



City of Malden

Malden City Hall
215 Pleasant Street
Malden, MA 02148

Meeting Minutes - Final City Council

Council President Barbara Murphy
Councillor at Large Karen Colon-Hayes
Councillor Paul Condon
Councillor Peg Crowe
Councillor Amanda Linehan
Councillor at Large Carey McDonald
Councillor Ryan O'Malley
Councillor Jadeane Sica
Councillor Chris Simonelli
Councillor at Large Craig Spadafora
Councillor Stephen Winslow

Tuesday, January 3, 2023

7:00 PM

City Council Chambers
215 Pleasant Street
Malden, MA 02148

1. CALL TO ORDER

Also in attendance was Assistant City Solicitor Zaheer Samee and City Planner Michelle Romero.

Councillor O'Malley left the meeting at 8:36 and returned at 8:53, missing four votes all of which were in regards to Paper 315-22.

2. PLEDGE OF ALLEGIANCE & MOMENT OF SILENCE IN HONOR OF SERVICEMEN & WOMEN

3. ROLL CALL

Present - Councillors: 11 - Barbara Murphy, Carey McDonald, Chris Simonelli, Jadeane Sica, Karen Colon Hayes, Ryan O'Malley, Craig Spadafora, Peg Crowe, Amanda Linehan, Paul Condon and Stephen Winslow

4. GUESTS, CITIZEN ACHIEVEMENT AND ANNOUNCEMENTS

Council President Murphy opened the meeting by thanking outgoing President Craig Spadafora for his hard work during the 2022 session. She thanked him for his guidance and leadership as he brought the Council back after COVID and welcomed new members to the body then presented him with the President's Gavel. Councillor Simonelli also commented on the support shown to him during his first year back on the Council and thanked Councillor Spadafora for his help.

5. PUBLIC COMMENT

During Public Comment Shaleen Title of 33 Bowers Avenue spoke on Paper 10-23, motion for reconsideration of Paper 315-22 asking for the City and the Council to do more to help equity applicants move forward in the cannabis licensing process.

6. APPROVAL OF MINUTES

[1-23](#)

Minutes for the meeting of December 20, 2022

A motion was made by Councillor Sica, seconded by Councillor Crowe, that the Council Minutes be approved. The motion carried by a unanimous vote.

7. APPOINTMENTS & ELECTIONS

[2-23](#)

Council President Murphy will announce the appointments of Council Committees

Attachments: [Murphy Statement on 2023 Committees](#)
[City Council Committees 2023](#)

Council President Murphy introduced her 2023 Committee assignments explaining the difference between Standing, Ad Hoc, and Ex-Officio Committees and how some were consolidated from 2022. She outlined three goals for her presidency over the next year; to clean up outdated parts in the Charter and Ordinances, to identify actionable steps to address long term financial challenges faced by the City, and to publish Council Rules that incorporates use of technology and establishes principals for respectful Council interactions.

She also asked that the Chair of each committee produce 1-5 goals/priorities as they see fit to work towards throughout the year and report them back to Clerk of Committees Lisa Cagno by January 12, 2023.

Clerk Desiderio then read the Committee assignments into the record.

Council President's statement and Committee assignments were placed on file.

8. HEARINGS, PETITIONS, MEMORIALS AND REMONSTRANCES

[3-23](#)

Petition: Class II License for Malden Auto Brokers of 225 Eastern Avenue, renewal, 20 cars

A motion was made by Councillor Sica, seconded by Councillor Simonelli, that the Petition be referred to the License Committee. The motion carried by a unanimous vote.

[4-23](#)

Petition: Class II License for Frank's Auto Sales of 189 Highland Avenue, renewal, 4 cars

A motion was made by Councillor Sica, seconded by Councillor Simonelli, that the Petition be referred to the License Committee. The motion carried by a unanimous vote.

[5-23](#)

Petition: Class II License for Uni Auto Center, Inc. of 369 Salem Street, renewal, 20 cars

A motion was made by Councillor Sica, seconded by Councillor Simonelli, that the Petition be referred to the License Committee. The motion carried by a unanimous vote.

[6-23](#)

Petition: Livery License for Linda Dellolacono dba RubyLynn Transportation, LLC of 259 Mountain Avenue, renewal, 1 livery license

A motion was made by Councillor Sica, seconded by Councillor Simonelli, that

the Petition be referred to the License Committee. The motion carried by a unanimous vote.

