

MINUTES OF THE MEETING
OF THE LAWRENCE CITY COUNCIL

DATE: Tuesday, August 18, 2009

A **REGULAR MEETING** of the City Council was held on **Tuesday, August 18, 2009** at 7: 15 p.m. in the City Council Chamber with all Members present.

Approximately Twenty [20] persons were present.

A Moment of Silence was held.

The Pledge of Allegiance was recited.

I. ACCEPTANCE OF MINUTES: - None

II. PUBLIC PARTICIPATION:

Council President Blanchette requested those who wished to provide public input and participation to present them-selves and address the City Council. Upon the invitation of Council President Blanchette, the following individuals addressed the City Council:

Michelle Downer, 198 Essex Street, Lawrence, MA, informed the Council Members that there is no left turn sign at Jackson and Essex Street prohibiting traffic traveling east from turning left onto Jackson Street. She also suggested that there should be no parking on the south side of Essex Street near Jackson Street in front of the Brunswick House from 6:00 a.m. to 8:00 p.m. She also stated that The City continues to be out of compliance with the access requirements of the American with Disabilities Act.

Mr. Hamayoun Maali, 53 Chester Street, Lawrence, MA, stated that the Mayor failed to keep his promise to keep all fire stations in Lawrence “open” and “operational”.

George Torres, 198 Essex Street, Lawrence, MA, informed the Council Members

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that vandalism is extensive at The Brunswick House and living conditions are poor. He stated that he will follow up with a report on these matters to the State and Federal authorities.

Ellie Curtin, resident of The Brunswick House City, Lawrence, MA, stated that a resident sticker parking program is necessary for the residents of Brunswick House to allow for sufficient parking.

III. PUBLIC HEARINGS: - None

IV: COMMUNICATION FROM MAYOR, CITY OFFICIALS & CITY ATTORNEY:

Doc. 279/09: Fire Department Budget Status – Council Pres. Blanchette – Tabled

Councilor Twomey read a statement into the record stating that The City may have the ability to obtain a waiver of the requirement to spend funds allotted for educational purposes which should be pursued in order to alleviate the current financial difficulties.

Council President Blanchette informed the Council Members that the two fire houses remain closed and there has been no change in that status as all.

Upon being granted the floor, Councilor Kolofoles stated that he has been contacted by Representative Barry Feingold that Federal stimulus monies may still be available and suggested that a resolution of the Lawrence City Council be sent to F.E.M.A. [Federal Environmental Management Agency].

Council President Blanchette suggested the item should probably be tabled at this time in order to determine or consider other possible options. Council Vic President Kolofoles and Council President Blanchette discussed possible litigation commenced by or

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on behalf of The City Council Members to compel the Administration to provide sufficient appropriation.

Upon being recognized Councilor Twomey moved to table and item, as seconded by Councilor Kolofoles which was unanimously approved by The Council Members present.

Doc. 279/09: Tabled

Doc. 280/09: Trash Pick Up – following proper process/outreach in regards to change/notification to public – Council Pres. Blanchette – Ref. to B & F

Council President Blanchette introduced the item and invited Recycling Coordinator Norman Nimmo to address the Council Members on the matter presented. Mr. Nimmo provided The Council Members with information concerning the issues related to the newly adopted automated trash pick-up contract approved by the Administration.

Upon being granted the floor, Councilor Kolofoles suggested the item will be referred to the appropriate Council Subcommittee for more detailed consideration. Mr. Nimmo completed the informational overview to the Council Members.

Upon being granted the floor, Councilor Silva provided the Council Members with a legislative history of this matter which she stated was addressed in 2008.

Upon being granted the floor, Councilor Alvarez-Rodriguez posed questions to Mr. Nimmo regarding the implementation of the automated trash program. Mr. Stan Walzak of Allied Waste Co. assisted with additional information and details about the proposed recycling program. Councilor Alvarez-Rodriguez suggested that written information be provided to the Council Members outlining the details of the program.

Council President Blanchette agreed and asked the same information be provided

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to the Council Members.

Upon being granted the floor, Councilor Kolofoles suggested the City Attorney be contacted to determine if an ordinance is necessary.

Upon being granted the floor, Councilor Moran suggested the matter should be discussed in a public hearing format.

Upon no further inquiry, comment or discussion Council President Blanchette referred the matter to the Budget and Finance Committee.

Doc. 280/09: Ref. to Budget & Finance

Doc.282/09: Environmental Issues at the DPW Site/the importance to find solutions immediately and the poor conditions the DPW workers are working in – to be discussed – Councilor Silva – Ref. to Housing

At the invitation of Council President Blanchette, Councilor Silva discussed the item and provided information to the Council Members. At the invitation of Council President Blanchette, Acting Public Works Director Michael Morley addressed the Council Members on the measure presented.

