



Council Meeting - Agenda

CITY COUNCIL CALENDAR

Thursday, February 12, 2009 - 7:00 p.m.

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OPENING OF SESSION BY: CITY COUNCIL PRESIDENT JOHN T. SAUNDERS

**PRAYER LED BY: REVEREND LEONA FISHER, PASTOR
IN THE NAME OF JESUS CHURCH**

PLEDGE OF ALLEGIANCE

RESOLUTIONS

1. RESOLUTION, Councillors Gomes and Duarte, in Honor and Celebration of BLACK HISTORY MONTH – FEBRUARY 2009.
2. RESOLUTION, Councillors Martins, Gonsalves and Morad, Commending JOHN VERISSIMO, and the ENTIRE CREW (CAPTAIN KARL LUCAS, DAVE MARTIN, LOUIS SALERNO, DANNY CONVERY AND MATTHEW WARTA) of INTERSTATE NAVIGATOR'S BLOCK ISLAND FERRY "ATHENA," for THEIR HELP IN THE JANUARY 15, 2009, US AIRWAYS PLANE CRASH RESCUE IN NEW YORK'S HUDSON RIVER.
3. RESOLUTION, Councillors Gonsalves, Martins and Morad, Commending CONRAD ROY, JR. and the ENTIRE CREW of the TUGBOAT "CO" for ASSISTING IN TOWING OF THE PLANE IN THE AFTERMATH OF THE JANUARY 15, 2009, US AIRWAYS AIRBUS CRASH IN NEW YORK'S HUDSON RIVER.

HEARINGS

4. HEARING, on Petition of NSTAR Electric Company for location of Two (2) 4" Conduits, One (1) 45" x 45" x 36" Handhole, in FRONT STREET, North of Union Street.

4a. AN ORDER,

MAYOR'S PAPERS

M1. COMMUNICATION, Mayor Lang, to City Council, submitting AN ORDER for the TRANSFER of \$99,851.00 from STABILIZATION FUND, to FIRE DEPARTMENT, OTHER FINANCING USES.

M1a. AN ORDER,

M2. COMMUNICATION, Mayor Lang, to City Council, submitting AN ORDER for the TRANSFER of \$65,424.00 from ZOO, SALARIES & WAGES, to ASSESSORS, SALARIES & WAGES.

M2a. AN ORDER,

M3. COMMUNICATION, Mayor Lang, to City Council, submitting AN ORDER for the TRANSFER of \$4,352.00 from CEMETERY, SALE OF LOTS, to CEMETERY, CHARGES & SERVICES.

M3a. AN ORDER,

M4. COMMUNICATION, Mayor Lang, to City Council, submitting AN ORDER for the TRANSFER of \$513.00 from CEMETERY, SALE OF LOTS, to CEMETERY, SUPPLIES & MATERIALS.

M4a. AN ORDER,

M5. COMMUNICATION, Mayor Lang, to City Council, submitting AN ORDER for the TRANSFER of \$2,500.00 from TREASURERS, CHARGES & SERVICES, to TREASURERS, SUPPLIES & MATERIALS.

M5a. AN ORDER,

M6. COMMUNICATION, Mayor Lang, to City Council, submitting for approval the City of New Bedford Conservation Commission's REVISED FEE SCHEDULE based upon a review of the costs in providing services to fulfill the Conservation Commission's obligations under the MA Wetlands Protection Act and Regulations; the Conservation Commission voted at January 06, 2009, meeting to forward this schedule for approval.

M7. COMMUNICATION, Mayor Lang, to City Council, submitting ONE-YEAR WAIVER OF RESIDENCY for the following individuals that have been approved for the position of Paramedic Intermittent: KEVIN PORTER, 11 Homestead Court, Mattapoisett, MA 02739; GREGORY HREN, 68 Ralph Talbot Street, Weymouth, MA 02190 and CATHERINE GIANNELLI, 5 Robinhood Road, Wareham, MA 02571.

M8. COMMUNICATION, Mayor Lang, to City Council, submitting the REAPPOINTMENT of JENNIFER GONSALVES, 46 Pearl Street, New Bedford, MA 02740, to the ZONING BOARD OF APPEALS; this term will expire December 2013.

M9. COMMUNICATION, Mayor Lang, to City Council, submitting the REAPPOINTMENT of REVEREND RICHARD WILSON, Pastor of Our Lady of Guadalupe Parish at St. James Church, 233 County Street, New Bedford, MA 02740, to the HUMAN RELATIONS COMMISSION; this term will expire December 2011.

