



## SPECIAL MEETING OF THE CITY COUNCIL

September 20, 2023

The meeting was called to order by President McGee at 6:06 PM

President McGee called the roll. Absent members: 0 Present Members in person 10 (Anderson-Burgos, Bartley, Givner, Jourdain, McGiverin, Murphy-Romboletti, Puello, Rivera\_I, Tallman, Vacon). Present Members on Zoom 3 (Maldonado Velez, McGee, Rivera\_J)

President McGee stated that Acting Chair McGiverin would run the meeting as he was able to be there in person and it would make it a smoother process.

The Pledge of Allegiance was recited.

Acting Chair McGiverin stated that while the president was in attendance on Zoom, it was his choice to have someone run a meeting for him.

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 committee, remove items from the table, place items on the table, package items together, or suspend the rules, unless there is an objection.

Councilor Jourdain made a point of parliamentary inquiry, noting that a special meeting notice was required to be received in the mail by every councilor at least 48 hours in advance and/or served at their homes 24 hours in advance. He then asked if anyone else received a notice in the mail.

Councilor Rivera\_I stated that he received an email.

Councilor Givner stated that she also received notice by email.

Councilor Jourdain presented the state law that required proper noticing of special meetings. He added that it was in Rule 3F of the City Council rules. He then suggested that the meeting was not properly noticed and should be rescheduled.

Councilor Murphy-Romboletti asked if rules supersede...

Councilor Jourdain stated that this was in the charter.

Councilor Rivera\_I stated that he had not received letters for any of the other special meetings during this term, but the meetings had been held. He suggested that bringing this up now was using it as a weapon when it happened been brought up before.

Councilor Jourdain objected to holding the meeting in light of the charter and the rules.

Councilor Givner made a motion to suspend the necessary rules to take up item 4 out of order.

Acting Chair McGiverin stated that he would defer a ruling on the objection to President McGee.

President McGee stated that while he understood the argument, his understanding that as long as it was posted, it was sufficient under the open meeting law, and it should be able to go forward.

Acting Chair McGiverin noted that there was unanimous attendance by the full City Council. He added that while the language did not suggest an email would suffice, there were no emails when the language was written. He then emphasized that that President McGee had made a decision.

Councilor Jourdain suggested that the Law Department speak on the matter. He then emphasized that rules were required to be followed. He added that there had been issues with special meeting notices in past terms. He then stated that the rule should always be followed, and that it challenged the entire validity of the meeting. He added that we cannot pick and choose which laws get followed. He then explained that there was a way to file in order to change the language of the charter. He also emphasized that this was in addition to the open meeting law. He then read from rule 3F:

*The Mayor or President of the City Council may at any time call a Special Meeting of the Council, by causing written notification thereof, together with a statement of the subjects to be considered thereat, to be delivered to the City Clerk and deposited in the Post Office, postpaid and addressed to each member of the Council, at least forty-eight (48) hours before the time set for the meeting (See 1965 Mass. Acts c. 187) Such notice shall likewise be posted in compliance with the open meeting law of the Commonwealth of Massachusetts.*

He then summarized that councilors had to receive mailed notice at least 48 hours in advance of delivered in person at least 24 hours at usual place of residence.

Acting Chair McGiverin noted that the original copy was received in the Clerk's office on September 14th. He then suggested that the purpose of the rule was to ensure that any member of the body was notified in a timely fashion to avoid something happening quick that they may not know about. He reiterated that there was unanimous attendance, and that everyone was notified by email.

Councilor Givner suggested that when remote meeting laws were approved, that included email notifications. She also suggested that the 48 rule was likely about how long it took to mail things, emphasizing that email was much quicker.

Acting Chair McGiverin asked Atty Bissonnette to weigh in on the question.

Atty Bissonnette stated that while he appreciated the point, he believed the opportunity to be heard underlies all of the open meeting law for those who would want to attend and participate. He then noted that everyone in attendance indicted awareness that there was a meeting being held. He suggested that notice was provided sufficient to meet the requirements of section 12 of the charter as well as the City Council's rules. He also noted that a two-thirds vote could be taken to suspend any of the rules.