Councilor Silva further discussed the reasons for presenting the item before the City Council.

Upon being granted the floor, Councilor Moran poses questions about the removal process of hazardous waste.

Upon being granted the floor, Councilor Alvarez-Rodriguez posed questions about the extent that working condition may pose a serious safety threat.

Upon no further inquiry, comment or discussion Council President Blanchette

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referred the matter to the Housing Committee.

Doc. 282/09: Ref. to Housing

Council President Blanchette called the following matter to the attention of the Council Members as appearing on the Agenda which was referred as indicated:

Doc.289/09: Drinking Water State Revolving Loan Fund Application – Mayor Sullivan – Ref. to Budget and Finance

V. APPROPRIATIONS-ORDERS-RESOLUTION: - None

VI. TABLED MATTERS:

Councilor Twomey presented a motion to remove Doc. 227/09 from the table which was seconded by Councilor Kolofoles and unanimously approved by the Council Members present [9-0].

Doc.227/09: Cell Towers – Presence requested of Land Use Planner Dan McCarthy and City Attorney Richard D’Agostino to explain process in securing cell towers and the appeal process if denied – Tabled/Letter

Councilor Twomey introduced the item and at the invitation of Council President Blanchette and called upon Assistant City Attorney Richard D’Agostino to provide information to the Council Members present concerning the City Ordinance and other laws that relate to the placement of cell towers in the City of Lawrence.

Attorney D’Agostino cautioned the Council Members that the issue subject to their consideration concerns current litigation and should not be a topic of public discussion. Attorney D’Agostino stated that he could provide general information concerning the matter but would decline comment on specific matter related to such litigation. He continued by providing The Council Members with background information regarding the preemptive

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effect of Federal statutes and how petitions presented to Zoning and/or Planning Boards proceed.

Upon being granted the floor, Councilor Twomey thanked Attorney D'Agostino for the information provided.

Upon being granted the floor, Councilor Alvarez-Rodriguez posed questions to Attorney D'Agostino about possible recommendations to improve the current City Ordinance. Attorney D'Agostino reviewed the legislative history of cell phone technology and wireless communication as it relates to the current City Ordinance. Councilor Alvarez-Rodriguez poses additional questions to Land Use Planner Attorney Daniel McCarthy regarding the use of wireless communications in certain areas encouraged by the City Ordinance.

Upon being granted the floor, Councilor Moran asked if a limitation on the total number of antennas can be imposed. Attorney D'Agostino stated that Federal statutes do not provide a standard that could be used to determine the number of cell phone towers to be placed in any city or town but focus upon the demonstration of technical necessity to be presented by petitioners.

Upon being granted the floor, Councilor Gonzalez suggested that the cost of litigation appears to be prohibitive if such appellate actions were to be pursued by the City of Lawrence. He stated further that it also appears that even if such action were pursued through the judicial course it is unlikely to be successful.

Upon being granted the floor, Councilor Twomey asked Land Use Planner Attorney Daniel McCarthy about the number of cell towers in the City of Lawrence. Attorney

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McCarthy informed the Council Members that there are two cell towers in Lawrence and approximately 13 antenna arrays. A discussion ensued between Councilor Twomey and Land Use Planner McCarthy regarding Telecommunication use.

Upon being granted the floor, Councilor Kolofoles posed questions to Assistant City Attorney D'Agostino about specific instances of telecommunication requests where litigation is pending. Attorney D'Agostino stated that he must refrain from commenting on any pending case unless The Council Members convened into executive session.

Councilor Kolofoles suggested that a special meeting may be necessary to obtain the necessary additional information.

Council President Blanchette asked general questions about the case pertaining to 178 East Haverhill Street and the extent and manner of abutter notification. Attorney D'Agostino explained the form of abutter notification regarding the item presented to the Zoning Board of Appeals.

Upon being granted the floor, Councilor Twomey suggested a letter to the City Attorney requesting an estimate that it may cost to engage the services of an expert for the purpose of reviewing possible appeals of decisions that may be contrary to the residents of Lawrence. The motion was seconded by Councilor Fielding and the Council Members present voted unanimously [9-0] to approve the motion.

Upon being recognized, Councilor Silva moved to table the item, as seconded by Councilor Alvarez-Rodriguez and the Council Members present voted unanimously [9-0] to table the item.

Doc.227/09: Tabled/Letter

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VII. COMMITTEE REPORTS:

Councilor Moran presented a motion to take document 270/09 out of the order appearing on the agenda. The motion was duly seconded and unanimously approved by the Council Members present [9-0].

Doc.270/09: Jowa Café – request for outdoor seating – 4 tables and chairs – 336 Common Street – Ord. Comm. - Approved

At the request of Council President Blanchette, Councilor Kolofoles presented the report from the Ordinance Committee in the form of a motion to approve the item, as seconded by Councilor Alvarez-Rodriguez.

