

Appropriations Committee

Chairman Mortimer, Infurna,
Brodeur, Tramontozzi, Forbes,
McAteer-Margolis, Seaboyer,
Medeiros, Conn, Boisselle
Absent: Wright
In attendance: Health Director Ruth
Clay; City Auditor/CFO Patrick Dello
Russo; City Solicitor Robert Van
Campen; Human Resources
Director Marianne Long

Appropriations Committee called to order by Chairman Mortimer at 7:44 p.m.

Alderman McAteer-Margolis motions to take Order No. 09-134 out of order, 2nd by Alderman Brodeur. All in favor.

Order No. 09-134, TRANSFER Amount: \$24,000.00 From: A/C #019111-511010 - Contributory Retirement, Salaries To: A/C #015112-529000 - Health, Professional Services as set forth herein.

Alderman McAteer-Margolis motions to suspend the rules to have Ms. Clay and Mr. Dello Russo address the committee, 2nd by Alderman Medeiros.

Ms. Clay says this money is to fund the continuation of the process happening at the Hickory Street development and Conservation Commission land at Swain's Pond. Her department is meeting deadlines as required by DEP and this money should last through the end of the fiscal year. Her department is in the process of further evaluating the extent of soil contamination. The report due to the DEP by April 2010 will also include the evaluation of groundwater conditions and an outline of remediation options. The land has to be totally cleaned up by 2013.

Mr. Dello Russo says the funding is coming from available pension funds.

Alderman Tramontozzi asks Ms. Clay if the City has been able to identify any potential cost recovery by third parties. Ms. Clay says no; historically the land has been an informal dumping site by the community. It has always been city-owned land, in a once remote location. Alderman Tramontozzi asks if the City is taking precautions so dumping doesn't happen again, at this location and on other land. Ms. Clay says this property is fenced in; the dumping occurred at the beginning of the last century.

Alderman Brodeur asks if the funds are coming from pension salaries or the payment schedule funds. Mr. Dello Russo says the account is one in the same; they have the same account number. Alderman Brodeur says he can see some flexibility with the money if it's the salary account but he's concerned if it is funding for the payment schedule. Mr. Dello Russo says the state may extend the payment schedule due to the financial crisis. He intends to fund the pension at the funding schedule level – not try to pay more into it.

Alderman Forbes asks if the City is only responsible for the city-owned conservation land. Ms. Clay says yes; the City is not responsible for the privately owned land

Alderman Medeiros asks if the Pension Contributory account is the same one that was discussed last year. Mr. Dello Russo says yes; the Retirement Board has extended the payment schedule. Alderman Medeiros says they are not taking money out of Retirement; Mr. Dello Russo says no.

Alderman McAteer-Margolis asks when the contamination was identified. Ms. Clay says in 2006, when the owner of the private property wanted to develop it. Alderman McAteer-Margolis asks if Phase I is complete; Ms. Clay says yes. Alderman McAteer-Margolis asks Ms. Clay if she thinks these funds will take her through Phases II and III to 2010; Ms. Clay says yes. Alderman McAteer-Margolis asks if the City is looking at these types of issues for another property that is ready to be donated to the City. Ms. Clay says her department has suggested the donor do the investigation.

Alderman Forbes moves to recommend, 2nd by Alderman McAteer-Margolis. All in favor.

Alderman Brodeur motions to join orders 09-132 and 09-133.

Chairman Mortimer says after reading the orders he will look for a motion to go into Executive Session.

Order No. 09-132, APPROPRIATION Amount: \$192,000.00 From: Available Free Cash \$42,000.00; A/C #84062-590000, Suits & Claims Stabilization Fund 150,000.00 To: A/C #011512-544500 - City Solicitor, Suits & Claims \$192,000.00

Order No. 09-133, TRANSFER Amount: \$85,001.15 From: A/C #019111-511010 - Contributory Retirement, Pensions To: A/C #011512-544500 - City Solicitor, Suits & Claims

Alderman Brodeur says that as these orders involve matters of litigation, he motions to go into Executive Session, 2nd by President Boisselle.

Alderman Medeiros asks if the Committee will reconvene in regular session. Chairman Mortimer says yes.

Chairman Mortimer says the Appropriations Committee will go into Executive Session at 8:07 p.m.

Appropriations Committee reconvenes in regular session at 8:49 p.m.