Councilor Jourdain stated that the law explained was sufficient notice was, and that the charter could not be suspended. He added that rule 3F was just an adaptation of a part of the charter adopted in 1965 that said how notice was to be provided. He then questioned if notice was mailed at all. He then expressed concern that rules in the charter were just being waived off like they don't exist.

Councilor Murphy-Romboletti stated that while the discussion was focused on enforcing rules, she had concern that the decorum rule was not being followed. She observed that she had seen many times over the past 18 months when some choose the rules, or not choose which ones to follow, or which ones can be used in someone's favor, or when to use them against others. She noted that councilors had been notified about special meetings via email in the past and it was not a problem. She then stated that she

would file an order to update the rule. She then suggested that using the charter to slow down government was not the way it was intended. She also suggested that this in terms of anyone claiming to be a fiscal watchdog, this was not fiscally responsible.

Councilor Rivera\_I stated that he could be home with his kid and had not wanted to meet this evening but made the time because he knew this had to be done. He then expressed frustration that a technicality was being used. He questioned what the purpose was. He suggested that people should be able to disagree without trying to hold things up and keeping government from working effectively and efficiently.

Councilor Jourdain stated that in reference to concern about decorum, he did not make personal statements about anyone.

After a brief interruption, Acting Chair McGiverin emphasized that only one person would be speaking at a time.

Councilor Jourdain stated that he understood the rules and pays attention, and points things out when they need to be. He then reiterated that the meeting was not properly noticed. He then emphasized that his knowledge of the rules came with experience. He added that while others think the rules can be overlooked, the validity of the meeting was in question. He then stated that the rules needed to be understood for the future.

Acting Chair McGiverin clarified that the meeting agenda was sent on September 14th and that all city councilors had received a copy of it. He added that the first two councilors to respond that they would be there were himself and Councilor Jourdain. He added that while he understood what the language said, having unanimous attendance spoke for itself.

Councilor Rivera\_J stated that while she understood the law, everyone was notified. She then stated that she was in Dallas on a work training and stepped out for this meeting. She noted that 27 minutes had been wasted already going back and forth on how everyone was notified.

Councilor Givner made a motion to suspend the necessary rules to take up item 4 out of order. Andersn-Burgos seconded the motion. Motion passed.

The Committee on Ordinance to whom was referred an order That the City Council adjust the Sewer Rate ordinance. Recommended that the order be adopted, with a recommended rate of \$8.02.

#### UNDER DISCUSSION:

Councilor Vacon stated that the committee's report was provided at the last meeting. She then explained from the minority's report was that there was outstanding information they were waiting for, including the final budget for the enterprise fund. She noted that several rates had been proposed, including \$8.58, \$7.87, and now \$8.02. She added that she filed an order asking for an estimate of street sweeping costs which could not be taken up as it was not on the agenda. She then expressed her understanding that Veolia was still working up the costs. She reiterated that they did not have complete information to take the vote.

Councilor Jourdain recalled at the last meeting, the rule requiring legal form be provided at least 48 hours in advance was discussed. He noted that the legal form for this was sent this afternoon, two hours before the meeting. He noted that one person can object according to the rule. He then stated that he would not object, but it was discussed at the last meeting. He noted that this was happening all the time on the legal forms.

Acting Chair McGiverin stated that regarding the legal form, it was received last week but was not passed on to members until yesterday. He then emphasized that the scrivener's error of \$8.02 was corrected as the only difference from what was sent two weeks earlier. He reiterated that the Law Department passed it on, and that it just hadn't passed through the administrative assistant.

Councilor Jourdain stated that he received his that day. He then expressed his intent to speak to the merits of the issue. He also noted that he could object to having all three readings on the same night. He then suggested that increasing fees should be a matter of last resort. He expressed a concern that this was about raising an additional \$600,000, putting cityside expenses into the fund. He suggested that services such as street sweeping, culvert repair, and MS4 work should not be paid out of the sewer fund. He added concern that it was setting a precedent in that Prop 2 1/2 was meant to protect residents from over taxation. He suggested that burying city services into the sewer fund would lead to it increasing beyond what was necessary. He added that it was not clear, even among the department's leadership, what all of the expenses were. He added that this request was on top of two additional bond requests coming soon for additional work that needed to be done, leading to two more 50 cent increases. He also suggested that one time emergency expenses were assumed to be every year expenses to be paid out of this fund. He reiterated that some of the expenses in the sewer fund should be paid out of the general fund, which would be subject to the tax limit.

