



# **Council Meeting** – Agenda

## **CITY COUNCIL CALENDAR**

Chambers of the City Council Municipal Building

**Thursday, December 18, 2014 – 7:00 p.m.**

\*\*\*\*\*

**OPENING OF SESSION BY: CITY COUNCIL PRESIDENT JOSEPH P. LOPES**

\*\*\*\*\*

**PRAYER LED BY: RABBI RAPHAEL KANTER, TIFERETH ISRAEL CONGREGATION**

\*\*\*\*\*

**MOMENT OF SILENCE:**

**VICTIMS OF THE VOLCANO ERUPTION IN FOGO, CAPE VERDE ON NOVEMBER 23, 2014**

\*\*\*\*\*

**PLEDGE OF ALLEGIANCE**

\*\*\*\*\*

**CITATIONS**

1. CITATIONS, Councillor Winterson, honoring BRUCE J. OLIVEIRA, New Bedford School Committee, PAULA J. DEMERS BAILEY, Principal, Betsey B. Winslow School, WAYNE NEWTON, Co-Owner, True Bounce, Inc., AL OLIVEIRA, Director, Facilities Operations, New Bedford Public Schools, EUZEBIO ARRUDA, Deputy Commissioner, Department of Public Infrastructure, and RALPH GILMOUR, Working Foreman, Department of Public Infrastructure, in recognition of their contributions to the Betsey B. Winslow School Basketball Court project.
2. CITATIONS, Councillor Martins, Council President Lopes, Councillors Morad, Bousquet and Gomes, honoring the NEW BEDFORD HIGH SCHOOL WHALER MARCHING BAND, in recognition of their 3<sup>rd</sup> place finish in the New England Scholastic Band Association Championships 2014.
3. CITATIONS, Council President Lopes, Councillors Winterson and Gomes, honoring the New Bedford Police Youth Baseball Team Players, GIOVANNI ARZUAGA, JONAH CASTELO, AUSTIN DEFREITAS, C.J. DUNSTON, BEN FRIAS, DAISEAN HENSLEY, ZACHARY MEDEIROS, ANGEL QUINONES, BEN SAUNDERS, TYLER SANTOS and RYDEL VELASQUEZ, for their successful, undefeated 2014 Championship season, winning both the SEYAA and the New Bedford City Championships in September 2014.
4. CITATIONS, Council President Lopes, Councillors Winterson and Gomes, honoring the New Bedford Police Youth Baseball Team Manager BOB ROSE, Coaches MIKE FRIAS, JOSE CASTELO, MANNY SANTOS and ROSS GRACE, for their dedication and commitment to the boys of the New Bedford Police Youth Baseball Team and their successful, undefeated 2014 Championship season, winning both the SEYAA and the New Bedford City Championships in September 2014.

### **HEARINGS**

5. HEARING on NSTAR Electric Company, for location of one (1) 45"x45"x36" Handhole in CHANCERY STREET, North of Arnold Street.

5a. AN ORDER,

### **MAYOR'S PAPERS**

M1. COMMUNICATION, Mayor Mitchell, to City Council, submitting a LOAN ORDER, appropriating \$950,000 for Phase I of the Ashley Park/Sagamore Street Improvement Project.

M1a. LOAN ORDER,

M2. COMMUNICATION, Mayor Mitchell, to City Council, submitting AN ORDER, authorizing the Mayor and the Chairman of the Airport Commission to execute an Amendment to a Lease between the City and Nor East Aviation Services, Inc. relative to a land lease for Lessee's Aircraft Maintenance and Storage Operations at the New Bedford Regional Airport which reduces the square footage leased by Lessee with an appropriate reduction in rent.

M2a. AN ORDER,

M3. COMMUNICATION, Mayor Mitchell, to City Council, submitting an amendment to Appendix A Table of Principal Use Regulations of Chapter 9 of the Code of Ordinances, to exclude a Contractor's Yard from Mixed Use Business and Planned Business Districts, said change has been requested by the Planning Department because this use in a Mixed Use Business or Planned Business District is inconsistent with the City's planning objectives and is not compatible with the other allowed uses in those zones.

M3a. APPENDIX A TABLE OF PRINCIPAL USE REGULATIONS,

M4. COMMUNICATION, Mayor Mitchell, to City Council, submitting AN ORDINANCE amending Chapter 23, Section 25.1, said amendment is designed to update the language which requires motorized vehicles to be equipped with reflective devices for safety purposes.