M10. COMMUNICATION, Mayor Lang, to City Council, submitting the REAPPOINTMENT of BRUCE DUARTE, 14 Parker Street, New Bedford, MA 02740, to the COUNCIL ON AGING; this term will expire November 2011.

M11. COMMUNICATION, Mayor Lang, to City Council, submitting the REAPPOINTMENT of JEANNE MATHIEU, 211 Hawthorn Street, New Bedford, MA 02740, to the COUNCIL ON AGING; this term will expire November 2011.

M12. COMMUNICATION, Mayor Lang, to City Council, submitting the REAPPOINTMENT of VIRGINIA MORRISON, 205 Caroline Street, New Bedford, MA 02740, to the COUNCIL ON AGING; this term will expire November 2011.

M13. COMMUNICATION, Mayor Lang, to City Council, submitting the REAPPOINTMENT of JAY LEWIS, 23 Bourne Street, New Bedford, MA 02740, as a CONSTABLE.

M13a. APPLICATION,

NEW BUSINESS

5. WRITTEN MOTION, Councillors Coelho and Dehner, requesting that the Committee on Environmental Affairs set up a meeting with Ms. Marquinhos, Pastor of "The Evangelical Pentecostal Church," 129 Hathaway Street, New Bedford, MA, as well as any Church Members who wish to attend, Members of "Wasted Away," also ensuring that Wasted Away Member Eddie L. Johnson is included in the invitation, Scott Alfonse, Director of Environmental Stewardship and Sarah Porter, Conservation Agent to discuss environmental conditions at the Church's location – 129 Hathaway Street; and further, that a bi-lingual/tri-lingual interpreter (Portuguese/Spanish) be available for the said meeting. (To be Referred to the Special Committee on Environmental Affairs.)

6. WRITTEN MOTION, Councillor Coelho, requesting, on behalf of a constituent, that the Bristol County Sheriff's Department Inmate Cleaning Crew assist the City in cleaning the sides of Route 18, from Exit 15, Southbound from Route 195, to its terminus, of all the very visible dry brush and litter, in order to beautify the area when you drive Downtown,

and also so that when Spring and Summer arrive it will give a more positive image to tourists that access the Ferry; right now the area looks ragged and abandoned and this detracts from all the improvement projects that have been done. (To be referred to the Bristol County Sheriff's Department.)

7. WRITTEN MOTION, Councillor Gomes, asking that the City Council, on behalf of the people that they represent, go on record in opposition to Governor Patrick's proposed increase to the State gas tax by \$.27; and further, that letters also be sent to our State Delegation, House and Senate Presidents stating the position taken by the New Bedford City Council.

8. WRITTEN MOTION, Councillor Gomes, due to the dire circumstances of the City's and State's finances, requesting that Mayor Lang, Auditor Schmidt, Treasurer Fernandes-Abbott and anyone else involved in the union contract negotiating teams, look into the possibility of using the City's "free cash," "slush fund," or any other monies available through June 30, 2009, (FY09), and also requesting that ALL City Employees, in good faith, give up one week of vacation in addition to that funding, as a possible so-called "Plan B," or alternative to the massive layoffs that will occur if the union employees do not accept Mayor Lang's present proposal, and in an effort to continue to provide services and save jobs until we hear more about President Obama's stimulus package and its effect on the City's and State's financial status.

9. WRITTEN MOTION, Councillor Gonsalves, Council President Saunders, Councillors Morad, Gomes, Alves, Pimental, Martins, Lawrence and Duarte, requesting that the State Legislative Delegation be invited to the Committee on Appointments and Briefings to discuss a Bill pending in the State Legislature to amortize local aid cuts over three years.

10. WRITTEN MOTION, Councillor Gonsalves, Council President Saunders, Councillors Lawrence, Morad, Alves, Pimental, Martins and Duarte, asking that City Auditor Schmidt, a Representative from the Mayor's Office and Labor Relations Director Natho meet with the City Council to explore the possibility of the City transferring to the State Group Insurance Commission for health insurance.

11. WRITTEN MOTION, Councillor Gonsalves, Council President Saunders, Councillors Gomes, Lawrence, Morad, Alves, Pimental, Martins and Duarte, asking the City Solicitor to provide the City Council with a copy of the most recent Fire Department contracts.

