



# ***Council Meeting - Agenda***

***CITY COUNCIL CALENDAR***

***Thursday, December 17, 2009 - 7:00 p.m.***

View Consent Agenda

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View Minutes

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

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***PRAYER LED BY: THE VERY REVEREND CONSTANTINE BEBIS, PASTOR  
ST. GEORGE GREEK ORTHODOX CHURCH  
ARCHIMANDRITE OF THE GREEK ORTHODOX CHURCH***

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***PLEDGE OF ALLEGIANCE***

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***PLEASE NOTE: THE CITY COUNCIL'S ORGANIZATIONAL MEETING WILL BE HELD ON  
MONDAY, JANUARY 04, 2010, AND THE NEXT REGULARLY SCHEDULED MEETING OF THE  
CITY COUNCIL WILL BE HELD ON THURSDAY, JANUARY 14, 2010.***

***THE NEW BEDFORD CITY COUNCIL WISHES EVERYONE A JOYOUS HOLIDAY SEASON AND  
A VERY SAFE, HEALTHY AND HAPPY NEW YEAR - 2010!***

## ***CITATIONS***

1. CITATION, Councillor Morad, honoring CORPORAL KEVIN A. RIQUINHA, UNITED STATES MARINE, 9<sup>TH</sup> ENGINEER SUPPORT BATTALION in recognition of his Serving Our Country in Operation Iraqi Freedom in Iraq, from February 2009, until September 2009.

## ***RESOLUTIONS***

2. RESOLUTION, Councillor Gonsalves, NEW BEDFORD GIRLS VOLLEYBALL TEAM on Winning the State Title.

3. RESOLUTION, Councillor Gonsalves, honoring ALEXANDRIA FRASIER, New Bedford High School, on winning the Massachusetts Division 1 Swimming Championship in the 100-Yard Freestyle

4. RESOLUTION, Councillor Lawrence, honoring the GREATER NEW BEDFORD REGIONAL VOCATIONAL TECHNICAL HIGH SCHOOL BOYS SOCCER TEAM, THE BEARS, on Winning the State Vocational Title.

## ***HEARINGS***

5. HEARING, on Petition of NSTAR Electric Company for location of six (6) 5" Conduits, and one (1) 6' x 11' x 7'6" Manhole in DEANE STREET, Opposite of Brook Street.

5a. ORDER,

6. HEARING, on Petition of NSTAR Electric Company for location of six (6) 5" Conduits, four (4) 5" Conduits, and one (1) 6' x 11' x 7'6" Manhole in BROOK STREET, South of Deane Street.

6a. ORDER,

7. HEARING, on COMMUNICATION, City Solicitor, to City Council, submitting the LAYOUT ORDER for the ACCEPTANCE of FIELDSTONE DRIVE, 50 feet wide, from Acushnet Avenue westerly 293.14 feet to terminus.

7a. ORDER, (LAYOUT ORDER for acceptance of FIELDSTONE DRIVE, 50 feet wide, from Acushnet Avenue westerly 293.14 feet to terminus.)

**MAYOR'S PAPERS**

M1. COMMUNICATION, Mayor Lang, to City Council, submitting TWO (2) ORDERS to ADOPT the "local option on the state meals tax," which provides an additional tax on meals of .75%; this local option meals tax will amount to an additional .75 cents per one hundred dollars spent on meals, the Department of Revenue will allocate these funds directly to the City of New Bedford's General Revenue Account.

M1a. AN ORDER, (LOCAL OPTION STARTING APRIL 01, 2010)

OR

M1b. AN ORDER, (LOCAL OPTION STARTING JULY 01, 2010)

M2. WITHDRAWN (COMMUNICATION, Mayor Lang, to City Council, submitting TWO (2) ORDERS, regarding the sale of property interests in the so-called "Conduit Road" right of way in Freetown – WITHDRAWN, ALONG WITH 2 ORDERS, BY MAYOR LANG 12/15/09.) (See Late File L1.)