Alderman Brodeur motions to amend each order: the appropriation of funds is contingent upon the full execution of the settlement agreement, 2nd by President Boisselle. All in favor.

Alderman Forbes moves to recommend as amended, 2nd by Alderman Brodeur. All in favor.

Order No. 09-131, APPROPRIATION Amount: \$422,937.00 From: Available Free Cash To: Water Reserve Fund \$252,482.00 Sewer Reserve Fund \$170,455.00 in accordance with Mass. General Laws, Chapter 44, Section 53F 1/2

Alderman Conn says to Mr. Dello Russo that he doesn't recall seeing orders like this one mid-year. Mr. Dello Russo says he is correct; there haven't been orders like this recently. These are funds from FY08. The City hasn't had excess funds to appropriate. Alderman Conn asks how the City came to have an excess. Mr. Dello Russo says an excess occurs when expenses were less than budgeted for or revenues collected were greater than expected. The amount in Water represents 6% of the FY08 Water budget of \$4.2 million; the amount in Sewer represents 3% of the FY08 Sewer budget of \$5.6 million. Alderman Conn asks Mr. Dello Russo if he knows which fact pattern occurred; Mr. Dello Russo says it was a combination of both. Alderman Conn says since receiving the order he has read Chapter 44 and it is his interpretation that the Aldermen may do one of two things: put this money into the reserve funds or use it to reduce user charges. It seems with an excess of \$400,000 that one of the sources of the funds is the rates being paid. The Aldermen may allocate this money to the ratepayers. If the money is put into the reserve funds the City will do more projects; the money should go back to the ratepayers. Alderman Conn asks Mr. Dello Russo if this order may be used as a vehicle to allocate these funds to ratepayers. Mr. Dello Russo says if the Board doesn't vote for this order the funds will close to the Water and Sewer Enterprise Funds. Toward the end of the fiscal year the Aldermen have to vote to send these funds to the Reserve Funds or they will flow to the bottom-line of the Enterprise Funds for the next fiscal year. This order is before the Aldermen because the City Engineer and the Deputy City Engineer have identified projects to do.

Alderman Seaboyer asks when this money is available. Mr. Dello Russo says technically it became available July 1, 2008. Alderman Seaboyer asks if he sees any increases coming from the MWRA. Mr. Dello Russo says he doesn't see the assessment changing this fiscal year; the FY10 water assessment will be 3% less than FY09 and the FY10 sewer assessment will be 8.5% higher than FY09. He says the water projects have worked. Alderman Seaboyer says he agrees with Alderman Conn and would like to see this money help ratepayers.

Alderman McAteer-Margolis asks how much money is currently available in the Reserve Funds. Mr. Dello Russo says zero. Alderman McAteer-Margolis asks if this money may be used to offset the billing gap beginning in FY10. Mr. Dello Russo says it is available to help anywhere in the water and sewer enterprise systems since it is certified. Alderman McAteer-Margolis says that even though there is no money in the Reserve Funds, the City can still do projects. Mr. Dello Russo says the City has been bonding for projects.

Alderman Infurna says this topic is interesting and she hears Alderman Conn's frustration. She has been an Alderman for 12 years; in 6 of them there were no water projects done. She asks if this is recommended and passed, if it could be applied to decrease the rates. Alderman Conn says they can refuse to put this money into the Reserve Funds and use it to help reduce the rates. Alderman Infurna asks if that could happen anyway. Mr. Dello Russo says if the Board doesn't vote in favor of this appropriation, the money by default would go into the enterprise funds. Alderman Infurna asks if it could still be used to help the ratepayers if it passes. Mr. Dello Russo says it would assist the ratepayers by not having to raise money for projects.

Alderman Brodeur says if the Board votes in favor of this appropriation the funds will go

to the Reserve Funds for capital projects; Mr. Dello Russo says yes. Alderman Brodeur asks what will happen when the budgets are presented for water. Mr. Dello Russo says if the Board doesn't act on this order this money will be used toward rates. If the Board votes for this, the money will be applied to projects and the Mayor will ask the Board to vote to bond the rest of the money. Either way, it will come back to the ratepayer. Alderman Brodeur says anything the City borrows impacts the rate. A vote to reject this is not rate relief in and of itself. If the Board votes to bond a project it is reflected in the rates. A vote against this being appropriated to the Reserve Funds is also committing to not adding additional capital expenditures.

