

MINUTES OF THE MEETING
OF THE LAWRENCE CITY COUNCIL

DATE: Tuesday, February 20, 2007

A **REGULAR MEETING** of the City Council was held on **Tuesday, February 20, 2007** at 7:05 p.m. in the City Council Chamber with all Members present. Council President Blanchette presided over the meeting.

Approximately Nineteen [19] persons were present.

A Moment of Silence was held.

The Pledge of Allegiance was recited.

I. ACCEPTANCE OF MINUTES:

Council President Blanchette informed the Council Members present that the minutes of City Council Meetings conducted February 6, 2007 were submitted by the City Clerk for consideration and acceptance of the City Council Members.

Upon a motion to approve the Minutes presented by Councilor Parolisi, seconded by Councilor DiMarca, the Council Members present voted unanimously [9-0] to approve the minutes of February 6, 2007.

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:

Fausto Nunez, 450 Hampshire Street, Lawrence, MA appearing as Vice President of the Alma/Arlington Neighborhood Association stated he and his organization support Frank McCann as Director of D.P.W. He also stated that flyers and posters have to be stopped from being posted throughout the city.

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Anne Anzalone, employed by the City Of Lawrence Parking Division, stated the Director Frank McCann has been an important aspect of the operations of the City Parking Division and that the organizational skills applied by Director McCann have been invaluable.

Ed Anderson, 74 Salem Street, Lawrence, MA, President of South Common Central Neighborhood Association, stated that it is entirely wrong to impose a two week suspension without pay against Director Frank McCann.

Joseph D'Amico, 11 Lorenzo Road, Lawrence, MA stated that he supports Mayor Sullivan's reprimand of an employee who has acted in error. He stated that every employee of the city is obliged to act fairly and honestly.

Miguel DiMarca, 7 Warwick Court, Lawrence, MA stated his support of Director McCann and cited instances of excellent service provided as Director of the Department of Public Works.

Dorothy Incropera, 514 Mt. Vernon Street, Lawrence, MA stated that she supports Director McCann. She stated that 35 years in service to the DPW have been professional and without blemish.

Joe O'Neil, 1 Sheridan Drive, Londonderry, N.H. stated that he is disheartened about the manner that director McCann has been attacked. He cited instances of the poor administration and operations of other City Departments.

Frank Incropera, 514 Mt. Vernon Street, Lawrence, MA stated that Frank McCann has served as DPW Director with excellence for many years and he believes that Director McCann is being treated unfairly.

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Ellie Curtin, 98 Essex Street, Lawrence, MA offered a belated Merry Christmas and Happy New Year to everyone. She stated that it is a contradiction to the effort to bring back Essex Street to place no parking signs on Mill Street. She stated that she supports Mr. McCann as Director of DPW.

Dave Mazzaglia, an employee of the City Of Lawrence for 20 years, stated Director McCann has been a dedicated and professional City employee.

III. PUBLIC HEARINGS: - None

IV. COMMUNICATIONS FROM MAYOR, CITY OFFICIALS & CITY ATTORNEY:

Doc. 46/07: Sign Ordinance – for new sign – discussion – Peter Blanchette, Building Inspector – Tabled

A motion presented by Councilor Kolofoles to table the measure was seconded by Councilor DiMarca and unanimously [9-0] voted upon by Council Member present.

Doc. 46/07: Tabled

Doc. 47/07: Department of Public Works Director Suspension – Emergency to be discussed- Council Pres. Blanchette – Letter to Mayor

Council President Blanchette introduced the measure and suggested a letter be drafted and sent to Mayor Sullivan to assure the proper procedure and process be followed in this matter. He inquired [in generally] about the action taken by Mayor Sullivan to suspend Director McCann without pay for two weeks and what can be expected after two weeks have passed. He stated that the City Charter governs the removal of City Department Heads but does not address disciplinary action taken by the against Department Heads. He stated that he is aware of the existence of guidelines and procedures existing in an “Employee Handbook” that may provide certain disciplinary actions to be followed. However, the

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handbook has not yet been approved. He discussed specific concerns about the action taken by Mayor Sullivan and cited the following as provided in a memo dated February 16, 2007.