12. WRITTEN MOTION, Councillor Gomes, requesting that the City Council Receive and Place on File Ken Hartnett's Article in the New Bedford Standard-Times on Sunday, February 08, 2009, pertaining to the Abutter Lots Program.

13. WRITTEN MOTION, Councillor Gomes, requesting that the Mayor and the Police Chief conduct stings in the Ashley Boulevard/Acushnet Avenue area, from Coggeshall Street, North to Coffin Avenue, due to the increasing amount of prostitution that is taking place in this area.

14. WRITTEN MOTION, Councillor Gomes, requesting that the City Clerk take immediate action, with the Council on Aging, to provide Special Police Officers in the City with picture I.D.'s; this request was made to the New Bedford Police Department but to no avail, so it is resubmitted before the City Council, asking that the City Clerk and the Council on Aging take on this responsibility, in order to provide the City with an accurate number and establish a provision to ensure that all Special Police officers are recorded and have picture I.D.'s for services rendered.

15. WRITTEN MOTION, Councillor Gomes, requesting that the Committee on Public Safety and Neighborhoods meet with the Traffic Commission for the purposes of implementing "No Parking Tow Away Zones" throughout the City, in that this issue that has been addressed repeatedly by this Councillor, but to no avail and nothing has been implemented; therefore, the City Council Committee on Public Safety and Neighborhoods, which also controls the streets of New Bedford, will work with the Traffic Commission in order to implement "No Parking Tow Away Zones" throughout the City, so as to provide safer intersections where cars are now parking in areas that blind motorists to oncoming traffic at locations across the City, and also in areas where the complaints continue to be made about cars parked in areas where they impede motorists' vision and safety.

16. WRITTEN MOTION, Councillors Coelho and Dehner, requesting that DPI Commissioner Ronald Labelle repair the sidewalk in front of the property of Mr. and Mrs. Fernando Costa, 942 County Street; this request was previously

made by former Ward Three Councillor Joe DeMedeiros and Councillor Coelho on the Consent Agenda of April 26, 2007, and by Councillor DeMedeiros on the Consent Agenda of February 23, 2006; and, as of this date, no work has been done and the sidewalk remains in a state of disrepair; this is the THIRD REQUEST on behalf of Mr. and Mrs. Costa, and three years after the original request in February 2006. (Original paperwork enclosed.)

17. COMMUNICATION, City Clerk/Clerk of the City Council, to City Council, on behalf of **KAREN A. MACIULEWICZ, 128 Chipaway Road, East Freetown, MA 02717, d/b/a/PROJECT INDEPENDENCE, INC., 250 Elm Street, New Bedford, MA 02740**, hereby submits a copy of the APPLICATION requesting a **RENEWAL** of a PRIVATE LIVERY LICENSE, under the provisions of MGL, Chapter 159A, Section 1 and amendments thereto, and MGL, 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. (Previous License expired February 09, 2009.)

18. COMMUNICATION/DEMOLITION **New Bedford Historical Commission, to City Council, re: BUILDING DEMOLITION REVIEW OF NORTH SIDE TABER STREET, REAR 157 PAGE STREET** – a garage structure, advising that “the structure is located in the Moreland Terrace National Register Historic District” and “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.”

19. COMMUNICATION, Acting City Engineer Andrade, to City Council President Saunders, (also enclosing copies for all Councillors) submitting packet re: **STREET ACCEPTANCE – MEDEIROS COURT**. (Submitted by Councillor Morad.)

19a. COMMUNICATION, Acting City Engineer Andrade, to City Council President Saunders, submitting RECOMMENDATION OF ACCEPTANCE, for Acceptance of Medeiros Court, 40 feet wide, from Acushnet Avenue Westerly 281.4 feet to Terminus, stating owners (Medeiros Investment, Inc.) have conformed to all rules and regulations.

19b. COMMUNICATION, Acting City Engineer Andrade, to City Council President Saunders, submitting REQUEST TO TAKE LAND, for Acceptance of Medeiros Court, 40 feet wide, from Acushnet Avenue Westerly 281.4 feet to Terminus, requesting that an easement or fee be taken for highway purposes in land belonging to Medeiros Investment, Inc.

