



**LOWELL CITY COUNCIL
REGULAR MEETING
TUESDAY, MAY 31, 2016
CITY HALL, CITY COUNCIL CHAMBER
TIME 6:30 PM**

CITY CLERK

1. CITY CLERK

- 1.1. Minutes of City Council Meeting May 24th, for acceptance.**

GENERAL PUBLIC HEARINGS

2. GENERAL PUBLIC HEARINGS

- 2.1. Loan Order-2017 Capital Improvements**

- 2.2. Ordinance-Create a Finance Department, Reorganize Various Financial Departments, Create a Budget Department, create one new position and salary; Deputy Chief Financial Officer.**

- 2.3. Vote-Rescind Lowell Memorial Auditorium Enterprise Fund effective 6/30/16.**

- 2.4. Ordinance-Amend Ch. 272 Annual Sewer Use Charge**

- 2.5. Vote-Approving Budget for FY'17**

COMMUNICATIONS FROM THE CITY MANAGER

3. COMMUNICATIONS FROM THE CITY MANAGER

- 3.1. Motion Response:**

(A) Andover Street Repairs

Informational:

(B) Free Cash Certification

(C) Board of Parks Approval POW MIA Chair at Cawley Stadium

(D) Board of Parks Approval Playground in Honor of Henry J. Corcoran, Jr.

VOTES FROM THE CITY MANAGER

4. VOTES FROM THE CITY MANAGER

- 4.1. Vote-Endorse FY'2017-2021 Capital Improvement Plan**

- 4.2. Vote-Transfer \$398,786.98 (funding for salary stabilization)**

- 4.3. Vote-Auth Mgr Enter into Master Developer Agreement with WinnDevelopment Co., Limited Partnership**

REPORTS (SUB / COMMITTEE, IF ANY)

5. REPORTS (SUB / COMMITTEE, IF ANY)

PETITIONS

6. PETITIONS



- 6.1. Misc. -Maurice Mason, Jr. request City Council approval for overhanging sign located at 147 East Merrimack Street.

CITY COUNCIL - MOTIONS

7. CITY COUNCIL - MOTIONS

- 7.1. C. Mercier - Req. City Mgr. investigate residents' complaints regarding mosquito control and whether to take part in spray initiative/program.

ANNOUNCEMENTS

8. ANNOUNCEMENTS

ADJOURNMENT

9. Time for meeting to stand adjourned.

The City of Lowell

Office of the City Clerk

375 Merrimack Street • Lowell, MA 01852

www.LowellMA.gov

Agenda Item: 2016 / 368

Meeting: **City of Lowell City Council**

Subject: **Minutes of City Council Meeting May 24th, for acceptance.**

Recommendation:

Background:

Attachments:

cc min 5/24



Lowell City Council

Regular Meeting Minutes

Michael Q. Geary
City Clerk

Date: May 24, 2016
Time: 6:30 PM
Location: City Council Chamber
375 Merrimack Street, 2nd Floor, Lowell, MA

CITY CLERK

1. - CITY CLERK

1.1. 2016 / 354 - Minutes of Neighborhoods SC May 11th; Finance SC May 17th; City Council Meeting May 17th, for acceptance.

Roll Call showed 9 present.

Mayor Kennedy presiding.

C. Samaras requested moment of silence in darkened chamber for slain police officer Ronald Tarentino. C. Leahy requested moment of silence in darkened chamber for Janet Lang. C. Leary commented on Mrs. Lang, noting she was the mother of former school administrator, Jay Lang.

In City Council, minutes read, **Motion** "To accept and place on file" by C. Rourke, seconded by C. Mercier. So voted.

GENERAL PUBLIC HEARINGS

2. - GENERAL PUBLIC HEARINGS

2.1. 2016 / 280 - Ordinance-Amend Zoning Extend SMU Zone to include 35 Shirley Avenue

In City Council, withdrawn per request of the Petitioner. So voted.

COMMUNICATIONS FROM THE CITY MANAGER

3. - COMMUNICATIONS FROM THE CITY MANAGER



- 3.1. 2016 / 362 - Motion Responses:**
- (A) Motion Response - Sustainability Commission Funding**
 - (B) Motion Response - Rourke Bridge**
 - (C) Motion Response - Berm Repair List**
 - (D) Motion Response - Congratulatory Letter to LHS**
 - (E) Motion Response - Requirements for Schools Under New Opioid Abuse Law**
 - (F) Motion Response - Lincoln Parkway**
 - (G) Motion Response - PILOT**
- Petition Response:**
- (H) Petition Response - Willow Street**

In Council, **Motion** "To accept and place on file" by C. Mercier, seconded by C. Rourke. So voted.

C. Mercer commented on Motion Response A regarding funding for Sustainability Commission.

C. Belanger, C. Leahy, C. Kennedy and Manager Murphy commented on Motion Response B regarding Rourke Bridge. Armand Hebert, registered speaker addressed the Council on this issue.

C. Mercier and C. Leary commented on Motion Response C regarding berm repair lists noting the substance of the report.

C. Leary commented on Motion Response D regarding letter of congratulations to Lowell High School noting a well-deserved recognition.

All members commented on Motion Response G regarding PILOT programs in the City noting the need to outreach to non-profits for additional resources. Manager Murphy commented on non-profits in the City, including a hospital with two campuses, noting the amount of resources the City provides to them each year. Manager Murphy noted he would develop strategies and review what other communities are doing to have these entities invest more resources to the City.

- 3.2. 2016 / 363 - Communication - Report and Recommendation - Planning Board - Extend SMU Zoning District to include property located at 35 Shirley Avenue.**

In Council, matter withdrawn from Council as the petitioner for the public hearing associated with the recommendation withdrew the petition.



3.3. 2016 / 356 - Communication - City Mgr. request Out of State Travel (2) LPD.

In Council, read and adopted.

VOTING

Committee Member	YES	NO	ABSTAIN	RECUSE	MOTION	SECONDED
Kennedy, Jr, Edward J.	x					
Belanger, Corey	x					
Elliott, Rodney M.	x					x
Leahy, John J.	x					
Leary, James	x				x	
Mercier, Rita M.	x					
Milinazzo, James L.	x					
Rourke, Daniel P.	x					
Samaras, William	x					

VOTES FROM THE CITY MANAGER

4. - VOTES FROM THE CITY MANAGER

4.1. 2016 / 365 - Vote - Authorize/Approval/Submission of Annual Action Plan FY 16-17.

In Council, read twice and adopted. Waived full reading without objection. So voted.

VOTING

Committee Member	YES	NO	ABSTAIN	RECUSE	MOTION	SECONDED
Kennedy, Jr, Edward J.	x					
Belanger, Corey	x					
Elliott, Rodney M.	x					
Leahy, John J.	x					
Leary, James	x					
Mercier, Rita M.	x					
Milinazzo, James L.	x				x	
Rourke, Daniel P.	x					
Samaras, William	x					x



4.2. 2016 / 367 - Vote - Auth. Mgr. enter into Master Development Agreement with WinnDevelopment Co., LTD Part.

In Council, matter withdrawn per Manager Murphy.

RESOLUTIONS FROM THE CITY MANAGER

5. - RESOLUTIONS FROM THE CITY MANAGER

5.1. 2016 / 366 - Resolution - Support SB #735 - Transgender Anti-Discrimination.

In Council, read twice and adopted. Waived full reading without objection. So voted. Armand Hebert, registered speaker, addressed the Council.

VOTING

Committee Member	YES	NO	ABSTAIN	RECUSE	MOTION	SECONDED
Kennedy, Jr, Edward J.	x					
Belanger, Corey	x					
Elliott, Rodney M.		x				
Leahy, John J.	x					
Leary, James	x					
Mercier, Rita M.	x					
Milinzazo, James L.	x				x	
Rourke, Daniel P.	x					x
Samaras, William	x					

REPORTS (SUB / COMMITTEE, IF ANY)

6. - REPORTS (SUB / COMMITTEE, IF ANY)

In Council, Request by C. Rourke to suspend rules to refer emails regarding zoning decisions dated May 6, 2016 from Pawtucketville Neighborhood Group to Zoning SC. No objection. So voted.



PETITIONS

7. - PETITIONS

- 7.1. 2016 / 355 - **Misc. - Middlesex Sheriff's Office (Lowell Community Counseling Center) request permission to erect (2) flags on the building located at 291 Summer Street.**

In Council, read and **Motion** refer to Law Department for report and recommendation by C. Rourke, seconded by C. Belanger. So voted.

- 7.2. 2016 / 340 - **National Grid/Verizon NE - Req. permission to relocate JO pole 34' north of current location and to install SO pole on east side of Lawrence Street.**

In Council, read and **Motion** to Remove from Table by C. Leary, seconded by C. Rourke. Adopted per Roll Call vote, 6 yeas, 3 nays (C. Elliott, C. Leahy, C. Mercier). So voted. **Motion** to refer matter to Public Hearing on June 14, 2016 at 7 PM by C. Leary, seconded by C. Milinazzo. Adopted per Roll Call vote, 6 yeas, 3 nays (C. Elliott, C. Leahy, C. Mercier). So voted.

- 7.3. 2016 / 341 - **National Grid/Verizon NE - Request permission to install (1) JO pole on Industrial Avenue.**

In Council, read and **Motion** to Remove from Table by C. Leary, seconded by C. Rourke. Adopted per Roll Call vote, 6 yeas, 3 nays (C. Elliott, C. Leahy, C. Mercier). So voted. **Motion** to refer matter to Public Hearing on June 14, 2016 at 7 PM by C. Leary, seconded by C. Milinazzo. Adopted per Roll Call vote, 6 yeas, 3 nays (C. Elliott, C. Leahy, C. Mercier). So voted.

