Council but if its 300' that the majority wants, he doesn't have a problem.

Councilor Lahey stated he's been opposed to this from the beginning. He doesn't like setting legislation to settle neighborhood disputes. 150' he could live with but any more than that, no, and would probably be vote against it.

Councilor Cronin said the reason he made the motion to go to 300' was because of phone calls he received. People who called him were asking for 300'. People that he happened to see on the street and one particular person who owns a store also requested 300'. Personally it doesn't affect him, whatever the footage either way. The reason he put the 300' amendment forward was because of constituent requests.

Chair Deborah Quinn asked Captain Haggar to come to the podium and asked him if there is a permitting process in effect right now that would register these vehicles to identify them.

Captain Haggar said Methuen does not have a permitting process. For an individual to ride an ATV on an area other than their own property, they would have to be registered through the state, either Mass or New Hampshire.

Chair Quinn asked if Captain Haggar could recommend a specific number to the Council.

Captain Haggar said his recommendation was 500' but he would settle for 300'. He personally has responded off duty, on duty, and whenever he's called to one particular area in general over the last month, mainly Stone castle. He's responded with a noise meter, testing noise coming from dirt bikes in that area. Although the noise ordinance is a fair ordinance these dirt bikes are operating 150' away and their noise does not qualify

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to go against our noise ordinance. Although it is a hindrance, people have made the argument, what's next, mowing lawns. He would strongly recommend 300'.

Councilor Kannan stated that the people at Stone castle Estates have told her over and over how much they appreciate, they specifically have used your name. It's an active 55 and older community and they are being literally tormented up there by these and every time they call, you're there. And they feel that you are being and a couple of other officers from the police department who have gone are actually being harassed. So, if you go there, I would like for you to maybe contact the Mayor or the Chair and let us know because I did say at another meeting that she would like to see a fine if it's a perpetual offender and they are bothering the same people. She would like to hear some feedback from Capt. Hagggar as well because it shouldn't be tolerated. She thinks that turns into the noise ordinance at that point.

Captain Hagggar said the unfortunate part about this whole situation is in his dealing with Stonecastle, as well as other areas, is that people are very reluctant to come forward who have complaints about their neighbors. When this happens, they deal with it all the time through their community policing division. People there have made complaints and after the police have left, those individuals have sat on their property line in an intimidating manner. At this time, they are also dealing with that.

Chair Quinn asked how this would be enforced.

Captain Hagggar said if the police are contacted, they would go out and investigate. This will be a law throughout town if it passes. Similar to a loud party, if they don't get called, they are not going to go out and enforce it unless they get called for a complaint. It is not their intent to harass people but do want to protect the people who don't want to be harassed themselves.

Councilor Pappalardo referred to Councilor Cronin's statement that the Mayor had sent down a memo recommending 300'. In November, when Captain Hagggar brought the original ordinance up he had it at 500' and he was more than willing to amend it and settle this back in November when residents first started with the complaints.

Councilor Zanni said he doesn't have any problem amending it to 300'. It was discussed in November but this spring he was contacted by residents in the west that were starting to see the revving up of the ATVs. That was the rationale of putting it forth, to get adoption now rather waiting a longer period of time. He said he has no problem with 300' if Captain Hagggar feels 300' is going to be adequate.

MOTION BY: Councilor Pappalardo, seconded by Councilor Cronin to adopt, as amended. UPON VOTE: 6 yes, 2 no (Clr. Leone, Clr. Lahey)

Councilor Pappalardo asked the Mayor how much money the city is collecting for taxes on the four parcels of land (gift of land). And if we are collecting taxes, why would we want take these gifts of land? We need the money.

Mayor Manzi said he provide something in writing about the revenues derived from them but let me say this to you without looking at the parcels directly what you generally would find with these Councilor is the following that a perspective person would like to donate the land, will either donate them or abandon them and he is not going to say that is the case here but he will.let you know that perspective what they look at if it is abandoned and it goes unpaid, what is the remedy for the city? The remedy is obviously to take the land and you take the land by incurring legal fees and filing costs and things of

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that nature. So, if its our judgment that a parcel or a piece would simply go unpaid then we might be willing under those conditions to take it because its not forfeiting the revenues, its actually saving filing fees that we would have to incur to take the land.

Councilor Pappalardo wouldn't you put a lien on the property if they refuse to pay taxes on that land? So if you put a lien on that land.

Mayor Manzi said you lien it, but the point is that nobody wants it and the ultimate affect of the lien would be that the city would take it.