M2a. WITHDRAWN

M2b. WITHDRAWN

M3. COMMUNICATION, Mayor Lang, to City Council, submitting AN ORDER, that to provide for the payment of unpaid bills of a previous fiscal year of the City of New Bedford, the sum set against the SOUTHEASTERN REGIONAL POLICE REVOLVING FUND, under the control of the PURCHASING DEPARTMENT, is hereby approved to be expended in FISCAL YEAR 2010, in the amount of \$1,538.00.

M3a. AN ORDER,

M4. COMMUNICATION, Mayor Lang, to City Council, submitting AN ORDER for the TRANSFER of \$613.00 from CEMETERY DEPARTMENT, SALE OF LOTS, to CEMETERY DEPARTMENT, SALARIES & WAGES.

M4a. AN ORDER,

M5. COMMUNICATION, Mayor Lang, to City Council, submitting a ONE-YEAR WAIVER OF RESIDENCY REQUEST for RICHARD CANASTRA, 747 Hixville Road, Dartmouth, MA, for the position of COMMISSIONER OF NEW BEDFORD HARBOR DEVELOPMENT; this waiver will expire December 31, 2010.

M6. COMMUNICATION, Mayor Lang, to City Council, submitting the APPOINTMENT of IAN M. COMERFORD, 635 County Street, New Bedford, MA 02740, to the ZONING BOARD OF APPEALS, replacing Barry W. Sylvia, whose term expires December 31, 2009; this term will expire December 2014. (Please Note: Mr. Comerford currently serves as an Associate (Alternate) Member on the Zoning Board of Appeals.)

M7. COMMUNICATION, Mayor Lang, to City Council, submitting the REAPPOINTMENT of DONALD GOMES, 220 Pleasant Street, New Bedford, MA 02740, as an ASSOCIATE (ALTERNATE) MEMBER to the ZONING BOARD OF APPEALS; this term will expire December 2014.

M8. COMMUNICATION, Mayor Lang, to City Council, submitting a SEWER ABATEMENT REQUEST for GILDA BARCLAY, 45 Columbia Street, New Bedford, MA 02740, Account No. 16147, in the amount of \$248.20.

M9. COMMUNICATION, Mayor Lang, to City Council, submitting the APPOINTMENT of GENE W. ROBINSON, 60 Washington Street, Fairhaven, MA 0271, as a SPECIAL POLICE OFFICER.

M9a. APPLICATION

***NEW BUSINESS***

8. REPORT, Committee on Finance, recommending that the City Council REDUCE the LOAN ORDER, written on 12/21/06, for the Ben Rose Field, to the amount of \$585,000, which is the approximate amount that the Ben Rose Field actually cost, and to ADOPT the LOAN ORDER, as Amended in Committee.
- 8a. LOAN ORDER, (originally \$715,000 when referred to Committee on Finance, IN CITY COUNCIL, December 21, 2006.)
9. REPORT, Committee on Finance, recommending that the City Council send a letter to the Public Employee Committee, asking that they re-visit the option of joining the Group Insurance Commission (GIC) at its next opportunity.
10. REPORT, Committee on Appointments and Briefings, recommending that the City Council APPROVE the REAPPOINTMENT of GEORGE H. GREW, 223 Hathaway Road, New Bedford, MA 02746, as a CONSTABLE.
11. COMMUNICATION, Mayor Lang, to City Council, submitting VETO of WRITTEN MOTION, by Councillor Alves, "that the Department of Public Facilities and the Department of Public Infrastructure, take immediate action to address and/or trim the tree in front of 50 East Clinton Street, as it is creating a potential liability to the City" because it contains presumptions of liability for the City of New Bedford, and will not sign any motion that places liability on the City without appropriate due process. (Veto Received October 22, 2009, at 1:08 p.m.; Veto Received and Ordered Spread on the Records November 12, 2009.)
- 11a. WRITTEN MOTION, Councillor Alves, requesting, on behalf of Mr. Marco Carvalho, 50 East Clinton Street, that the Department of Public Facilities and the Department of Public Infrastructure take immediate action to address and trim/or remove the tree in front of said property, which is presenting a danger to the residents of the area, in that it has raised the sidewalk, already causing a senior citizen to trip and fall, resulting in injuries to that person; further, the tree is also causing problems to the building structure, raising the stone wall and damaging the house's porch; and further that this situation be quickly addressed, as it is creating a potential liability to the City. (To be Referred to the Department of Public Facilities and the Department of Public Infrastructure.) (Referred to the Department of Public Facilities and the Department of Public Infrastructure IN CITY COUNCIL, October 08, 2009.)
12. AN ORDINANCE, Amending Chapter 19, Section 19-100, Relative to Constables. (Passed to a Second Reading November 12, 2009, to be Passed, to be Ordained.)
13. AN ORDINANCE, Amending Chapter 9, Section 2755, Relative to Driveway and Side Yard Requirements. (Passed to a Second Reading; Recommendation Followed and Referred to the Planning Board and the Committee on Ordinances in its Second Reading Stage IN CITY COUNCIL, September 24, 2009; however, due to time expired must be heard and referred again.)
14. AN ORDINANCE, Amending Chapter 9, Section 3421, Relative to Unregistered Vehicle Storage. (Passed to a Second Reading; Recommendation Followed and Referred to the Planning Board and the Committee on Ordinances in its Second Reading Stage IN CITY COUNCIL, September 24, 2009; however, due to time expired must be heard and referred again.)
15. WRITTEN MOTION, Council President Saunders, requesting that the City Council CONFIRM THE APPOINTMENT OF ATTORNEY DAVID J. GERWATOWSKI, 56 Agawam Street, New Bedford, MA 02745, as LEGISLATIVE COUNSEL TO THE CITY COUNCIL FOR THE YEAR 2010, and place the Appointment on the Agenda for the City Council's Special Organizational Meeting on January 04, 2010.
16. WRITTEN MOTION, Councillor Coelho, Council President Saunders, Councillors Gomes, Gonsalves, Alves, Dehner, Lawrence and Pimental, requesting that the Administration look into implementing a cell phone alert system for all City Employees.