M4a. AN ORDINANCE,

M5. COMMUNICATION, Mayor Mitchell to City Council, submitting AN ORDER amending the Order adopted by the City Council on June 26, 2014, and signed by the Mayor on July 01, 2014, which in accordance with Massachusetts General Law Chapter 44, Section 53 E ½, authorized the Revolving Fund under the control of the Inspectional Services Department known as the **VACANT BUILDING REVOLVING FUND** whose purpose is to provide salary expense for one full time Building Inspector, two part time clerks, office supplies, survey expenses, tipping fees, purchase materials and reimburse labor costs for emergency board-up vacant buildings and monitor vacant buildings, whose revenues and amount limited at \$200,000.00 is hereby authorized to provide salary expense for one full time Building Inspector and either one full time Administrative Specialist and one part time clerk or two part time clerks, office supplies, survey expenses, tipping fees, purchase materials and reimburse labor costs for emergency board-up vacant buildings and monitor vacant buildings, in the amount of **\$221,989.00** for **FISCAL YEAR 2015**.

M5a. AN ORDER,

M6. COMMUNICATION, Mayor Mitchell, to City Council, submitting AN ORDER for the TRANSFER of \$614,039.00 from WATER, FREE CASH, to WATER, CHARGES & SERVICES in the amount of \$50,000.00; WATER, SUPPLIES & MATERIALS in the amount of \$64,039.00; WATER CAPITAL OUTLAY in the amount of \$382,298.00 and WATER, OTHER CHARGES in the amount of \$117,702.00.

M6a. AN ORDER,

M7. COMMUNICATION, Mayor Mitchell, to City Council, submitting the APPOINTMENT of MS. CARLA MOURAO, as Administrative Assistant for the New Bedford Fire Department; also requesting permission to place her on Step 8 of the Unit C Salary Schedule, Grade M-5, \$56,620.00.

M8. COMMUNICATION, Mayor Mitchell, to City Council, submitting a ONE YEAR WAIVER OF RESIDENCY for LYNNE LABERGE, who will be temporarily relocating to Fall River, MA on January 01,

2015; Ms. LaBerge is the Human Services Coordinator with the Department of Community Services.

M9. COMMUNICATION, Mayor Mitchell, to City Council, submitting a ONE YEAR WAIVER OF RESIDENCY for Associate Solicitor, ATTORNEY JOHN E. FLOR, South Easton, MA; Attorney Flor has worked for the City of New Bedford and to this day he maintains a private law practice and office in New Bedford.

M10. COMMUNICATION, Mayor Mitchell, to City Council, submitting the following individuals for confirmation by the City Council as New Bedford Police Officers: KYLE J. CABRAL, NATHAN AVELAR, JEAN M. LOPEZ, SEAN A. NICHOLS, ERIC A. CARDOSO, JORDAN Z. DASILVA and BRUCE E. SZYNDLAR, JR.

M11. COMMUNICATION, Mayor Mitchell, to City Council, submitting the REAPPOINTMENT of CALIB TIMOTHY LARUE, Wareham, MA 02571, as a SPECIAL POLICE OFFICER.

M11a. APPLICATION,

M12. COMMUNICATION, Mayor Mitchell, to City Council, submitting the REAPPOINTMENT of RICHARD J. COLETTI, East Wareham, MA 02538, as a CONSTABLE.

M12a. APPLICATION,

M13. COMMUNICATION, Mayor Mitchell, to City Council, submitting the REAPPOINTMENT of JAMES REUL, JR., Acushnet, MA 02743, as a CONSTABLE.

M13a. APPLICATION,

***NEW BUSINESS***

6. LOAN ORDER, appropriating \$764,000.00 to pay the costs of Airport Improvement Projects, consisting of environmental assessment, planning, design and/or permitting of projects included the New Bedford Regional Airport's CIP, including but not limited to the reconstruction of Taxiway A, the reconstruction of the Terminal Parking Apron Phases I and II, the reconstruction of Runway 14-32 and approach tree clearing and the relocation of Taxiway B North, which 95% of the total approved project amount would be reimbursed by the Federal Government and MassDOT. (Passed to a Second Reading – November 25, 2014.)

7. REPORT, Committee on Ordinances, recommending to the City Council ADOPTION of the Ordinance relative to Family Day Care Facilities.

7a. AN ORDINANCE, Amending Chapter 9, RELATIVE TO FAMILY DAY CARE FACILITIES.