CITY COUNCIL - MOTIONS

8. - CITY COUNCIL - MOTIONS

- 8.1. 2016 / 357 - **C. Elliott - Req. City Mgr. work with Superintendent of Schools to determine cost of out of district students.**

In Council, seconded by C. Leary, read and referred to City Manager. So voted. C. Elliott noted the crowded school system in City is causing many residents to be deprived of education they would want and there should be some insight of the costs of accepting these students. C. Leary questioned funding issue and noted report would be beneficial to get the whole picture. Manager Murphy noted there are costs associated with placing these students. C. Leary commented that there is an issue that needs attention. C. Leahy questioned if this was a school committee issue and that they should know costs and if they can be afforded. C. Mercier noted



the Council should be involved in matter as it affects several pupils living in City to be placed on waiting list for Lowell schools.

- 8.2. 2016 / 358 - C. Samaras - Req. City Mgr. establish a commission in order to best plan the future use of the Auditorium to ensure that it becomes a successful venture.**

In Council, seconded by C. Rourke, read and referred to City Manager. So voted. C. Samaras commented that there must be some consensus as to what direction the Auditorium will go and to make it sustainable for the City. C. Mercier noted that better acts can be booked at the facility. C. Milinazzo requested an Ad-Hoc Committee as opposed to a commission as that body could address issues in more complete manner. C. Samaras had no issue with making such a change. C. Belanger noted that a hard look must be made regarding increased costs. C. Elliott questioned if restricting agreement would help defray costs. Manager Murphy commented on steps being taken to address costs to the City.

- 8.3. 2016 / 359 - C. Samaras - Req. City Mgr. work with Superintendent of LPD to establish a dialogue with the supervisors of the Nesmith Street group home regarding security and supervision of youth under their trust.**

In Council, seconded by C. Rourke, read and referred to City Manager. So voted. C. Samaras commented on various issue in the neighborhood surrounding the home and that LPD should meet with management to resolve matters. C. Leahy noted that they were not being good neighbors. C. Milinazzo noted that such homes do not support the tax roll. C. Elliott noted that there should be increase code inspections on the property.

- 8.4. 2016 / 360 - C. Leary - Req. City Mgr. provide a report to the City Council outlining the financial and infrastructure impact that the Ameresco has had for the City; report should include savings or increased costs achieved to date by project; savings or additional costs expected in the future and any recommendations for the future as it relates to this program.**

In Council, seconded by C. Leahy, read and referred to City Manager. So voted. C. Leary outlined the request.

- 8.5. 2016 / 361 - C. Belanger/C. Leary/C. Samaras - Req. City Mgr. reopen dialogue between the City and local business; Unwrapped, regarding the potential purchase or lease of City building at 268 Mt. Vernon Street, the Soucy Building.**

In Council, no second needed, read and referred to City Manager. So voted. C. Belanger commented on company and that there should be discussions with them to expand their business. C. Leary noted the expansion will bring more jobs so there should be



communications. C. Samaras noted this was a good size company and employer in the City. C. Elliott noted resources at Mass Development as well. Manager Murphy noted that discussions will be forthcoming. C. Belanger noted the business owner was present and he outlined his operation and his interest in the property. C. Belanger noted City should partnership with this venture.

- 8.6. 2016 / 364 - C. Rourke - Req. City Mgr. explore establishing a 5 year property study and to create a formal living document of abandoned properties and their 5 year progress into healthy homes; the study would chart the progress from troubled to good properties.**

In Council, seconded by C. Milinazzo, read and referred to City Manager. So voted. C. Rourke commented that live programming showing management of problem properties would be most beneficial to neighborhoods.

ANNOUNCEMENTS

- 9. - ANNOUNCEMENTS**

In City Council, C. Mercier noted upcoming tribute to Audrey McMahan and recognized Tom Bellegarde for his work with dedications. LPD recent recognition for policing award was noted by the body.

ADJOURNMENT

- 10. - Time for meeting to stand adjourned.**

Motion to Adjourn by C. Elliott, seconded by C. Rourke. So voted.

Meeting adjourned at 8:03 PM.

Michael Q. Geary, City Clerk

(Minutes prepared from notes of Asst. Clerk Angela Gitschier)

The City of Lowell

Law Department

375 Merrimack Street • Lowell, MA 01852

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Agenda Item: 2016 / 348

Meeting: **City of Lowell City Council**

Subject: **Loan Order-2017 Capital Improvements**

Recommendation:

Background:

Attachments:

Comment

COMMONWEALTH OF MASSACHUSETTS

CITY OF LOWELL

In City Council

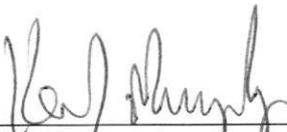
LOAN ORDER
(2017 Capital Improvements)

To borrow \$7,360,320 for the purpose of financing various capital improvements and any related architectural and engineering services in connection therewith and any costs incidental and related thereto.

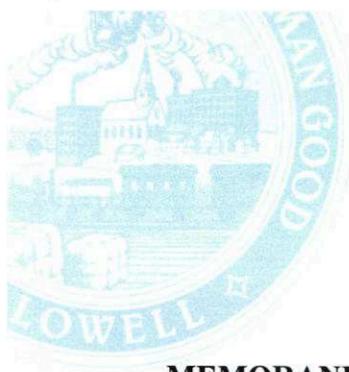
IT IS ORDERED BY THE CITY COUNCIL OF THE CITY OF LOWELL BY A TWO-THIRDS VOTE as follows:

Ordered: That the sum of \$7,360,320 is appropriated for the purpose of financing the following capital improvements, and any related architectural and engineering services in connection therewith and any costs incidental and related thereto: (1) paving, sidewalks and curbing at various locations; (2) traffic signalization; (3) building improvements in City buildings at various locations; (4) land acquisition; (5) architectural services (7) equipment; and (8) vehicle replacement; that to meet this appropriation the Treasurer, with the approval of the City Manager, is authorized to borrow \$7,360,320 and issue bonds or notes therefor under G.L. c.44 or any other enabling authority; that the City Manager is authorized to contract for and expend any federal or state aid available for the projects; that the City Manager is authorized to take any action necessary to carry out the projects; and that the Treasurer is authorized to file an application with the Municipal Finance Oversight Board to qualify any or all of the bonds under G.L. c.44A and to provide such information and execute such documents as such board may require for these purposes.

ORDER RECOMMENDED AND INTRODUCED BY:



Kevin J. Murphy, City Manager



Conor Baldwin
Chief Financial Officer

MEMORANDUM

TO: Kevin J. Murphy, City Manager
FROM: Conor Baldwin, Chief Financial Officer
CC: Rodney Conley, Data Analyst
DATE: May 13, 2016
RE: FY2017 Capital Plan Loan Order

Attached please find a loan order for FY17 capital improvements. A comprehensive five-year capital improvement plan is included in this year's budget, which details the city's medium-term investment needs. The capital planning process has run concurrently with preparations for the upcoming year's operating budget. The symbiotic relationship between capital planning and preparation of the operating budget has long-since been a goal of the city, which has finally come to fruition.

Preparation of a five-year capital improvement plan (CIP) is a best practice in municipal finance. Department Heads were asked to submit their short and medium term priorities to the Finance Office this winter for consideration and inclusion in a comprehensive plan. Buildings, infrastructure, technology, and major equipment are the physical foundation for providing services to constituents. The procurement, construction, and maintenance of capital assets are a critical activity of state and local governments, school districts, and other government agencies, and therefore require careful planning.

Capital planning is critical to maintaining essential public services. It is also an important component of a community's economic development program and strategic plan. Capital facilities and infrastructure are important legacies that serve current and future generations. It is extremely difficult for governments to address the current and long-term needs of their constituents without a sound multi-year capital plan that clearly identifies capital and major equipment needs, maintenance requirements, funding options, and operating budget impacts.

The debt service payments related to financing all of these projects are incorporated into our General Fund forecasts. Also included in the plan are two major parking-related projects in the Hamilton Canal District, which will be funded without tax support through the Parking Enterprise. Further detail regarding the FY2017 projects and the FY2017 – FY2021 five-year capital plan is included in the FY2017 operating budget. Please do not hesitate to let me know if there are any questions.

Agenda Item: 2016 / 353

Meeting: **City of Lowell City Council**

Subject: **Ordinance-Create a Finance Department, Reorganize Various Financial Departments, Create a Budget Department, create one new position and salary; Deputy Chief Financial Officer.**

Recommendation:

Background:

Attachments:

ch ord

COMMONWEALTH OF MASSACHUSETTS

CITY OF LOWELL

In City Council

ORDINANCE

An Ordinance amending *The Code of Ordinances* for the City of Lowell by creating a new Department entitled Finance and further by creating a Budget Department within the Department of Finance and creating a new position of Deputy Chief Financial Officer and establishing the salary therefor. Other reorganizational amendments to various Departments, Divisions and positions follow.

The City Council by virtue of General Laws, Chapter 43, Section 5 has the right to reorganize the Departments of the City of Lowell; and

The voters of Massachusetts have adopted the Home Rule Amendment to the Constitution of Massachusetts (Amendment 89 of Article II of the Constitution of Massachusetts).

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOWELL, as follows:

I

Chapter 20, §20-61 of Article XII of the City of Lowell Code of Ordinances ("the *Code*") adopted by the City Council on December 23, 2008 (as amended) entitled Departments, is amended by creating a Department of Finance. The Chief Financial Officer shall be the Department Head of the Finance Department. The Department shall oversee and is responsible for planning, implementation, oversight, integrity, and reporting of the City's operating and capital finances. Its staff shall be comprised of personnel from the following departments and divisions: Assessors, Purchasing, Treasurer/ Collector, Management Information Systems (IT), Budget Department. The Department of Finance shall also include, but have no administrative oversight over the Office of the City Auditor. Pursuant to the Plan E form of government, the Department of Finance and all of its Departments and Divisions, except for the position of City Auditor, shall serve under the jurisdiction of the City Manager. The Department shall operate

pursuant to the attached Table of Organization (Attachment "A"). Said Attachment is incorporated into this Ordinance.

In order to reflect ongoing changes to organizational responsibilities and staff titles reflective of their functions, the City Manager, shall have the authority to modify staff titles and the Table of Organization in said Department. It is further understood that any future changes of staff titles and/or the Table of Organization shall not result in any added or deleted positions, without prior approval by Ordinance by the City Council.