17. WRITTEN MOTION, Councillors Gonsalves, Alves, Morad, Duarte, Dehner, Lawrence, Pimental, Martins and Coelho, requesting that the Administration re-hire the Animal Control Officers that were laid off, using the Stimulus money recently provided for public safety, given that the lack of Animal Control presence on New Bedford streets is a matter of public safety. (To be Referred to the Mayor and Police Chief.)

18. WRITTEN MOTION Councillor Coelho, requesting that the Traffic Commission be invited to the Committee on Appointments and Briefings to discuss what the rates are at the two Downtown parking garages, the Elm Street Garage and the "Z", to decide how we can make the rates comparable to the meter rates. (To be Referred to the Committee on Appointments and Briefings and the Mayor's Office.)

19. WRITTEN MOTION, Council President Saunders, requesting, on behalf of Sun Multisport Events, LLC, that the following street(s) be CLOSED: SOUTHBOUND LANE OF WEST RODNEY FRENCH BOULEVARD/RODNEY FRENCH BOULEVARD; EASTBOUND LANE OF SOUTH RODNEY FRENCH BOULEVARD; NORTHBOUND LANE OF EAST RODNEY FRENCH BOULEVARD AND WESTBOUND LANE OF COVE STREET, FROM 8:30 A.M. THROUGH 11:30 A.M., on SATURDAY, JULY 24, 2010, for the purpose of "THE WHALING CITY TRIATHLON" and Ceremonies. (Please note: the swim/bike/run will also utilize Hazelwood Park, Fort Taber Park, West Beaches and the Rodney French Boulevard Walking/Bike Paths.)

20. WRITTEN MOTION, Councillor Duarte, requesting, on behalf of AHA! and Mayor Lang, that the following street(s) be CLOSED: ACUSHNET AVENUE, from William Street to Barker's Lane; BARKER'S LANE, from Acushnet Avenue to Second Street; SECOND STREET, from William Street to Barker's Lane, and WILLIAM STREET, from South Sixth Street to North Water Street, from 3:00 P.M through 9:00 P.M., on THURSDAY, DECEMBER 31, 2009, for the purpose of: A CITY CELEBRATES! NEW YEAR'S EVE.

