



Council Meeting - Agenda

CITY COUNCIL CALENDAR

Thursday, January 8, 2009 - 7:00 p.m.

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OPENING OF SESSION BY: 2009 CITY COUNCIL PRESIDENT

**PRAYER LED BY: REVEREND JOHN M. SULLIVAN, PASTOR,
ST. LAWRENCE THE MARTYR CATHOLIC CHURCH**

PLEDGE OF ALLEGIANCE

MAYOR'S PAPERS

M1. COMMUNICATION, Mayor Lang, to City Council, submitting a SEWER ABATEMENT REQUEST for Mary De Brosse, 465 North Front Street, New Bedford, MA 02746, Account # 14298, in the amount of \$1,003.75, for meter location at 2 FELTON STREET.

M2. COMMUNICATION, Mayor Lang, to City Council, submitting the RE-APPOINTMENT of PAMELA BOURGAULT, 34 New Plainville Road, New Bedford, MA 02745, to the AIRPORT COMMISSION; this term will expire December 2011.

M3. COMMUNICATION, Mayor Lang, to City Council, submitting a request for a ONE-YEAR WAIVER OF RESIDENCY for RICHARD F. SCHERBARTH, 590 Lumbert Mill Road, Centerville, MA 02632, for the position of Variable Time EMS Field Supervisor; this Waiver will expire January 08, 2010.

M4. COMMUNICATION, Mayor Lang, to City Council, submitting a request for a ONE-YEAR WAIVER OF RESIDENCY for ATHENA XIFARAS, 59 Berkley Street, North Dartmouth, MA 02747, for the position of Commissioner of the New Bedford Board of Health; this Waiver will expire January 08, 2010.

M5. COMMUNICATION, Mayor Lang, to City Council, submitting the APPOINTMENT of ATHENA XIFARAS, 59 Berkley Street, North Dartmouth, MA 02747, to the New Bedford Board of Health; replacing Barbara Silva, who resigned February 29, 2008; this term will expire February 2011. (Waiver of Residency Required.) (Please note that Dr. Xifaras practices at Pediatric Associates of New Bedford, Inc., 225 Field Street, New Bedford, MA 02740.)

M6. COMMUNICATION, Mayor Lang, to City Council, submitting the APPOINTMENT of PAUL BARTON, 28 Schofield Street, New Bedford, MA 02740, as the Mayor's Designee to the School Traffic Committee; this term will expire December 2009.

M7. COMMUNICATION, Mayor Lang, to City Council, submitting the APPOINTMENT of WILLIAM A. MORIN, (WWII) 651 Purchase Street, Apartment 706, New Bedford, MA 02740, to the Veterans Advisory Board, replacing Edwin L. Livramento (WWII) who is deceased; this term will expire December 30, 2009.

M8. COMMUNICATION, Mayor Lang, to City Council, submitting the APPOINTMENT of ROBERT HULTGREN, (WWII) 2062 Phillips Road, Apartment 214, New Bedford, MA 02745, to the Veterans Advisory Board, replacing David H. Meltzer (WWII) whose term has expired; this term will expire December 30, 2010.

M9. COMMUNICATION, Mayor Lang, to City Council, submitting the APPOINTMENT of DAN NADEAU, (KOREAN) 306 Tinkham Street, New Bedford, MA 02746, to the Veterans Advisory Board, replacing Manuel P. Gomes (Korean) whose term has expired; this term will expire December 30, 2009.

M10. COMMUNICATION, Mayor Lang, to City Council, submitting the APPOINTMENT of HOWARD PRESCOTT, (KOREAN) 177 State Street, New Bedford, MA 02740, to the Veterans Advisory Board, replacing Karl E. Dupre (Korean) whose term has expired; this term will expire December 30, 2010.

M11. COMMUNICATION, Mayor Lang, to City Council, submitting the APPOINTMENT of BRUCE DUARTE, (VIETNAM) 14 Parker Street, New Bedford, MA 02740, to the Veterans Advisory Board, replacing John A. Dias (Vietnam) whose term has expired; this term will expire December 30, 2009.