The specific items of concern were read into the record and included the following:

- (1) Why had the City Council not been officially notified by the Mayor concerning the action taken to suspend Director McCann;
- (2) The City Council Members would like to know exactly what is to take place in regard to Director McCann after the two weeks suspensions has expired;
- (3) There is concern about the nature of the suspension and exactly what grounds or reasons exist for imposition of a “suspension without pay”;
- (4) The Council Members question if the provisions of the City Charter that may apply to this matter are being followed;
- (5) The City Council has questions concerning the “investigations” being conducted with particular concern about who may be in charge of the investigative process, where and how are any findings or conclusions being reported, and who may be notified of any reports, findings, or conclusions;
- (6) The City Council would like to obtain any and all materials and documents you may have that led to the decision to suspend Director McCann;
- (7) Has anyone been engaged or hired to represent the City of Lawrence regarding this matter and is there anyone other than the Mayor, Personnel Director, or City Attorney presently addressing this matter on behalf of the City of Lawrence;

Council President Blanchette continued by reading a memo issued by Mayor Sullivan issued on February 20, 2007 and received by The City Clerk during that afternoon [copies of which had been provided to each of the City Council Members immediately prior to the City Council Meeting being held].

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After Council President concluded his comments, Councilor Alvarez-Rodriguez presented a motion for consideration and approval of the Council Members to have a letter drafted and sent to Mayor Sullivan expressing the concerns of the City Council as a unified legislative body. The motion was seconded by Councilor Parolisi. Council President Blanchette opened the floor to the Council Members for further discussion.

Upon being granted the floor, Councilor Alvarez-Rodriguez stated that she believes the Members of the City Council have an obligation to address personnel matters and to address the issues that concern City employees.

Upon being granted the floor, Councilor Kolofoles stated that he was surprised to hear that the action taken by Mayor Sullivan concerned claims of “insubordination” by Director McCann. He stated that he was even more surprised that he learned about these claims from the press and not directly from the Administration or other sources. He stated that he does not believe that Mr. McCann has ever been “insubordinate” concerning issues related to the Parking Division and that he also believes Director McCann has followed the proper procedures regarding his duties and responsibilities.

Councilor Kolofoles stated that he has many unanswered questions about overall operations of the City with particular concern about the Department of Public Works and financial matters that need to be addressed. He stated that political theatrics may have prompted the action taken to suspend the DPW Director.

Upon being granted the floor, Councilor DiMarca stated that he believes that no one seems to know how the city is managed. He indicated that the purpose of City Council is to provide a “check and balance” to the other branches of City Government. He stated that due

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process has not been followed in this instance and Director McCann has been unfairly treated by immediate suspension without pay. He stated that this event is an example of a ‘gross injustice’ against a Department Head who is proven to be responsible and responsive to the needs of the Lawrence Community. He stated sending a letter to the Mayor is a good starting point.

Upon being granted the floor, Councilor Parolisi informed the Council Members that he became aware of this matter when he received a telephone call from Director McCann on February 11, 2007 who was seeking advice as a friend. He stated that due process has not been afforded to Director McCann in this instance and that he is unable to obtain a satisfactory answer about what caused the Mayor to impose the sanction of suspending Director McCann for two weeks without pay through the Personnel Director Frank Bonet. He stated that he supports sending a letter expressing the concerns of the City Council to the Mayor.

Council President Blanchette reminded the Council Members that his concerns were items that occurred to him and that the Members as a body may determine the content of the letter.

Upon being granted the floor, Councilor Gosselin agreed with the comments of the previous Council Members. She stated that Director McCann is very responsible and responsive to “quality of life issues” that DPW continually addresses. She stated that the Council should insist that Mr. McCann should be re-instated immediately. She commended Director McCann’s dedication and hard work which is exemplary.

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Upon being recognized, Councilor Frechette stated that the City Council no longer receives information about City Operations from the Mayor's Office. He stated that once Chief of Staff Myles Burke was reassigned to the position as Acting Director of Inspectional Services, the City Council lost a reliable conduit of communication from the Mayor's Office. He stated that it appears the Administration is operating by Committee.

As a point of information, Councilor DiMarca stated that the Committee making decisions are Tom Schiavone, Nora Carroll and Michael Sweeney according to information provided to him by the Mayor.

Councilor Frechette continued by stating that there is a lack of information to the City Council from the Administration. He cited the lack of information regarding Council's inquiry into the fiber optics contract and installation at the Water Treatment Center. He stated that there is no information provided to the City Council about investigations that are supposedly being conducted at the direction of the Administration. He stated that there is no information about exactly how many investigations are being conducted by the Administration, who is authorized to conduct them, and who is being investigated. He stated that he agrees with the tenor of the discussion among the Council Members and supports sending a letter to the Mayor to express the concerns of the City Council.

