

SPECIAL MEETING OF THE CITY COUNCIL**June 27, 2024**

The meeting was called to order by President Murphy-Romboletti at 5:32 PM

President Murphy-Romboletti called the roll. Absent Members: 0 Present Members 11 (Anderson-Burgos, Bartley, Devine, Givner, Greaney, Jourdain, Murphy-Romboletti, Ocasio, I. Rivera, J. Rivera, Sullivan, Vacon). Present Members on Zoom 1 (Magrath-Smith)

The Pledge of Allegiance was recited.

Motion was made and seconded to take a roll call vote that for the purposes of this meeting would be applicable to all motions to receive, refer items to a committee, remove items from the table, place items on the table, package items together, comply with items, or suspend the rules, unless there is an objection. Motion passed.

LAI D ON THE TABLE

Councilor Devine made a motion to suspend the necessary rules to take up items 1 through 10 as a package. Councilor Anderson-Burgos seconded the motion.

Councilor Sullivan asked if that motion would mean the Council would not be voting on each item individually.

President Murphy-Romboletti stated that would be how it goes.

Councilor Sullivan stated that he would not support the motion.

Councilor Vacon suggested going in regular order, noting that the agenda had very dissimilar items.

Councilor Greaney also stated that they were individual items that should be taken up individually.

Councilor Devine withdrew her motion.

Motion was made and seconded to remove item 1 from the table.

The Committee on Finance to whom was referred an order that there be and is hereby appropriated by transfer in the fiscal year 2024, ONE HUNDRED FIFTY THOUSAND AND 00/100 Dollars (\$150,000) as follows:

FROM:

12101-51103 CAPTAINS \$40,000

12101-51117 DISPATCHERS 80,000

12101-51920 QUINN BILL 30,000 TOTAL: \$150,000

TO:
19412-57630 CLAIMS & DAMAGES \$150,000 TOTAL: \$150,000

have considered the same and Recommended that the order be referred to City Council without recommendation.

UNDER DISCUSSION:
Motion was made and seconded to pass the first reading.

Councilor Devine expressed her understanding from previous discussions that some councilors wanted this to be taken out of the Police Department budget and that was what this order did.

Councilor Bartley asked what the claim was for.

President Murphy-Romboletti stated that this was laid on the table to reconsider. She added that topics related to this order were discussed in executive session.

Councilor Bartley asked if there was a complaint, lawsuit, or petition that this was related to. He then stated that he was not aware of a specific lawsuit that had been filed, without going into specifics.

President Murphy-Romboletti stated that items discussed in the last two executive sessions were related to settlements that needed to be appropriated.

Councilor Bartley stated that is what he thought it was. He then stated that he had not seen anything specific, such as a proffer. He then questioned approving without any formal lawsuit, adding that he thought this was getting ahead of it.

Councilor Vacon suggested that if a payment would be made to claims and damages, it should be reported out in the proper time so that the public would know how public funds were being spent.

Councilor Sullivan asked Atty Bissonnette when this information would be out of executive session and the public would be made aware.

Atty Bissonnette stated that once matters in executive session are concluded, the minutes are to be released at the earliest possible opportunity. He noted that this appropriation was not for a specific settlement but to fund a claims and damages account for which there were several matters pending, one that was discussed extensively three times in executive session. He emphasized that an alteration was made to change where the funding was coming from. He further explained that if this was not approved, the funds in the Police Department budget would convert to free cash.

Councilor Sullivan asked when the public would be made aware of how it was spent if this transfer was approved that night. He added that everyone knew this was for one settlement and not a group.

Atty Bissonnette stated that the settlement would be filed with the city, made available to the City Clerk's office, and a copy would be provided to the Council. He added that he was uncertain what additional financial transfers would be needed to complete this case, so there may be other opportunities to discuss this further.

Councilor Greaney asked for confirmation that there was no nondisclosure agreement, and that the information would go to the public.