21. WRITTEN MOTION, Councillors Martins, Gonsalves, Dehner, Gomes, Alves, Council President Saunders, Councillors Coelho, Morad, Lawrence, Duarte and Pimental, requesting that the City Council send a letter to our State Delegation and go on Record AGAINST the Massachusetts Department of Mental Health closing its New Bedford facility; further, that the letter indicate how disappointed we are, on behalf of our Citizens, that the DMH Commissioner does not support our hard-working case managers who administer to, and advocate for, some of our City's most vulnerable Citizens, numbering approximately 450; and who, with this decision, shows a lack of commitment to the City of New Bedford; and further, that the letter also request the DMH Commissioner to reconsider this decision and look again to see if the cost savings justifies taking away the vital resources and speedy intervention of a facility located in the same City as these Citizens who are often desperately in need of help, and where a quick assessment and/or response could potentially alleviate a crisis and/or tragedy.

22. WRITTEN MOTION, Councillors Martins, Morad, Dehner, Pimental, Council President Saunders, Councillors Alves, Gomes and Coelho, requesting that a letter be sent to our State Delegation stating the City Council's support of, and requesting their support for, the Education Reform Act 2009 Bill, which will help educators in assisting underperforming schools, preserve collective bargaining and due process rights; and further, that a copy of the letter also be sent to the MTA so they are aware that the New Bedford City Councillors have indicated their support of this Bill and its key amendments, which protect collective bargaining rights in schools designated to be outperforming and the other that protects teachers from being terminated "at will" in underperforming schools to our State Legislators.

23. WRITTEN MOTION, Councillor Martins, asking that the Committee on Ordinances and the City Council's Legislative Counsel explore the possibility of drafting an Ordinance banning texting or typing on a mobile phone while driving in the City of New Bedford, including in City-owned vehicles, in an effort to increase public safety by decreasing accidents caused by these actions; and further, that appropriate fines be set up for any violations.

24. WRITTEN MOTION, Councillor Alves, asking that, in light of the community uproar and demand for additional soccer fields in the City of New Bedford, as documented by the turmoil at the recent Park Board meeting by representatives of numerous adult and youth team sponsors seeking additional playing fields in the City of New Bedford, and to address the legions of enthusiasts both young and old and both male and female, who enjoy playing the most popular sport in the world, that the City Council re-establish the former City Council "Special Committee on Soccer Fields," to work with the Administration and the Community-at-Large, to see what can be done to expand, create and fund additional soccer fields and resources, and to encourage a private/public partnership with private clubs, organizations and

funding sources to work with the City of New Bedford, and other Government funding sources, to address the growing need for additional playing fields and resources for our constituents interested in the sport; and further, that the City Council request the Council President to appoint such a Committee as soon as possible, in an effort to start the work/planning prior to the next season of play.

25. WRITTEN MOTION, Councillor Alves, requesting that the City Council Committee on Ordinances review and update the current City Ordinance as it applies to the Serving of Alcohol in the City of New Bedford, specifically as it refers to "Container size," in an effort to stop the current practice recently started at a limited number of bars in the City of New Bedford offering "Bottle Service," at which patrons are encouraged to buy the "Full bottle of liquor," which takes the control of liquor services away from the bartender and waiters/waitresses, removing from their control the number of drinks served to an individual and also allowing the potential for minors to be served; and further, that the Licensing Board Members and Licensing Director Nanopoulos be invited to the Committee on Ordinances meeting to discuss the problem and potential changes to the Ordinance that the City Council can take to address this issue before someone is injured or killed. (To be Referred to the Committee on Ordinances, with a request that the Licensing Board Members, Licensing Director and Chief of Police be invited to the meeting.)

26. WRITTEN MOTION, Councillor Alves, requesting the City of New Bedford join the Cities of Boston and Providence, RI and the States of ME, NY, NJ and PA, who have joined the "Sweat Free Purchasing Consortium," a consortium of Government Agencies (Federal, State and Municipal ) who have joined together to commit to the goal that any uniforms, clothing and apparel purchased by a Government Agency be made in the United States and that they commit to buy products "Made in the USA," in an effort to prevent Government purchases from "sweatshops" and to ensure that the City of New Bedford buys apparel for our employees made by labor-rights-compliant contractors, who strive to ensure that labor rights and humane working conditions are provided for workers who manufacture goods purchased with "our tax dollars;" and further, that we encourage the Administration to join in our effort. (To be Referred to the Mayor and the Purchasing Agent.)