Alderman Infurna says the I&I projects have decreased the usage of water, translating into savings to the ratepayer.

Alderman Brodeur asks if the Reserve Funds continue over fiscal years. Mr. Dello Russo says yes; it continues to stay in existence until the funds are appropriated to Capital projects. Alderman Brodeur asks if the Board could vote this money into the Reserve Funds now and then vote the money out to water or sewer rate relief. Mr. Dello Russo says the Board could vote a portion toward the Reserve Funds.

Alderman Medeiros says this could be a once in a lifetime opportunity to provide relief to residents. This money is available in Free Cash and it has to stay in the water and sewer accounts. Mr. Dello Russo says yes – it has to be segregated by law. If the Board does nothing with this order, the money stays within water and sewer and goes toward the determination of the FY10 water and sewer budgets. The reason the Board hasn't seen any money to put into the reserve funds is because the City has been tight in creating the budgets; only what was needed to run the water and sewer systems was raised and no more. Alderman Medeiros says the aldermen don't have the list of projects that have been identified by Mr. Beshara and Mr. Scenna; she thinks it would be more appropriate to have the Administration bring that to the aldermen. She recommends the Board not accept this appropriation now.

Alderman Tramontozzi says this money is surplus funds in the City reserves that have been paid by homeowners – people who paid for water and sewer. It should be returned to them. The Administration is asking that this money be put into Reserve Funds reserved for water and sewer projects. If the aldermen vote to do that, they will send the money not to ratepayers but to projects. The money will not be available to reduce rates. He sees this as surplus money that rightfully belongs to the ratepayers. He asks why the aldermen don't let it sit in the water and sewer funds until the rates are set for next fiscal year – to accomplish that the Board can't vote for the order as written.

Mr. Dello Russo says if the Board of Aldermen intends to do projects, the money will have to be raised to fund those projects.

Alderman Forbes says he would like to remind everyone that when they last ran for office they told the residents that infrastructure was most important. The 75-year-old pipes haven't gotten any younger. People would rather pay a few cents more for water and sewer and have no flooding. The I&I is a great program for sewer as well as water. This is the first season that Ell Pond didn't flood – the project worked. He says he will support this order as written.

Alderman Conn says he and everyone else on the Board voted for both major drainage projects that brought relief to the Towers and Ward 2. Now they have to make a decision about what to do with this surplus money. The revenues didn't match the expenses. This is an opportunity to vote an overpayment back to the ratepayers. Money is not being taken away from projects that have been funded for this year.

Alderman Medeiros says the extra money collected is taxpayers' dollars. People are losing jobs and there is record high unemployment. This is the aldermen's chance to help people out.

Alderman McAteer-Margolis says she has the utmost respect for the professionals in the community who advise the aldermen on projects that could be done. She doesn't feel ready to vote for this without knowledge of the projects that Mr. Dello Russo has referenced.

Alderman Brodeur says if the aldermen vote to move this money to the Reserve Fund it isn't a vote for or against any project. This money may be safely voted to the Reserve Fund where it will sit until a project is approved. If it's going to be rate relief it can't be spent in the budget process.

Alderman Brodeur motions the order Ought Not to Pass, 2nd by Alderman Conn.

On discussion Alderman Infurna asks if the order is time sensitive. Mr. Dello Russo says the Board has until June 30 to appropriate the funds. Alderman Infurna says she would like to see this held in committee.

The motion Ought Not to Pass passes.

Order 09-136, Be it ordered by the Melrose Board of Aldermen that the position of Melrose Liquor Licensing Commissioner in the City of Melrose shall be designated as a "Special Municipal Employee" as that term is defined in MGL, Chapter 268A.

Alderman McAteer-Margolis moves to recommend, 2nd by Alderman Infurna.

Attorney Van Campen says the Melrose Liquor Licensing Commission is fully operational and adopted its regulations on February 25. It's difficult to attract high quality unpaid volunteers to serve on commissions but the City has highly skilled volunteers on the Liquor Licensing Commission. One of the commissioners is an architect designer who has an opportunity to do work for an existing client in Melrose. He can't do that work without being designated as a Special Municipal Employee. By design, certain restrictions remain in effect but a Special Municipal Employee may continue to service private clients unrelated to his/her function as an employee of the City.