M12. COMMUNICATION, Mayor Lang, to City Council, submitting the APPOINTMENT of RAYMOND L'HEUREUX, (VIETNAM) 139 Liberty Street, New Bedford, MA 02740, to the Veterans Advisory Board, replacing Frank Martin, Jr. (Vietnam) whose term has expired; this term will expire December 30, 2010.

M13. COMMUNICATION, Mayor Lang, to City Council, submitting the APPOINTMENT of CRISANTO S. DosSANTOS, (PERSIAN GULF) 158 Summer Street, New Bedford, MA 02740, to the Veterans Advisory Board; this term will expire December 30, 2011.

M14. COMMUNICATION, Mayor Lang, to City Council, submitting the APPOINTMENT of TIM GREGOIRE, (PERSIAN GULF) 1261 Church Street, New Bedford, MA 02745, to the Veterans Advisory Board; this term will expire December 30, 2011.

M15. COMMUNICATION, Mayor Lang, to City Council, submitting the APPOINTMENT of CEUMA F. MASCARENHAS, (ENDURING FREEDOM/IRAQI FREEDOM), 507 South Second Street, Apartment 3, New Bedford, MA 02740, to the Veterans Advisory Board, replacing Amos Morin (WWI), whose term has expired; this term will expire December 30, 2011.

M16. COMMUNICATION, Mayor Lang, to City Council, submitting the APPOINTMENT of PETER W. CLARK, (ENDURING FREEDOM/IRAQI FREEDOM), 19 Priscilla Street, Apartment 3, New Bedford, MA 02740, to the Veterans Advisory Board, replacing William Pounder (WWI), who is deceased; this term will expire December 30, 2011.

M17. COMMUNICATION, Mayor Lang, to City Council, submitting the APPOINTMENT of ROBERT C. BROMLEY, (PUBLIC) 1043 Sheffield Street, New Bedford, MA 02745, to the Veterans Advisory Board, replacing John P. Sarkes (Public), whose term has expired; this term will expire December 30, 2011.

M18. COMMUNICATION, Mayor Lang, to City Council, submitting the RE-APPOINTMENT of JAMES REUL, JR., 28 Wamsutta Avenue, Acushnet, MA, as a CONSTABLE.

M18a. APPLICATION,

NEW BUSINESS

1. WRITTEN MOTION, Councillors Alves, Duarte, Gomes, Gonsalves, Lawrence, Martins, Morad, Pimental and Saunders requesting that, in consideration of the reported reductions in State aid to Cities and Towns in the Commonwealth, which will affect the City's 2009 approved budget, and the soon to be formulated 2010 budget, and further, in an effort to work together in an open and pro-active manner with regard to this financial crisis, that the Mayor begin bi-weekly meetings with the Council to address the City's financial concerns, reductions in services and/or personnel prior to the implementation of any such changes. (To be Referred to the Mayor.)

2. COMMUNICATION, Mayor Lang, to City Council, submitting **VETO** of THE ORDER ADOPTED IN CITY COUNCIL, NOVEMBER 13, 2008, ACCEPTING THE DEED, in substantially the same form as enclosed, from Cove Road LLC, for property located on the easterly side of Orchard Street, shown as Lot 2 on a plan titled "Approval Not Required Plan of Land in New Bedford, Massachusetts Prepared for Cove Road LLC, prepared by Sitec, Inc., dated August 2, 2004, recorded with the Bristol Southern District as Plan No. 154-94 and containing 76,594 square feet of land, according to said plan; stating that on November 21, 2008, the City was informed that the DEP completed an audit of the

response actions undertaken at the Camara Field site and the subsequent Class A-3 Response Action Outcome Statement (RAO) and Activity and Use Limitation (AUL) filed on behalf of Cove Road LLC and concluded that the response actions performed by or on behalf of Cove Road LLC were NOT PERFORMED IN COMPLIANCE WITH THE REQUIREMENTS OF THE MCP and DEP is requiring the owner to provide additional data in support of the LSP's conclusion that No Significant Risk has been achieved; AND since not in best interests of the City to accept said deed, Mayor Lang, also submitting A SUBSTITUTE ORDER ACCEPTING THE DEED from Cove Road LLC, for property known as Camara Field, upon the owner addressing, to the DEP's satisfaction, the response actions undertaken at the site, the subsequent Class A-3 RAO and the AUL filed on behalf of the Cove Road LLC.