Councilor Givner asked to confirm this was voting on the \$8.02 sewer rate.

President McGee confirmed that the correct.

---> Report of Committee received and the Ordinance passed its first reading.

The Ordinance passed its second reading.

The Ordinance was passed to be enrolled.

The Committee has considered the same and find that it is truly and properly enrolled.

Report of Enrollment received.

The Ordinance was passed to be Ordained and denied on a call of the roll of the yeas and nays --

Yeas 8--Nays 5 (Bartley, Jourdain, McGee, Puello, Vacon)--Absent 0.

The Committee on Finance to whom was referred an order that there be and is hereby appropriated by transfer in the fiscal year 2024, TWO HUNDRED THOUSAND AND 00/100 Dollars (\$200,000) as follows:

FROM:

12101-51107 PATROLMEN \$100,000

12101-51920 INCENTIVE – QUINN BILL ED PLAN 100,000

TOTAL: \$200,000

TO:

12101-51300 OVERTIME \$200,000

TOTAL: \$200,000

have considered the same and Recommended that the order be adopted.

Committee Members:

Joseph McGiverin

Kevin A Jourdain

Will Puello

Juan Anderson-Burgos

Peter Tallman

UNDER DISCUSSION:

Motion was made and seconded to suspend the necessary rules to allow Acting Chair McGiverin to make the committee report while chairing the meeting.

Acting Chair McGiverin stated that the surplus was due to vacancies during part of the year, adding that they had been filled. He noted that there were 10 new recruits, with 3 or 4 still in the academy. He added that many of the new recruits joined the city on the trolley at the Big E's Holyoke Day. He recalled that one of the new officers had been a student in his wife's second grade class years earlier. He then explained that the overtime was up a little per pay period, but it was expected to come back down as new officers were coming on.

Councilor Rivera\_I asked to clarify that the funds from the patrol line item was due to there not always a full complement of officers.

Councilor Jourdain noted that the goal was 92 officers.

Acting Chair McGiverin stated that the department was at 88 or 89. He then added that the surplus in the Quinn Bill account was due to anticipated retirements that did not happen.

Councilor Rivera\_I asked if it was new to have a surplus in that account.

Acting Chair McGiverin stated that it was kind of new. He added that it was also new that the Quinn Bill was capped, noting that new offices coming in go under a different educational incentive. He added that the number of people eligible for the Quinn Bill was dwindling.

Councilor Rivera\_I asked if the expectation would be for those numbers to go down with the next budget.

Acting Chair McGiverin stated that was a fair assumption.

Councilor Jourdain noted it had been trending down.

--->Report of Committee passed two readings and Adopted on a call of the roll of the yeas and nays--  
Yeas 13--Nays 0--Absent 0.

The Committee on Finance to whom was referred an order that the treasurer and Mass Munifin come before the finance committee to update on the overall progress of the department and the scope of service work being done.

have considered the same and Recommended that the order has been complied with.

Committee Members:

Joseph McGiverin  
Kevin A Jourdain  
Will Puello  
Juan Anderson-Burgos  
Peter Tallman

#### UNDER DISCUSSION:

Acting Chair McGiverin stated that the presentation from Sarah at Mass Munifin outlined the issues in the treasurer's department, much of it was historic and may have been known already to some but new to others or shed in a different light. He added that it provided a lot of the reasons why the department had not been reconciling cash revenue coming in and why there were issues with a lot of the things the department did. He suggested that much of it came down to a failure of the city to adopt programs under the Munis system. He noted that the mayor had purchased necessary hardware that was needed to modernize the city. He noted that there was discussion of the positions in the departments, with 3 out of the 5 currently filled, as well as which positions were doing what roles and what could be done to make them more efficient. He noted that temp companies could be used to do some of the day-to-day work, freeing up the consultant to do the consulting work. He added that two reports with the requested detailed information had been sent the day before. He emphasized that while there was a lot of discussion of why there were issues, it was still an open question on when it would all be fixed. He added that the mayor wanted to see the work with Mass Munifin to continue. He noted that the consultant was asked about breaking down the contract to continue the services while more information on the detailed work came in and her answer was that her reputation was on the line and that the work needed to keep going for another year or more. He added that some of the discussion focused on changing the treasurer position from elected to appointed.