Atty Bissonnette confirmed that was accurate. He added as a part of the state police board views all misconduct complaints, there was a provision that no longer allowed municipalities to shield these types of settlements from the public.

Councilor I. Rivera expressed his understanding that a lot of this information was available to the public via the state website and would become public knowledge once POST (Massachusetts Peace Officer Standards and Training Commission) posts it on the state website. He added that until POST got the information, he believed everything else had to be on pause and the city would have to wait until POST released it.

Councilor Devine asked if the city would be liable for future lawsuits if this was not passed that night.

Atty Bissonnette stated that while he could not predict why people might sue a municipality, the city had been made aware of pending litigation and the city was attempting to negotiate that claim and settle it through mediation. He added that the likely amount of the settlement would be much less than if this case were to go to trial.

Councilor Devine asked how many votes would be necessary to pass this.

Atty Bissonnette stated that this transfer, because it was occurring within two months of the end of the fiscal year, required a majority. He added that in the normal course, an interdepartmental transfer would be a two-thirds majority. He added that DOR (Department of Revenue) had confirmed that.

Councilor Magrath-Smith asked if the Council would have to move the funding out of the claims and damages line items once the settlement is finalized.

Atty Bissonnette stated that it would be funding the account until there is a settlement.

Councilor Magrath-Smith asked if the Council would have to approve moving the funding to the settlement once finalized.

Atty Bissonnette stated it would not as long as there were sufficient funds for the settlement.

Councilor Jourdain expressed curiosity with the number of votes required. He emphasized that these were appropriated funds in one department going to another appropriated purpose in another department. He suggested that would require a two-thirds majority vote.

Atty Bissonnette stated that was not true in the last two months of the fiscal year.

Councilor Jourdain stated that section 49 of the charter specifically required that.

Atty Bissonnette stated that anything in the charter was superseded by state law.

Councilor Jourdain asked for the law citation. He also referenced Chapter 44, section 33B.

Atty Bissonnette stated that the Council was sent a memo on this from Atty Mantolesky.

Councilor Jourdain stated that he did not recall that memo. He added that the Council had plenty of transfers that came in during the last two months of the fiscal year. He reiterated that the charter's section 49, as well as Chapter 44, section 33B, was crystal clear that any appropriated funds required a two-thirds vote. He also referenced Section 22.

Atty Bissonnette stated that he would go with DOR's guidance, which stated that during the last two months, in order to clear the books, only a majority was required for interdepartmental transfers. He added that his position was that this would override the charter.

Councilor Jourdain asked for a copy of that.

Atty Bissonnette stated that he would provide a copy just as he had done the last time a copy was asked for the previous week.

Councilor Jourdain stated that was related to a different law. He asked if the administrative assistant had a copy of the memo.

President Murphy-Romboletti asked if he was referring to the one from Atty Mantolesky.

Councilor Jourdain stated that supposedly there was something from Atty Mantolesky saying the charter was overridden by state law.

President Murphy-Romboletti stated that the administrative assistant could look but probably would not have it ready right away.

Councilor Jourdain acknowledged that he wouldn't have been prepared for it. He reiterated that there were two state laws on transfers. He added that 33A may also be relevant.

Councilor Vacon noted that this was taken up at the last meeting, failed to gain 9 votes, and then the motion was made to table it to then be taken up at this meeting. She then stated that as it required 9 votes at the last meeting, it would logically require 9 votes at this meeting.

Atty Bissonnette asked if that had been an 8-3 vote.

Councilor Jourdain stated that it was.

Atty Bissonnette stated that 8 was more than two-thirds of 11.

Councilor Jourdain stated that it was two-thirds of the body.

Councilor Vacon stated that it was deemed to have not passed because it did not acquire two-thirds.

Councilor Jourdain reiterated that the Council reconsidered its action and laid it on the table, and now the Council was back at first reading.

Councilor Devine expressed her understanding that a legal form was provided at the last meeting regarding a two-thirds vote of those present.

Councilor Jourdain stated that was on ordinance adoptions.