9. MOTIONS, ORDERS AND RESOLUTIONS

[7-23](#)

Be it hereby Ordained by the Malden City Council that the Code of the City of Malden (MCC) be amended by updating Title 2, Chapter 24, Section 020 Library Salary Schedule

Sponsors: Barbara Murphy

Attachments: [2.24.020 Library Salary Schedule Ordinance](#)

A motion was made by Councillor at Large McDonald, seconded by Councillor Crowe, that the Ordinance be referred to a joint session of the Rules & Ordinance and Finance Committees. The motion carried by a unanimous vote.

[8-23](#)

Order: That the sum of Sixty Thousand Six Hundred Seventy-Eight Dollars and Seventy Four Cents (\$60,678.74) is transferred from salary reserve, account 0010-996-5110 to Library Salaries, account number 0010-610-5110

Sponsors: Barbara Murphy

Attachments: [Library Salary Schedule 11023](#)

A motion was made by Councillor at Large McDonald, seconded by Councillor Condon, that the Order be referred to the Finance Committee. The motion carried by a unanimous vote.

[9-23](#)

Resolve: That the Malden City Council and the Personnel and Appointments Committee will work with the City Human Resources Director to develop best practices and timelines for the recruiting and interview process for open staff appointments. This will help ensure a highly qualified and diverse candidate pool; a timely, transparent and fair consideration for applicants; and opportunities for succession planning.

Sponsors: Carey McDonald and Amanda Linehan

Councillor at Large McDonald spoke on behalf of the resolve, stating the need for this was realized through conversations during recent Personnel/Appointment Committee meetings. The committee felt as if job openings are not receiving the kind of applicant pool that could be expected with a wider search. It is important to follow best practices for advertising, recruitment, scheduling, with consistency throughout the HR Department, Council and Mayor's appointments. Councillor pointed out that the Personnel/Appointment Committee's last hiring process was untimely enough that candidates withdrew while waiting for interview. This effort calls on the Council to depend on City staff to implement so Councillor believes it would be helpful to have written guidelines to depend on to smooth the process moving forward.

Councillor Linehan spoke in support of this resolve and asked to be added as a co-sponsor. Councillor Linehan explained that public sector recruitment and hiring is different than in the private sector; it is more challenging and privacy of the candidate must be adhered to until the process becomes public. She is looking forward to working on this project, exploring ways to improve diversity within the applicant pool and developing best practices.

A motion was made by Councillor at Large McDonald, seconded by Councillor Linehan, that the Resolution be passed. The motion carried by a unanimous vote.

[10-23](#)

Motion for Reconsideration: On the date of December 21, 2022, prior to the deadline of 9:18 P.M. per the previous evening's adjournment of the City Council Meeting, both Councillors Murphy and Crowe independently moved for reconsideration of their votes on paper 315-22, Section 12.12.190.A and 12.12.190.B (only regarding dimensional controls and parking requirements).

Attachments: [Reconsideration 315-22](#)

Councillor Crowe opened discussion on reconsideration stating at the meeting of December 20, 2022 when Paper 315-22 was taken from the table, the meeting ended with some confusion about the process and if the vote was taken properly. This one paper was based on a Planning Board recommendation that had three different points, two administrative (questions 1 & 2) and one that was a more substantial part of the paper (question 3). At the time, Councillor Winslow had questioned if the motion was divided properly and thought perhaps the whole vote was out of order. Councillor Crowe felt that this should be looked into further and left the meeting feeling as if reconsideration was in order. After further investigation into Council Rules and RONR, she now feels confident that the process was done correctly. Additionally, Councillor Crowe explained that there was no action taken on question 3 of the paper since there was a 5-5 vote on December 20. She subsequently made a motion to approve the recommendation as approved. As the meeting went on, and after much debate, Councillor Crowe eventually withdrew this motion.

Councillor O'Malley stated that starting the year off like this is not advisable and asked for a compromise. He questioned if the first two questions were acted upon correctly, even making them eligible for reconsideration. His proposed compromise is to allow the first two questions to proceed and not act upon question 3 because that recommendation is at a stalemate and any attempt at a vote will lead to a fight. He later stated that he does not wish to take up question 3 just to have it fail and then be prohibited from further action for two years.

Councillor Simonelli reminded the Council that he had missed the past few meetings due to illness and requested a recap of the December 20 discussion and vote history, which Council President provided to him.