Councilor Jourdain noted that the next time was a financial transfer to pay the consultant an additional \$250,000 for the rest of the year. He then suggested that the problem was that he disagreed with how the long term solution was being addressed. He noted that while he supported the initial payment of \$300,000 to help them clean up the department, he did not believe a need for 3 years was discussed at that time. He also emphasized that the City Council, the state, and mayors have been on the department for years to get the issues addressed, adding that some administrations had been better than others. He then expressed that the plan for 3 years was far too long and unacceptable by professional standards. He suggested that nobody in the private sector could tell their boss they needed almost \$1 million to learn to do their job. He then emphasized that he believed Rory Casey was a good person who was doing the best he could with his skill set and experience. He recalled believing that when an acting treasurer was being appointed, the Council should have gone with one of the other candidates who had the finance experience and background and was willing to relocate to the city. He added that besides that, the search should have continued. He also expressed concern that there was no end game to this situation. He then suggested that this be handled in 3 months increments, noting that there had been no reporting on how the prior \$300,000 was spent. He added that there also needed to be an immediate posting for the treasurer position. He recalled that Mr. Casey had already stated that if the right person was found, he would step down and allow them to be appointed. He also stated that the other 2 vacancies should be filled with temporary services and that the other staff should get the proper training they need to do the job. He also emphasized that the Auditor needed to be listened to, noting the frustration she was having with this office on not meeting key deadlines, throwing the city's financial schedule off.

Councilor Vacon noted that there was some concern about the order to place a question on the ballot to make the treasurer an appointed position, particularly about having to wait until 2026. She then stated that clarification was that this was based on the term of the office, and this did not prevent the City Council from sending it to the state as it was a technical matter of law, that was how the language had to be written. She then reiterated that Mr. Casey planned to resign if the ballot question was approved and someone with the desired financial background was found. She then suggested that the problem with the presentation was that while much of it focused on what had happened, not enough of it focused on what was accomplished with the \$300,000 already spent.

Acting Chair McGiverin noted that the tax collector added some insight that there was good training happening with the 2 positions that were filled in the office.

Councilor Givner suggested that the reason why things were being talked about was because Rory Casey was the treasurer and the consultant was doing their job. She then emphasized that money had to

be spent to move the city forward. She noted that there was a staffing shortage throughout many city departments. She then questioned the suggestion that the city just get rid of the treasurer and hope for the best. She added that the only reason the Council knows about the issues was because people were in positions and pointing them out.

Councilor Murphy-Romboletti suggested that the Council tended to have selective amnesia on how issues get to where they are. She recalled that some members on this body who had experience had continued to be told by the state what needed to be done, but then get shocked when a consultant says it's going to take 3 years to fix things. She then suggested that there were likely a lot of reasons more people didn't apply for the position, including how political it can be, or the pay, or if it was a CFO. She also offered a reminder that the treasurer had to be appointed the last few times after the elected treasurers left. She then expressed her intent to support the transfer as a way of moving things forward. She also suggested that the solution was not posting the position again.

Councilor Rivera\_I emphasized that this was not a new problem but was festering for over 15 years. He then suggested that bringing the books in order after that was not going to happen overnight but would take patience if it was going to be done right. He then stated that it was not fair to taxpayers to pay double tax. He also questioned posting for a job that was not open and someone was still actively working in the position. He then stated that he would support the transfer.

Councilor Bartley suggested that the current order have a vote in order to take up the next order, noting that the discussion had begun focusing on the next order.