Upon being recognized, Councilor DiMarca presented an amendment to the motion on the floor and requested that the letter contain a demand that Director McCann be immediately reinstated with full pay. Councilor Alvarez-Rodriguez accepted the amendment proposed by Councilor DiMarca.

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Upon no further comment or discussion regarding this matter, the Council Members present voted unanimously [9-0] to send a letter to Mayor Sullivan expressing the concerns of the City Council regarding the suspension of Director McCann and to demand his immediate reinstatement without any loss of compensation or benefits that may have been imposed during any period of suspension.

Doc. 47/07: Letter to be sent to Mayor

Councilor Frechette inquired about two communications not appearing on the agenda. Council President Blanchette addressed Councilor Frechette's concerns satisfactorily and resumed with the evening's agenda.

V. APPROPRIATIONS-ORDERS-RESOLUTION:

Doc. 43/07: Resolution – Jessica Mercado – Greater Lawrence Technical School – student - Councilor Gosselin – Tabled

Councilor Gosselin presented a motion to “table” the measure presented which was seconded by Councilor Gonzalez and unanimously [9-0] approved by Council Member present.

Doc. 43/07: Tabled

VI. COMMITTEE REPORTS:

Doc. 5/07: Handicapped Parking – 20 Hillside Avenue – Ordinance Committee –Public Hearing Ordered

At the request of Council President Blanchette, Councilor Kolofoles presented the report of the Ordinance Committee to order a public hearing on the measure presented. The item was presented in the form of a motion, seconded by Councilor DiMarca and

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unanimously approved by the Council Members present [9-0].

Doc. #5/07: Public Hearing Ordered

Doc. 15/07: National Grid – Embankment St. – permission to place underground electric conduit – Ord. Comm. –Public Hearing Ordered

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

Doc. 15/07: Public Hearing Ordered

Doc. 16/07: National Grid –Water St. – permission to locate poles, wires and fixtures – Ordinance Committee – Public Hearing Ordered

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

Doc. 16/07: Public Hearing Ordered

Doc. 17/07: National Grid and Verizon – permission to locate poles, wires and fixtures – Community Avenue –Ordinance Comm. - Public Hearing Ordered

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

Doc. 17/07: Public Hearing Ordered

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Doc. 311/06: Handicapped Parking – 34 Walnut St. - reconsideration – Ord. Comm. Public Hearing Ordered

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

Doc. 311/06: Public Hearing Ordered

Doc. 369/06: Parking – 334 Lawrence Street – Ordinance Comm. – Public Hearing Ordered

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

Doc. 369/06: Public Hearing Ordered

Doc. 222/06: Disposition – 298-302 Lowell Street – Housing Committee – Approved

At the request of Council President Blanchette, Councilor Alvarez-Rodriguez presented the report of the Housing Committee for the disposition and transfer of title to the real property owned by the City of Lawrence. The report was presented in the form of a motion and seconded by Councilor Kolofoles.

Council President Blanchette read a letter from Planning Director Michael Sweeney into the record concerning the disposition of this parcel and other parcels.

Upon being granted the floor, Councilor Silva asked Attorney Charles Boddy to present himself in order to answer some questions of concern regarding the disposition

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process followed by the City of Lawrence in this matter and all other bids submitted for approval to the City Council. In response to questions posed by Councilor Silva, Attorney Boddy stated that it is his opinion that the City Council must vote on any recommendation received from the Housing Committee to either accept or reject the recommendation for an award to any particular property. He informed the Council Members that if the recommended award is rejected, then another document number could be assigned to reflect a subsequent recommendation which should then be placed on the City Council agenda and submitted to the Council Members for a vote. Attorney Boddy stated that it was his understanding that the Request for Proposal [RFP] form contains language that permits the City Council to select the next best “bidder” should the recommended bidder be defeated. He stated that if the RFP does not provide “alternative disposition” language, the bid process may be “void” which in turn may open the process to possible litigation. Councilor Silva concluded that the opinion of the City Attorney may result in exposing the City of Lawrence to liability which may be pursued by the Office of the Inspector General.