Councilor Pappalardo what about if it was part of their property that they just wanted to get rid of that and they couldn't sell their property after and you lien it.

Mayor Manzi said that generally is not the case. These parcels will not be cut off from an existing parcel. It would be stand alone parcels that would be separate. We would allow you to cut a piece of your parcel off to lessen your tax bill. These are separate parcels that effectively stand alone and that would end up generically speaking with the city, with the city incurring both legal and filing costs to take them, as you said, the proper course would be to lien it and after a certain amount of time you end up taking it but these are parcels that you may not want to take and lay out there, so, you ... in effect what we are saying to you is we are going to end up paying a lot of money for filing fees and what have you. This simply averts that process.

Councilor Pappalardo asked if anyone expressed an interest in purchasing the surplus property lot on Danielian Way.

Mayor Manzi responded, no, but he heard what Jack Burke said at the podium and if in fact I think what Jack had mentioned is that he felt that it had been prior deeded to the city as part of a conservation track. Just let us look at that. We have the parcel number and if that in fact is correct, we would not in any way want to divest conservation land. He doesn't believe that is correct but they'll look at it and again if it's a track and its been deeded in that way we don't divest those. So let us look at that and the short answer is "no" and I'll give you more information on that question by the next meeting.

Councilor Leone don't we need a public hearing on the surplus parcel?

Mayor Manzi I think so.

Chair not on the gift just the surplus.

Councilor Zanni on these properties, the Hampshire Road and in the last answer, do you know the size of these or not? I know we have a public hearing and we probably will have it at that point.

Mayor Manzi said all of the parcels being discussed, he'll have a parcel description and the size of each and as well as the tax information. We'll have both the Treasurer here and the information in terms of lot size, taxes that are paid annually, etc.

Councilor Zanni just to kind of follow what you were saying earlier about these properties, the end result is there are pieces of property and a good example is my own daughter and son-in-law, as you know, there was a piece of property on Merrimack Street that had been left there for a long period of time and in fact there was a considerable amount of back taxes that hadn't been paid on that. In turn, that was taken care of but the most important thing was the fact that it went before an auction and the city gained a tremendous amount of money for that parcel of land that they had to pay for prior to building on that land. The city in turn recouped what was missing along with getting the price for the surplus. So the end result, if these parcels are big enough and sold at a reasonable rate, the city may profit from that, rather than having taxes that haven't been

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paid for ten, fifteen, in some cases twenty years or more. It's a good benefit for the community to do this type of thing in order to number one in bringing more money into our coffers and getting rid of property that people can't pay the taxes.

Councilor Cronin said a couple of years back we had a whole host of properties that the town was putting up for sale based on the same situations that Councilor Zanni just made mention to and there was a piece of property up here on Pleasant Street and he believes it sold but for some reason because of title problems it got withdrawn and he is wondering if that was resolved. He knows there were a couple of people interested in buying it and wondered what the status is.

Mayor Manzi said there was a small title issue that was resolved. The prospective buyer at the time chose not to wait. The parcel still lies there with the title perfected thanks to the work of the Solicitor and we would entertain offers for it but in this down market we haven't had them so the parcel is there. It is available. That portion of it has not changed Jack. If somebody has an offer for it, they should bring it forward.

Councilor Cronin said he believed the party that was interested in it was the woman that lived right next door

Mayor Manzi said she may have bid at the auction and Councilor Cronin said he would call her.

Councilor Kannan asked the Mayor if these individuals all come forward or does the city or does the city search out these lots.

Mayor Manzi said in terms of the people asking to donate the land, no, the city doesn't search them out. They come forward to us.

Councilor Kannan said and the surplus land as well.

Mayor Manzi said the surplus land is something that the Treasurer, he has the Treasurer evaluate it on a constant basis because he doesn't want to hold onto land that may be saleable because as Councilor Cronin said city council a couple of years back had declared a whole series of parcels, even some smaller one Councilor, we sold and they were lot rounder and there were some buildables that were sold as well. The one Councilor Cronin talked about is still out there but we did manage to earn a significant amount of money. So he Treasurer is always being asked to search out and produce surpluses that could aid us in making the sale revenue. Yes, thank you Councilor.

NEW BUSINESS

Resolutions:

MOTION BY: Councilor Leone, seconded by Councilor Cronin to adopt TR-09-28, 29, and 30 for first read. UPON VOTE: UNANIMOUS.