II

Chapter 20, Article XII is amended by transferring all positions formally of the Office of the Treasurer/ Collector to the Department of Finance.

III

Chapter 20, Article XII is amended by transferring all positions formally of the Office of the Assessor to the Department of Finance.

IV

Chapter 20, Article XII is amended by transferring all positions formally of the Department of Management Information Systems to the Department of Finance.

V

Chapter 20, Article XII is amended by transferring all positions formally of the Department of Purchasing to the Department of Finance.

VI

Pursuant to MGL, Chapter 43, §105, and Chapter 20, §20-62 of the Code, the following positions and salary are created within the Department of Finance. Appointments to these positions will start at the salary step and provide a benefit package as determined by the City Manager.

- **Deputy Chief Financial Officer** shall have a salary range of \$63,007.36 to \$73,954.92, as set forth and amended from time to time by the salary grid of the Personnel Ordinance

(Chapter 56 of the *Code*). The Deputy CFO shall report to the Chief Financial Officer, who is the Department Head of the Finance Department, and shall be responsible for all the duties as set forth in the position's job description, as may be amended from time to time by the City Manager.

VII

Pursuant to MGL, Chapter 43, §105, the following position is deleted:

- **Junior Data Analyst** in the Office of the City Manager

VIII

Chapter 20, §20-63 of Article XII of the City of Lowell Code of Ordinances ("the *Code*") adopted by the City Council on December 23, 2008 (as amended) entitled Departments, is amended by creating a Budget Department. The Deputy CFO shall be the Department Head of the Budget Department. The Department is responsible for the production and implementation of the City's annual operating and capital budgets. The Department shall also manage the LowellSTAT program.

IX

Pursuant to MGL, Chapter 43, §105, the following position shall be transferred to the Budget Department:

- **Data Management Analyst** in the Office of the City Manager

X

All paragraphs, sentences, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance is found unconstitutional or otherwise invalid by the valid judgment or decree of a court of competent jurisdiction, such finding(s) shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

XI

All provisions of the *Code* not inconsistent with this Ordinance shall continue in effect, but all inconsistent provisions are repealed.

XII

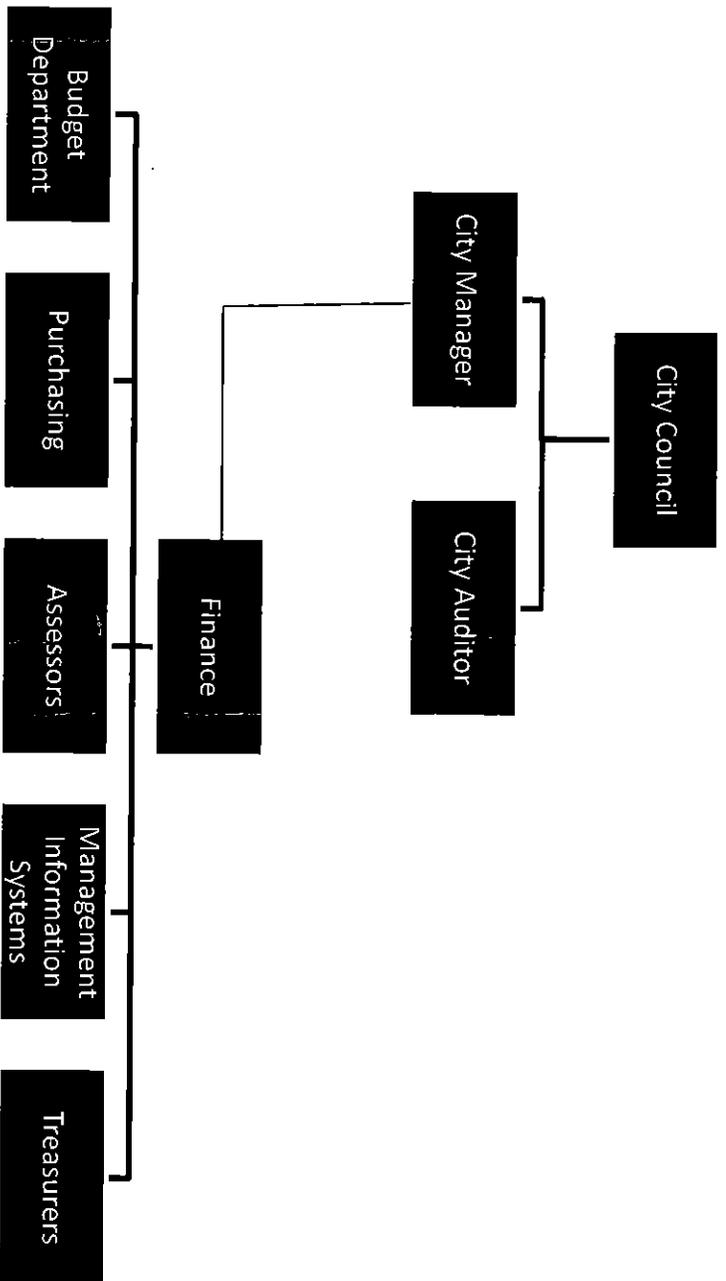
This Ordinance shall take effect upon its passage in accordance with the provisions of Chapter 43 and 40A of the General Laws of the Commonwealth of Massachusetts.

APPROVED AS TO FORM:



Christine P. O'Connor
City Solicitor

Ordin/reorg/finance



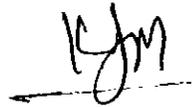
MEMORANDUM

TO: Mayor Edward J. Kennedy and Members of the City Council

FROM: Kevin J. Murphy, City Manager

DATE: May 13, 2016

SUBJECT: Finance Department Reorganization



Dear Mayor and members of the City Council,

As part of this year's budget process, I propose a reorganization of the City's Finance Department in order to codify some of the changes made during my administration in an effort to improve fiscal operations, making them more efficient and effective. Lowell has been moving incrementally in this direction since 2007 when the State Department of Revenue recommended these changes as part of their financial management review of the City.

Currently, the City's Chief Financial Officer oversees the Finance Department, which consists of several departments including MIS, Treasurer/Collector, Purchasing, Human Relations, and Assessing. This proposed ordinance formalizes this organizational structure. Based on recommendations in the 2007 DOR review, I propose an official Budget Department as a subsection of the Finance Department. Over the past several years, the role of the Data Management Analyst focused on the LowellSTAT Program. The position has evolved into a more working role assisting the CFO with the day-to-day fiscal management of the City. This year alone, the Data Management Analyst began holding monthly meetings with the City's departmental finance officials to share best practices and foster better communication. As such, I recommend the position now be titled Deputy Chief Financial Officer, while the Junior Data Analyst is retitled Data Management Analyst. These two positions will make up the Budget Department with the Deputy CFO as Department Head. This division of finance will be tasked with the production and implementation of both the operating and capital budgets, as well as the continued operation of the LowellSTAT Program. All of these proposed changes are budget neutral with only title changes; no positions added.

Through the support of this City Council, my administration has strengthened the fiscal stability of the City which is the foundation of any strong municipal government. I believe these changes will continue the great strides we have made in centralizing the financial management of Lowell.

Thank you and please let me know if you have further questions.

The City of Lowell

Law Department

375 Merrimack Street • Lowell, MA 01852

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Agenda Item: 2016 / 349

Meeting: **City of Lowell City Council**

Subject: **Vote-Rescind Lowell Memorial Auditorium Enterprise Fund effective 6/30/16.**

Recommendation:

Background:

Attachments:

Comment

COMMONWEALTH OF MASSACHUSETTS

CITY OF LOWELL

In City Council

VOTE

Revocation of prior acceptance of Massachusetts General Laws Chapter 44, §53F ½ regarding the Enterprise Fund establishing the Lowell Memorial Auditorium effective June 30, 2016.

The City Council accepted Massachusetts General Laws Chapter 44, §53F ½ in order to establish an Enterprise Fund for the Lowell Memorial Auditorium on June 11, 2013; and

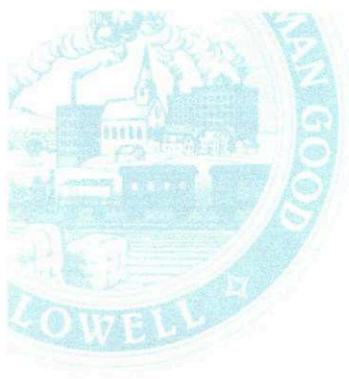
According to the guidelines of the Department of Revenue, as promulgated in Informational Guideline Release (IGR) No. 08-10, after at least three years a legislative body may terminate the enterprise fund; and

Pursuant to Massachusetts General Laws Chapter 4, §4B and the Council Rules (Rule 28, as amended) require an advertised public hearing before final action in order to revoke the Lowell Memorial Auditorium Enterprise Fund.

BE IT VOTED BY THE CITY COUNCIL OF THE CITY OF LOWELL:

That the City Council of the City of Lowell, revokes effective June 30, 2016 the prior acceptance on June 11, 2013 of Massachusetts General Laws Ch. 44, , §53F ½ relative to the establishment of an Enterprise Fund for the Lowell Memorial Auditorium.

V:enterprisefund



Kevin J. Murphy
City Manager
Michael McGovern
Assistant City Manager

May 12, 2016

Mayor Edward J. Kennedy, Jr.
and
Members of the City Council

RE: VOTE rescinding the Lowell Memorial Auditorium Enterprise Fund

Mayor Kennedy and City Councilors,

Attached for your approval is a vote that would eliminate the enterprise fund method of accounting for municipal expenses related to the Lowell Memorial Auditorium.

While the City Council approved the contract amendment eliminating the provision that the City would be responsible for all losses in excess of the City subsidy, this has become difficult to accomplish, as long as the account is treated as an enterprise fund.

The operating subsidy can best be funded as a line item in the City Manager's budget, and thus in the General Fund. I am requesting the City Council adopt the attached amendment.

Very truly yours

Kevin J. Murphy
City Manager

Encl.