Councillor Sica suggested a vote on the reconsideration prior to further discussion. Council President asked Clerk to call the roll but before that happened Councillor McDonald asked for further clarification on which parts of the paper were actually covered by the reconsideration. Councillor Condon enquired if Councillor Crowe wished to withdraw her reconsideration since it was determined the paper was indeed divided properly. Councillor Sica suggested the reconsideration should still go through to eliminate any lingering confusion per Councillor O'Malley's earlier remarks.

Councillor Linehan reiterated that this originally was her paper and very much wants to see it pass so is not in favor of combining all three parts just to have the whole thing get voted down but is concerned because she does not recall taking a vote to have the paper divided during the last meeting. Council President invited Assistant Solicitor Zaheer Samee to explain how some papers, by the nature of their writing, may be divided on demand and do not require a vote. At the meeting of December 20, Councillor Sica made a demand to divide, which was then seconded by Crowe and confirmed by Spadafora. Council President read these words and time stamps into this evening's meeting to

reflect the demand on the record.

Councillor Winslow stated he did not recall anyone at the last meeting making a demand for separation but yielding to legal interpretation, he now argues that question 3 was defaulted to the table and therefore not properly before the Council in the current meeting because the third specific part of the question is not listed on the agenda. You cannot separate the paper then rejoin it when it's convenient; if the paper is now separated it must stay that way. Councillor President pointed out that Paper 315-22 is listed on the agenda in it's entirety, which includes the language on question 3. Councillor Sica countered that with no tabling motion, the paper was never placed on the table and is still open for discussion and because question 3 was a 5-5 split vote, no action was taken. She asked Solicitor to come back to the podium to confirm if this paper is properly before the Council this evening. He read from RONR that a tabled paper can be taken up at any time with the majority in agreement and either way question 3 is included in the language of Paper 315, which is properly docketed. Councillor McDonald suggested to solve this debate by physically separating 315-22 into three with new and individual numbers in Granicus.

Councillor Simonelli suggested, and Councillor O'Malley agreed, that question three because no action was taken, can be considered placed on file and no longer before the body. O'Malley went further to say questions 1 & 2 could potentially be properly before the body if the vote to approve, rather than to enroll, was not considered a negative action. He is willing to agree to this theory as a compromise in exchange for letting question 3 expire instead of voting it down. He went further to say that him and Murphy had a heart to heart and they both wish to set a different tone for this year's meetings, this compromise is a good place to start. Councillor Sica commented that he only is agreeing to compromise because it suits his wishes anyway. Councillor Simonelli agreed with O'Malley saying what he is asking for is fair. Councillor Colon-Hayes in agreement with the two.

Councillor Sica: How long are we going to go on with this paper? Neither side has the votes, this paper is just going to fail, wishes to vote on the entire paper tonight. To clarify, Council President Murphy stated the compromise between letting the paper expire versus voting it down means the difference of prohibiting the question from coming back to the body for six months versus two years, secondary to Council rules and State zoning laws.

Councillor Winslow made the demand to separate the Paper again tonight, like what was done on December 20, and then reconsider questions 1 & 2 and deal with question 3 individually. He reiterated that no one called for reconsideration on question 3 and with a 5-5 tie, no action was taken on that question so it can not be acted on again. President Murphy explained the debate is not on whether to reconsider question 3 but rather if the vote on question 1 & 2 was worded correctly, using the terms 'accept' versus 'enroll' the ordinance recommendation handed down by the Planning Board. She called City Planner Romero to the podium to clarify.

Romero reported her notes indicate that part of the motion to approve the PB recommendation was also to enroll the vote. Her meeting afterward with City Solicitor confirmed that the 5-5 vote on question 3 indicates no prevailing side and no action taken. It is her understanding that portion of the amendment is still active until February 7 and properly in front of the body. Councillor O'Malley argued that questions 1 & 2 were only approved and not enroll therefore a negative action was taken and those two questions are prohibited for two years. Furthermore, question 3 was not acted upon nor tabled, the meeting ended with unsettled business and so that business dies. Again stating he is willing to compromise on this theory by agreeing to allow question 3 to come

back after six months.

Question of reconsideration was then moved; Clerk called the roll. Paper was reconsidered 8-3. Councillors Colon-Hayes, O'Malley, Winslow were dissenting votes.

