

A regular meeting of the City Council was held in the Council Chambers with Councillor Brophy presiding. The meeting was called to order at 8:04pm with eleven members being present.

In City Council, February 13, 2012

Councillor Monahan takes a moment of personal privilege to motion for Ann Beauregard to speak on the upcoming events regarding the library's 100<sup>th</sup> anniversary and was properly seconded. The motion carried by a hand vote. She stated that they had a photograph exhibit by Jim Roper and next Tuesday, there will be cupcake decorating from 6pm to 7:30pm. She will keep the council updated on the future events.

#### APPOINTMENT

- 88** Reappointment of Dr. Michael D. Keefe to the Board of Health for a three year term ending February 2015.

Referred to Finance.

- 89** Reappointment of Dr. Francis H. Freccero to the Board of Health for a three year term ending February 2015.

Referred to Finance.

- 90** Reappointment of Dr. Mary T. Brophy to the Board of Health for a three year term ending February 2015.

Referred to Finance.

#### HEARINGS

Petition of NGRID and Verizon New England, Inc., proposing to install new pole P5-84 60' from existing pole 5 and anchor on town property. Installation will be approximately 540' south to Southfield Drive Centerline.

Tom Chihoke from National Grid appeared in favor. No one was in opposition. Hearing held.

Petition of Paul Williams DBA Lou's Custom Exhaust who is coming before the Council to change the stipulations on his Motor Vehicle Repair Mechanical license located at 258 Grove St.

Councillor DeNapoli motioned to postpone the hearing until March 12, 2012 Council meeting and was properly seconded. The motion carried by a hand vote.

#### REPORTS

- 91** Of the Finance Committee for its meeting of February 6, 2012.

Accepted and placed on file.

#### COMMUNICATIONS

- 92** From the Director of Emergency Management Agency requesting the City Council accept the donation from Massachusetts Emergency Management Agency valued in the amount of \$10,354.71.

Accepted and placed on file.

**16**  
**COMMUNICATIONS (cont'd)**

- 93** From the Mayor recommending that the City Council authorize the acceptance of the donation of equipment from Massachusetts Emergency Management Agency-Citizen Corps Program (CCP) to City of Brockton Emergency Management Agency. The donation's monetary value is \$10,354.71.

Accepted and placed on file.

- 94** From the CFO in accordance with Section 5 of Chapter 324 of the Acts of 1990, certifying to accept the donation of equipment from Massachusetts Emergency Management Agency-Citizen Corps Program (CCP) valued at \$10,354.71.

Accepted and placed on file.

- 95** From the Chairman, Board of Assessors requesting an additional \$10,000 for Ordinary Maintenance-Services (R.E. Appraisal). The FY12 Budget did not have sufficient monies for the hospital appraisal.

Accepted and placed on file.

- 96** From the Mayor in accordance with M.G.L., Ch. 44 recommending an appropriation of \$10,000 from Stabilization Fund to Assessor-Ordinary Maintenance-Services.

Accepted and placed on file.

- 97** From the CFO in accordance with Section 5 of Chapter 324 of the Acts of 1990, certifying the proposed appropriation of \$10,000 from Stabilization Fund to Assessor-Ordinary Maintenance-Services.

Accepted and placed on file.

- 98** From the DPW Commissioner recommending the new proposed change to the Revised Ordinances of the City of Brockton; Chapter 23. Water, Sewers and Sewage Disposal: Section 23-23. Meters.

Accepted and placed on file.

- 99** From the Mayor in accordance with M.G.L., Ch. 44 recommending the new proposed ordinance change to the Revised Ordinances of the City of Brockton; Chapter 23. Water, Sewer and Sewage Disposal.

Accepted and placed on file.

- 100** From the CFO in accordance with Section 5 of Chapter 324 of the Acts of 1990, certifying the proposed change to the Revised Ordinance of the City of Brockton Chapter 23. Water, Sewer and Sewage Disposal.

Accepted and placed on file.

- 101** From the Chief of Police requesting authorization to expend grant monies related to the FY2012 State 911 Department Training Grant in the amount of \$74,422.00

Accepted and placed on file.

- 102** From the Mayor in accordance with M.G.L., Ch. 44 recommending that the City Council authorize the appropriation of the grant award in the amount of \$74,422 from Executive Office of Public Safety and Security/State 911 Department Training Grant FY12 to Brockton Police Department: FY12 State 911 Training Grant.

**COMMUNICATIONS (cont'd)**

Accepted and placed on file.

- 103** From the CFO in accordance with Section 5 of Chapter 324 of the Acts of 1990, certifying the proposed appropriation of \$74,422 from Executive Office of Public Safety and Security/State 911 Department Training Grant FY12 to Brockton Police Department: FY12 State 911 Training Grant.