Cc: City Clerk
City Solicitor

The City of Lowell

Law Department

375 Merrimack Street • Lowell, MA 01852

www.LowellMA.gov

Agenda Item: 2016 / 351

Meeting: **City of Lowell City Council**

Subject: **Ordinance-Amend Ch. 272 Annual Sewer Use Charge**

Recommendation:

Background:

Attachments:

Comment

COMMONWEALTH OF MASSACHUSETTS

CITY OF LOWELL

In City Council

ORDINANCE

An Ordinance Amending the Code of Ordinances City of Lowell, Massachusetts, with respect to Chapter 272, Article VI §272-87 entitled "Annual Sewer Use Charge".

It is necessary to amend §272-87 entitled "Annual Sewer Use Charge" with respect to fees.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOWELL, as follows:

"The Code of Ordinances of the City of Lowell, Massachusetts", adopted by the City Council on December 23, 2008, as amended, is hereby further amended, with respect to Chapter 272 entitled "Water and Sewers", as follows:

§272-87. Annual Sewer Use Charge is hereby amended as follows:

By deleting the rate schedule listed therein and substituting therefor the following rates, effective July 1, 2016:

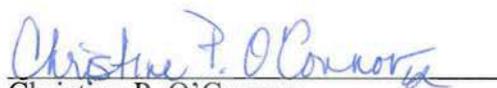
<u>Number of hundred cubic feet of wastewater discharged per quarter</u>	<u>Rate per hundred cubic feet per quarter</u>
First 50 (base rate)	4.170
51 - 100	4.403
101 - 200	4.471
201 - 500	4.545
Over 500	4.612

Minimum wastewater charge equal to rate charged for 1400 cubic feet based on above rate schedule.

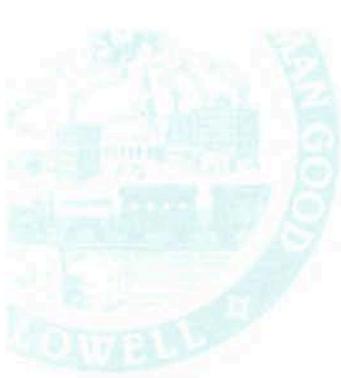
All provisions of the Code of the City of Lowell, as amended, which are consistent with this Ordinance shall continue in effect but all provisions of said Code inconsistent herewith are repealed.

This Ordinance shall take effect upon its passage in accordance with the provisions of Chapter 43 of the General Laws of the Commonwealth of Massachusetts, as amended, but as specified herein, the rate provisions become effective and July 1, 2016.

APPROVED AS TO FORM:


Christine P. O'Connor
City Solicitor

Ordin/sewer-water



Kevin J. Murphy
 City Manager

May 13, 2016

Dear Mayor Kennedy and Members of the Lowell City Council,

In 2013, the City Council approved a \$40 million loan authorization in order to fund an EPA mandated sewer separation project. The EPA had issued an Administrative Order (AO) to the City of Lowell to proceed immediately with design and construction. As part of the deliberation in 2013, the Council discussed the need for a rate increase to fully fund the project. The day has come in which this is needed.

This rate increase is critical as we reassess our forecasting model to include the rising costs of current expenses and the anticipated debt service related to the \$40 million sewer separation project. This large-scale capital project will result in debt service payments of approximately \$2.5 million annually for the next thirty years, once permanently financed. The true purpose of enterprise accounting is such that the users pay for the costs of the service in a way that is proportional to their usage. I truly believe that this method is far more fair and equitable than the alternative which would be to spread the burden across all taxpayers uniformly.

Attached please find a vote to amend the sewer rate for FY17. The change in rate is detailed in the table below:

Number of Hundred Cubic Feet of Wastewater Discharged Per Quarter	Current Rate Per Hundred Cubic Feet Per Quarter	New Rate Per Hundred Cubic Feet Per Quarter
First 50 (Base Rate)	3.418	4.170
51-100	3.609	4.403
101-200	3.665	4.471
201-500	3.725	4.545
Over 500	3.780	4.612
* This represents an increase of \$22.54 per quarterly bill for the average user.		

Sincerely,

Kevin J. Murphy
 City Manager

The City of Lowell

Law Department

375 Merrimack Street • Lowell, MA 01852

www.LowellMA.gov

Agenda Item: 2016 / 347

Meeting: **City of Lowell City Council**

Subject: **Vote-Approving Budget for FY'17**

Recommendation:

Background:

Attachments:

ch fy 17 vote

COMMONWEALTH OF MASSACHUSETTS

CITY OF LOWELL

In City Council
VOTE

Approving Budget for the City of Lowell for Fiscal Year 2017

WHEREAS, pursuant to Mass. G.L. c.44 §32, the City Manager submitted a proposed budget for fiscal year 2017 to the City Council on May 17, 2016; and

WHEREAS, the City Council held advertised public hearings to consider the proposed budget on May 31, 2016 and any other dates necessary, as advertised in the public hearing notice; and

WHEREAS, upon motion the City Council accepted the budget as submitted by the City Manager, after reductions otherwise separately voted, if any.

NOW, THEREFORE, BE IT VOTED BY THE CITY COUNCIL OF THE CITY OF LOWELL:

That the City Council of the City of Lowell hereby adopts and approves the budget for fiscal year 2017 for the City of Lowell, including all line items therein as if separately voted thereon, in the sum of \$340,931,235 which sum shall be appropriated and raised by taxation and other sources, including but not limited to intergovernmental revenue. The full list of appropriations follows this vote.

WHEREAS, THE City of Lowell enterprise funds may have insufficient operating revenues to fund all expenditures of the funds in fiscal year 2017

NOW, THEREFORE, BE IT FURTHER VOTED BY THE CITY COUNCIL OF THE CITY OF LOWELL:

That the City Council of the City of Lowell hereby raises and appropriates the following retained earnings:

Fund	Amount
Wastewater Enterprise Fund	1,773,190
Parking Enterprise Fund	-
Water Enterprise Fund	1,222,543

and that the City Council of the City of Lowell hereby raises and appropriates the following from other funds:

Fund	Amount	Fund Number
Property Maintenance	375,000	1107
Sale of City Property	255,000	1701
Vacant Foreclosed Properties	563,627	1109
Health Trust	250,000	8417
Salary Stabilization	400,000	8398
Overlay Surplus	1,750,000	
Capital Debt Service Stab	955,290	8397
Police Training	21,611	1717
General Stabilization	1,237,236	8401

Line Number	Department	Description	FY2017 Amount
2017-01	City Council	Personal Services	141,000
2017-02	City Council	Ordinary Expenses	7,500
2017-03	Mayor	Personal Services	51,428
2017-04	Mayor	Ordinary Expenses	12,400
2017-05	City Clerk	Personal Services	376,417
2017-06	City Clerk	Ordinary Expenses	15,150
2017-07	City Manager	Personal Services	1,927,722
2017-08	City Manager	Ordinary Expenses	3,854,000
2017-09	City Manager - Lowell School System	Personal Services	
2017-10	City Manager - Lowell School System	Ordinary Expenses	50,000

2017-11	City Manager - Marketing Development	Personal Services	440,000
2017-12	City Manager - Marketing Development	Ordinary Expenses	251,253
2017-13	City Manager - Contingency	Ordinary Expenses	-
2017-14	City Manager - Contingency	Reserve for Wages	10,000
2017-15	City Manager - Cable Access	Personal Services	142,400
2017-16	City Manager - Cable Access	Ordinary Expenses	37,800
2017-17	City Manager - Cable Access	Transfers to Schools	175,085
2017-18	City Manager - Cultural Affairs & Special Events	Personal Services	-
2017-19	City Manager - Cultural Affairs & Special Events	Ordinary Expenses	298,196
2017-20	Finance	Personal Services	200
2017-21	Finance	Ordinary Expenses	455,122
2017-22	Auditing	Personal Services	58,600
2017-23	Auditing	Ordinary Expenses	219,556
2017-24	Purchasing	Personal Services	151,150
2017-25	Purchasing	Ordinary Expenses	481,620
2017-26	Assessing	Personal Services	129,300
2017-27	Assessing	Ordinary Expenses	560,360
2017-28	Treasurer	Personal Services	303,600
2017-29	Treasurer	Ordinary Expenses	282,080
2017-30	Human Relations	Personal Services	26,350
2017-31	Human Relations	Ordinary Expenses	560,189
2017-32	Management Information Systems	Personal Services	933,125
2017-33	Management Information Systems	Ordinary Expenses	1,015,730
2017-34	Law	Personal Services	250,700
2017-35	Law	Ordinary Expenses	187,399
2017-36	Elections	Personal Services	69,500
2017-37	Elections	Ordinary Expenses	2,403,233
2017-38	Planning & Development	Personal Services	218,000
2017-39	Planning & Development	Ordinary Expenses	25,156,425
2017-40	Police	Personal Services	1,480,450
2017-41	Police	Ordinary Expenses	17,103,732
2017-42	Fire	Personal Services	793,850
2017-43	Fire	Ordinary Expenses	158,445,232
2017-44	Lowell Public Schools	Single Line Appropriation	7,695,388
2017-45	Greater Lowell Technical School	Ordinary Expenses	489,648
2017-46	DPW Administration	Personal Services	919,500
2017-47	DPW Administration	Ordinary Expenses	431,882
2017-48	DPW Engineering	Personal Services	-
2017-49	DPW Engineering	Ordinary Expenses	1,922,703
2017-50	DPW Land & Buildings	Personal Services	677,000
2017-51	DPW Land & Buildings	Ordinary Expenses	1,239,272
2017-52	DPW Streets	Personal Services	30,000
2017-53	DPW Streets	Ordinary Expenses	1,635,438
2017-54	Parks	Personal Services	601,168
2017-55	Parks	Ordinary Expenses	236,622
2017-56	Cemetery	Personal Services	202,750
2017-57	Cemetery	Ordinary Expenses	1,350,000
2017-58	DPW Other	Snow & Ice	507,000
2017-59	DPW Other	Street Lighting	5,085,000
2017-60	DPW Other	Waste Collection & Disposal	2,373,143
2017-61	Health	Personal Services	64,750
2017-62	Health	Ordinary Expenses	216,436
2017-63	Council on Aging	Personal Services	77,250
2017-64	Council on Aging	Ordinary Expenses	149,663
2017-65	Veterans'	Personal Services	562,361
2017-66	Veterans'	Ordinary Expenses	712,944
2017-67	Recreation	Personal Services	49,185
2017-68	Recreation	Ordinary Expenses	969,450
2017-69	Library	Personal Services	-