(Veto by Mayor Lang, received November 26, 2008, at 3:53 p.m.) (VETO Received and Spread on the Records IN CITY COUNCIL, December 18, 2008.) (Please Note: AN ORDER, Accepting Deed submitted by Mayor Lang, as a **SUBSTITUTE ORDER, Referred to the Committee on Appointments and Briefings, IN CITY COUNCIL, December 18, 2008.**)

2a. AN ORDER, (Accepting Deed for the Property known as Camara Field) (Vetoed by Mayor Lang – see 2.)

3. COMMUNICATION, Mayor Lang, to City Council, submitting **VETO** of the STREET OBSTRUCTION PERMIT for the installation of domestic water and fire supply at 782-784 Purchase Street, to Franklin Brothers, Inc., which was provisionally granted, on November 24, 2008, subject to Ratification by the Mayor and City Council; IN CITY COUNCIL, November 25, 2008, Received and Action of the City Clerk Ratified; stating that the permit applicant commenced work, which resulted in Purchase Street being closed to vehicular traffic from Union to William Streets during business hours, which received several complaints regarding the closure of Purchase Street, and Commissioner Labelle stopped the work at the Mayor's request. (Veto by Mayor Lang, received December 05, 2008, at 11:11 a.m.) (VETO Received and Spread on the Records IN CITY COUNCIL, December 18, 2008.)

3a. STREET OBSTRUCTION PERMIT, (for 782-784 Purchase Street, to Franklin Brothers, Inc.) (Vetoed by Mayor Lang – see 3.)

4. COMMUNICATION, Mayor Lang, to City Council, submitting VETO of the STREET DISTURBANCE PERMIT for the installation of domestic water and fire supply at 782-784 Purchase Street, to Franklin Brothers, Inc., which was provisionally granted, on November 24, 2008, subject to Ratification by the Mayor and City Council; IN CITY COUNCIL, November 25, 2008, Received and Action of the City Clerk Ratified; stating that the permit applicant commenced work, which resulted in Purchase Street being closed to vehicular traffic from Union to William Streets during business hours, which received several complaints regarding the closure of Purchase Street, and Commissioner Labelle stopped the work at the Mayor's request. (Veto by Mayor Lang, received December 05, 2008, at 11:11 a.m.) (VETO Received and Spread on the Records IN CITY COUNCIL, December 18, 2008.)

4a. STREET DISTURBANCE PERMIT, (for 782-784 Purchase Street, to Franklin Brothers, Inc.) (Vetoed by Mayor Lang – see 4.)

5. COMMUNICATION, New Bedford Historical Commission, to City Council, regarding BUILDING DEMOLITION REVIEW of 132 SCHOOL STREET, (A concrete block office/garage accessory structure) advising that “the structure **IS** located in the County Street National Register Historic District, the structure is of no notable historic significance either recorded or found with the existing condition of the structure” therefore, “the NBHC has determined that the building is NOT an historically significant building or structure and not preferably preserved.”

6. COMMUNICATION, DPI Commissioner Labelle and Acting City Engineer Andrade, to City Council, recommending DENIAL of N-STAR Permit No. 12399 – Plan No. E-4911, Rockdale Avenue, North of Allen Street, due to N-Star Electric's failure to meet City Ordinance and DPI Standard Specifications when working on accepted street, resulting in developing potholes caused by trench compaction methods utilized. (Copy all Councillors 12/29/08.)