Acting Chair McGiverin confirmed with councilors who had raised their hands that they would be directing their comments at the next item. He noted that it would require a roll call as the meeting was hybrid. --> Report of Committee received and recommendation Adopted on a call of the roll of the yeas and nays--Yeas 12--Nays 0--Absent 1 (Councilor Rivera\_J).

MCGIVERIN — Ordered, That there be and is hereby appropriated by transfer in the fiscal year 2024, TWO HUNDRED FIFTY THOUSAND AND 00/100 DOLLARS (\$250,000) as follows:

FROM:

8810-10400 CITY STABILIZATION \$250,000

TOTAL: \$250,000

TO:

11212-53009 MAYOR'S CONTRACTED SERVICES

TOTAL: \$250,000

To the City Council:

I hereby recommend the passage of the above order at the meeting of your Council to be held Tuesday, September 20, 2023.

Joshua A Garcia, Mayor

UNDER DISCUSSION:

Acting Chair McGiverin noted that the body was now down to 12 present members and that a transfer from stabilization would require two-thirds vote from the entire body.

Councilor Anderson-Burgos stated that he understood nobody wanted to pay an enormous amount of money. He then offered a personal anecdote amount having recently gone to the dentist for a regular

cleanup, and not being prepared to take on over \$2,000. He added that he was told that without the work, he would get a bad infection that could lead to a lot of other problems. He then explained he was forced to use a credit card to pay for a surgery. He then stated that the option was paying the money or risking the health. He added that the dentist was the one to discover the issue. He then suggested that Mr. Casey be looked at like the dentist, going into a department that had not been running at its best for over 20 years, and had seen high turnover. He then emphasized that high turnover costs any business more money to function. He also emphasized that a professional in the department found many things that had been wrong and had brought forward a plan to address the issues. He then suggested that the people of the city elected councilors to take the right steps, and he believed the right step was to pay this, or the issues would keep costing the city money.

Councilor Maldonado Velez suggested that it was disrespectful to post for a position that was not currently open. He also noted that of the 3 candidates that applied when Mr. Casey was appointed, one two were eligible because of the charter's requirement that someone be a city resident for at least 2 years. Echoing the analogy from Councilor Anderson-Burgos, he suggested that the city had a lot of rotten teeth that needed to be fixed and they would not be without investing money.

Councilor Bartley expressed concern that the transfer was coming from the city's stabilization account. He emphasized that withdrawing from the stabilization fund affected everyone going forward. He then emphasized that while he heard the previous analogy, he suggested that if someone had to put \$2,000 on their credit card for their dental work, it wouldn't affect their mortgage to do that. He then stated that taking \$250,000 from the stabilization account would affect other things such as the tax rate and the bond rating. He then questioned how nobody had made a point about stopping this. He also questioned how the discussion became about the treasurer's office being in disarray for 20 years. He suggested that the issues just happened. He then emphasized that the Council had been told many times over the years that funding should not be taken out of the stabilization account except for things such as snow removal. He suggested that consultant fees should have been budgeted for back in the spring.

Councilor Givner noted that the consultant did mention that funds being found by the department would essentially pay for their fees. She added that they were finally finding ways to collect more fees or get funds out of accounts that were incurring fees.

Councilor Rivera\_I recalled news reports about issues in the department for years, including being hacked, losing money, and not paying grants on time. He then questioned how anyone could say the issues were new when he could find news articles going back 15 years. He suggested that people want to see something new and to see change and see the city move forward. He added that he believed that was part of why he got elected but emphasized that he did not plan on being around 15-20 years.

Councilor Vacon acknowledged that a statement was made that the consultant was helping find money that helped cover the cost of their fees. She then asked that a spreadsheet be provided showing how those numbers were working. She then emphasized that there needed to be more accountability and seeing \$300,000 already spent with the office still months behind on reconciling was not accountability.

Councilor Anderson-Burgos stated that when the consultant was asked about making an arrangement for a shorter period, she said no because she had pride and confidence in her work. He added that she was not willing to reduce her professionalism as a favor to the city. He also stated that there had not been another consultant going into that office during his 6 years on Council where they had been able to find all of the issues this one was finding. He then asked rhetorically how many votes were needed for the transfer.