2017-70	Library	Ordinary Expenses	308,952
2017-71	Unclassified	Debt Service	10,469,725
2017-72	Unclassified	Workers Comp	700,000
2017-73	Unclassified	Unemployment	350,000
2017-74	Unclassified	Health Insurance	22,250,000
2017-75	Unclassified	Retirement	23,155,548
2017-76	Unclassified	Medicare Tax	2,500,000
2017-77	Unclassified	Claims & Judgments	775,000
2017-78	Unclassified	Other Insurance	326,000
2017-79	Unclassified	No. Middlesex	31,282
Subtotal	General Fund		308,140,913
2017-80	Wastewater	Personal Services	3,230,511
2017-81	Wastewater	Ordinary Expenses	7,627,200
2017-82	Wastewater	Debt Service	6,473,038
Subtotal	Wastewater Enterprise Fund		17,330,749
2017-83	Parking	Personal Services	333,581
2017-84	Parking	Ordinary Expenses	2,854,061
2017-85	Parking	Debt Service	2,953,146
Subtotal	Parking Enterprise Fund		6,140,788
2017-86	Water	Personal Services	2,258,467
2017-87	Water	Ordinary Expenses	3,192,000
2017-88	Water	Debt Service	3,868,317
Subtotal	Water Enterprise Fund		9,318,784
Grand Total All Funds			340,931,235

Furthermore, the following projected needs are costs to the City, but according to accounting rules established by the Department of Revenue, are not to be included in the appropriation order.

2017-89	General Fund - Cherry Sheet Assessments	22,839,574
2017-90	General Fund - 2015 Snow & Ice deficit	500,000
2017-91	General Fund - Provision for Abatements & Exemptions	1,100,000
2017-92	Indirect costs of the enterprise funds	8,912,318

Kevin J. Murphy
City Manager

May 17, 2016

To Mayor Edward Kennedy and Members of the Lowell City Council:

In accordance with the requirements of the Massachusetts General Laws and the Charter of the City of Lowell, I herewith transmit the proposed \$340,931,235 Operating Budget and \$11,100,415 Capital Budget for Fiscal Year 2017 which begins on July 1, 2016.

This document represents the third and perhaps most challenging budget of my administration. As I have stated many times, sound fiscal management is the foundation upon which any strong organization must be built. This budget manages to find the balance of providing exceptional services while maintaining Lowell's status as an affordable city in which to live. While we anticipate moderate revenue increases in several areas, a multitude of fiscal challenges were overcome in order to present this balanced budget. These challenges, however, will not prevent the City from continuing its commitment to public safety, education, and economic development, as well as investing in infrastructure through proper capital planning.

Public safety is of paramount importance to a gateway city such as Lowell. As part of the FY17 budget, I am proposing two additional police officers, bringing the total number of budgeted sworn officers to 250. This number was unthinkable just several years ago, yet with the City Council's guidance and my administration's dedication to public safety; we increased the number of officers through new hires and redeploying officers back on patrol, who previously were performing police civilian functions. In addition, the City will be investing in Lowell Police Headquarters to address matters to improve daily functions. In FY17, we will be upgrading the locker room area, as well as installing a high-tech security system utilizing swipe cards for all key access points.

The Lowell Fire Department also reached significant increases in its ranks through the 12 new firefighters added as a result of the SAFER grant, combined with the City's commitment to fill all open positions. This brings the total number of uniformed personnel to 213. The City plans to invest in necessary improvements to three fire stations. This year's budget includes, first time, a funding source specifically designated to purchase new turnout gear for firefighters.

When we think about safety, we must always take an holistic approach. In addition to police and fire, Development Services of Planning and Development completed the first round of the Neighborhood Expedited Enforcement Directive (NEED) Program in FY16. Building off this momentum, the LPD is rolling out the Drug Abatement Response Team (DART) Project aimed at targeting known premises where drug dealing is suspected. This new program will target owners of problem properties with the goal of stamping out drug dealing. Code enforcement will again play a pivotal role in this new program.

The City pledges continued commitment to education in FY17. In FY15, the City exceeded its net school spending requirement by over \$1 million. The latest DESE projections show the City on pace to exceed the spending target by a greater amount in FY16. Building off this success, my administration has committed to increase the operating budget's direct cash contribution to the Lowell Public Schools by an additional \$1 million in FY17. This represents a \$5 million increase in annual, direct cash over the course of my administration. Public works will continue its renewed effort to maintain and repair Lowell schools through

Kevin J. Murphy
City Manager

daily operations and strategic capital investment. The funding for Lowell Charter Schools will increase in FY17 as well. Based on the latest estimates, charter sending tuition will increase by \$1.7 million next year while the reimbursement from the State remains essentially level-funded. My administration will continue to advocate for full reimbursement as the charter gap continues to grow at an unsustainable pace. Lastly, Greater Lowell Technical High School funding will also increase by \$200,000 in FY17.

While the full financial impact won't be felt in FY17, the Lowell High School project under consideration by the Massachusetts School Building Authority is a signature project of my administration. Capitalizing on the City Council's authorization to fund a feasibility study, the City hired an owner's project manager and is in the process of soliciting bids for a designer. While this project greatly impacts the City's borrowing capacity, the high school project represents a once-in-a-generation opportunity to improve the cornerstone of the Lowell Public School system.

The City will continue to build on its economic development success in FY17. Progress continues in the Hamilton Canal District, with the design of a 900 space parking garage, the new judicial center, and Genesis HealthCare. This district has gone from a period of stagnation to a flurry of activity and is poised to become one of the most successful development projects in City history. My administration will also continue to aggressively court businesses to relocate and expand in Lowell. We were able to bring many new businesses to the City in FY16, including finally finding an outstanding use for the Prince factory.

Investing in these key areas will only increase the return on investment for future generations. In continuing this trend of long-term planning, I am proposing the FY17 Capital Plan in conjunction with this year's operating budget. This new five year improvement plan continues my administration's policy of addressing infrastructure needs through strategic investment and the leveraging of state and federal funds.

While I am proud of the initiatives presented in this budget, planning for the next fiscal year was not without its substantial challenges. Fixed costs continue to rise including a \$2.2 million increase in our Pension Assessment. The City's electric rate will increase in FY17 as a truly advantageous rate expires. While we were still able to secure a good rate, it represents an 18% increase on the supply side. Personnel costs will continue to increase in FY17 based on the offered 3% cost of living adjustment. This would be the second year of a planned 0% (FY16) - 3% (FY17) - 3% (FY18) offer upon which multiple unions have already come to terms. These costs, combined with our financial commitment to our key focus areas, limited our ability to expand funding for the various City departments. In fact, many line items were not just level-funded but reduced. These necessary cuts in expenses were spread evenly across the departments and were focused on limiting any disruption in service delivery.

While many of the aforementioned initiatives and challenges represent a serious cost, my administration has once again worked tirelessly to limit the impact on the taxpayer. This budget includes a levy increase of 1.5%, a full percent less than the state allowed 2.5%. As history has shown, the City functions best with continuous, modest increases to the levy in order to fund the rising costs of goods and services, while not considerably raising taxes any single year. I would be remiss if I did not stress the need to increase revenue streams in the coming years. Funding the necessary levels of service our citizens deserve, coupled with investment in infrastructure and what very well may be the largest MSBA project in state history, will have a dramatic effect on the city. However, it will not come without a substantial increase in costs. My administration will continue

Kevin J. Murphy
City Manager

to limit this impact on the taxpayer by striving to increase efficiencies and by searching out additional funding sources.

This budget is the result of months of work by my finance team in conjunction with the City's department heads. While we were not able to meet every request, we tried to be as reasonable and fair with each department while still maintaining fiscal discipline. The result is a balanced budget that addresses the City's fiscal difficulties while investing in key programs and initiatives. It is my hope that this budget will further advance my ultimate goal: to make Lowell a safer city, with a vibrant downtown and neighborhood business districts, and a public education system second to none in which a child can go from kindergarten to a post-graduate degree without ever leaving the city.

I would like to thank CFO Conor Baldwin, Financial Advisor Robert Healy, Data Analyst Rodney Conley, CIO Miran Fernandez, Heather Varney and Karen Moynihan from the City Manager's Office, and Assistant City Manager Mike McGovern, who all played a vital role in developing this budget. I also thank the City Council for its continued vision and support. Finally, I wish to thank the great citizens of Lowell for their support; it is truly my pleasure to serve.

Sincerely,



Kevin J. Murphy
City Manager

Agenda Item: 2016 / 373

Meeting: **City of Lowell City Council**

Subject: **Motion Response:**

(A) Andover Street Repairs

Informational:

(B) Free Cash Certification

(C) Board of Parks Approval POW MIA Chair at Cawley Stadium

(D) Board of Parks Approval Playground in Honor of Henry J. Corcoran, Jr.

Recommendation:

Background:

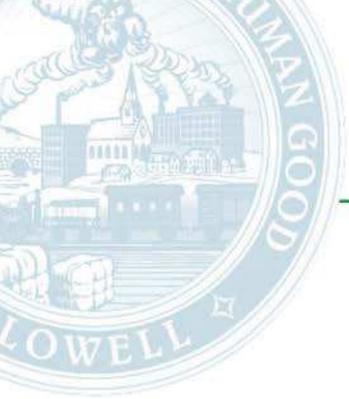
Attachments:

(A) Motion Response - Andover Street Repairs

(B) Informational - Free Cash Certification

(C) Informational - Board of Parks Approval POW MIA Chair at Cawley Stadium

(D) Informational - Board of Parks Approval Playground in Honor of Henry J. Corcoran, Jr.