President Murphy-Romboletti agreed that was for ordinance changes.

Motion was made and seconded to pass the second reading.

Councilor Jourdain cited Section 22 of the charter, with a provision stating, "Any ordinance, order, resolution or vote involving the appropriation or expenditure of money to an amount which may exceed two hundred dollars, shall require for its passage the affirmative votes of a majority of all the members of the city council. Every such ordinance, order, resolution or vote shall be read twice, with an interval of at least three days between the two readings, before being finally passed; and the vote at its final passage shall be taken by roll call; provided, however, that upon and after the written recommendation of the mayor the city council may pass such ordinance, order, resolution or vote on the same day by a two-thirds yea and nay vote." Her added that this passage cited the Special Acts of 1992. He also noted that this was also in the City Council rules. He further noted that two legal opinions on the topic, one from 2022 and another from 1993, stating that it would be two-thirds if both readings were done on the same night.

Councilor Vacon asked as a point of order for the chair to rule whether or not it required 9 votes.

Councilor Devine asked if Atty Bissonnette could provide advice.

President Murphy-Romboletti stated that some people didn't agree with Atty Bissonnette. She then stated that she had not gone to law school but had read the rules.

Councilor Givner stated that an email 10 days earlier provided ordinance language from Atty Mantolesky that did say passages of ordinances requiring two-thirds vote of the City Council unless otherwise mandated by MGL or the charter.

President Murphy-Romboletti emphasized that was for the charter.

Councilor Givner stated that she had been looking online to see if state laws trump municipal laws and was finding things that say they do. She then stated that while she understood both sides, she was hearing clearly the point about the last two months of the fiscal year and that state laws override the local charter.

Councilor Vacon stated that her question was still on the floor. She then stated that at the last meeting, which was in the same window of time, the same vote was ruled that it did not pass because it did not achieve a two-thirds vote. She expressed concern that there were different rules for two different meetings. She reiterated her request for the chair to rule.

Councilor I. Rivera expressed concern that things were being pulled in different directions, and things were being cited because the Council was not in agreement. He suggested that this was not productive as a Council or for the community. He added that if the City Solicitor had an opinion that was not brought up in the prior meeting, it may have been a mistake. He then emphasized that these people were hired for a particular role for a particular profession and hiring them means that faith is being put in them. He then expressed his belief that state law superseded the city unless the city was making something stronger or impeding the process to move forward.

Councilor Greaney asked what would happen if this was appropriated based on a simple majority vote and it turned out it did require a two-thirds vote. He suggested that logic said it should come back.

Councilor Anderson-Burgos read from Section 22 and added that it was now not the same day.

Councilor Devine called the question. Councilor Givner seconded the motion.

President Murphy-Romboletti stated that she came in believing this was not the first reading. She recalled former Councilor McGiverin making similar arguments in the past. She also emphasized the importance of taking the legal advice of someone who had been looking at what the state was passing. She then ruled that it would require a simple majority of 7 voted.

Councilor Bartley raised a point of order that a vote had just been taken to pass the first reading, which would mean there would now be two readings in the same night. He added that he had never heard about not requiring two-thirds during the last two months of the fiscal year. He reiterated that it must be recognized that the first reading was just voted on.

President Murphy-Romboletti agreed and ruled that it would be 9 votes. She noted that Councilor Magrath-Smith had to leave.

---> Passed two readings and Denied on a call of the roll of the yeas and nays--Yeas 7--Nays 5 (Bartley, Greaney, Jourdain, Ocasio, Vacon)--Absent 1 (Magrath-Smith).

COMMUNICATIONS

(35:30)

Letter from Mass Division of Local Services (DLS) re: 2024 Free Cash Certification
---> Received and referred to the Finance Committee.

Letter from Mayor Joshua A. Garcia re: FY2024 Free Cash Transfer Requests
---> Received and referred to the Finance Committee.