A motion was made by Councillor Crowe, seconded by Councillor Sica, for reconsideration of Paper 315-22. The motion carried by the following vote:

Yea: 8 - Murphy, McDonald, Simonelli, Sica, Spadafora, Crowe, Linehan and Condon

Nay: 3 - Colon Hayes, O'Malley and Winslow

315-22

Order: That MCC 12.12.190.A and 12.12.190.B be amended

Sponsors: Amanda Linehan

Attachments: [6.15.21 Prop #1](#)

[CCP 315 2022 Staff Report 10.11.22](#)

[CCP 315 2022 PBR 10.22 wAtt](#)

[Informational Memo on Buffer Zones Dimensional Controls \(1\)](#)

Discussion opened with Councillor Crowe making a motion to enroll 315 in it's entirely, seconded by Councillor Sica, pulling together all three questions and voting 'as proposed'. This motion was later withdrawn and restated.

City Planner Romero was asked to explain what a vote on this motion means. A yes vote would enroll all the parts of the paper together, the two administrative questions and question 3 moving the buffer zone for existing buildings finding authority from Board of Appeal (BoA) to City Council. A no vote would leave everything the way it is today.

Councillor Colon-Hayes asked to confirm to the Council that enrolling this paper only moves granting authority to City Council and does not, in fact, change any of the existing buffer zone laws.

Councillor O'Malley formally objected and offered a point of order that the only two parts of this paper that are before the body are questions 1 & 2 according to the way he is interpreting the agenda and acting on question 3 could trigger an open meeting law (OML) violation. Not wanting to participate in this violation, he left the meeting at 8:36, missed four votes regarding Paper 315-22 then returned to Chamber at 8:53. Councillor Sica pointed out that the one public comment heard this evening spoke on question 3 of 315-22, proof positive that 315 was properly docketed to the public and therefore no OML is at risk.

Councillor Condon agrees with the Planning Board recommendation that this granting authority should stay with the BoA and not move to the Council. This votes makes the paper difficult, he doesn't want to vote no in it's entirely just because he disagrees with 1/3 questions.

Councillor McDonald asked about combining papers that were previously separated and if that was allowed. If so, he would like to take Paper 315 and separate into two different papers, not three so they don't lose the affirmative votes on the pieces that have already been established. Solicitor Samee said they do have discretion on how they wish to vote and in which parts. Councillor Crowe is supportive of splitting this paper into two as a reasonable compromise. Councillor Simonelli agreed.

Councillor Sica to move the paper. Councillor Linehan to table question 3 and vote the other two; seconded by Winslow. Passed by 9-1 vote, Sica dissenting, O'Malley not present. Question 3 is now tabled.

Councillor Crowe: motion to enroll Paper 315-22 proposed amendment of Section 12.12.190.A and 12.12.190.B only regarding dimensional controls and parking requirements. Seconded by Councillor Simonelli. Enrolled by 10-0 vote.

Councillor Winslow: motion to suspend council rules for the purpose of ordaining. Seconded by Councillor Crowe. Rules are suspended by 10-0 vote.

Councillor Crowe: motion to ordain Paper 315-22 proposed amendment of Section 12.12.190.A and 12.12.190.B only regarding dimensional controls and parking requirements. Seconded by Councillor Winslow. Ordained by 10-0 vote.

A motion was made by Councillor Linehan, seconded by Councillor Winslow, that question 3 of Paper 315-22 be tabled to the City Council. The motion carried by the following vote:

Yea: 9 - Murphy, McDonald, Simonelli, Colon Hayes, Spadafora, Crowe, Linehan, Condon and Winslow

Nay: 1 - Sica

A motion was made by Councillor Crowe, seconded by Councillor Simonelli, that Paper 315-22 proposed amendment of Section 12.12.190.A and 12.12.190.B only regarding dimensional controls and parking requirements be enrolled to the City Council. The motion carried by the following vote:

Yea: 10 - Murphy, McDonald, Simonelli, Sica, Colon Hayes, Spadafora, Crowe, Linehan, Condon and Winslow

A motion was made by Councillor Winslow, seconded by Councillor Crowe to suspend council rules for the purpose of ordaining.

