



CITY OF MELROSE

CITY COUNCIL

ORDERS OF THE DAY • AUGUST 22, 2022

Council Chamber, First Floor, Melrose City Hall Special Meeting
562 Main Street, Melrose, MA 02176

7:45 PM

I. CALL TO ORDER

II. READING OF THE MINUTES

III. PUBLIC COMMENT

Remote link for Public Comment:

<https://cityofmelrose->

[org.zoom.us/j/99081483447?pwd=Nm1hT3R1Z3l2cWJ3bTZkdVBzbW1Kdz09](https://cityofmelrose-org.zoom.us/j/99081483447?pwd=Nm1hT3R1Z3l2cWJ3bTZkdVBzbW1Kdz09)

IV. NEW BUSINESS

A. Filings by the Honorable Mayor

B. Filings by the Honorable City Council

V. REPORTS FROM COMMITTEES

1. **ORDER-2023-7** : Disposition of personal property belonging to Melrose Public Library

Offered by: Mayor Paul Brodeur

Sponsored by: Director Linda C.W. Gardener

VI. RULE 53 REPORTS

VII. ADJOURNMENT

VIII. ORDERS



MELROSE PUBLIC LIBRARY

Date: August 9, 2022
To: City Council
Cc: Mayor Paul Brodeur
From: Linda C.W. Gardener, Library Director
Subject: Disposition of Library Property

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The Library Department is requesting permission to dispose of various items that will not be moved to the newly renovated building through a "yard" sale in the vacated library building. Due to the need to completely empty the building in September, prior to construction, we are requesting immediate consideration of this order. The items have been purchased or donated over the years from a variety of sources, including the City, Friends of Melrose Public Library, the Board of Trustees, and individual donations.

Due to the varied nature of acquiring these items, and the connection of this process to the library building project, any funds received will be deposited to the Library Renovation Account, Fund #3390, and will be used to benefit the building project. Items will be offered to other City departments prior to the yard sale. All items remaining will be sold "as is".

Thank you for your consideration of this request.

Attachment: City Council Memo 08.09.22 (ORDER-2023-7 : Disposal of City Owned Property via a Library Sale)



CITY OF MELROSE

City Council

Shawn M. MacMaster
Ward 5

City Hall, 562 Main Street
Melrose, Massachusetts 02176
smacmaster@cityofmelrose.org

August 22, 2022

Dear Ms. Phillips,

I am writing in regards to Order-2023-7, the subject of a Special Meeting of the Melrose City Council scheduled for this evening. While the City Council President may be authorized under the City Charter to call a Special Meeting of the body, an exigent circumstance must exist. This, however, is not the case as it relates to the order in question. In fact, it is quite evident that this Special Meeting is being used as a procedural tool to fast track an order for which the administration desired immediate consideration at the August 15th City Council meeting.

As background, on the evening of August 15th, immediate consideration was sought by Councilor Grigoraitis; Councilor Garipay, however, objected, preventing the Order from being heard at that time in accordance with the Council's Rules of Order. Considering that Order-2023-7 is also scheduled to be heard by the Appropriations Committee this evening (a meeting that will occur *before* the Special Meeting of the full Council) it is clear that the intent of the subsequent Special Meeting is to circumvent Rule 35. This rule elucidates that a measure recommended by a committee "*shall be read a second time at the next full Council meeting and shall then be in order for final action...*" The next full Council meeting (i.e., regular meeting of the City Council) is scheduled for September 12th.

Simply put, the calling of a Special Meeting to address an order that has yet to be voted out of committee is procedurally improper and highly prejudicial. That is, it implies that the order will, or at least should, be voted upon that same evening. As such, it signals to the Council that the Mayor and/or the City Council President wishes for the order to pass at the committee level so that it can be heard at the Special Meeting. Consequently, this expectation subjects the City Council to undue influence in that it 1) Inaccurately suggests a level of urgency behind the order, and 2) Signals an expectation that the order should be voted out of Committee that evening.

At its core, calling a Special Meeting in this case is nothing more than procedural trickery with the explicit intent of advancing the Order for final action before September 12th. Moreover, as the Special Meeting was scheduled *before* the Order has even been entertained at the committee level, it brings with it the veiled pressure of a desired outcome.