Upon being granted the floor, Councilor Twomey inquired whether there is a present or future intention to request the sale of alcohol. The owner stated that sale of alcohol was not intended.

Upon being granted the floor, Councilor Alvarez-Rodriguez stated that she did not want petitioners to be discouraged from applying for a license to sell alcohol on the sidewalk seating area that is already permitted for use.

Upon no further comments, discussion or inquiry by the Council Members present, Council President Blanchette called the motion to the attention of the Council Members. Upon vote of the Council Members present, the measure was unanimously [9-0] approved the petition presented.

Doc.270/09: Approved

Councilor Kolofoles presented a motion to take document 268/09 out of the order appearing on the agenda. The motion was seconded by Councilor Gonzalez and unanimously approved by the Council Members present [9-0].

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Doc. 268/09: Transient Vendor License – William Henderson – 36 Lupine Road – Andover, MA – Approved

At the request of Council President Blanchette, Councilor Kolofoles presented the report from the Ordinance Committee in the form of a motion to approve the Transient Vendor License for William Henderson, 36 Lupine Road, Andover, MA which was duly seconded by Councilor Fielding and unanimously [9-0] approved by The Council Members present.

Doc. 268/09: Approved

Doc. 240/09: National Grid and Verizon New England, Inc. – requests permission to locate poles, wires and fixtures on Springfield Street – Ord. Comm. & Public Hearing ordered

At the request of Council President Blanchette, Councilor Kolofoles presented the report of the Ordinance Committee in the form of a motion for a public hearing on the measure presented. The motion was seconded by Councilor Moran and unanimously approved by the Council Members present [9-0].

Doc. 240/09: Public Hearing Ordered

Doc. 254/09: Parking – Broadway Street (west side) between Arlington and Stafford Streets and Broadway Street (east side) Arlington and Wyman Streets – 60 minutes – Ord. Comm. & Public Hearing ordered

At the request of Council President Blanchette, Councilor Kolofoles presented the report of the Ordinance Committee in the form of a motion for a public hearing on the measure presented. The motion was seconded by Councilor Gonzalez and unanimously approved by the Council Members present [9-0].

Doc. 254/09: Public Hearing Ordered

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Doc. 258/09: National Grid and Verizon New England, Inc. – requests permission to locate poles, wires and fixtures on Hampshire Street – Ord. Comm. & Public Hearing ordered

At the request of Council President Blanchette, Councilor Kolofoles presented the report of the Ordinance Committee in the form of a motion for a public hearing on the measure presented. The motion was seconded by Councilor Gonzalez and unanimously approved by the Council Members present [9-0].

Doc. 258/09: Public Hearing Ordered

Doc. 262/09: Handicapped Parking – 245 Broadway Street – Ord. Comm. & Public Hearing ordered

At the request of Council President Blanchette, Councilor Kolofoles presented the report of the Ordinance Committee in the form of a motion for a public hearing on the measure presented. The motion was seconded by Councilor Gonzalez and unanimously approved by the Council Members present [9-0].

Doc. 262/09: Public Hearing Ordered

Doc. 267/09: Transient Vendor License – Victor Marte – 342 Lawrence Street, Lawrence, MA – Ord. Comm. – Approved

At the request of Council President Blanchette, Councilor Kolofoles presented the report from the Ordinance Committee in the form of a motion to approve the Transient Vendor License for Victor Marte, 342 Lawrence Street, which was duly seconded by Councilor Gonzalez and unanimously [9-0] approved by the Council Members present.

Doc. 267/09: Approved

ITEM ADDED DURING MEETING

Doc. 264/09: FY'2009 Bills – authorization to pay outstanding bills – LHS Associates, Inc. – Annual Street Listing Publication [\$600.00]; Eagle Tribune Publishing Co.–City Council Advertisements [\$1,382.01]–William Maloney, City Clerk – Approved

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At the request of Council President Blanchette, Councilor Silva presented the report from the Budget & Finance Committee in the form of a motion to approve the payment of outstanding FY 2009 bills presented by City Clerk Maloney due to the vendors cited in the request. The motion was seconded by Councilor Kolofoles and unanimously [9-0] approved by The Council Members present.

Doc. 264/09: Approved

VIII. WITHDRAWALS:

ITEM ADDED DURING MEETING

Doc. 259/09: Buckley Transportation Parking Garage – complaints due to an incident – Barbara A. Hendrick – Withdrawn

At the request of Council President Blanchette, Councilor Silva presented the a motion to withdraw the item from the City Council Agenda. The motion was seconded by Councilor Alvarez-Rodriguez and unanimously approved by the Council Members present [9-0].