By way of example, Council President Blanchette asked Attorney Boddy if the bid process would be legally proper under circumstances in which the real property were presented to the City Council for disposition upon a recommendation that the bid submitted by “Joe Schmoe” were defeated by vote of the City Council and then the same property was presented under a different document number and then awarded to another bidder submitted on the same solicitation [ie: “Jane Doe”]. Council President Blanchette also interjected inquiry about issues concerning the transfer of title of real property for less than fair market value and the ability of the awarding authority to dispose property in this manner presented

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by the example suggested. Attorney Boddy stated that there are numerous variable that could result in the possibility that an approved disposition may be “voided” particularly in situations in which the RFP form does not provide a mechanism for the awarding authority to select and approve an “alternative” bidder.

Council President Blanchette rhetorically asked if an inquiry about a prior award posed to the City Council by the Land Use Planner may constitute a “bid protest”. He then requested Attorney Boddy to obtain clarification from the Inspector General about what may be considered the “proper bid process”.

Upon resuming the floor, Councilor Silva suggested that the City Council should wait from a response from the Inspector General before approving any further bids for real property.

Upon being granted the floor, Councilor Alvarez-Rodriguez discussed the prior Housing Committee hearings conducted regarding the proposed development from each of the bidders.

Attorney Boddy informed the Council Members present that the appearance of all bidders in open discussion at a public forum may make no difference on the legal determination of an improper or void bid process used to dispose real property. Further, if the language were not appropriately contained in the RFP, then the Council could vote “No” and re-issue the item under its agenda.

Upon being granted the floor, Councilor Frechette discussed the importance of establishing an RFP that contained language necessary to allow the City Council to select an alternative bidder.

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Upon being recognized, Councilor Alvarez-Rodriguez discussed issues regarding deposits submitted by prospective bidders.

Upon being granted the floor, Councilor Parolisi asked Attorney Boddy if the process permits the rejection and re-sending the item back to the Housing Committee.

Attorney Boddy stated that the suggested process is available to the City Council if the RFP requires it. Councilor Parolisi suggested that the Real Property Task Force [RPTF] is not legally required based upon the information he has been provided. Attorney Boddy agreed.

Upon posing further inquiry, Attorney Boddy discussed issues concerning the establishment and use of the Real Property Task Force [RPTF] pursuant to the Chapter 30B bid process. Further discussion among the Council Members ensued regarding the method of property disposition.

Attorney Boddy suggested that future disposition recommendations focus on the real property location or description rather than a specific bidder.

Upon being granted the floor, Councilor DiMarca stated that he believes the basis of the disposition of real property had been upon information provided by Attorney Boddy. He stated that he agrees with Councilor Parolisi and suggested dispensing with the use of a Real Property Task Force [RPTF].

Upon being granted the floor, Councilor Frechette stated that his concern had been addressed regarding the disposition process and discussed the current method of selection of a successful bidder.

Attorney Boddy stated that there is a possibility that a bidder could object about the process and there is an remedy to avoid future objections.

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Upon being granted the floor, Councilor Gonzalez discussed the current method of selecting bids with Attorney Boddy.

Upon being granted the floor, Councilor Kolofoles asked about the format and make-up of the Real Property Task Force. He also discussed the notice procedures for property subject to taking by the City. He stated that the lawful bid process and procedures required by the Office of the Inspector General should be respected and followed as required.

Directing his comments to Planning Director Michael Sweeney, Councilor Kolofoles discussed the current form of the RFP. Director Sweeney stated that he would be sure that language concerning an alternative bid selection would be put into place as Council requires.

Directing his question to Attorney Boddy, Councilor Kolofoles asked about dispositions of about 150 vacant lots and if the necessary language could be placed into the RFP. Attorney Boddy stated that it could be done.

Upon being recognized Councilor Gosselin discussed her concerns about the validity of prior votes of the City Council regarding the disposition of real property and whether past votes were subject open to being overturned.

Upon being granted the floor, Councilor Silva suggested that if the vote for disposition of the real property subject to this document were taken tonight, the vote could be "voided". Attorney Boddy agreed that it was possible.

Council President Blanchette pointed out and emphasized that there would have to be a challenge presented.

Council Silva posed further inquiry to Attorney Boddy and discussed about the method and manner in which a challenge may be presented.

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Upon being recognized, Councilor Alvarez-Rodriguez informed the Council Members about the nature and extent of the Housing Committee proceedings that took place regarding the disposition of this parcel and other.

Upon resuming, Councilor Silva asked Director Sweeney if there were any RFP's challenged. Director Sweeney stated that no formal challenge has been filed with the City as far as he knows. He suggested the proposal presented before the Council Members in this matter be rejected which would allow for further bid procedures to be followed.