Accepted and placed on file

- 104** From the DPW Commissioner requesting to accept the Massachusetts Department of Environmental Protection (MassDEP) Sustainable Materials Recovery Program Municipal Grant (SMRP) in the amount of \$2,000. The purpose of the grant is to purchase graphic canables (galvanized steel containers) to promote our recycling program, which will help to increase diversion of municipal solid waste from disposal.

Accepted and placed on file.

- 105** From the Mayor in accordance with M.G.L., Ch. 44 recommending the acceptance of the Massachusetts Department of Environmental Protection (Mass Dep) Sustainable Materials Recovery Program Municipal Grant of \$2,000 to Refuse Department-Recycling Containers Grant for the purchase of containers to promote our recycling program.

Accepted and placed on file.

- 106** From the CFO in accordance with Section 5 of Chapter 324 of the Acts of 1990, certifying the proposed acceptance of the grant from Massachusetts Department of Environmental Protection (Mass Dep) Sustainable Materials Recovery Program Municipal Grant of \$2,000 to Refuse Department-Recycling Containers Grant

Accepted and placed on file.

**UNFINISHED BUSINESS**

Councillor Brophy stated that there was misinformation in the paper regarding the voting. Section 20-80 of M.G.L., requires the duty of members to vote yes or no on any matter before the council. Councillor MacMillan stepped down.

- 77** Ordered: That the City Council accepts and expends the grant award in the amount of \$241,611.24, in accordance with the terms of the grant  
From: Executive Office of Public Safety and Security  
To: Brockton Police Department: FY11 Municipal Staff Services Grant.  
(These funds are for Police Overtime.)(FAVORABLE)

Adopted by a roll call vote taken by “yeas” and “nays”; ten members present and all voting in the affirmative. Councillor MacMillan absent. Councillor Studenski motioned for reconsideration with the wish that it not prevail and was seconded by Councillor Petti. Reconsideration failed by a hand vote.

Councillor MacMillan stepped back in.

## UNFINISHED BUSINESS (cont'd)

- 78** Ordered: That the City Council accepts and expends the grant award in the amount of \$489,947.00  
 From: Department of Justice/Community Oriented Policing Services FY11 Secure Our Schools Grant  
 To: Brockton Police Department: FY11 Secure Our School Grant.  
 (These funds are for upgrading the security of the entire school system, with a cash/ in kind match of \$489,947.00 from net school spending, as authorized by the School Committee on December 6, 2011. The grant period is from 9/1/2011 to 8/31/2013.)(FAVORABLE)

Adopted by a roll call vote taken by “yeas” and “nays”; eleven members present and all voting in the affirmative. Councillor Studenski motioned for reconsideration with the wish that it not prevail and Councillors Petti and DeNapoli seconded the motion. Reconsideration failed by a hand vote.

- 79** Ordered: That the City Council accepts and expends the grant award in the amount of \$40,000  
 From: Mass in Motion: Municipal Wellness and Leadership Planning Grant  
 To: Mayor’s Department-Mass In Motion Grant.  
 (The City of Brockton agrees to the timely completion of interim and final reports and to participate in statewide trainings and meetings within the terms of the grant, to build the capacity of Mass in Motion communities working to improve the health of their residents. The grant is a continuation of a prior Mass in Motion Grant.) (FAVORABLE)

Adopted by a roll call vote taken by “yeas” and “nays”; eleven members present and all voting in the affirmative

- 80** Ordered: That the City Council accepts and expends the appropriation in the amount of \$92,000.00  
 From: Stabilization Fund  
 To: Information Technology-Ordinary Maintenance Services \$30,000  
 and  
 Information Technology-Ordinary Maintenance- Goods \$62,000  
 (for a necessary upgrade to the City’s financial system, MUNIS.)(FAVORABLE)

Adopted by a roll call vote taken by “yeas” and “nays”; eleven members present and all voting in the affirmative.

- 81** Ordered: That the City Council accepts and expends the grant award in the amount of \$1,500,000  
 From: Executive Office of Housing and Development-MassWorks Infrastructure Program Grant  
 To: Planning Department- MassWorks Infrastructure Program Grant  
 (for the Lighting the Way to Downtown Project.) This is a reimbursable grant.  
 (FAVORABLE)

Adopted by a roll call vote taken by “yeas” and “nays”; eleven members present and all voting in the affirmative

- 82** Ordered: That the City Council accepts and expends the grant award in the amount Of: \$11,365.00  
 From: Commonwealth of Massachusetts Department of Public Safety, Programs Division  
 To: Fire Department- Student Awareness of Fire Education (S.A.F.E.) Grant Fund  
 (to conduct Fire Education Program.) This is a non-matching grant with no cost to the City. (FAVORABLE)

**UNFINISHED BUSINESS (cont'd)**

Adopted by a roll call vote taken by “yeas” and “nays”; eleven members present and all voting in the affirmative

The Chairman states that Legal Counsel, Mr. Gildea will read the rules of necessity.