Doc. 259/09 Withdrawn

IX. OLD BUSINESS:

Doc.293/09: Proposed Closing of Fire Stations– Council Pres. Blanchette - Withdrawn

At the request of Council President Blanchette, Councilor Silva presented a motion to withdraw the item from the City Council Agenda. The motion was seconded by Councilor Alvarez-Rodriguez and unanimously approved by the Council Members present [9-0].

Doc. 293/09 Withdrawn

Council President Blanchette brought the matters listed below to the attention of the Council Members present and referred each to the Council Subcommittee as indicated:

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- 58/08: Disposition – 66-70 Hancock Street – (Tax Map #185, Lot 21) – Michael R. Sweeney, Planning Dept. Director – Ref. to Housing
- 286/08: Disposition – 17 Beacon Street – (Tax Map #158, Lot 1) – Michael R. Sweeney, Planning Dept. Director – Ref. to Housing
- 299/08: Disposition – 219-225 Park Street-(Tax Map #171, Lot 122) – Michael R. Sweeney, Planning Dept. Director – Ref. to Housing

X. TABLED MATTERS:

The following items remained “tabled” without further action:

- 275/07: Marion Avenue – park to be named – Ord. Comm.
- 6B/08: City Contract Ordinance – Section 3.04.230- Ord. Comm.
- 22/08: Personnel Department – Re-organization
- 236/08: National Grid–req. permission to place underground electric conduits on Green St.-hear.
- 39/09: Water Commissioner – lay off – compliance with MGL Chapter 111 Section 160- City Attorney invited to attend
- 141/09: Resolution – Delilah Rivera – Council Pres. Blanchette
- 281/08: Revised Zoning Ordinance – Political Signs – hearing
- 219/09: FOIA Request Ignored by Administration – copy of all bills and documents related to payment to Mintz Levin Law Firm–Budget and Finance Director Mark Andrews and Comptroller Dir. Cammaso to attend to answer questions
- 227/09: Cell Towers – Presence requested of Land Use Planner Dan McCarthy and City Attorney Richard D’Agostino to Explain process in securing cells towers and the appeal process if denied
- 245/09: Audit Bid Process – Council Pres. Blanchette
- 222/09: Brook Street – request to have alternate parking year round

XI. NEW BUSINESS:

Council President Blanchette brought the matters listed below to the attention of the

Council Members present and referred each to the Council Subcommittee as indicated:

- 275/09 Live Where You Work – Incentive Program – Counc. Moran-Ref. to Housing
- 276/09 Parking – Wilmot Street – alternative parking – (winter parking ban) – Counc. Moran-Ref. to Ord.
- 277/09 Stop Sign – four way – Buswell and Trenton Streets – Counc. Moran-Ref. to Ord.
- 278/09 Transient Vendor License – Kontier Mok – 35 Willie Street – Lowell, MA-Ref. to Ord.

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281/09 Billboard Transfer from Clear Channel to Riverwalk Realty Trust Lawrence – Salvatore N. Lupoli-Ref. to Ord.

283/09 Stop Signs – Intersection of Methuen Street and Mill Street (2 stop signs) – Council. Silva- Ref. to Ord.

284/09 Department of Public Works – New Site – discussion on allocation grant, State and Federal funding – Council.Silva - Ref. to Budget & Finance

285/09 Department of Public Works – find a New Site Location – (Explore options) – Council. Silva- Ref. to Housing

286/09 Parking Division – Chapter 2.80 – to discuss current ordinance – Council. Silva – Ref. to Ord..

287/09 Parking Division – Chapter 2.80.040 – Staff – employee’s status, compensation, benefits and seniority under current Ordinance – Council. Silva – Ref. to Pers.

288/09 Parking Division – Chapter 2.80.050 - (Financial Provisions) – Council. Silva – Ref. to B & F

290/09 Essex Market – 175 Essex St. – requests permission to place two tables and chairs for outside dining – Council. Silva & Council Vice Pres. Kolofoles – Ref. to Ord.

291/09 Stop Signs and Flashing Red Signals – Lexington Street, southbound drivers on Lexington St. to Lawrence St.- Deletion of Ordinance Sec. 10.28.100 - William J. Maloney, City Clerk-Ref. to Ord.

292/09 Handicapped Parking – 163 West Street – Council Vice Pres. Kolofoles –Ref. to Ord.

294/09 Cafe Style tables and chairs outside - Ceasar's Restaurant-Council Pres. Blanchette-Ref. to Ord.

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XII. ADJOURNMENT:

Upon Motion of Councilor Kolofoles duly seconded by Councilor Abdo, the Council Members present voted unanimously to Adjourn.

ADJOURNED
(9:08p.m.)

Attest:

William J. Maloney
City Clerk