Lisa E. DeMeo, P.E.
City Engineer

Date: May 25, 2016

TO: Kevin J. Murphy, City Manager

VIA: Ralph G. Snow, P.E., Assistant City Manager/DPW Commissioner

FROM: Lisa E. DeMeo, P.E., City Engineer

SUBJECT: MOTION 2016/305 C. LEAHY AND LEARY - REQUEST CITY MANAGER PROVIDE REPORT REGARDING ALL REPAIRS TO BE DONE ON ANDOVER STREET FOR THE UPCOMING YEAR.

This year's capital budget includes a project to replace the asphalt patches on Andover Street (between the town line and Nesmith Street) with concrete. The budget for this project is up to \$350,000.

Staff in the Engineering office will be writing the technical specifications for the type of concrete to be used. This information will be forwarded to the Purchasing Agent for advertising according to state bidding laws. We hope to have a contractor in place later this summer.

Neither the Water Utility nor the Wastewater Utility has plans for any repair work on Andover Street this calendar year.

Please let me know if there are any questions regarding this information.



Conor Baldwin
Chief Financial Officer

MEMORANDUM

TO: Kevin J. Murphy, City Manager

FROM: Conor Baldwin, Chief Financial Officer

CC: Rodney Conley, Data Analyst

DATE: May 26, 2016

SUBJECT: Informational - Free Cash Certification

The City of Lowell's free cash has been certified for fiscal year 2015 by the Department of Revenue (DOR) at \$942,033. Below is a table that highlights free cash levels over the past few years:

FY2002	\$17,037,765	FY2009	-\$490,543
FY2003	\$13,022,974	FY2010	\$1,348,586
FY2004	\$5,175,063	FY2011	\$2,097,507
FY2005	\$1,485,463	FY2012	\$6,411,250
FY2006	-\$2,220,766	FY2013	\$3,911,380
FY2007	-\$1,088,505	FY2014	\$2,778,701
FY2008	\$30,789	FY2015	\$942,033

It is important to note that "free cash" is not a measure of the money that Lowell has in the bank. Free cash is the portion of the General Fund balance that the state certifies as available for appropriation. As a non-recurring revenue source, utilization of free cash to fund recurring costs is not a prudent measure. Many communities let free cash accumulate year-over-year and do not appropriate the funding as it is certified. It is my recommendation that we allow the funds to roll-forward and revisit the potential use when fiscal year 2016 free cash is certified.

The amount of certified free cash is lower than recent years because of the Administration's decision to utilize end-of-year surpluses to bring down the significant snow and ice deficit of FY2015. \$1.9 million in surplus appropriations were transferred by the City Council in June of 2015 to reduce the deficit to a figure that would not additionally burden the tax levy. Had that transfer not occurred, the free cash number would have been higher by \$1.9 million, but the city would have had to amortize \$1,017,805 annually over three years, as opposed to the \$500,000 that is currently being amortized.

John J. Linnehan
Chairman

Peter Finnegan
Vice-Chairman

Thomas Caunter

Ryan Rourke

Christopher Roux

May 26, 2016

Michael Q. Geary
City Clerk
City of Lowell

Dear Mike,

The following City Council Motion from Tuesday, April 26, 2016 was referred to the Board of Parks.

Motion by Councilor Elliott, Seconded by Councilor Belanger: "City Council requests City Council discusses the placing of POW/MIA Chair at Cawley Stadium and refers request to Parks Subcommittee and Board of Parks for approval." (Read and amended to send to Board of Parks only.)

The Board of Parks met at the regular, monthly meeting on Wednesday, May 25, 2016.

Councilor Rita Mercier was present at the meeting to address the request with the board.

The following Motion was made pertaining to the request.

Motion made by Member Ryan Rourke, Seconded by Member Tom Caunter "To place POW/MIA Chair at Cawley Stadium." So voted 3-0.

Sincerely,


Stacey Montbleau
Associate Planner

cc: Thomas R. Bellegarde, Commissioner of Parks & Cemeteries
File

John J. Linnahan
Chairman

Peter Finnegan
Vice-Chairman

Thomas Caunter

Ryan Rourke

Christopher Roux

May 26, 2016

Michael Q. Geary
City Clerk
City of Lowell

Dear Mike,

The following City Council Motion from Tuesday, May 10, 2016 was referred to the Board of Parks.

Motion by Councilor Rourke, Seconded by Councilor Mercier: "City Council requests City Council name the playground at Father Maguire Park in honor of Henry J. (Mickey) Corcoran, Jr." (Read and referred to the Board of Parks)

The Board of Parks met at the regular, monthly meeting on Wednesday, May 25, 2016.

Councilor Rita Mercier was present at the meeting to address the request with the board.

The following Motion was made pertaining to the request.

Motion made by Member Chris Roux, Seconded by Member Tom Caunter "To name the playground at Father Maguire Park in honor of Henry J. (Mickey) Corcoran, Jr." So voted 3-0.

Sincerely,



Stacey Montbleau
Associate Planner

cc: Thomas R. Bellegarde, Commissioner of Parks & Cemeteries
File

The City of Lowell

Law Department

375 Merrimack Street • Lowell, MA 01852

www.LowellMA.gov

Agenda Item: 2016 / 370

Meeting: **City of Lowell City Council**

Subject: **Vote-Endorse FY'2017-2021 Capital Improvement Plan**

Recommendation:

Background:

Attachments:

Comment

COMMONWEALTH OF MASSACHUSETTS

CITY OF LOWELL

In City Council

VOTE

Authorizing the endorsement of the Fiscal Year 2017–Fiscal Year 2021 proposed Capital Improvement Plan.

The City of Lowell has prepared a Capital Improvement Plan which outlines spending over a 5-year period; and

The Plan is being submitted to the City Council for the purposes of discussion and endorsement;

NOW THEREFORE, BE IT VOTED BY THE CITY COUNCIL OF THE CITY OF LOWELL, as follows:

That the City Council hereby endorses the City of Lowell's Five Year Capital Plan.

Vote.End.Capital.Plan

The City of Lowell

Law Department

375 Merrimack Street • Lowell, MA 01852

www.LowellMA.gov

Agenda Item: 2016 / 371

Meeting: **City of Lowell City Council**

Subject: **Vote-Transfer \$398,786.98 (funding for salary stabilization)**

Recommendation:

Background:

Attachments:

Comment

CITY OF LOWELL

COMMONWEALTH OF MASSACHUSETTS

VOTE

IN CITY COUNCIL:

ORDER,

To transfer funds to provide funding for salary stabilization.

ORDERED,

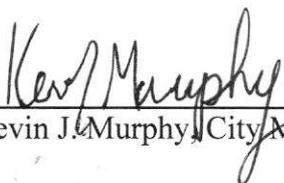
By the City Council of the City of Lowell, as follows:

That the amount of **Three Hundred Ninety Eight Thousand Seven Hundred Eighty Six and 98/100 (\$398,786.98) Dollars** be transferred:

FROM: Various Accounts more fully described in Attachment A:

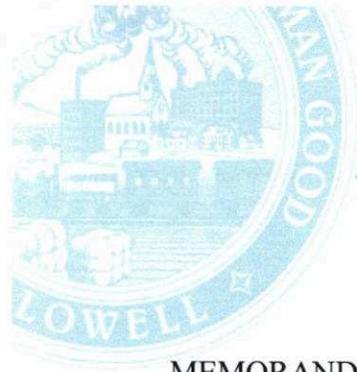
TO: Salary Stabilization – Account #8398 more fully described in Attachment A;

ORDER RECOMMENDED AND INTRODUCED BY:



Kevin J. Murphy, City Manager

V:transferII



Conor Baldwin
 Chief Financial Officer

MEMORANDUM

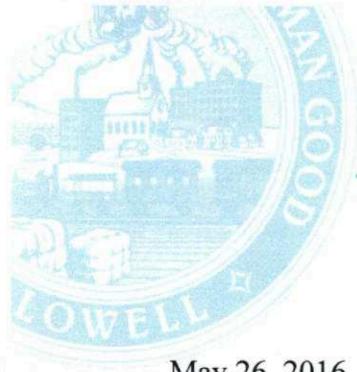
TO: Kevin J. Murphy, City Manager
FROM: Conor Baldwin, Chief Financial Officer 
CC: Rodney Conley, Data Analyst
DATE: May 23, 2016
SUBJECT: Transfer for Salary Stabilization

Attached to this memorandum is a proposed transfer which requires City Council approval. The purpose of the transfer is to utilize funds from FY2016 as a financing source for the settlement of collective bargaining agreements in next year's budget. Monies were budgeted in FY16 in the City Manager's Department towards this purpose. This transfer will allow the funds to be carried forward into the next fiscal year.

Now that a number of groups have ratified their successor contracts and others are near completion, we have a more complete picture of the funding needs for FY2017. A small portion of projected savings in the City Manager's heating/ gas budget is also being included to complete the necessary financing for next year.

Below is a summary of the affected accounts:

Account Name	Original Budget	Previous Transfers	Revised Budget	YTD Expenditures		Balance Before		Balance After
				(Actual)	Encumbrances	Transfer	Transfer	
Salary Stabilization	\$ 1,213.02	\$ -	\$ 1,213.02	\$ -	\$ -	\$ 1,213.02	\$ 398,786.98	\$400,000.00
Manager's Contingency	\$ 262,680.00	\$ (118,605.00)	\$ 144,075.00	\$ -	\$ -	\$ 144,075.00	\$ (144,075.00)	\$ -
Manager's Reserve for Wages	\$ 200,000.00	\$ -	\$ 200,000.00	\$ -	\$ -	\$ 200,000.00	\$ (200,000.00)	\$ -
Manager's Heat/ Gas	\$ 1,200,000.00	\$ -	\$ 1,200,000.00	\$ 790,861.66	\$ -	\$ 409,138.34	\$ (54,711.98)	\$354,426.36



Kevin J. Murphy
City Manager

May 26, 2016

Mayor Edward J. Kennedy
And
Members of the Lowell City Council

Dear Mayor Kennedy and Members of the Lowell City Council,

I am hereby requesting that the City Council vote to transfer \$398,786.98 into the salary stabilization fund. This transfer is necessary to carry forward funding into FY2017 for the settlement of various collective bargaining agreements.

