



Council Meeting - Agenda

CITY COUNCIL CALENDAR

Thursday, January 22, 2009 - 7:00 p.m.

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OPENING OF SESSION BY: COUNCIL PRESIDENT JOHN THOMAS SAUNDERS

**PRAYER LED BY: REVEREND MAURICE O. GAUVIN, PASTOR
ST. JOHN THE BAPTIST CHURCH**

PLEDGE OF ALLEGIANCE

HEARINGS

1. HEARING, on Petition of 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.) (This Petition placed on Regular Agenda, IN CITY COUNCIL, January 08, 2009, Received and HEARING ORDERED for THURSDAY, JANUARY 22, 2009, at Room 214, Municipal Building at 7:00 o'clock p.m. by City Clerk, and DPI Commissioner Labelle invited to Hearing.)

1a. AN ORDER,

1b. 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.) (This Communication placed on Regular Agenda, IN CITY COUNCIL, January 08, 2009, Received and Placed on Hearing Ordered for January 22, 2009, at Room 214, Municipal Building at 7:00 o'clock p.m. by City Clerk, and DPI Commissioner Labelle invited to Hearing.)

2. COMMUNICATION, Jane Medeiros Friedman, First Assistant City Solicitor, responding to City Council Order, submitting AN ORDER for the LAYOUT AND ACCEPTANCE of JESSICA LANE, 50 feet wide, from ACUSHNET AVENUE easterly 405.68 feet to terminus.

2a. HEARING/AN ORDER, (for the LAYOUT AND ACCEPTANCE of JESSICA LANE, 50 feet wide, from ACUSHNET AVENUE easterly 405.68 feet to terminus.)

MAYOR'S PAPERS

M1. COMMUNICATION, Mayor Lang, to City Council, submitting AN ORDER, that \$3,500,000.00 is appropriated for the purpose of remodeling, reconstruction and making extraordinary repairs to City-owned buildings; that to meet this Appropriation, the Treasurer, with the approval of the Mayor and the Committee on Finance, is authorized to borrow \$3,500,000.00 under Chapter 44 of the General Laws or any other enabling authority; that the Mayor is authorized to take any other action necessary to carry out this project; and that the Treasurer is authorized to file an application with the Municipal Finance Oversight Board to qualify under Chapter 44A of the General Laws any or all of the Bonds, and to provide such information and execute such documents as the Board may require for these purposes.

M1a. LOAN ORDER,

M2. COMMUNICATION, Mayor Lang, to City Council, submitting AN ORDER for the TRANSFER of \$4,000.00 from PLANNING DEPARTMENT, SALARIES AND WAGES, to PLANNING DEPARTMENT, OTHER FINANCING USES.

M2a. AN ORDER,

M3. COMMUNICATION, Mayor Lang, to City Council, submitting AN ORDER for the TRANSFER of \$2,000.00 from CEMETERY DEPARTMENT, SALARIES AND WAGES, to CEMETERY DEPARTMENT, OTHER FINANCING USES.

M3a. AN ORDER,

M4. COMMUNICATION, Mayor Lang, to City Council, submitting a SEWER ABATEMENT REQUEST for Antonio Pereira – C. P. Properties, 316 Parker Street, New Bedford, MA 02740, Account #31503, in the amount of \$443.95.

M5. COMMUNICATION, Mayor Lang, to City Council, submitting the REAPPOINTMENT of STEVEN A. BEAUREGARD, 248 Reed Street, New Bedford, MA 02740, to the LICENSING BOARD; this term, will EXPIRE JUNE 2014.

M6. COMMUNICATION, Mayor Lang, to City Council, submitting an APPLICATION for the REAPPOINTMENT of FRANCIS HALLETT, 101 Sycamore Street, New Bedford, MA 02740, as a CONSTABLE.

M6a. APPLICATION,

M7. COMMUNICATION, Mayor Lang, submitting the REAPPOINTMENT of DAVID MEDEIROS, 198 Whitman Street, New Bedford, MA 02745, as a SPECIAL POLICE OFFICER.

M7a. APPLICATION,

NEW BUSINESS

8. AN ORDINANCE, Amending Chapter 15, Section 34 – RELATIVE TO SECOND HAND DEALERS. (Passed to a Second Reading December 18, 2008; to be Passed, to be Ordained.)

9. AN ORDINANCE, REZONING PLOT 12, LOT 265, on the SOUTHWEST CORNER of CLEVELAND STREET and CLARA STREET FROM RESIDENCE “B” TO RESIDENCE “C”. (Passed to a Second Reading December 18, 2008, to be Passed, to be Ordained.)

10. WRITTEN MOTION, Councillors Alves, Duarte, Gomes, Gonsalves, Lawrence, Martins, Morad, Pimental and Council President Saunders, requesting for the second time, 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.)

11. WRITTEN MOTION, Councillor Gomes, asking that the City Council Receive and Place on File the enclosed copy of Standard-Times Reporter Joe Cohen’s January 11, 2009, article “WAR OF WORDS – Lang, Saunders trade jabs over city’s financial position” – pertaining to the City Council’s Ceremonial Duties.

11a. COMMUNICATION/NEWSPAPER ARTICLE, Standard-Times Article by Joe Cohen, published January 11, 2009. (Submitted by Councillor Gomes.)