MOTIONS, ORDERS AND RESOLUTIONS

(37:00)

Councilor Devine asked what would happen to these transfers since the letter regarding the free cash transfers was just sent to Finance.

Atty Bissonnette stated that they were now eligible for appropriation as free cash had been certified. He added that should they not be adopted, the \$1.1 million would be converted to free cash for the next year.

Motion was made and seconded to suspend the necessary rules to allow Mayor Garcia to address the Council.

Mayor Garcia stated that the letter was just a communication summarizing what the transfer orders were for. He then expressed appreciation to the Council for attending a special meeting to get through these orders. He then reiterated that should the funds not be moved, they would not be accessible until the same time next year. He then explained that the \$427,347 request to transfer to the opioid fund was due to the settlement funding initially going into the general fund and now being converted into free cash, so this was putting it into the appropriate account. He suggested the transfers for OPEB and the general stabilization accounts should be straightforward. He noted that the stabilization account currently had around \$740,000, and this would bring it close to \$1 million. He then examined that some orders would be filed late to make capital related investments. He then stated that the contracted services transfer was for studies and consultant work, including conducting the police chief search. He then explained that the \$299,775 for the cruisers had been requested by the Police Chief's, but he cut it with the intent of treating it like a capital expense to avoid raising the funds through taxation. He noted that Capt. Cruz was available for questions on that.

Councilor Greaney asked why the transfer to capital stabilization.

Mayor Garcia stated that he heard from councilors in the past that the general stabilization should be an emergency account to be used as a last resort. He noted that in meetings with the rating agencies, they looked favorably toward having that account in addition to having a regular stabilization as they looked at it as smart budgeting.

Councilor Greaney asked if that account was completely flexible.

Mayor Garcia clarified that it would still have to come before the Council to use funds out of there. He then stated that the transfer would bring it to around \$916,000. He noted that he asked departments to bring a list of needs to him. He stated that they would be submitting orders from those requests in August.

Councilor Vacon, noting the advice the city gets on funding the emergency stabilization, asked if the outside auditors made recommendations on how much should go into capital stabilization.

Mayor Garcia stated that in the financial policies manual, they outlined a percentage that they planned to put into various accounts. He added that there was a commitment to invest in each account, including around 20% for capital stabilization.

He added that they while they were only transferring \$5,000 to OPEB, they were keeping it on the radar and planned to invest more into that in the future.

Councilor Jourdain asked if there was clarification on if the capital stabilization was considered a special purpose account, and would it be a majority, or two-thirds vote.

Mayor Garcia stated that it was a special revenue which came with a special rule on being a majority vote, but he had discussed with the Law Department the idea of creating a local ordinance that would make it require a two-thirds vote to appropriate out of it. He suggested the language could be put into the financial policies manual that was still waiting to be discussed in committee for adoption.

Councilor Jourdain noted that those transfers tended to be unanimous anyway.

DEVINE - Ordered, That there be and is hereby appropriated by transfer in the fiscal year 2024 from fiscal year 2024 free cash a sum of TWO HUNDRED FORTY SIX THOUSAND SEVEN HUNDRED SEVENTY FIVE AND 00/100 DOLLARS (\$246,775) as follows:

FROM: FY2024 Free Cash

TO: 8811-10400 Capital Stabilization

To the City Council:

I hereby recommend the passage of the above order at the meeting of your Council to be held Tuesday, June 27, 2024.

Joshua A Garcia, Mayor

---> Passed two readings and Adopted on a call of the roll of the yeas and nays--Yeas 10--Nays 2 (Greaney, I. Rivera)--Absent 1 (Magrath-Smith).

DEVINE - Ordered, That there be and is hereby appropriated by transfer in the fiscal year 2025 from fiscal year 2024 free cash a sum of TWO HUNDRED NINETY-NINE THOUSAND EIGHT HUNDRED TWENTY AND 00/100 DOLLARS (\$299,820) as follows:

FROM: FY2024 Free Cash

TO: 12103-58000 Police Capital Outlay Vehicle - Installment Payment 6 Cruisers

To the City Council:

I hereby recommend the passage of the above order at the meeting of your Council to be held Tuesday, June 27, 2024.