The monies being transferred are from the salary reserve, contingency, and heating/gas accounts in the City Manager's budget. Also enclosed with this letter is a memorandum from the Chief Financial Officer which outlines the details of the transfer. Please do not hesitate to let me know if there are any questions.

Sincerely,

Kevin J. Murphy
City Manager

CC: Conor Baldwin, Chief Financial Officer

Agenda Item: 2016 / 374

Meeting: **City of Lowell City Council**

Subject: **Vote-Auth Mgr Enter into Master Developer Agreement with
WinnDevelopment Co., Limited Partnership**

Recommendation:

Background:

Attachments:

Comment

COMMONWEALTH OF MASSACHUSETTS

CITY OF LOWELL

In City Council

VOTE

Authorizing the City Manager to enter into a Master Developer Agreement with WinnDevelopment Company Limited Partnership, Boston Corporate Office, 6 Faneuil Hall Marketplace, 5th Floor, Boston, MA 02109 regarding the transfer of certain parcels located in the Hamilton Canal District (HCD), and in accordance with the terms of the Master Developer Agreement, attached hereto.

In furtherance of the Hamilton Canal District Plan (Plan) certain designated properties in the HCD and within the larger Jackson/Appleton/Middlesex (JAM) Urban Revitalization District have been deemed suitable for disposition; and

On September 8, 2015 the City issued a Request for Qualifications (RFQ) to solicit both a Master Developer, as well as individual developers to purchase and redevelop specifically identified parcels within the HCD; and

After a review of the responses to the City's RFQ, WinnDevelopment Company Limited Partnership was determined to possess the significant qualifications and financial resources to acquire and develop certain of the properties as the HCD's Master Developer; and

The proposed redeveloper, WinnDevelopment Company desires to purchase and undertake the phased development of the parcels in accordance with the terms and conditions of both the Plan and the Master Developer Agreement; and

The City is desirous to sell options to purchase and transfer the property referred to above to WinnDevelopment, pursuant to the payment schedule set forth in the Master Developer Agreement.

Disposition of such property under an approved Urban Revitalization and Development Plan is exempt from the provisions of Mass. G.L. Chapter 30B; and

The City Manager recommends to the City Council that the City enter into a Master Developer Agreement with WinnDevelopment Limited Partnership under the conditions and provisions in the proposed Master Developer Agreement;

BE IT VOTED BY A TWO-THIRDS VOTE OF THE CITY COUNCIL OF THE CITY OF LOWELL, as follows:

That the City Manager be and is hereby authorized, in the name of the City of Lowell, to consummate the sale of options to purchase parcels located in the HCD, as set forth in the Master Developer Agreement to WinnDevelopment Company Limited Partnership or to such nominee as approved by the City Manager and to execute and deliver deeds and any and all other documents of conveyance related to the sale and disposition of the individual parcels, on such terms and conditions as the City Manager deems in the best interest of the City of Lowell and as provided in the Master Developer Agreement, in the form, or substantially the form, attached hereto.

BE IT FURTHER VOTED:

That upon conveyance, the Vote, Master Developer Agreement, deeds and any and all related documents and plans shall be duly recorded in the Registry of Deeds, at the expense of the grantee.

V:revitalizationplan/winndeveloper

Master Developer Agreement

Winn Master Developer Rights to Hamilton Canal District Parcels

Date: May 26, 2016

Winn: WinnDevelopment Company Limited Partnership, Boston Corporate Office, 6 Faneuil Hall Marketplace, 5th Floor, Boston, MA, 02109 [from RFQ response].

City: City of Lowell ("City") is a municipal corporation located in Middlesex County, Commonwealth of Massachusetts

Property: The subject properties ("Property") are defined in the Hamilton Canal District Request for Qualifications issued on September, 8, 2015 ("RFQ") in Sections 1.3.1, 2.1, and 2.5.2 and are as follows:

- 193.1 Jackson Street (Parcel 8)
- 221.4 Jackson Street (Portions of Parcels 11, 12, 13, 14 and 16)
- 221.5 Jackson Street (Part of Parcel 16)
- 239.1 Jackson Street (Parcel 9)
- 256.5 Market Street (Portions of Parcel 13, 14 and 15 and future right-of-way)
- 256.6 Market Street (Part of Parcel 16)
- 256.7 Market Street (Part of future right-of-way)
- 291 Jackson Street (Parcel 5)

The Lowell National Historical Park (LNHP) owns several parcels or significant interests in parcels for parking associated with its Visitor Center on Market Street. The City is entering final negotiations to secure ownership of all LNHP interests, which would be included in this agreement if the City secures ownership before the expiration of the agreement with Winn. LNHP currently owns or maintains an interest in the following parcels:

- 256.1 Market Street (Fee simple ownership)
- 256.2 Market Street (Fee simple ownership)
- 256.5 Market Street (Easement rights)
- 256.6 Market Street (Easement rights)
- 256.7 Market Street (Easement rights)
- 256.8 Market Street (Fee simple ownership)
- Park Tract 106-04* (Fee simple ownership)

Phase I

Initial Project Commitment and Timeline Requirements:

Pursuant to the terms of the City's RFQ and as modified by Winn's HCD RFQ responses, Winn agrees to comply with Section 1.4 Required Development

Timeline, as refined, as it relates to one specified parcel identified above in Property. Specifically, Winn agrees to begin permitting on a new, ground-up construction building within six (6) months of signing a Master Developer Agreement (MDA) with the City. The six (6) month time frame may be extended by the parties. In the event of an agreed upon extension, the parties will execute an amendment to this agreement. The MDA will define the project and construction details. The project and each project thereafter shall be proposed by Winn, subject to final approval by the City.

Phase II – Subsequent Project Options

Right of First Refusal: The remaining parcels of the Property shall remain owned by the City during the term of the Option Rights. In addition, the City shall have the option to market the individual parcels not transferred to Winn through an exercise of its Option Rights. In the event that the City provides Notice to Winn of a City-proposed alternative development on a particular parcel or parcels, Winn will be granted first right of refusal to pursue the development of the parcel per the expectations of the end user, as secured through the City's and Winn's efforts. City will encourage and support Winn's efforts to undertake said parcel development on behalf of this and all qualified end users. In the event that development terms are secured through a signed purchase agreement, Winn may exercise its Option Rights within 120 days of receiving the Notice ("Response Period") as follows under this Special Procedure:

- Winn must provide Notice to the City that it will exercise its Option Rights for the Property or portion of the Property proposed for City-proposed alternative development. Within 120 days of exercising its option, Winn must close on the Property and adhere to the standard option timeframe as set forth in this agreement.

If Winn fails to exercise its option to purchase the specified parcel(s) then the City shall retain full and unencumbered ownership to sell the parcel(s) to another developer.

Option Rights: In consideration of letter of credit in the approximate amount of \$195,000 to address the 5% performance and payment provisions (terms as agreed to by the parties), representing 5% of the City appraised purchase price for Parcels 8, 9 and 5. It is the understanding of the Parties that the letter of credit is intended as a good faith commitment and shall only secure Winn's good faith effort to pursue the Development in accordance with this Agreement and Winn's January 2016 submission to the RFQ, and shall be fully refundable to Winn if Winn does not proceed with the Development for whatever reason. The City recognizes

that Winn will likely expend significant professional time or funds outside of this Letter of Credit pursuing the Development and agrees that such expenditure shall demonstrate Winn's commitment to the Project. The letter of credit may be canceled upon Winn exercising its rights to terminate this agreement.

Exercise Rights:

Winn shall send a certified letter pursuant to the Notice provisions of this agreement to exercise its purchase option for the Property or any portion thereof. In the event that Winn exercises its option, City agrees to sell and Winn agrees to buy the Property at a Closing Date specified in the Notice, no later than 120 days after the Notice is received by the City, and subject to the terms and conditions set forth in this agreement. Once exercised, Winn must meet the following timelines for each parcel (dates based upon Closing Date):

- Winn shall begin permitting within six months. Beginning permitting shall mean the submission of required permits including, but not limited to, submission to the Lowell Conservation Commission or at least one administrative-level meeting with the Lowell Historic Board's Design Review Committee.
- Winn shall endeavor to, but not be obligated to commence construction within twelve months. The twelve (12) month time frame may be extended by the parties. In the event of an agreed upon extension, the parties will execute an amendment to this agreement. Commencing construction shall mean receiving a building permit application, mobilization and initiation of site work.
- This requirement shall apply to each parcel within the Property and not the Property as a whole.

If Winn exercises its Option Rights for the Property or a portion of the Property and fails to meet the above requirements, to include formal notice and right to cure periods as agreed to by the parties, then the Property or portion of the Property shall revert to the ownership of the City. If property ownership reverts to the City all option and purchase payments shall remain with the City. In the event, that WinnDevelopment fails to meet the deadlines set forth in this Agreement, and fails to satisfy its obligations by the expiration of the cure period, the City shall then have the right to terminate this Agreement, provided however that the City's indemnification and hold harmless obligations shall survive any termination of this Agreement.

Purchase Price:

The purchase price for the Property shall be as defined in RFQ Section 2.7, or as otherwise agreed to by the parties, and shall be subject to future appraisals occurring every 12 months.

Build-out: Development of each part of the Property shall conform to the Hamilton Canal District Master Plan and WinnCompanies HCD RFQ submissions, unless specifically defined differently in this agreement.

Notice: 1) A notice, demand, or other communication under this agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by certified or express mail, postage prepaid, return receipt requested, or delivered personally and:

In the case of the Buyer, addressed to:

Lawrence H Curtis, President WinnDevelopment Company Limited Partnership,
Boston Corporate Office, 6 Faneuil Hall Marketplace, 5th Floor, Boston, MA,
02109.