27. WRITTEN MOTION, Councillors Coelho & Dehner, requesting that the Department of Inspectional Services Commissioner Romanowicz, the Wire Inspector and a Representative of the Mayor's Office, be invited to a meeting of the Committee on Public Safety and Neighborhoods to discuss if there are any rules, regulations and/or if there is a permitting process in place for selling Christmas Trees, flowers, etc. on private property during certain holidays. (To be Referred to the Committee on Public Safety and Neighborhoods.)

28. WRITTEN MOTION, Councillor Coelho, requesting that a letter be sent to our State Delegation, including Senator Montigny, to encourage new voting technology in Massachusetts, especially online/internet voting for our military personnel, that are overseas or stationed outside of their own voting city/town, which would eliminate and/or ease the burden of counting absentee ballots and assist in ballot processing so they can be counted in as valid election votes.

29. WRITTEN MOTION, Councillors Gonsalves and Morad, requesting that the City Council's Committee on Ordinances amend the language of the City Code Section 4-32 to change the fee for the impounding of a dog from \$10.00 per day for the care of a dog, to the fee charged by the local shelter contracted for the care of said dog plus \$3.00 per day, payable by the owner or keeper thereof. (To be Referred to the Committee on Ordinances.)

30. WRITTEN MOTION, Councillors Gonsalves, Coelho, Martins, Dehner, Lawrence, Council President Saunders, Councillors Alves, Gomes, Morad, Duarte and Pimental, asking that the City Council send a letter of support, on behalf of the New Bedford commercial fishing community, to Sally McGee of the New England Fisheries Management Council, (NEFMC) Dr. Jane Lubchenco of the National Oceanic and Atmospheric Administration (NOAA) and Patricia Kurkul of the National Marine Fisheries Service, (NMFS) going on record in OPPOSITION to the decision to reduce fishing days for scallopers, due to the resulting loss in revenue and jobs that will occur during these already difficult economic times.

30a. COMMUNICATION, Mass Fabricating & Welding, Inc. owner Paul Weckesser, 1 – 5 Cape Street, New Bedford, MA 02740, to Councillor Gonsalves, re: Concerns with the NEFMC's decision to reduce the number of fishing days for the scallop industry and past difficulties and losses due to the NMFS's restrictions on commercial groundfish vessels.

30b. COMMUNICATION, Paul J. Diodati, Director, MA Division of Marine Fisheries, 21 Causeway Street, Suite 400, Boston, MA 02114, to Ms. Patricia Kurkul, Regional Administrator, Northeast Region, National Marine Fisheries

Service (NMFS), re: fewer days to limited access sea scallop fishery for next fishing year, stating that 2010 DAS are far too restrictive, with unnecessary economic loss; also requesting action to correct situation caused by Council misunderstanding about technical/scientific recommendations, and attention and action on this matter on behalf of “the valuable sea scallop fishing industry.” (Submitted by Councillor Gonsalves.)

31. WRITTEN MOTION, Councillor Gomes, SECOND REQUEST, that Police Chief Ronald Teachman provide the Committees on Public Safety and Neighborhoods and Finance with an accurate dollar amount spent on overtime during the period of August 01, 2009, through December 13, 2009, for Commanding Officers within department; further requesting, that the Police Chief address the issue of Commanding Officers’ overtime and promotions as the overtime costs increase, which is about \$250,000.00, and why the department has not taken the opportunity to promote high ranking officers, such as Sergeants, Lieutenants and Captains; and further requesting, that this information be provided to the City Council within seven (7) business days after this Written Motion is heard in City Council. (To be Referred to the Committee on Public Safety and Neighborhoods and the Committee on Finance.)

32. WRITTEN MOTION, Councillor Gomes, requesting that a traffic study be conducted at the corner of Rockdale Avenue and Hathaway Road, to see if a installation of a traffic safety light or improvements to the road would ease the flow of traffic on said intersection, due to the fact that the increasing amount of motorists using both Rockdale Avenue and Hathaway Road and motorists entering and exiting the City; and further, if at all possible that a traffic light be installed that would ease the flow of traffic on Hathaway Road and provide access to Rockdale Avenue, without the potential danger of accidents.