Joshua A Garcia, Mayor

UNDER DISCUSSION:

Motion was made and seconded to suspend the necessary rules to allow Capt. Cruz to address the Council.

Capt. Cruz clarified that it was supposed to be 3 cruisers. He then explained that if they would be fully marked 2025 cruisers, each totaling \$102,000. He then stated that the cruisers initially arrive all in black, requiring the department to then have the doors and roof painted white, as well as lettering decals added to them. He also stated that they were equipped with two radios, including the associated antennas, wiring, and installation. He added that they were equipped with laptop computers, along with their associated antennas and installation. He also stated they had to pay for installation of lighting and rifle

storage. He also stated they all came with medical bags and emergency equipment. He added that they had to pay for the emergency lighting. He added that they had previously purchased 2022 cruisers from Marcotte, but those were no longer available, requiring them to buy 2025 cruisers.

Mayor Garcia stated that when the budget was put together, it was expected to be \$299,820 and they only learned it would be \$306,000 after the agenda was posted. He stated they could find the difference elsewhere.

Councilor Greaney expressed his support.

Councilor Sullivan asked for clarification of the language in the order that stated it was an installment payment.

Mayor Garcia stated that it was not installment payments but deferred to Capt. Cruz to explain.

Capt. Cruz stated they would be buying them outright.

Councilor Sullivan stated that made more sense.

Councilor I. Rivera asked what would happen to the older cars if buying them outright was going to become the common practice.

Councilor Devine made a motion to amend the order to clarify it was for 3 cruisers and not 6. Councilor Bartley seconded the motion.

Councilor Bartley stated that while he understood the addons, this was essentially an SUV painted black with all sorts of fixtures. He questioned how \$102,000 was possible, adding that it seemed incredibly excessive. He noted that no quote had been provided and he did not feel comfortable voting for this.

Councilor Vacon asked what the price of the base vehicle was.

Capt. Cruz stated that he was not involved in the negotiations and had only been brought into the loop the previous night.

Councilor I. Rivera asked if this would be outlined in the police budget.

Mayor Garcia stated that it would be shown in the capital outlay account.

Councilor I. Rivera asked if it would be a separate page in the police budget.

Mayor Garcia stated that it would be shown as part of the Police Department budget.

Councilor Greaney asked Mayor Garcia if he could explain the \$102,000 per cruiser. He noted that he had not been involved in the procurement process other than getting the number once the departments do their work.

Atty Bissonnette stated that it was from a state procurement list.

---> Passed two readings and Adopted on a call of the roll of the yeas and nays--Yeas 10--Nays 2 (Bartley, I. Rivera)--Absent 1 (Magrath-Smith).

DEVINE - Ordered, That there be and is hereby appropriated by transfer in the fiscal year 2025 from fiscal year 2024 free cash a sum of FOUR HUNDRED TWENTY SEVEN THOUSAND THREE HUNDRED FORTY SEVEN AND 00/100 DOLLARS (\$427,347) as follows:

FROM: FY2024 Free Cash

TO: Opioid Special Revenue

To the City Council:

I hereby recommend the passage of the above order at the meeting of your Council to be held Tuesday, June 27, 2024.

Joshua A Garcia, Mayor

UNDER DISCUSSION:

Councilor Devine stated that the Mayor's letter described the reason for the transfer.

Councilor Vacon expressed her understanding that as a special revenue account, the Mayor would be able appropriate these funds for different programs as he saw fit. She then asked how he planned to communicate with the Council and the public on this.

Mayor Garcia stated that he planned to put together a committee to navigate use of these funds. He stated that he welcomed any opportunity to discuss this with the Council and hear any ideas.

---> Passed two readings and Adopted on a call of the roll of the yeas and nays--Yeas 7--Nays 5 (Bartley, Greaney, Jourdain, Ocasio, Vacon)--Absent 1 (Magrath-Smith).