Upon being granted the floor, Councilor Frechette stated that he believes the determination that a disposition is "void" before it even voted upon or approved by the City Council is presumptuous at best. He concluded that if the City Council approves the disposition presented then the Mayor has the ability to exercise his veto power if he wishes.

A discussion ensued among the Council Members regarding the bid selection process applied to this parcel and whether or not the City Council Members should proceed to vote if the vote is "void".

Upon no further comments, discussion or inquiry by the Council Members present, Council President Blanchette called the motion presented to the attention of the Council Members. Upon vote of the Council Members present, the measure was approved as follows: 8-YES; 1-NO

Councilor Marie Gosselin – Yes
Councilor Jorge Gonzalez - Yes
Councilor Joseph Parolisi - Yes
Councilor Nunzio DiMarca - Yes
Councilor Nicholas Kolofoles - Yes
Councilor Nilka Alvarez-Rodriguez - Yes
Councilor Grisel Silva -No

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Council Vice Pres. Gil Frechette - Yes
Council Pres. Patrick Blanchette - Yes

Doc. 222/06: Approved

VII. WITHDRAWALS:

Council President Blanchette granted Councilor Kolofoles the floor for the purpose of presenting matters for withdrawal that had been pending before the Ordinance Committee.

Councilor Kolofoles presented a motion to proceed in all of the following matters listed below in “block form” for the purpose of withdrawing them from the City Council agenda. The motion was seconded by Councilor Parolisi. The Council Members presented voted unanimously to withdraw the following matters from the City Council agenda [8-0 - Councilor Alvarez-Rodriguez recorded as Absent from the Council Chamber at the time the vote].

Doc. 330/06: Parking -Nightingale Court – Ord. Comm. - Withdrawn

Doc. 331/06: Parking - Caulkins Court – Ord. Comm. - Withdrawn

Doc. 332/06: Parking - Riverview Place – Ord. Comm. Withdrawn

VIII. OLD BUSINESS:

**Doc. 34/07: Arlington Mills Smart Growth District–(40R)–Michael Sweeney,
Planning Dept. Director-Public Hearing Ordered**

Discussion ensued between Councilor Kolofoles and Council President Blanchette regarding the process and procedure to amend the Zoning Ordinances for the City of Lawrence particularly concerning the necessary public hearing and vote of the Planning Board and the subsequent public hearing and vote of the City Council.

Upon being granted the floor, Councilor Frechette asked Planning Director Sweeney about a document that had previously been filed regarding what appears to be the same item.

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Director Sweeney stated that the prior document [Doc. 170/2005] is entirely different from the petition presented in this instance.

Upon no further comment, inquiry or discussion a motion was presented by Councilor Kolofoles to send a letter to Ann Marie Doherty, the Planning Board Administrator, regarding Doc.170/2005. The motion was seconded by Councilor Parolisi and unanimously [9-0] approved by the Council Member present.

A motion was then presented by Councilor Frechette to order a public hearing on Doc. 34/07 which was seconded by Councilor DiMarca. The Council Members present voted unanimously [9-0] to order a Public Hearing on the item presented.

Doc. 34/07: Public Hearing Ordered

IX. TABLED MATTERS:

The following items remained “tabled” without further action:

- | | |
|--------|--|
| 60/06 | Zoning Board of Appeals, Planning Board, Lawrence Redevelopment Authority
& Conservation Commission – hearing held |
| 215/06 | Good Citizenship Award – Mayor |
| 128/06 | Acting Jobs Positions and Consultants – on more than 90 days |
| 257/06 | Resolution – Dr. Claire Paradiso |
| 367/06 | Water Treatment Center – Fiber Optics – update on who authorized such work to occur –Where is the contract and the bid? – Council President Blanchette |

X. 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:

- | | |
|-------|--|
| 44/07 | Pentecostal & Missionary Church House of Prayer – Walkathon- Pastor Higinio Santana- Referred to Ordinance |
| 45/07 | Public Safety – Issues to be discussed regarding Lawrence Police Dept. - Mark Gray – Ref. to Public Safety |

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XI. ADJOURNMENT:

Upon Motion of Councilor DiMarca as seconded by Councilor Parolisi, the Council Members present voted unanimously [9-0] to Adjourn.

**ADJOURNED
(9:22p.m.)**

Attest:

William J. Maloney
City Clerk