19c. COMMUNICATION, Acting City Engineer Andrade, to City Council President Saunders, submitting AWARD OF DAMAGES, for Acceptance of Medeiros Court, 40 feet wide, from Acushnet Avenue Westerly 281.4 feet to Terminus, stating there are no damages payable to owners (Medeiros Investment, Inc.) because the remainder has appreciated in value as a result of the layout to an amount which exceeds the value of the land dedicated and taken.

19d. COMMUNICATION, Acting City Engineer Andrade, to City Council President Saunders, submitting METES AND BOUNDS DESCRIPTION, for Acceptance of Medeiros Court, 40 feet wide, from Acushnet Avenue Westerly 281.4 feet to Terminus, (Cul-De-Sac, Dead End), shown on a plan titled “Plan and Profile of the Layout of “MEDEIROS COURT,” dated December 15, 2008, prepared by Kenneth R. Ferreira Engineering, Inc. (Map enclosed.)

19e. AN ORDER, Requesting the City Solicitor to prepare a LAYOUT ORDER for acceptance of MEDEIROS COURT, 40 feet wide, from Acushnet Avenue Westerly 281.4 feet to Terminus.

19f. AN ORDER, for HEARING on THURSDAY, MARCH 12, 2009, AT 7:00 P.M., in City Council Chambers, City Hall, for the ACCEPTANCE of proposed MEDEIROS COURT, 40 feet wide, from Acushnet Avenue Westerly 281.4 feet to Terminus.

20. COMMUNICATION, Councillor Morad, to the five (5) property owners along Medeiros Court, regarding the upcoming Public Hearing, scheduled for Thursday, March 12, 2009, for the formal acceptance of Medeiros Court by the City of New Bedford. (To be Received and Placed on File.)

21. COMMUNICATION, Councillor Morad, to 33 Ward 1 Property Owners, that filed for real estate exemptions in a previous tax year, under one of the Statutory Exemption Clauses, but have not yet done so in 2009; advising said property

owners of the filing deadline of March 28, 2009, and the new qualifying exemption income and asset level requirements.

22. COMMUNICATION, Councillor Morad, to the ten (10) property owners along Jessica Lane, regarding the action of the New Bedford City Council on Thursday, January 22, 2009, for the acceptance of said proposed street by the City of New Bedford. (To be Received and Placed on File.)

23. COMMUNICATION, Councillor Morad, to seventeen (17) concerned residents, regarding the February 10, 2009, Committee on Appointments and Briefings meeting, to review the City's upgrade of water meter reading system. (To be Received and Placed on File.)

24. COMMUNICATION, Jose and Amelia Cruz, 1074 Marlborough Street, to Councillor Morad, referencing Sewer Betterment – Assessment for Plot 132H – Lots 400, 401, 402, requesting consideration for an abatement in the amount of \$7,751.36. (To be Received and Placed on File.)

25. COMMUNICATION, Councillor Morad, to Ronald Labelle, Commissioner Department of Public Infrastructure, referring an abatement request from Jose and Amelia Cruz, 1074 Marlborough Street, for Sewer Betterment – Assessment for Plot 132H – Lots 400, 401, 402, in the amount of \$7,751.36. (To be Referred to the Department of Public Infrastructure.)

26. COMMUNICATION, Assistant Superintendent of Cemeteries Joaquim Oliver, to All Funeral Directors, Monumental Dealers, submitting **PRICE INCREASES** voted on by the Cemetery Board on January 14, 2009, effective February 01, 2009. (Copy All Councillors January 26, 2009.)

27. 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: **56 Nash Road**, Plot 105/Lot 58, Area of 4,960 square feet. (Former Owner(s): Michael Bilodeau, et al.) Total Amount due on the parcel as of the date of the Decree is \$10,802.25.

28. COMMUNICATION, Tax Title Attorney Blair S. Bailey, to City Council, re: Acquisition of New Tax Possession, advising that, on January 07, 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: **44 Liberty Street**, Plot 51/Lot 90, Area of 4,289 square feet. (Former Owner(s): Po Yi Chung.) Total Amount due on the parcel as of the date of the Decree is \$4,651.32.

29. COMMUNICATION, Tax Title Attorney Blair S. Bailey, to City Council, re: Acquisition of New Tax Possession, advising that, on January 07, 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: **20 Stapleton Street**, Plot 20/Lot 165 Area of 3,162 square feet. (Former Owner(s): Lorraine Silveira, et al.) Total Amount due on the parcel as of the date of the Decree is \$21,627.28.

TABLED BUSINESS

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.) (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 2.)