Motion was made and seconded to suspend the necessary rules to take up items 7 through 10 as a package.

Councilor I. Rivera raised a point of order, noting that a motion had been made at the beginning of the meeting to package items together and some did not like that, and asked why this was now being done.

President Murphy-Romboletti clarified that a motion was made earlier, some did not want to do that, and now they were changing their mind to do it now as the will of the body.

DEVINE - Ordered, That there be and is hereby appropriated by transfer in the fiscal year 2025 from fiscal year 2024 free cash a sum of FIVE THOUSAND AND 00/100 DOLLARS (\$5,000) as follows:

FROM: FY2024 Free Cash
TO: 7010-10400 OPEB Trust Fund

To the City Council:

I hereby recommend the passage of the above order at the meeting of your Council to be held Tuesday, June 27, 2024.

Joshua A Garcia, Mayor
---> Passed two readings and Adopted on a call of the roll of the yeas and nays--Yeas 11--Nays 1
(Greaney)--Absent 1 (Magrath-Smith).

DEVINE - Ordered, That there be and is hereby appropriated by transfer in the fiscal year 2025 from fiscal year 2024 free cash a sum of TWENTY THOUSAND AND 00/100 DOLLARS (\$20,000) as follows:
FROM: FY2024 Free Cash
TO: 8810-10400 Stabilization

To the City Council:

I hereby recommend the passage of the above order at the meeting of your Council to be held Tuesday, June 27, 2024.

Joshua A Garcia, Mayor
---> Passed two readings and Adopted on a call of the roll of the yeas and nays--Yeas 11--Nays 1
(Greaney)--Absent 1 (Magrath-Smith).

DEVINE - Ordered, That there be and is hereby appropriated by transfer in the fiscal year 2025 from fiscal year 2024 free cash a sum of ONE HUNDRED THOUSAND AND 00/100 DOLLARS (\$100,000) as follows:
FROM: FY2024 Free Cash
TO: 11212-53009 Mayor Contracted Services: Ongoing Projects and Trainings

To the City Council:

I hereby recommend the passage of the above order at the meeting of your Council to be held Tuesday, June 27, 2024.

Joshua A Garcia, Mayor
---> Passed two readings and Adopted on a call of the roll of the yeas and nays--Yeas 11--Nays 1
(Greaney)--Absent 1 (Magrath-Smith).

DEVINE - Ordered, That there be and is hereby appropriated by transfer in the fiscal year 2025 from fiscal year 2024 free cash a sum of NINETY SIX THOUSAND SEVEN HUNDRED EIGHT AND 00/100 DOLLARS (\$96,708) as follows:

FROM: FY2024 Free Cash
TO: 8812-10400 Sewer Stabilization

To the City Council:

I hereby recommend the passage of the above order at the meeting of your Council to be held Tuesday, June 27, 2024.

Joshua A Garcia, Mayor

UNDER DISCUSSION:

Councilor Jourdain commended the Mayor for making contributions to the OPEB Trust Fund, adding that the stabilization was a no-brainer, the projects were good, and the sewer fund transfer showed that the city ran a surplus in that fund. He then stated that there were all non-controversial while the others were clear why some would have wanted to pull those out.

Councilor Greaney stated that he would be voting no on these because he felt they should have been taken up individually.

Councilor Bartley stated that while he understood Councilor Greaney's point, he believed these were all admirable and made a lot of sense. He questioned how item 6 passed with only 7 votes but would choose not to make a big deal about it.

Councilor Vacon stated that she was pleased to see retained earnings in the sewer fund, noting that some on the Council lobbied hard to keep the current rate.

Councilor I. Rivera also stated that he appreciated seeing free cash in the sewer.

---> Passed two readings and Adopted on a call of the roll of the yeas and nays--Yeas 11--Nays 1 (Greaney)--Absent 1 (Magrath-Smith).



Adjourned at 6:45 PM