33. COMMUNICATION, Board of Assessors and Administrative Assistant Barney, to City Council, requesting support for and ADOPTION of the provisions of Senate/House Bill (AN ACT,) to extend the time to send quarterly tax bills until January 30, 2010. (Copy of An Act relative to extending the deadline for mailing quarterly tax bills enclosed.) (Copies to all Councillors and Legislative Counsel Gerwatowski 12/14/09.)

33a. AN ORDER, (Adopting the Act)

34. COMMUNICATION, City Clerk/Clerk of the City Council, to City Council, on behalf of PEDRO A. MEDEIROS d/b/a PETER’S BUS INC., 1629 Padanaram Avenue, CAB, New Bedford, MA 02740, hereby submit 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. (Current License expires December 18, 2009.)

35. COMMUNICATION, City Clerk/Clerk of the City Council, to City Council, on behalf of FRANKLIN J. MONIZ, 50 Pierces Point, Fairhaven, MA 02719, d/b/a CHECKER CAB SERVICES, 513 Church Street, New Bedford, MA 02745 hereby submit 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. (Current License expired November 25, 2009.)

36. COMMUNICATION, New Bedford Historical Commission, to City Council, re: **BUILDING DEMOLITION REVIEW – 38 SOUTH SIXTH STREET**, Map 46, Parcel 144, advising that, due to listed findings, “The NBHC has determined that 38 South Sixth Street **IS** a historically significant building or structure **AND PREFERABLY PRESERVED.**” (Copy all Councillors 12/08/09.)

37. COMMUNICATION, New Bedford Historical Commission, to City Council, re: **BUILDING DEMOLITION REVIEW – 59 KING STREET**, a single family, wood framed building, advising that, the structure is not located in a National Register Historic District; the structure is of no notable historic significance either recorded or found with existing condition of the structure; therefore, “The NBHC has determined that the building is **NOT** a historically significant building or structure and **NOT** preferably preserved.”

38. COMMUNICATION, New Bedford Historical Commission, to City Council, re: **BUILDING DEMOLITION REVIEW – 321 BELLEVILLE ROAD**, a single family, wood framed building, advising that, the structure is not located

in a National Register Historic District; the structure is of no notable historic significance either recorded or found with existing condition of the structure; therefore, "The NBHC has determined that the building is NOT a historically significant building or structure and NOT preferably preserved."

39. COMMUNICATION, Blair S. Bailey, Tax Title Attorney, to City Council, re: Acquisition of New Tax Possession, advising that the City has acquired the following property as Tax Possession: N.S. Garcia Street, Plot 123B/Lots 198 to 205 (inclusive), Area of 12,800 sq. ft. (Former Owners: Theodore J. Turbak & Jean Wood Meier); Total Amount due on the parcel as of the date of the transfer is \$2,051.04.

40. COMMUNICATION, Councillor Morad, to the six (6) property owners along Fieldstone Drive, regarding the upcoming Public Hearing, scheduled for Thursday, December 17, 2009, for the formal acceptance of Fieldstone Drive by the City of New Bedford.

41. COMMUNICATION, Congressman Frank, to City Council, responding to WRITTEN MOTION by Councillors Alves, Gonsalves, Morad, Martins, Dehner, Pimental, Coelho, Council President Saunders, Councillors Duarte and Lawrence, regarding the extension of the \$8,000.00 first-time homebuyer tax credit. (Copy all Councillors.) (To be Received and Placed on File.)

42. COMMUNICATION, Public Employee Retirement Administration Commission, to New Bedford Retirement Board, copies to Mayor, City Council c/o City Clerk, submitting the amount of \$29,038,670, to be appropriated for the Retirement System for Fiscal Year 2011, which commences July 01, 2010; copies of Appropriation by Governmental Unit and Projected Appropriations also enclosed. (Copy all Councillors 12/07/09.)

***TABLED BUSINESS***

***There are No Items on the Table at Present. (11/12/09)***