8. REPORT, Committee on Finance, Recommending to the City Council ADOPTION of the TIF application and Resolution approved by the Tax Increment Financing Board for a five (5) year STA Agreement for **AMT BioProducts Corp & Shop Realty LLC**, 39 Cape Street, New Bedford, MA 02740.

8a. RESOLUTION,

9. REPORT, Committee on Finance, Recommending to the City Council ADOPTION of AN ORDER for the TRANSFER of \$75,231.00 from CEMETERY, SALE OF LOTS, to DEPARTMENT OF PUBLIC INFRASTRUCTURE, CHARGES and SERVICES in the amount of \$42,000.00; and DEPARTMENT OF PUBLIC INFRASTRUCTURE, CAPITAL OUTLAY in the amount of \$33,231.00.

9a. AN ORDER,

10. REPORT, Committee on Finance, Recommending to the City Council ADOPTION of the AMENDED LOAN ORDER, appropriating \$4,970,000.00 for the purpose of making critically-needed repairs to City-owned buildings, including, but not limited to, projects for the repair and renovation of public safety facilities, school buildings, recreational facilities and general office space.

10a. LOAN ORDER, as amended.

11. REPORT, Committee on Finance, Recommending to the City Council ADOPTION of AN ORDER authorizing the City to enter into an eight (8) year lease for the purchase of a replacement Ladder Truck for the City's Fire Department.

11a. AN ORDER,

12. WRITTEN MOTION, Councillor Alves, requesting, that the Committee on Appointments and Briefings, seek to work with the Communities of Fall River, Taunton and surrounding Towns who would potentially benefit from the South Coast Rail Service to see if we could get our State's Legislative Delegation and the Massachusetts Lottery Commission to authorize, develop and market a "Temporary Issue Lottery Ticket" specifically to raise monies that would be used to fund in the development of the South Coast Rail; and further, that the sales or distribution could be limited to the South Coast area so that primarily the residents of the area would be the ones supporting the sales and funding for the rail service. (To be Referred to Legal Counsel to the City Council, David Gerwatowski and the Committee on Appointments and Briefings.)

13. WRITTEN MOTION, Councillors Martins and Oliveira, requesting, that the City Council send a letter to the Airport Commission for their opinion regarding civilian drones and if an Ordinance is needed in the City of New Bedford to regulate such devices; and further, the FAA has reported 193 drone encounters between February 22 and November 11, in Massachusetts there have been 5 close encounters with drones, including one at Logan Airport in August; and further, upon receiving the Airport Commission's review and recommendations, this Council is ready to create an Ordinance that will be helpful to the safety of all at the New Bedford Airport.

14. WRITTEN MOTION, Councillor Alves, requesting, that the Department of Public Infrastructure look at the possibility of developing a Dog Park on the vacant, empty, flat land between the North and South Route 18 roadways, the location seems like an ideal location for such a facility in that it is not near any homes (to eliminate the issue of smell and noise), it is in a central location (easily accessible from both the north or the south end of the City), there is plenty of parking at the newly expanded Coggeshall Street parking lot and would finally give the City the long awaited Dog Park the community wants; and further, requesting, that the Department of Public Infrastructure contact the MassDOT District 5 Highway Director if necessary. (To be Referred to the Department of Public Infrastructure.)

15. WRITTEN MOTION, Councillors Rebeiro and Carney, requesting, that as of January 2015, the City Council add a Citizens Input component to the regularly scheduled City Council meetings allowing public participation at the start of each City Council meeting, the first half hour of each meeting will allow for Citizens to address the Council and/or Mayor on either an item on the Agenda or a separate issue of concern, each Citizen will be given 3 minutes to speak with a request to wrap up after 2 minutes, signups for the Citizens input will happen 15 minutes prior to the start of each meetings. (To be Referred to the Committee on Appointments and Briefings and to be placed on the next scheduled meeting.)

16. WRITTEN MOTION, Council President Lopes, Councillors Winterson, Bousquet, Morad, Martins, Gomes and Rebeiro, requesting, that Philip Carr from SRPEDD attend a Committee on Appointments and Briefing meeting to discuss the Community Aggregation Plan for Residential electric customers, the concept is to provide relief to residential customers by creating a large purchasing pool for electricity, SRPEDD has

recently selected Good Energy to manage its aggregation program, and it is important to note that this program requires no obligation on the part of the City, other than to ensure that City residents are receiving favorable pricing. (To be Referred to the Committee on Appointments & Briefing.)