The Legislative Counsel informed stated that upon a review of the records of the City, it has been determined that the City Council would lack a quorum to vote on this order on acceptance of Chapter 69 for the Acts of 2011 because of conflict of interest of more than a majority of the members of the City Council. The State ethics law allows the Rule of Necessity to be used to allow public employees who would otherwise be disqualified by conflict of interest to act when five requirements are met.

The first requirement is that an elected board must be legally required to act on the matter and lack a quorum solely due to members being disqualified by conflict of interest. Such situation exists here.

Secondly, before invoking the Rule of Necessity, every effort must be made to find another board or legal authority with the power to act in place of the board that lacks a quorum. Under Chapter 69 of the Acts of 2011, with respect to the City of Brockton, there is no other board than the City Council that may act on this matter.

The third requirement is that the Board must be legally required to act by a certain time and be unable to do so because of a lack of quorum. The General Counsel of the State Ethics Commission has determined and interpreted the provisions of Chapter 69 of the Acts of 2011 as a requirement that City Councils are required to act as soon as possible, thereby satisfying this third requirement to invoking the Rule of Necessity.

The fourth requirement that needs to be met is that the Rule must be invoked by one or more of the disqualified Board members upon advice of the City attorney or the Ethics Commission. The Clerk and the President have been informed by those individuals that have a conflict that they wish to invoke the Rule of Necessity in order that the City Council may act on this matter.

The final requirement in order to invoke the Rule of Necessity is that the Minutes must reflect that the Board lacks a quorum because of conflict of interest of members and specifically state that the factors that give rise to these conflicts, and that the Rule of Necessity is being used to allow the Board to take a valid vote. The minutes will reflect that the Board will lack a quorum without the Rule of Necessity being invoked and the Minutes shall reflect that the facts that give rise to the conflict are those City Councilors that have Municipal Health Insurance Coverage or have immediate family members with Municipal Health insurance coverage.

Councillor Sullivan motioned to accept the rules of necessity and was properly seconded by Councillor MacMillan. The motion carried by a hand vote.

Councillor MacMillan asked if Councillor Brophy would explain the meaning of “favorable” or “unfavorable” vote for the public and the people watching at home. Councillor Brophy stated that if a Councillor voted “yes”, that would be to accept the Order. A “no” vote would be to reject the Order.

- 83** Ordered: The City Council elects to engage in the process to change health insurance benefits under M.G.L. c. 32B subsection 21-22. That M.G.L. c. 32B, subsection 21-22F be accepted by the City Council. (UNFAVORABLE)

**UNFINISHED BUSINESS (cont'd)**

Councillor Monahan stated that there were some negative articles in the paper regarding the Councillors. He stated that other towns were going through similar situations and that they also voted unfavorable on the order to change the health insurance benefits. Other towns chose to negotiate with the unions to come to a compromise. He stated that the City should have talked to the Councillors and also the union earlier instead of springing it on them. He stated that he would be voting no again tonight.

Failed by a roll call vote taken by “yeas” and “nays”; eleven members present and all voting in the negative. Councillor MacMillan motioned for reconsideration with the wish that it not prevail and was properly seconded by Councillor Eaniri. Reconsideration failed by a hand vote.

- 84** Ordered: In compliance with the provisions of the Election Laws, notice is hereby given that the Presidential Primary will be held on Tuesday, March 6, 2012.  
(FAVORABLE)

Adopted by a roll call vote taken by “yeas” and “nays”; eleven members present and all voting in the affirmative

**ORDERS**

- 107** Ordinance: An Ordinance amending Chapter XXVII of the Revised Ordinances of the City of Brockton. Be it ordained by the City Council of the City of Brockton as follows: Sec. 27-30. C-3 Zones, central business zones

Referred to Ordinance and Planning.

- 108** Ordinance: An Ordinance amending Chapter XXIII of the Revised Ordinances of the City of Brockton. Be it ordained by the City Council of the City of Brockton as follows: Chapter 23. Water, Sewer and Sewage Disposal. Sec. 23-23 Meters.

Referred to Ordinance.

- 109** Ordered: That the City Council accepts and expends the grant award in the amount of \$2,000  
From: Massachusetts Department of Environmental Protection (Mass Dep)  
Sustainable Materials Recovery Program Municipal Grant  
To: Refuse Department-Recycling Containers Grant  
(For the purchase of containers to promote our recycling program)

Referred to Finance.

- 110** Ordered: That the City Council accepts the donation of equipment from Massachusetts Emergency Management Agency-Citizen Corps Program (CCP) to City of Brockton Emergency Management Agency. The donation's monetary value is \$10,354.71.