Yea: 10 - Murphy, McDonald, Simonelli, Sica, Colon Hayes, Spadafora, Crowe, Linehan, Condon and Winslow

A motion was made by Councillor Crowe, seconded by Councillor Winslow, to ordain Paper 315-22 proposed amendment of Section 12.12.190.A and 12.12.190.B only regarding dimensional controls and parking requirements. The motion carried by the following vote:

Yea: 10 - Murphy, McDonald, Simonelli, Sica, Colon Hayes, Spadafora, Crowe, Linehan, Condon and Winslow

10. COMMUNICATIONS

12. COMMITTEE REPORTS

13. TABLED PAPERS

Tabled to a Future Meeting

[138-22](#)

Resolve: That the City of Malden City Council establish "The Malden Youth Council" Ad Hoc Committee with three (3) City Councillors as voting members assigned by

the Council President; to provide an opportunity for the youth of Malden and foster civic engagement and an opportunity to be involved and participate in local government to acquire a greater knowledge of and appreciation for local government through active participation in the system.

Sponsors: Karen Colon Hayes, Amanda Linehan and Carey McDonald

[286-22](#)

Order: That in the interest of promoting a fair and transparent marijuana licensing process, free from political influence and the potential for state ethics violations, that the Code of the City of Malden be amended to change the Special Permit granting authority for Marijuana Establishments from the Malden City Council to the Malden Planning Board, including amending the following Sections:

-Section 6.08.070.B. Definition of Special Permit, by deleting "as further amended
by City Council Paper 283 of 2018.";

-Section 6.08.070.D.2.b, by deleting "City Council" where mentioned and replacing
with "Planning Board";

-Section 12.12.010.A, first paragraph, first phrase, by striking "City Council" and replacing with "Planning Board", as follows: "Except for Marijuana Retailer, Marijuana
Cultivator, Independent Marijuana Testing Laboratory, Marijuana Product Manufacturer,
Marijuana Research Facility and Marijuana Transporter, where a special permit shall be required by the Planning Board in accordance with MCC 12.12.020;"

-Section 12.12.190, first paragraph, by striking "City Council" and replacing with "Planning Board" as follows: "A Marijuana Establishment, as defined by this Ordinance
to expressly only include Marijuana Retailer, Marijuana Cultivator, Independent Marijuana
Testing Laboratory, Marijuana Product Manufacturer, Marijuana Research Facility and
Marijuana Transporter, may be allowed only in the Highway Business, Industrial 1 and
Industrial 2 zoning districts or the Marijuana Establishment Overlay District, only by special
permit granted by the Planning Board and only in conformance with the following controls
and requirements:"

-Section 12.12.190.B, Section 12.12.190.G, Section 12.12.190.G.4, Section 12.12.190H,
by deleting "City Council" where written and replacing with "Planning Board";

-Section 12.28.010.E, by deleting "City Council" where mentioned and replacing with
"Planning Board"

Sponsors: Jadeane Sica and Craig Spadafora

Attachments: [CCP 286-22 Staff Report 10.11.22](#)
[CCP 286 2022 PBR 10.22 wAtt](#)

287-22

Order: That the City Council discuss the disposition of property owned by the City identified as Parcel No. 185-575-507 in the City of Malden Assessor's Maps, also known as Louis Cohn Way/Robbins Street. Such discussion to include a description of the parcel and it's present use and possible alternatives for future use, care, custody, and control of the property, which will be maintained at the sole expense of the lessee, and that payments include the amount of any taxes that would otherwise be due to the city as well as including whether or not to enter a License Agreement for business use of said property.

Sponsors: Jadeane Sica

Attachments: [Assessors Handout Pub Prop Meeting 62822](#)

399-22

Petition: Boston Gas d/b/a National Grid, 40 Sylvan Road, Waltham MA, W.O. No. 90000XX to install a new gas Regulator Station on Green Street near the intersection of Medford Street in accordance with the attached plans.
Hearing required

Attachments: [National Grid Green Street WO #90000XX](#)
[Notice of Public Hearing & Abutters Green and Medford](#)

14. PERSONAL PRIVILEGE

15. ADJOURNMENT

A motion was made by Councillor O'Malley, seconded by Councillor at Large McDonald, that the meeting be adjourned. Councillor Sica left the meeting at 8:53. Meeting adjourned at 8:59. The motion carried by the following vote:

Yea: 10 - Murphy, McDonald, Simonelli, Colon Hayes, O'Malley, Spadafora, Crowe, Linehan, Condon and Winslow

GREGORY LUCEY, CITY CLERK