17. WRITTEN MOTION, Councillors Winterson and Gomes, requesting, that the Cemetery Board consider allowing Mr. David Vermette, Vermette Development and Real Estate Corp., to powerwash graves of Veterans and other severely weathered headstones at cemeteries across the City; and further, this is being offered on a volunteer basis by Mr. Vermette who is being a good Citizen. (To be Referred to the Cemetery Board.)

18. WRITTEN MOTION, Councillors Bousquet and Winterson, requesting information on why the Special Services Department at the School Department are not complying with all the needed care and accommodations of the Children in the district are entitled to under Massachusetts General Laws and Federal Special Education Guidelines; and further requesting, information on why the School Department is ignoring I.E.P. accommodations and 504 mandates, it is unlawful and neglectful creating a very real liability for anyone directly involved with Special Education Students in the districts care, as well as, the City and the taxpayers.

19. WRITTEN MOTION, Councillors Alves, Gomes, Council President Lopes, Councillors Martins, Rebeiro, Winterson, requesting that Legal Counsel Gerwatowski draft an Ordinance that would recognize and confirm the City Seal that has been used for over the past 50-100 years, recognizing and illustrating in detail the proud legacy and the history of our City, as the acknowledged world leader in Whale Oil that lit up the world for years, and that also recognizes our City as the hub of the textile industry and that the City Council acknowledges and declares that it should be recognized and acknowledged as the "Official Seal of the City of New Bedford" and is to be used on all official stationary and publications of the City.

20. WRITTEN MOTION, Councillor Martins and Council President Lopes, requesting, once again, that our Legislative Delegation pass An ACT, Authorizing the Use of Traffic Control Signal Violation Monitoring System Devices as a means of promoting traffic safety in the City of New Bedford; and further, that a copy of said ACT be Referred to Representative Antonio F.D. Cabral.

20a. AN ACT, Authorizing the Use of Traffic Control Signal Violation Monitoring System Devices as a means of promoting traffic safety in the City of New Bedford.

21. WRITTEN MOTION, Councillor Winterson, requesting, on behalf of Mr. Thomas Melanson, owner, 204 Court Street, Plot 51/Lot 273, that said property be REZONED, from Residential "B" to MIXED-USE BUSINESS, all three corners of intersection are already zoned Mixed-Use Business. (To be Referred to the Planning Board and the Committee on Ordinances.)

22. WRITTEN MOTION, Councillors Martins, Winterson and Alves, in regards to Andrew Stern's article in the Standard-Times on December 14, 2014, requesting that ONCE AGAIN Mayor Mitchell be honest and have a fair open process regarding the Casino negotiations and work with KG Urban like Mayor Lang did to bring a \$500 million redevelopment proposal that would create roughly 12,000 jobs, and further, that Mayor Mitchell has not been honest with the City residents about his trip to Bethlehem, PA and saying businesses were "suffering" only to learn after the Standard-Times reported that the opposite occurred, further that the Mayor's negative comments and dishonesty are hurting any future potential operators that want to work with the City; and furthermore, that under the Lang Administration the Council worked together for almost a decade for the betterment of our City's future and the Mayor Mitchell needs to begin negotiations before the Southcoast loses this project under his leadership.

23. WRITTEN MOTION, Councillor Gomes, requesting for the SECOND YEAR that the City replace the bows on the Christmas wreaths that have been put up in the south end, the bows are old, discolored and don't present a good image for New Bedford; and further, requesting that the City order banners for Rt. 18 north and south that express Holiday Season Greetings may it be Happy Holidays, Merry Christmas, Happy Hanukkah, Happy New Year etc. again this is addressing our image and how we should put it forth.

24. COMMUNICATION, City Clerk/Clerk of the City Council, to City Council, on behalf of **Walter J. Callahan, P.O. Box 657, Mattapoisett, MA 02739 d/b/a TRANSIT SERVICES, INC., 987 Pleasant Street, New Bedford, MA 02740**, hereby submits a copy of the Application requesting a **RENEWAL of a PRIVATE LIVERY LICENSE**, under the provisions of Massachusetts General Laws, 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. **(Current License expires December 19, 2014.)**

25. COMMUNICATION, City Clerk/Clerk of the City Council, to City Council, on behalf of **Abel Raposo, 109 Oakland Street, New Bedford, MA 02740 d/b/a RAPOSO BUS COMPANY, 109 Oakland Street, New Bedford, MA 02740**, hereby submits a copy of the Application requesting a **NEW PRIVATE LIVERY LICENSE**, under the provisions of Massachusetts General Laws, 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.

26. COMMUNICATION, City Clerk/Clerk of the City Council, to City Council, submitting a WAIVER OF RESIDENCY for a Secondhand Dealer License for **Laura Moss, La Jolla, CA on behalf of ECO ATM, INC, 10121 Barnes Canyon Road, San Diego, CA 92121** to place an ECO ATM machine inside the Stop & Shop located at 1001 King's Highway.

27. COMMUNICATION, City Clerk/Clerk of the City Council, to City Council, submitting a WAIVER OF RESIDENCY for a Secondhand Dealer License for **Laura Moss, La Jolla, CA on behalf of ECO ATM, INC, 10121 Barnes Canyon Road, San Diego, CA 92121** to place an ECO ATM machine inside the Stop & Shop located at 438 Dartmouth Street.

28. COMMUNICATION, Dennis D. Galvam, Manager Community Relations, NSTAR Electric Company, responding to a letter dated November 18, 2014, from Dennis W. Farias, City Clerk/Clerk of the City Council, regarding the City Council's opposition to the 29% increase proposed by NSTAR Electric Company. (Copy all Councillors via email 12/02/2014.)

29. COMMUNICATION, City Clerk/Clerk of the City Council Dennis W. Farias, submitting letter from Alison M. Bouchard, City Clerk, Fall River, MA, relative to letter from New Bedford City Council requesting support in banning the sale of synthetic drugs in this region. (Copy all Councillors 11/12/2014.)

30. COMMUNICATION, City Clerk/Clerk of the City Council Dennis W. Farias, submitting letter from Michael W. McCue, Town Administrator, Rochester, MA, relative to letter from New Bedford City Council requesting support in banning the sale of the synthetic drug "Cloud 9". (Copy all Councillors 12/11/14.)

31. COMMUNICATION, Joseph E. Connarton, Executive Director, Public Employee Retirement Administration Commission to New Bedford Retirement Board, regarding the required Fiscal Year 2016 Appropriation of \$29,758,906.00 which commences on July 01, 2015. (Copy all Councillors 12/08/2014.)

32. COMMUNICATION, Joseph Grivers, Vice President, Mass Development, to City Council, notifying that on November 20, 2014 the Massachusetts Development Finance Agency gave preliminary approval to issue a revenue bond on behalf of Young Men's Christian Association Southcoast, Inc. (Copy all Councillors 12/15/2014.)

#### ***TABLED BUSINESS***

**01/23/2014** CITATION, Councillor Rebeiro, honoring **REVEREND RUSS CHAMBERLAIN**, Mercy Meals and More, in recognition of his hard work and dedication to the homeless during the recent snow storm

of January 2 and 3, 2014.

**03/27/2014** WRITTEN MOTION, Councillor Rebeiro, requesting, that the Department of Public Infrastructure which maintains the street lights provide the City Council with a report on the annual cost of upkeep including labor and materials; and further, whether it would be more cost efficient to contract the work to a private firm should be included in said report.

**08/21/2014** CITATIONS, Councillors Martins and Bousquet, honoring NEIGHBORHOODS UNITED and JERRY PINTO, President of Neighborhoods United, in recognition of their planning and organizing NATIONAL NIGHT OUT 2014 held at Riverside Park on August 05, 2014.

**08/21/2014** CITATION, Councillor Alves, honoring LARRY ABREU JACQUES, President – 100<sup>th</sup> Feast of the Blessed Sacrament, in recognition of his commitment and dedication to preserving the cultural traditions of our Madeiran Ancestors and in acknowledgment of his hard work and a successful 100<sup>th</sup> Feast.

**09/11/2014** WRITTEN MOTION, Councillor Martins, requesting, that the Attorney General and our City Solicitor, look into "Just Energy", who have a bad reputation in Massachusetts for harassing people about their services, representatives from "Just Energy" are ringing door bells and telling people they are from the electric company, "Just Energy" has a troubled past in Massachusetts and in several other States, where they faced allegations of deceptive practices, convincing people to switch over once pressured and once people sign up, they are committed for five years and rates can change every month; and further, requesting, that "Just Energy" be seriously investigated and until they are, they should be banned from New Bedford to better protect our constituents.