6a. Petition for Locations – Poles and Wires, or Conduits and Manholes #12399, NSTAR Electric Company, for location of One (1) 4" Conduit, Seven (7) 4" Conduits, Four (4) 5" Conduits, One (1) 45" x 45" x 36" Handhole in ROCKDALE AVENUE, North of Allen Street (including map and plan.)

PLEASE NOTE: This Petition would ordinarily be placed on Consent Agenda, IN CITY COUNCIL, January 08, 2009, to be Received and HEARING ORDERED for THURSDAY, JANUARY 22, 2009, at Room 214, Municipal Building at 7:00 o'clock p.m. by City Clerk.

7. COMMUNICATION, City Clerk/Clerk of the City Council, to City Council, on behalf of **WALTER J. CALLAHAN, 61 Crystal Spring Road, Mattapoisett, MA d/b/a/TRANSIT CAB, 987 Pleasant Street, New Bedford, MA 02740**, hereby submits a copy of the Application requesting a NEW Private Livery License, under the provisions of M.G.L., Chapter 159A, Section 1 and amendments thereto, and M.G.L., Chapter 270, Section 22 (Smoke Free Workplace Law) and all other laws applicable to such operation, to carry passengers for hire over the streets of New Bedford.

8. COMMUNICATION, Councillor Morad, to the ten (10) property owners along Jessica Lane, regarding the upcoming Public Hearing, scheduled for Thursday, January 22, 2009, for the formal acceptance of Jessica Lane by the City of New Bedford.

9. COMMUNICATION, Councillor Morad, dated January 05, 2009, to Chairperson Barry Sylvia and Members of the Zoning Board of Appeals, regarding Zoning Board of Appeals Case #3861, Petitioner 255 River Road. (To be Received and Placed on File.)

TABLED BUSINESS

06/12/08 COMMUNICATION, Mayor Lang, to City Council submitting a VETO on May 06, 2008, at 8:30 a.m., to a WRITTEN MOTION, Councillor Saunders, to halt or cease and desist any recreational use of the baseball/softball field at the former "Standard-Times Field"; the Mayor replied that there is no violation of the law due to the use of the property located at the former "Standard-Times Field" as a baseball/softball field, therefore, he will take no action to "halt or, cease and desist" any recreational use for the baseball/softball field. (Veto Received and Ordered Spread on the Records, May 22, 2008.)

06/12/08 WRITTEN MOTION, Councillor Saunders, to halt or cease and desist any recreational use of the baseball/softball field at the former "Standard-Times Field." (Veto Received and Ordered Spread on the Records, May 22, 2008.)

06/12/08 COMMUNICATION, Mayor Lang, to City Council, submitting a VETO on May 06, 2008, at 8:30 a.m., to a WRITTEN MOTION, Councillor Saunders, that an application for Determination of Applicability be filed by the appropriate City Department with the State's Department of Environmental Protection, in order to determine if recreational use is an allowable use within the portion of the designated port area known as the "Standard-Times Field"; the Mayor replied that the Department of Environmental Protection (DEP) finds that its use (as a sports field) within the DPA is consistent with the Harbor Plan and City's Master Plan for the area; furthermore, the portion of the Standard-Times Field used as Ben Rose Field is outside of Chapter 91 – DEP jurisdiction. (Veto Received and Ordered Spread on the Records May 22, 2008.)

06/12/08 WRITTEN MOTION, Councillor Saunders, that an application for Determination of Applicability be filed by the appropriate City Department with the State's Department of Environmental Protection. (Veto Received and Ordered Spread on the Records May 22, 2008.)

12/18/08 AN ORDINANCE, Amending Chapter 22, Streets, Sidewalks and other Public Ways; Public Works – by adding ARTICLE V. EXCAVATION AND TRENCH SAFETY.

12/18/08 AN ORDINANCE, Amending Chapter 17, Section 17-18 (j), Noncriminal Disposition of Violations of certain Ordinances, Rules and Regulations – Section 22-108 IMPROPER EXCAVATION OF A TRENCH - \$300.00 fine.