12. COMMUNICATION, Council President Saunders, Councillors Alves, Gomes, Lawrence, Martins, Dehner, Duarte, Gonsalves, and Pimental, to City Clerk/Clerk of the City Council, submitting an Application for RENEWAL of a Private Livery License, and letter PROVISIONALLY GRANTING Application for RENEWAL of a Private Livery

License, to Walter J. Callahan, 61 Crystal Spring Road, Mattapoisett, MA 02739, d/b/a Transit (*Cab - sic*) Services, Inc., 987 Pleasant Street, New Bedford, MA 02740, 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; and further, requesting that the Committee on Appointments and Briefings be **DISCHARGED FROM FURTHER CONSIDERATION OF THE MATTER, AND ACTION OF THE MEMBERS OF THE CITY COUNCIL RATIFIED.** (Referred 01/08/09.)

12a. **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 SERVICES, INC., 987 Pleasant Street, New Bedford, MA 02740**, hereby submits a copy of the Application requesting **RENEWAL** of 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. (IN CITY COUNCIL, January 08, 2009; Referred to the Committee on Appointments and Briefings.) (Please Note: Application corrected to indicate RENEWAL of a Private Livery License for Walter J. Callahan, d/b/a/ TRANSIT SERVICES, INC.)

13. **COMMUNICATION**, Derek Santos, Director of Business Development, New Bedford Economic Development Council, to Council President Saunders and Members of the City Council, submitting TIF applications and Resolutions approved by the Tax Increment Financing Board as follows: 10-year Tax Increment Finance Agreement for M&C Café, Inc. and Logoa Realty Limited Partnership, 436 Belleville Avenue and 5-year Special Tax Assessment Agreement for Symmetry Medical New Bedford, LLC and Symmetry New Bedford Real Estate, LLC, 61 John Vertente Boulevard, and requesting **ADOPTION** of Resolutions by the City Council. (Copies provided and distributed to all Councillors on 01/08/09.)

13a. **RESOLUTION**, Approving Certified Project Application and Authorizing the 436 Belleville Avenue Economic Opportunity Area and Authorizing the Mayor to enter into a **TAX INCREMENT FINANCE AGREEMENT** with M&C Café, Inc. and Logoa Realty Limited Partnership, 436 Belleville Avenue for 10 years.

13b. **RESOLUTION**, Approving Certified Project Application and Authorizing the Mayor to enter into a Special Tax Assessment Agreement with Symmetry Medical New Bedford, LLC and Symmetry New Bedford Real Estate, LLC, 61 John Vertente Boulevard for 5 years.

14. **COMMUNICATION**, Anthony A. Kamara, Counsel I, to City Council, informing Council of a scrivener's error to the Ordinance amending Chapter 16 of the City Code by adding **ARTICLE VI, WATER USE RESTRICTION**, which must be corrected to read Article **VII**; there are no changes to the Section numbers or text of the Article. (Ordinance Ordained, IN CITY COUNCIL, December 18, 2008- **TO BE CORRECTED.**)

14a. **AN ORDINANCE**,

15. **COMMUNICATION**, Anthony A. Kamara, Counsel I, to City Council, informing Council of a scrivener's error to the Ordinance amending Chapter 23 of the City Code by adding Section **23-26, Idling Motor Vehicles**, which must be corrected to read Section **23-27, Idling Motor Vehicles**, there is no change to the text of the Section. (Ordinance Ordained, IN CITY COUNCIL, April 10, 2008 - **TO BE CORRECTED.**)

15a. **AN ORDINANCE**,

16. **COMMUNICATION**, Tax Title Attorney Blair S. Bailey, to City Council, re: Acquisition of New Tax Possession, advising that, on January 02, 2009, the Land Court issued a Decree of Foreclosure forever barring the taxpayer's right of redemption, and the City acquired the following property as a Tax Possession: 144 Page Street, Plot 44/Lot 11, Area of 5,080 square feet. (Former Owner{s}: Millicent LePage.) Total Amount due on the parcel as of the date of the Decree is \$15,477.07.

17. **COMMUNICATION/INVITATION**, The American Legion, Post 1, to the City Council, extending invitation to an Ecumenical Service in honor of the "Four Chaplains", at the Seamen's Bethel, on Sunday, January 25, 2009, at 2:00 p.m. (Copy all Councillors 01/13/09.)

18. COMMUNICATION, Apex Companies, LLC, to City Council, enclosing Massachusetts Department of Environmental Protection Chapter 91 and 401 Water Quality Permit Applications for Proposed Dredging at the AGM Marine Facility at 7 Fish Island, New Bedford, MA.

19. COMMUNICATIONS, Federal Aviation Administration, to City Council, submitting Executive Summary, Final Environmental Impact Statement/Final Impact Report (FEIS/FEIR) (text and figures,) for the proposed Airport Improvements Project at the New Bedford Regional Airport; also informing of public informational meeting on the FEIS/FEIR, on January 28, 2009, at the New Bedford Airport Terminal, from 3:00 to 7:00 p.m. (Note: Comments must be received by February 23, 2009, in order to be considered.) (Copies of FEIS/FEIR available at Internet site www.newbedfordairport.com and at the New Bedford and Dartmouth Public Libraries.)

19a. COMMUNICATION/BOOK, Executive Summary – New Bedford Regional Airport Improvements Project (FEIS/FEIR).

19b. COMMUNICATION/BOOK, Volume 1 – TEXT – New Bedford Regional Airport Improvements Project (FEIS/FEIR).

19c. COMMUNICATION/BOOK, Volume 2 – FIGURES – New Bedford Regional Airport Improvements Project (FEIS/FEIR).

TABLED BUSINESS

01/08/09 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.

01/08/09 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.) (Tabled January 08, 2009.) (**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.**)

01/08/09 AN ORDER, (Accepting Deed for the Property known as Camara Field) (Vetoed by Mayor Lang – see above.)