TR-09-31 Resolution Declaring a Parcel of Land in the City of Methuen as Surplus properties and Authorizing the Same for Sale – Danielian Way

MOTION BY: Councilor Zanni, seconded by Councilor Kannan to table for a public hearing. UPON VOTE: UNANIMOUS

TR-09-32 Resolution Accepting a Gift for the City of Methuen's Police Department.

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

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TR-09-33 Resolution Allowing for Creation of a Reserve Fund at the Greater Lawrence Regional Vocational Technical High School

MOTION BY: Councilor Zanni, seconded by Councilor Leone to adopt for first read. Councilor Cronin said he would ask for additional information from the Mayor and Mr. Kelly in the next two weeks.

UPON VOTE: UNANIMOUS.

TR-09-35 Resolution Allowing for Creation of a Reserve Fund at the Methuen School Department

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

Councilor Leone asked Mr. Kelly for a brief overview of this resolution.

Mr. Kelly said he needs to review this a little bit more and believes on the school side what happens and he'd not 100% sure but he wants to check it, you would give them an adopted budget and then at year end there are carry forwards. If they don't expend their carry forward, whatever surplus is remaining comes back to the general fund. From what he understands is that whatever remains they want to put in their own stabilization fund. In other words it won't come back to the city

Chair Quinn asked all that money wouldn't be used up by the end of the year.

Mr. Kelly said there is a situation sometimes where they create a carry forward. Later on, they find out they didn't need that entire amount to cover their costs. Part of it is they'd have a reserve that gets closed out to the general fund. He indicated that he needs to review it more.

Councilor Cronin said if there is any money remaining, the city should get it back.

Mr. Kelly said it is a good policy need to start establishing that within general government budget. You need to start appropriating money during the process to a stabilization fund but he needs to review this more.

Councilor Leone asked if Mr. Kelly is recommending Council pass it for first reading.

Mr. Kelly, yes so he can provide council with the correct answer after he does some research.

Councilor Willette asked if approved, would we have a dual system of approval, meaning that the School Committee would approve that stabilization fund, whatever remains and use it and it could come before the city council.

PM that's one of the reasons he raised his hand to be recognized. Number one for the sake of clarification, it is the wrong statute that is cited. It is the same statute that was cited for the regional school district stabilization fund, which is the correct statute. However for the purposes of the city he believes it is Charter 40, Section 5B, which allows a city to create the stabilization fund for a department or a district and that very well may include the school district and have the stabilization fund administered through the General Government as opposed directly by the School Committee on the School Department. So, that's something I would have to look at but for the sake of first reading that is the incorrect statutory authority. I believe it is Chapter 40, Section 5B for the purposes of our School District and as to a dual authorization, I really have to review that and hopefully have an answer at the next meeting.

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MOTION BY: Councilor Leone, seconded by Councilor Zanni to amend the resolution to reflect the correct statute, Chapter 40, Section 5B. UPON VOTE: UNANIMOUS.

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

TR-09-36 Resolution Authorizing Expenditure from the Edwin J. Castle Fund

MOTION BY: Councilor Cronin, seconded by Councilor Zanni to adopt for first read in the amount of \$14,300 as noted. UPON VOTE: UNANIMOUS.

ANY OTHER BUSINESS FOR THE GOOD AND WELFARE OF THE
COMMUNITY.

Chair Deborah Quinn announced that the Relay for Life is going on in Methuen May 30th and May 31st. It will support the American Cancer Society. The Opening Ceremonies on May 30th will be at 2:00 p.m. There will be walkers going from May 30th at 2:00 p.m. to May 31st at 8:00 a.m. There are 55 teams participating in American Cancer Society fundraiser. There will be food and activities. Everyone is invited to come down and show support.

Councilor Pappalardo asked Mr. Kelly how much money remains in the MTBE account.

Mr. Kelly estimated the remaining balance to be one million seven.

Councilor Pappalardo said that is MCTV.

Mr. Kelly reported that the funds for MTBE is in the Stabilization Fund and the amount placed in that account has not been touched.

Councilor Leone asked if it is earmarked. Mr. Kelly responded, no, and he would come to Council before anything is done.

Councilor Zanni thanked Councilor Leone and DPW for backfilling where the clubhouse is going.

ADJOURN

MOTION BY: Councilor Lahey, seconded by Councilor Kannan to adjourn. UPON VOTE: UNANIMOUS.

The meeting adjourned at 8:20 p.m.

I do hereby certify the foregoing minutes were adopted by the Methuen City Council by a unanimous vote on June 1, 2009.

COUNCIL CLERK