President Boisselle asks if one or all members of the Liquor Licensing Commission are being considered as Special Municipal Employees; Attorney Van Campen says all of them.

Alderman McAteer-Margolis asks if, like the Planning Board members, the Liquor Commissioners would have to file disclosures with the Board of Aldermen and the City Clerk. Attorney Van Campen says that is the call of the Board of Aldermen.

Alderman Brodeur asks if state law requires disclosure to the City Clerk. Attorney Van Campen says he believes so.

Alderman Tramontozzi says Attorney Van Campen mentioned that it is difficult to find high quality people to sit on boards and commissions; he doesn't think it's difficult to find good quality independent thinkers. They are ruling on very critical licenses for the City. He thinks the Liquor Licensing Commissioners should remain independent and not do any type of work in the City. The designation as a Special Municipal Employee is a troubling area; the Board of Aldermen has to draw the line somewhere.

Alderman Medeiros says just as when this was discussed with the Planning Board, it makes her uneasy but she can't really find any fault with it. There are many prohibitions within the state law.

Attorney Van Campen says there are two prior Special Municipal Employee designees. One is a municipal employee doing two jobs for the City. In this case, there is one individual who is unpaid by the City and doing work for a private client that has nothing to do with the Liquor Licensing Commission. The likelihood of a conflict is remote.

Alderman Brodeur says he doesn't understand the conflict that made this issue surface. Attorney Van Campen says his work will take him before the Planning Board, the Zoning Board of Appeals, and Site Plan Review. The statute says he wouldn't be able to do that. Alderman Brodeur says the work of the Planning Board and the Liquor Licensing Commission is somewhat related in the way it's been set up. He hasn't figured out how to resolve it.

Alderman Conn says a lot of the problem with the designation is that it's being done on a case-by-case basis. He has asked two City Solicitors how their cities handle it; all board and commission members are designated as Special Municipal Employees. He would like to see if any or all board and commission members in the City of Melrose should get special status.

Alderman McAteer-Margolis asks if there are any restrictions on the commissioner's firm if the Board of Aldermen chooses not to pass this. Attorney Van Campen says it depends on his relationship with the firm; as partner or owner, the firm would be restricted.

On the motion to recommend, one opposed (Tramontozzi).

Order No. 09-138, A Resolution by the Melrose Board of Aldermen that the City institute a hiring freeze until such time as the City budget for fiscal year 2010 has been voted and the current economic crisis has abated as set forth herein. (AL-2), (A-2)

Alderman Brodeur motions to suspend the rules to allow Ms. Long to address the committee, 2nd by Alderman McAteer-Margolis. All in favor.

Ms. Long says she is here primarily to provide information. She assumes there may be questions that arise. On January 21 the Mayor asked her to send an email to Department Heads. Based on the reduction in local aid he would implement a hiring

freeze based on a position-by-position analysis. If a position became available the department head would meet with her and Mr. Dello Russo to determine if that position was a revenue generating position.

Alderman Conn says he wants to point out that he is seeking a hiring freeze with two exceptions: situations in which failure to fill a position constitutes an emergency or failure to fill a position will cost more than the salary and benefits of said position. He thinks it is important not to fill positions that are not essential.

Alderman McAteer-Margolis asks if there are currently any openings in the City. Ms. Long says there are fire fighter openings. Alderman McAteer-Margolis asks if there are any openings within the City budget. Ms. Long says there was a retirement in the Treasurer/Collector's Office. After looking at the budget and the needs of the department it was determined that there would be a cost savings to the City to promote someone to that position and to fill the vacant position at Step 1. Alderman McAteer-Margolis asks if there is a freeze on other expenditures. Mr. Dello Russo says the FY10 budget will be less than the budget the aldermen voted for in FY09. The Administration is looking not to create an unnecessary liability in contracts, health insurance and pension in FY11 and FY12. He says efforts to consolidate, cut costs and restructure have to continue.

Alderman Medeiros says this order is a resolution; the aldermen can't create a hiring freeze.

Alderman Conn says this is a well-run City; the resolution is expressing a sentiment that the Board of Aldermen would like to see a hiring freeze.

Alderman Brodeur moves to recommend, 2nd by President Boisselle; one opposed (Forbes).

Alderman Brodeur motions to adjourn, 2nd by Alderman Forbes. All in favor.

Appropriations adjourns at 10:20 p.m.

Maribeth Harrington
Clerk of Committees