Referred to Finance.

- 111** Ordered: That the following named sum be and the same is hereby appropriated as the same was submitted by the Mayor as follows appropriation  
Of: \$10, 000  
From: Stabilization Fund  
To: Assessor-Ordinary Maintenance-Services  
(The FY12 Budget did not have sufficient monies for the hospital appraisal)

Referred to Finance.

**21**  
**ORDERS (cont'd)**

- 112** Ordered: That the City Council accepts and expends the grant award in the amount of \$74,422  
From: Executive Office of Public Safety and Security/State 911 Department Training Grant FY12  
To: Brockton Police Department: FY12 State 911 Training Grant.

Referred to Finance.

- 113** Resolved: That the Brockton City Council hereby tenders this Resolution in opposition to the proposal of closing the U.S. Mail Processing and Distribution Center located within the City of Brockton.

Referred to Finance.

- 114** Resolve: The Brockton City Council opposes the closure of Taunton State Hospital and urges the Governor and The Commissioner of the Department of Mental Health to reverse the decision to close this facility; And Be it further resolved, that the Great and General Court oppose any attempt to close this facility without conducting an inpatient study to determine the need for psychiatric beds in Southeastern Massachusetts; and be it further resolved, that a copy of this resolution be transmitted to the Governor of the Commonwealth of Massachusetts, the Secretary of Health and Human Services, the Commissioner of the Department of Mental Health, the Massachusetts Congressional delegation, the members of the Brockton State Delegation and the Clerks of the Massachusetts and House of Representatives.

Referred to Finance.

Granting of NGRID and Verizon New England, Inc., proposing to install new pole P5-84 60' from existing pole 5 and anchor on town property on Southfield Drive.

Granted by a hand vote.

Councillor Brophy called for a brief recess at 8:30pm.

Back in session.

Councillor Brophy stepped down and Councillor Petti stepped in for Councillor Brophy.

Councillor Brophy motioned to move under suspension of the rules and accept the following late files and was properly seconded by Councillor Cruise. The motion carried by a hand vote.

**LATE FILES**

- 115** Communication: From the DPW Commissioner requesting to allow Additional borrowing purposes within the Loan Order and Appropriation of \$11,000,000 previously approved by the City Council order number 15 on June 29, 2010. The reason for this request is for the following projects: 1. To refurbish the drinking water booster pumping stations at East Ashland Street and Oak Street. 2. To install a surge pressure reduction system on the twin 24 inch water mains from Silver lake treatment plant to the City's water distribution and 3. To install photovoltaic cells at the Silver Lake water treatment facility.

Accepted and placed on file.

**LATE FILES (cont'd)**

- 116** Communication: From the Mayor in accordance with M.G.L., recommending that the Loan Order Appropriation of \$11,000,000 previously approved by the City Council order number 15 on June 29, 2010 be amended to allow for the following borrowing purposes within the original dollar amount: 1. Refurbish the drinking water booster pumping stations at East Ashland Street and Oak Street. 2. To install a surge pressure reduction system on the twin 24 inch water mains from Silver lake treatment plant to the City's water distribution and 3. To install photovoltaic cells at the Silver Lake water treatment facility.

Accepted and placed on file.

- 117** Communication: From the CFO in accordance with Section 5 of Chapter 324 of the Acts of 1990, certifying the Proposed amendment allowing for additional Borrowing purposes, within the same dollar amount as originally, for fiscal year 2011 only. For future years, the CFO's certification of this amendment is conditional upon the periodic adoption of water rates sufficient to cover both the Debt service and the effect of inflation on the operating costs of the water system, including rates adequate to pay future costs of the water purchase contract with Aquaria.

Accepted and placed on file.

- 118** Ordered: That the Treasurer is authorized to file an application with the appropriate officials of The Commonwealth of Massachusetts (the "Commonwealth") to qualify under Chapter 44A of the General laws of any and all bonds of the City to be issued pursuant to this order and to provide such information and execute such documents as such officials of the Commonwealth may require.

Referred to Finance.

Councillor Sullivan takes a moment of personal privilege to state that last week they had a great ceremony for Manny Gomes becoming Police Chief. He also gives best wishes to Chief Conlon on his retirement.

Councillor DeNapoli takes a moment of personal privilege to address the article in the Enterprise that states that they are "bringing God to the bad side of the City". He stated that the article appalled him. He stated that there isn't a bad side of the City.

Councillor DuBois also commented that the article shocked her.

Councillor Cruise stated that there would be an Accounts Subcommittee Meeting on Tuesday February 21, 2012 at 6pm. The Finance Committee will meet on Tuesday February 21, 2012 also.

Adjourned at 8:35pm