Acting Chair McGiverin stated that it would take 9 for stabilization transfers.



Councilor Anderson-Burgos stated that he already knew the answer. He suggested that they were wasting time if there were at least 4 who were planning to vote against this. He added that no matter how much he might argue that this was good for the city, the same ones will continue to shoot this down. He added that whatever was going to happen should just be allowed to happen.

Councilor Tallman expressed his belief that the consultant was doing a great job. He recalled earlier reports that this would get turned around and squared away but it never did. He then noted that the mayor was trying to do something by having consultants come in and look at different departments such as the Police Department, DPW, the sewer rate, the Tax Collector, and the Treasurer's office. He suggested that sometimes government was about looking for ways to improve things. He added that while he had reservations about the total cost being close to \$1 million, he recognized that maybe that is what it would cost to get things done. He also suggested that the idea of trying to break it down into smaller periods should be pursued. He then echoed the concern about pulling from stabilization, noting that this fund was like sacred money. He then expressed concern that the consultant would walk away if this didn't get approved, adding that it could mean the work they already put in could be lost.

Acting Chair McGiverin emphasized that the purpose of this meaning was addressing time sensitivity issues. He added that this transfer request was to try and keep the consulting work going because the previous \$50,000 was already run out. Reiterating that it would take 9 of the 12 votes present to pass this, he suggested that they would be lucky if 6 votes were in favor of it at this point. He then stated that Finance Committee could do a follow up discussion to find other ways to address this. He noted that Mayor Garcia was on Zoom to address any questions.

Councilor Jourdain suggested that another option was to get quarterly reporting and do a quarterly approval of funds for the consultant. He added that while he believed progress should be further than it was and he had concerns with even approving another quarter of funding, the mayor could put forward a quarterly appropriation. He emphasized that Mr. Casey signed up for a temporary deal and had not planned to be the permanent treasurer. He then reiterated that the position should be posted to recruit a permanent candidate and allow Mr. Casey to resign and let that other person take over. He added that this should not wait until two years from now. He also noted that 5 positions in the office had been funded while only 3 were filled. He then suggested that temporary services should be used to get additional help, adding that it could go a long way toward a solution. He also suggested that the office should be studying how other communities were doing things.

Mayor Garcia stated that it was not his intent to put anything before the Council that would divide it. He also expressed his appreciation for the passion to address these issues. He then stated that his position was one of trying to navigate liability, find efficiencies, and close gaps to protect assets and resources to conclude a much more functional government. He then emphasized that the structural changes needed to address materials deficiencies were going to be expensive and extensive and would require being bold. He then emphasized that there was already a proposal before the Council to change the position from elected to appointed to make it more competitive. He added that another part of the strategy was creating a CAFO (Chief Administrative Financial Office) position to help strengthen internal controls and guide operations. He also stated that a municipal financial managements manual had been provided and explained and identified how these positions worked together and how they would be held accountable. He then clarified that there was an initial request put forward to use \$300,000 in free cash for the consultant but after hearing concerns from the Council, it was resubmitted with \$250,000 being put into stabilization as a placeholder with the other \$50,000 approved to keep the momentum with the consultant going. He also emphasized the importance of the public seeing this discussion happening openly so that they see and understand the issues. He then stated that while it would be disappointing if this does not get passed tonight, he would have to figure it out based on what funding the Council approves even if some of the momentum was lost.

---> Passed two readings and Denied on a call of the roll of the yeas and nays--Yeas 6 (Anderson-Burgos, Givner, Maldonado Velez, McGee, Murphy-Romboletti, Rivera\_I)--Nays 6 (Bartley, Jourdain, McGiverin, Puello, Tallman, Vacon)--Absent 1 (Rivera\_J).

Motion was made and seconded to reconsider the previous action.

Councilor Jourdain stated that he would not be in favor of reconsideration. He suggested that the mayor should come in with a new item.

Acting Chair McGiverin stated that while a lot of people were thinking that, a follow up discussion could take place on this item prior to bringing in a replacement.

Motion to reconsider passed.

---> Received and referred to the Finance Committee.

Meeting adjourned at 7:55 PM