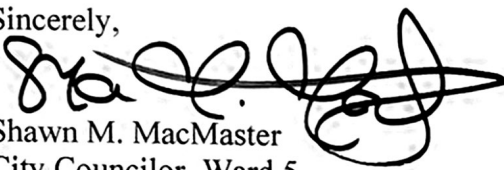
Finally, if the Special Meeting is allowed to proceed as scheduled tonight, it is a forgone conclusion that -- if the Order receives a favorable recommendation -- it will be immediately pulled up from Committee. Because the nature of a Special Meeting evokes a sense of urgency, the Order is thus likely to be entertained, despite the intent of Rule 35, which is to ensure that pending legislation remain for a longer period of time in the public domain.

For all of the reasons cited herein, I do not believe that the scheduling of a Special Meeting to vote on a matter that has yet to be entertained by the Appropriations Committee is procedurally appropriate. As such, I am requesting an independent opinion from you as City Solicitor prior to the

commencement of the Special Meeting. The question I pose to you is as follows: Should the Special Meeting of the Melrose City Council scheduled for tonight, August 22nd be allowed to proceed in light of the concerns raised in this letter?

Thank you for your prompt attention and review of this matter.

Sincerely,



Shawn M. MacMaster
City Councilor, Ward 5
City of Melrose

cc: Mayor Paul Brodeur
President Christopher Cinella
City Council
City Clerk Kristin Foote



Shannon Phillips
 City Solicitor
 SPhillips@cityofmelrose.org

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MEMORANDUM

To: Honorable Melrose City Council

Cc: Kristin Foote, City Clerk
 Andrew Ghobrial, Clerk of Committees

From: Shannon Phillips, City Solicitor

Re: *Special Meeting of the City Council: Order 2023-7*

Dear Honorable Council Members:

Please accept this memorandum as my response to the question posed in a letter by Councilor MacMaster earlier today relative to tonight's Special Meeting.

To summarize, in that letter Councilor MacMaster expressed concerns as to the following: that the scheduling of a Special Meeting to vote on a matter not yet entertained by the Appropriations Committee is procedurally inappropriate; that the calling of a Special Meeting by the Council President absent "exigent circumstances" was improper; and that calling a Special Meeting implies that the above-listed Order will, or at least should, be voted on that same evening.

Therein, he has asked for a legal opinion to Council as to the following:

"Should the Special Meeting of the Melrose City Council scheduled for tonight, August 22nd be allowed to proceed in light of the concerns raised in the letter?"

In my legal opinion, and to answer this question directly, **yes this Special Meeting can proceed**. There have been no procedural missteps that require the cancelling of the Special Meeting scheduled for tonight relative to Order 2023-7.

First, pursuant to Melrose City Charter, and the Melrose City Council Rules of Order, there is no requirement that “exigent circumstances” exist prior to the president calling for a Special Meeting, and no other restrictions on the president’s ability to do so, as long as the relative notice requirements have been met.¹ After reviewing the notice of the Special Meeting as published by the City Clerk’s office, it was published more than 48 hours in advance of the scheduled meeting and listed the item anticipated to be acted upon.

Second, scheduling a vote of Council for an item on the same night that an item has been referred out of Committee is not an unusual or rare practice per the Melrose City Council Rules of Order and recent Council meetings. Rule 35 specifically allows for any councilor to pull a matter from Committee on the same evening it was voted out of Committee with a showing of good cause. As stated in the Commentary to Rule 35 in the Melrose Rules of Order, “this provision accounts for items that may be time sensitive in nature.”² As long as the matter has been previously noticed pursuant to Open Meeting Law provisions on both agendas for the night it is expected to be voted upon, there are no Open Meeting Law concerns.

Finally, the action of calling for a Special Meeting does not implicate or suggest a vote, or specific action to be taken. Rather, the Special Meeting allows for any action on the item in question, as recommended by Committee at tonight’s meeting, to be taken at an earlier date than the next regularly scheduled Council Meeting. If the vote is held in Committee tonight, there are no restrictions preventing the president from cancelling the Special Meeting.

Please let me know should any of you have questions in advance of tonight’s meeting.

Very truly yours,



Shannon Phillips

cc: Paul Brodeur, Mayor (via email)

¹ CITY OF MELROSE, MA, Charter (2019) Article 2, Section 2-6 Exercise of Powers; Quorum; Rules

² *Rules of Order Melrose City Council* (Adopted January 2022).