With a copy to:

Gilbert Winn, CEO, Boston Corporate Office, 6 Faneuil Hall Marketplace, 5th
Floor, Boston, MA, 02109.

In the case of the City, addressed to or delivered personally to:

Kevin J. Murphy, City Manager
City of Lowell
375 Merrimack Street
Lowell, MA 01852-5985

With copies to:

Diane N. Tradd, Assistant City Manager/DPD Director
Department of Planning and Development
50 Arcand Drive, JFK Civic Center, 2nd Floor
Lowell, MA 01852-1025; and

Christine O'Connor, City Solicitor
Law Department –City Hall, 3rd Floor
375 Merrimack Street
Lowell, MA 01852-5986

Or such other persons at such other address as either party may, from time to time, designate in writing and forward to the other as provided in this paragraph

2) Notice of development planning – Each six months, occurring on January 15th and July 15th, Winn shall provide Notice to the City of the Property or portion thereof where Winn proposes to advance development plans in the coming six (6) months. Once notice is received by the City regarding a particular parcel or parcels, the City will refrain from exercising its rights to otherwise seek development projects for the site. At the end of the six (6) month period Winn must exercise its option purchase rights for all listed parcels and meet development timelines associated with exercising option rights contained in the MDA . Nothing herein shall prevent the parties from executing MDAs where notice has not been given (under Winn’s Exercise Rights for its Options).

Expiration Date: If Winn elects not exercise its option hereunder, either by delivering affirmative notice of non-exercise at any time or by simply failing to exercise the option by September 8, 2025 (“Expiration Date”), then the agreement shall be null and void.

Chapter 21E: The environmental condition, if known, of the Property is defined in RFQ Section. 2.6.1. The Chapter 21E statute shall apply throughout the Hamilton Canal District and any existing parcel’s material deemed or classified as hazardous under the Massachusetts Contingency Plan shall be addressed per the statute. WinnCompanies, WinnDevelopment and its affiliates are held harmless and indemnified from all MCP triggering events and all related liabilities during its development work on any parcel. City shall not seek reimbursement for previous remedial actions as part of this agreement.

Winn shall place all parcel purchase payments into an escrow account either at closing or prior to the start of the environmental clean up of the parcel if Winn chooses not to close pending remediation (a unique account shall be set up for each parcel) with joint management with the City of Lowell. All incurred environmental clean-up costs for development parcels (exclusive of LSP services necessitated by the existing AULs on each parcel), certified by a third-party LSP working on behalf of the City, shall be reduced from the purchase price and returned from the escrow account to Winn. All remaining funds in the escrow account, if any, after certification by the City’s third-party LSP of Winn’s environmental clean-up costs shall be paid to the City as the parcel acquisition price. The City’s initial liability to Winn is capped at the purchase price.

Winn shall not be allowed to claim the following as clean-up costs:

- The costs associated with a typical building foundation on Parcel 8 and Parcel 9 (assuming no environmental condition). (NOTE: Winn shall be allowed to claim costs for non-standard foundation construction to achieve site closure required for desired end use.

- The costs, removal or disposal, of material defined as “urban fill” under the MCP that does not trigger new reportable conditions as agreed to by the LSP for each party.

In the event, that clean-up costs for a parcel exceed or are reasonably expected to exceed the cap set forth above, the parties agree to the following as a potential solution:

1. The City will, at Winn’s election, retain ownership of the parcel or, if Winn has acquired the parcel, the City will, at Winn election, re-assume ownership of the parcel.
2. The City will seek and obtain grant funding sufficient to remediate the parcel to meet the City-approved end use proposed by WinnDevelopment. Additionally, the City shall seek all property interests necessary to sufficiently clean the parcel.
3. WinnDevelopment agrees that it shall if Winn deems reasonable to produce, in its sole discretion, deliver all necessary development plans to the City in order for the City and its representatives to proceed with the development and implementation of an appropriate remedial solution.
4. The parties agree that the City shall be afforded the time necessary to both secure the funding necessary, as well as the time necessary to complete all work on its remedial solution.
5. Once the remedial solution is completed, WinnDevelopment or its affiliate will acquire the parcel or reassume ownership.
6. A suitable solution shall be determined on a parcel by parcel basis.

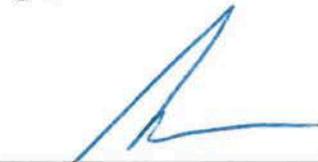
Compliance with US Economic Development Admin. (USED A) Requirements

Commitment: Winn agrees to advance in a manner it deems reasonable at its sole discretion, projects on Parcels 11, 15, and 16 that will create or retain jobs that would otherwise not exist or move overseas in conformity with this agreement. The build-out of the parcels shall be governed by the HCD Master Plan. Winn understands that the infrastructure project partially funded with USED A funds will be complete 36 months after the USED A award.

Projections: Winn previously signed a Beneficiary Information Form (BIF) for the City's grant application to USEDA. Winn agrees to update the jobs created and investment projections from the A.G. Jennings, LLC's memo based on the firm's understanding of the current marketplace. Winn shall break out the jobs and investment projections at the following milestones to the satisfaction of USEDA reporting requirements: September 2019 (approximate completion of the infrastructure project); September 2022; and September 2025. The updated jobs and investment projections shall be included in a new, updated BIF that shall be included as an exhibit to the LDA.

GPRA Reporting: The City shall be responsible for USEDA's required reporting, referred to GPRA reporting. Winn agrees to provide all requested information in a timely fashion to enable the City to meet reporting requirements.

Signed:



Lawrence H. Curtis
President
WinnDevelopment Company Limited Partnership

5-26-16
Date

Kevin J. Murphy
City Manager
City of Lowell

Date



City of Lowell - Law Department

375 Merrimack Street, 3rd Floor • Lowell MA 01852-5909
Tel: 978.674.4050 • Fax: 978.453.1510 • www.lowellma.gov

Christine P. O'Connor
City Solicitor

Kenneth J. Rossetti
1st Assistant City Solicitor

Rachel M. Brown
C. Michael Carlson
Hannah Pappenheim

Elliott J. Veloso
James F. Wellock
Assistant City Solicitors

Memorandum

To: Kevin J. Murphy, City Manager

From: Christine P. O'Connor, City Solicitor

CC: Diane Tradd, Asst. City Manager/DPD Director; Craig Thomas, Chief Design Planner

Date: May 25, 2016

RE: Master Developer Agreement/WinnDevelopment

Pursuant to the attached Master Developer Agreement (Agreement), WinnDevelopment (Winn) has been selected as the Master Developer for nine parcels within the Hamilton Canal District (HCD). Within six (6) months of signing the Agreement, subject to a mutually agreeable extension, Winn agrees to begin permitting on a new, ground-up building. Winn will have a limited right of first refusal on the remaining parcels. This will allow the City to continue to entertain proposals on other undeveloped parcels while Winn is the Master Developer. Winn's development proposals must be in compliance with the HCD's Master Plan and the City's RFQ. All development proposals must also receive final approval from the City. In the event that Winn fails to meet the permitting and construction deadlines set forth in the RFQ and the Master Developer Agreement the City may, after notice and a cure period, terminate the Agreement. The purchase price for each parcel shall be subject to current and future appraisals. Pursuant to the terms of the Master Developer Agreement, both Winn and the City are protected against unforeseen costs associated with environmental remediation efforts.

The City of Lowell

Office of the City Clerk

375 Merrimack Street • Lowell, MA 01852

www.LowellMA.gov

Agenda Item: 2016 / 369

Meeting: **City of Lowell City Council**

Subject: **Misc. -Maurice Mason, Jr. request City Council approval for overhanging sign located at 147 East Merrimack Street.**

Recommendation:

Background:

Attachments:

mason sign

CITY OF LOWELL

PETITION

TO THE
CITY COUNCIL

Maurice Marshall
147 East Burnham St
Lowell, MA

Requesting Sign
@ 147 E. Burnham St

City Council

Mpuy 31, 2016

Read and

May 5, 2016

Michael Geary, City Clerk
City of Lowell
Lowell City Hall
375 Merrimack Street
Lowell, MA 01852

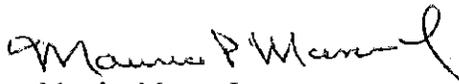
REFERENCE: OVERHANGING SIGN – 147 E MERRIMACK STREET

Dear Mr. Geary:

I am seeking City Council approval to install an overhanging sign for Maurice Mason, Jr. Law Office located at 147 East Merrimack Street. I understand that City Council approval is required as the sign overhangs a public way and that insurance is also required. Your assistance in placing this on the City Council's next agenda to start this process would be much appreciated.

Thank you for your assistance in this matter and if you have any questions, please do not hesitate to contact me at (978)-453-8624.

Sincerely,



Maurice Mason, Jr.
Owner

Enclosure



Date: 05-02-2016

Proof: 1

Customer: Mason Law Offices

Contact:

Maurice Mason

Design: Lisa

7 Summer St Unit 29 - Chelmsford MA, 01824 • p: (978) 459-6088 f: (978) 459-6099 • signarama-chelmsford.com

Note: Actual colors may not be correctly represented by computer monitors or printed proofs. Colors are defined by the digital file used for final production.

Matching of specific colors is also available for an additional fee. Up to 3 proofs are provided free of charge. additional proofs are available for \$25 per proof.

Sign-A-Rama will prepare your order according to your specifications. The customer is solely responsible for proofreading. By approving the proof, you engage contract and approve of its content.



Bracket

QTY:1

Size: 24" dia

DP w/lamination, D/S

3/4" routed PVC

Hanging bracket incl.

Install incl.

The City of Lowell

Office of the City Clerk

375 Merrimack Street • Lowell, MA 01852

www.LowellMA.gov

Agenda Item: 2016 / 372

Meeting: **City of Lowell City Council**

Subject: **C. Mercier - Req. City Mgr. investigate residents' complaints regarding mosquito control and whether to take part in spray initiative/program.**

Recommendation:

Background:

Attachments: