



Medford City Council
Medford, Massachusetts

The Seventh Regular Meeting, April 2, 2024

City Council

Isaac B. “Zac” Bears
Anna Callahan
Kit Collins
Emily Lazzaro
Matt Leming
George A. Scarpelli
Justin Tseng

Zoom Link: <https://us06web.zoom.us/j/83389323656>

Call-in Number: +16469313860,,83389323656#

Broadcast Live: Channel 22 (Comcast), Channel 43 (Verizon), and medfordtv.org.

To submit written comments, please email AHurtubise@medford-ma.gov.

CALL TO ORDER & ROLL CALL

City Council President Isaac “Zac” Bears called the meeting to order at 7:12 p.m. in the Medford City Council Chamber and via Zoom. The start of the meeting was delayed by a committee meeting immediately beforehand.

ROLL CALL

Present: Councillor Callahan; Vice President Collins; Councillor Lazzaro; Councillor Leming; Councillor Scarpelli; Councillor Tseng; President Bears. Inside the Rail: City Clerk Adam Hurtubise.

SALUTE TO THE FLAG

ANNOUNCEMENTS, ACCOLADES, REMEMBRANCES, REPORTS, AND RECORDS

24-062 – Offered by President Bears

Be it Resolved by the Medford City Council that we honor and commemorate the dedicated service of former Medford Mayor and State Representative John J. “Jack” McGlynn in the United States Army and 3132 Signal Service Company, part of the World War II “Ghost Army,” upon posthumous receipt of the Congressional Gold Medal on March 21st.

Be it Further Resolved that we dedicate this meeting in honor of all of those who served in the “Ghost Army” to defend democracy, the people of the United States, and all humankind.

Councillor Tseng moved to join this paper with Paper **24-070**, below (Councillor Scarpelli second)—approved.

Final disposition of the joined papers occurs after Paper **24-070**.

24-070 - Offered by Councilor Scarpelli

Be It Resolved that the Medford City Council recognize and thank former Mayor Jack McGlynn for his service to our great country and finally being recognized for his heroism in being awarded the Congressional Gold Medal for his service as a member of secret Ghost Army during World War II.

Addressing the Council:

Andrew Castagnetti, 23 Cushing Street

Councillor Scarpelli moved for approval on the joined papers (Councilor Tseng second)—approved.

24-063 - Offered by Vice President Collins and Councilor Tseng

Be it Resolved that the Medford City Council recognize the holy month of Ramadan and wish a happy Ramadan and an easy fast to all who observe.

Councillor Tseng moved for approval (Councillor Callahan second)—approved.

Records:

The Records of the Meeting of March 19th, 2024 were passed to Councillor Scarpelli.

Councillor Scarpelli moved for approval (Councillor Leming second)—approved.

Reports of Committees:

24-045 - Offered by President Bears

Committee of the Whole Report, March 19, 2024.

24-045 **COMMITTEE OF THE WHOLE** **MEETING REPORT** **WEDNESDAY, MARCH 19, 2024 @ 6:00 P.M.**

Attendees: Council President Isaac “Zac” Bears; Council Vice President Kit Collins; Councillor Anna Callahan; Councillor Emily Lazzaro; Councillor Matt Leming; Councillor George Scarpelli; Councillor Justin Tseng; other participants as noted in the body of this report.

President Bears called the meeting to order at 6:00 p.m. on March 19, 2024 in the Medford City Council Chambers on the second floor of Medford City Hall, and via Zoom. The purpose of the meeting was to discuss Councillors’ budget priorities for the upcoming budget.

President Bears thanked participants for attending. He highlighted the tentative budget process going forward. He said once the Council submits budget recommendations to

the Mayor, it will get a written response from the Mayor before the actual budget is released. He said we should also be getting budgets to actual soon. He said budget meetings will start in April. He said they will be mostly Wednesday Committee of the Whole Meetings. He said we may avoid a Saturday budget meeting this year.

He said that budget recommendations are grouped by category. He said that the goal of tonight's meeting is to report something out to the Mayor regarding collective recommendations by the Council. He said he believes that last year the Council sent five recommendations to the Mayor. He said we could be similar or different this year.

Councillor Tseng thanked President Bears for his work. He said that most of the things he is asking for fall under the purview of the Health Department. He said he would like to see prevention of cuts to the Health Department.

Vice President Collins thanked President Bears. She said that there are clear avenues for consolidation of suggestions. She said avoiding cuts and maintaining level service are priorities. She said she believes that there is consensus on members' points on category one, and maintaining level funding.

Councillor Scarpelli said he did not want to see Fire or Police Department cuts either, or cuts anywhere else. Councillor Scarpelli moved to add the other departments to the list. Vice President Collins said Councillor Scarpelli is absolutely right. She said she listed the departments she listed because those are often the departments where cuts are proposed.

President Bears suggested adjusting the wording to say "meet the budget requests of the School Committee for Medford Public Schools, the budget requests of the Library Trustees for the Library, do not cut any ARPA funded positions." Councillor Tseng said that the last two years, we have brought up the School Committee and the Library.

Councillor Callahan said that the Schools are the largest department in terms of funding. She said she would do some research. She said she would support changing the language to include "any grant funded position." Councillor Scarpelli said he would agree. Councillor Scarpelli said that losing Penny Funaiolo was a huge loss. Councillor Scarpelli asked if we would still have the Department Head meetings. President Bears said he would hope so. Councillor Scarpelli said that in the past, we would get updates from the Finance Director on state funding.

President Bears said that the cherry sheet from the state is basically level-funded. He said he hopes to get documentation of the meetings in advance.

Vice President Collins said that there is substantial overlap for a clustering around the budgeted amounts for City Solicitor and Assistant City Solicitor, and also within the Elections Department. She said one of the recommendations was to raise the salaries for the Solicitor, Assistant Solicitor, and the Elections Director. Councillor Scarpelli said he would support this as a recommendation to the Mayor. He said it helps having somebody neutral as a Solicitor.

Vice President Collins moved to consolidate all of the bullet points under category one into the recommendation to maintain level service for the schools, library, board of health, prevention and outreach, and PDS Department, including all currently grant funded positions (Councillor Tseng second)—approved on a roll call vote of seven in favor and zero opposed.

Vice President Collins moved to increase the funding for the City Solicitor, Assistant City Solicitor, and Elections Director.

Councillor Scarpelli said he wanted to ask the DPW to do an analysis of what it would cost for a three team and give us an idea of what we spent in bonding, for sidewalk and street repair, and requested that this be given a separate paper number as a B-Paper.

Councillor Tseng offered an amendment to the B-Paper requesting a proposed number for increased spending in road signage, markings, and striping to speed up road repair.

Councillor Leming said he wanted to get more information on salary increases and asked if any of these salaries are under study. President Bears said he believed that all these salaries are under study as part of the classification and compensation study.

President Bears said he would like to see something from free cash to update city financial software, and Councillor Tseng so moved. Vice President Collins said she would like to see this move forward as well. Councillor Scarpelli recommended getting more staffing. He said he would like to see what the software system would cost. He said that the system was in place previously when retro pay was addressed. He said that this could be management, not the system.

Councillor Tseng said that at the last meeting, there was a good explanation of what we are looking for in financial software. He said he would move in favor of this level of transparency.

President Bears said that the communication issues are twofold, between people, and between systems.

Vice President Collins seconded Councillor Tseng's motion. Vice President Collins said she favored keeping our list of recommendations short and sweet this year. She said that this is about level service. She said that there are differences between level service and level funding.

Councillor Tseng made the following motion, seconded by Vice President Collins, amended by Councillors Scarpelli and Callahan:

1. Recommendation for a level-service budget for the City of Medford, including meeting the Medford Public Schools funding recommendation of the Medford School Committee; meeting the Medford Public Library funding recommendation of the Library Trustees; and maintaining all grant-funded City positions in every department with the acknowledgment that most of those grant-funded positions currently exist in the Board of Health, Office of Planning, Development and Sustainability, and Office of Prevention and Outreach.
2. Recommendation to increase the budgeted amount for the City Solicitor salary by \$49,871 per year and the Assistant City Solicitor salary by \$37,178 per year to maintain competitiveness with neighboring communities.
3. Recommendation that the administration appropriate seed money as part of the FY25 budget or from free cash reserves to develop a clear plan and timeline for updating city financial software and payroll systems or to hire additional staff to speed up timeliness of financial reporting updates, calculation of retroactive pay, and other payroll and finance updates.

Councillor Scarpelli offered the following B-Paper, seconded by Councillor Tseng and amended by Councillor Tseng:

Be it Resolved by the Medford City Council that we request a cost analysis from the DPW Commissioner for in-house Cement and Hot Top Equipment and staffing compared to the annual cost of bonding for sidewalk and street repair and refer response to the City Council’s Public Works and Facilities Committee.

Be it Further Resolved that DPW include a proposed budget for road signage, marking, and striping to speed up road repairs.

On the B-Paper (Tseng second)—approved on a roll call vote of seven in favor and zero opposed.

Main paper as amended—approved on a roll call vote of seven in favor and zero opposed.

Councillor Scarpelli moved to report the paper out of Committee to the Mayor, and to adjourn, at 6:51 (Councillor Tseng second)—approved on a roll call vote of seven in favor and zero opposed.

President Bears adjourned the meeting at 6:51 p.m.

[End of Committee of the Whole Report.]

Vice President Collins moved to approve the report (Councillor Leming second)—approved.

20-020 - Offered by President Bears

Committee of the Whole Report, March 20, 2024.

20-020
COMMITTEE OF THE WHOLE
MEETING REPORT
WEDNESDAY, MARCH 20, 2024 @ 6:00 P.M.

Attendees: Council President Isaac “Zac” Bears; Council Vice President Kit Collins; Councillor Anna Callahan; Councillor Emily Lazzaro; Councillor Matt Leming; Councillor George Scarpelli; Councillor Justin Tseng; Attorney Robin Stein, KP Law; other participants as noted in the body of this report.

President Bears called the meeting to order at 6:00 p.m. on March 20, 2024 in the Medford City Council Chambers on the second floor of Medford City Hall, and via Zoom. The purpose of the meeting was to discuss the proposed Food Truck Ordinance (Paper **20-020**).

President Bears thanked participants for attending. He detailed work done on the ordinance to date. The ordinance was originally offered by former Councillor Knight. He said we have a draft back from legal counsel. Vice President Collins said we last discussed the ordinance in November during the last term. The intent is to streamline the process by which one-day food truck vendors may obtain that license so they don’t have to come before the City Council; this would also prevent logistical issues of having to come before the City Council before the event. She said we requested feedback. She said the only real concern here is the potential for competition between food truck and brick and mortar restaurants. She said we have a draft ordinance and draft Board

of Health regulations, and draft City Council regulations, but that the City Council doesn't have any regulations.

Attorney Stein said that the ability to have a food truck implicates multiple regulatory schemes, particularly the Board of Health and the City Council. She said that there needs to be a Board of Health regulation consistent with the state sanitary code. She proposed an amendment to the city ordinances to clean up 74-2. The Council would be the entity under city ordinances that gives permission to use the public ways. She recommended a section of the ordinance that specifically addresses mobile food vendors. She detailed situations where regulations can be put into place. She said you don't necessarily need to adopt a regulation. She said one purview is Board of Health and the other purview is City Council.

Vice President Collins said that the City Council licenses every food truck vendor. She said she wonders if there might be a more simplified, systematized way to get these permits. She said she does not want to see the City Council approving or denying food truck permits without an consistent rubric. She said there might be a way to have DPW or the Police Chief involved.

President Bears said that the intent is to make this an administrative process that does not require a public hearing or public meeting. He said we would like to have a city staff member to have the procedural and administrative authority to issue food truck permits rather than requiring the approval of a public body in a public meeting.

Councillor Callahan asked if we know what other cities do on this front. President Bears said he was not sure.

Councillor Scarpelli said that the biggest piece that was concerning to businesses was the protection of brick and mortar businesses, and that out-of-city businesses could come in and take business from city businesses that are committed to the City. He said President Bears's points are well taken. He said that the Mayor has a program for school nights and that this could make that process easier. He said he would like to get to a point where this is streamlined and not cumbersome.

Vice President Collins said that hopefully we can have a streamlined process here. President Bears said that there are days when Riverside Avenue is shut down for Clipper Ship Day and we don't want to make an onerous process for events like that.

Attorney Stein said that the Council's jurisdiction is over public ways. She said the School Department could issue permission for an event at the schools.

Councillor Scarpelli said that the food truck permit would still come to the Council even if a food truck was on school grounds. He said that we have to protect brick and mortar businesses and that is why the Council would need to approve these permits.

Attorney Stein said she could look at this issue. She said that the City Council is only the custodian of property that it has been vested with. She said that the existing 74-2 deals with use on streets or other public ways. She said she is not aware of any other language in city ordinances that would place permission to use school property with the City Council.

President Bears said that we have not had anything to do with part of this process because it is not relevant to our ordinances. He said that all we are trying to do here is

approve food truck permits or licenses. He said he would like to have the Health Department be responsible for this, and not the City Council.

Attorney Stein said that the Council could designate that authority. She said that the only public land that the City Council would need to give permission for would be the public ways. President Bears said that this would be a second level of permission. Attorney Stein said that this would be a policy decision that the Council has to decide, and for the Administration as well. She said that the Council can designate someone else to make this call, and there can be a proposed regulatory scheme.

President Bears said he would like to see, for example, that the DPW could give approval for a food truck in the public way. Attorney Stein said she didn't see anything in the law that allows the Board of Health to limit use of a private food truck on private property. She said if the Council is not the custodian of other public property, the Council cannot set rules for the use of that other public property.

President Bears asked if the custodian of another public property could issue food truck licenses for their property. Attorney Stein said yes. She said that under our zoning ordinance, the only explicitly allowed use of food trucks is for breweries. Zoning regulates private property. She said that zoning makes all public schools an exempt use. She said food trucks are explicitly permitted at breweries.

Councillor Scarpelli said that this is going to bring us all the way back to the beginning. He said that the reason we went this way is because businesses thought we would protect our brick and mortar businesses. He said that this leads to a slippery slope.

Councillor Callahan said that according to what Attorney Stein is saying, we only have authority to give permission over public ways, and that the Schools can give permission over their property, but it sounds like this has never been the practice of the City.

Councillor Scarpelli said we lose our sense of control if we take this out of the authority of the City Council and give it to the Board of Health.

President Bears said that we can only give permission for property over which we have authority or control. Attorney Stein said yes. She said you can designate the Board of Health to issue permits over properties over which the Council has jurisdiction. But the proposed food truck would need to be on land that the Council controls. She said she would be happy to look at prior opinions of counsel. President Bears said that current practice is that the Council approves all requests for food trucks. Attorney Stein said she would be happy to take a look at prior opinions of counsel.

Councillor Scarpelli said that we are talking about two separate issues. He said that for the sake of public finance, he requested that we stop and reevaluate as a Council. He said that this is not something that started in 2022 or 2023. He said that this started years before that. He said that the Council gives the votes on these permits. He said that this is a gigantic issue in our brick and mortar community.

Councillor Scarpelli moved to table this until we can regroup as a Council and get all the information that the Council needs to move forward on this. With no second on the motion to table, the motion failed.

Vice President Collins said she agrees that we have gotten out of scope. She said she would like to get to a point of resolution on this project.

Councillor Scarpelli departed the meeting at 6:54 p.m.

Vice President Collins said she wanted to make sure that we emphasize that this is a one-day permit or license and not a de facto all-week permit. She said she thinks that there is a path forward. She said we are eager to get to a simpler place and proceed from there. She said she would like to scale this back to the basics and then convene again as a Council after legal review to finalize this.

Councillor Lazzaro said that the crux of the issue is that we would hope that the Board of Health would be able to approve the majority of one-day licenses. She said that in browsing the ordinances, there isn't enough specificity in there. She said some of our local businesses have food trucks and they may want to operate in the City as well. She said she would support Vice President Collins's position.

President Bears said that our past practice does not seem to be grounded in any of our legal authority. He said multiple mayors have requested that multiple Councils approve permits that did not to be requested or approved. He suggested to Attorney Stein that zoning amendments could create uses for food trucks on private property. Attorney Stein said that zoning could be changed to modify some of this. President Bears said that for public ways, the ordinance could require approval from the Council. Attorney Stein said that food truck permits are one-day licenses by definition.

President Bears said that on certain properties, we still want to issue food truck permits and that there may be conflicts, and that the City Council may not be able to have jurisdiction over this. Attorney Stein said that the occasional presence of a food truck on a public campus is under part of their exempt use. President Bears asked if there is authority saying that we only want one-day or special-event food trucks to be licensed. Attorney Stein said that zoning regulates the use of the land, not the operations of the land. She said we could look at getting this as close as possible through zoning.

President Bears asked if the Council could designate the Board of Health as a special permit granting authority. Attorney Stein said no. President Bears said that he thinks we were not entirely accurate in assuming that we had the authority over these permits regardless of status of control of the land. He directed Attorney Stein to a variety of documents in which food truck permits were requested.

Vice President Collins moved authorize herself or President Bears to redraft the ordinance along the lines of the conversations in tonight's meeting, in consultation with Attorney Stein (Councillor Tseng second)—approved.

Vice President Collins moved to keep the paper in committee and adjourn at 7:11 p.m. (Councillor Leming second)—approved.

President Bears adjourned the meeting at 7:11 p.m.

[End of Committee of the Whole Report.]

Councillor Callahan moved to approve the report (Councillor Lazzaro second)—approved.

24-056 & 24-057 - Offered by President Bears

Administration and Finance Committee Report, March 26, 2024.

24-056 & 24-057
ADMINISTRATION AND FINANCE COMMITTEE
MEETING REPORT
TUESDAY, MARCH 26, 2024, 2024 @ 6:00 P.M.

Attendees: Council President Isaac “Zac” Bears, Committee Chair; Council Vice President Kit Collins, Committee Vice-Chair; Councillor Emily Lazzaro; Councillor Matt Leming; Councillor Justin Tseng; Councillor George Scarpelli (non-voting member); City Clerk Adam Hurtubise; other participants as noted in the body of this report.

President Bears called the meeting to order at 6:18 p.m. on March 26, 2024 in the Medford City Council Chambers on the second floor of Medford City Hall, and via Zoom. Minor technological difficulties delayed the start of the meeting. The purpose of the meeting was to discuss linkage fees, including bringing the Linkage Fee Ordinance into compliance with state law and adding affordable housing to the linkage fee structure (Papers **24-056** and **24-057**).

President Bears thanked participants for attending. He provided a brief description of the purpose of the meeting. He said that our linkage ordinance is 34 years out of date. He said he appreciates Councillor Leming’s research and other work on this topic. He said that there would be proposed corrections to the ordinance to bring it into compliance with state law, and to add affordable housing to the fee structure, which was allowed under the original law but not enacted by Medford. He said that the work so far was reviewed and approved by counsel.

Councillor Leming said that he is proposing minor changes to the linkage ordinance, and he cited the proposed changes. The changes are to 94-10, 1, 2, 3, and 4. He detailed the changes. He said that once the language is adjusted, the city can fund the affordable housing trust through linkage fees. The fees could be updated every three years.

Councillor Tseng thanked Councillor Leming. He said that these changes are clear cut and stick to the original intent of the ordinance. Vice President Collins said that she is glad that this was previously reviewed by legal counsel. She said it is important to know what linkage fees are. She said that these fees are levied upon developments to correlate with the municipal public sector for impacts on police, fire, water and sewer, and housing availability. She said she would look forward to working with the Mayor to update the ordinance every three years.

Councillor Leming said he noticed some housekeeping issues with the draft he submitted. He said he might have left some incorrect references in the draft that might need to be corrected. He moved to correct the references.

Councillor Leming moved to make the necessary corrections and send a corrected document (Councillor Tseng second)—approved.

President Bears said that this is a zoning ordinance change so it is going to have to go through the zoning ordinance amendment process.

Housing Planner Adithi Moogoor said PDS staff has reviewed the draft. She said that the proposal to use development fees for affordable housing is timely. She said we also have an inclusionary housing program requiring residential developments of a certain size to provide affordable housing. She said that there are quite a few references to density bonus and the City does not have a density bonus program.

President Bears said all parties will be involved as this moves through the zoning process.

Vice President Collins moved to keep the paper in committee and hearing staff comments on the proposed ordinance changes.

Vice President Collins withdrew her first motion and moved to report the paper out of committee (Councillor Leming second)—approved.

Vice President Collins moved to adjourn at 6:45 p.m. (Councillor Tseng second)—approved.

President Bears adjourned the meeting at 6:45 p.m.

[End of Administration and Finance Committee Report.]

Vice President Collins moved to approve the report (Councillor Leming second)—approved.

23-474 – Offered by Councilor Tseng

Governance Committee Report, March 26, 2024.

**GOVERNANCE COMMITTEE
MEETING REPORT
TUESDAY, MARCH 26, 2024 @ 7:00 P.M.**

Attendees: Councillor Justin Tseng, Committee Chair; Council President Isaac “Zac” Bears, Committee Vice-Chair; Council Vice President Kit Collins; Councillor Emily Lazzaro; Councillor George Scarpelli; Councillor Matt Leming (non-voting member of the Committee); City Clerk Adam Hurtubise; Chief of Staff Nina Nazarian; Election Commission Chair Henry Milorin, Election Commission Member Erin DiBenedetto; other participants as noted in the body of this report.

Chair Tseng called the meeting to order at 7:00 p.m. on March 26, 2024 in the City Council Chambers on the second floor of Medford City Hall, and via Zoom. The purpose of the meeting was to discuss 2023 Municipal Election process errors and accountability (Paper **23-474**).

Chair Tseng thanked participants for attending. He gave an update on work to date on the topic. Members of the Election Commission and Chief of Staff Nina Nazarian, who has been helping the Elections Team, were invited to the meeting, and Chair Tseng said that they are all here tonight.

President Bears said that the Council did introduce a number of papers regarding the elections in 2023, including before the recount. He said that the underlying issue is, when we have procedural errors, what is the protocol for the Department, in notifying people, being very transparent about what the errors were and how those errors were communicated. He said he wanted to make sure that there was clear understanding. He said that there has since been a staffing change in the office and since then, there has been very clear reporting. He said we did receive the report they had requested. He said he also appreciated that the Election Commission chair submitted his own report. He said we have more complicated elections than ever before, and we have at least two elections every year. He said that running elections in the city has never been more complicated than it is now, requiring full-time staff and part-time staff. He asked if we have staffing levels sufficient for success of the team. He said he also wants to know if we have staff in place who were doing the job. He said he wants to have a fully-staffed elections office full time. He said he wanted to acknowledge some significant improvements. He said that there is an Elections Department that is separate from the Election Commission.

Councillor Scarpelli said that the Election Commission does the best it can. He said that there were huge deficiencies realized in November and that magnified again for the federal election in March. He said he appreciates the reports, but that the reports mean nothing if the same things happen again and again. He said he thinks the Administration should ask for an outside audit and for more training from the state on how to run an election, and how to count ballots. He said that the mistakes open up an avenue for mistrust and confusion. He said it is not the poll workers' fault. He said that they have not been trained or vetted properly. He said that the Council asked years ago for cleanup of the voting lists. He said households receive ballots when they don't even live there any more. He said we see voters who have passed away who are still on voting lists. He said unless we try to get ahead of it, we will never catch up. He said we need to put some funding and support toward this venture right now. He said we saw issues in March that were similar to the issues in November. He said we know that there are issues. He said that we need to give the Elections Commission and staff the tools that they need to run an election. He said that the first step is the review of the voting rolls. He said former City Councillors were told that they were not registered voters. He said it is not often that you see a Chief of Staff running an election. He said that this doesn't look good, having a Chief of Staff running an election. He said he would support any endeavor that would support the commission and the department.

President Bears said he agrees with some of what was said. He said that there are procedural and training issues that need to be addressed. He said he has reviewed the report. He said there was a signage issue that was remedied. He said there were some issues with central tabulation and with entering of votes (77 ballots) for post-election tabulation. He said he has communicated with the Secretary of State's Office. He said that the Secretary's Office has not come in here and declared that there is a broken system. He said that there was an excellent recount. He said we need to address issues like this but that the idea of turning investigatory issues into large-scale problems, the Secretary's Office has been asked to make that determination and has declined to make that determination. He said we need a full-time Elections Department Director. He said the Council has said multiple times that we do not believe that 2.5 full-time employees is a sufficient number. He said that the March election was much smoother than the November election.

Vice President Collins said her concerns also center around what the Council has been talking about for months, which is the under-resourcing and under capacity of our Elections Department. She said that this is a department that needs more than two and a half full time employees. She said that it is not a properly staffed, fully resourced department. She said that issues like lack of signage reflect a resource and staffing issue. She said we need to elevate the Elections Coordinator or Manager position to a Director-level position.

Councillor Leming said that he is not a member of this committee but he said that this is not just about understaffing. He said it's also about software. He said people showed him what their day to day was like. He said that the process was ridiculously slow in terms of loading and processing. He said that a lot of things need to be updated in terms of data.

President Bears said that the VRIS system is maintained by the Secretary of State's Office, not by the City of Medford. He said that people who become inactive did not return their census forms to City Hall or those forms were not delivered to City Hall. He said turnout in municipal elections is 30-35%, up from less than 30% some years. He said turnout in federal elections is 50-60%. He said where there is a desire for this to be perfect, he supports it; he said that things can be improved but that 42,000 registered voter number has a lot of reasons behind it as to why it exists.

Councillor Lazzaro said that the state sets a lot of rules for elections. She said it's not necessary for us to be purging the voter rolls. She said she worked the polls in 2020. She said it was important to people that they voted in that election. She said it was amazing what our workers and staff were able to do. She said that there are some things that happen at the state level, and that things like voter inactivation are a result of

state law. She said that pulling people off the voter lists would not be the highest priority.

Councillor Scarpelli said that this is just a basic, fundamental process that could be done with a consultant that could come in and do this. He said that it is not his number one priority but that it needs to be cleaned up.

Chair Milorin said that to really understand what goes on in an election, you have to work an election. He said he didn't want to take people's knowledge away, but that in order to understand an election, you have to be working on the election. He said it is not a question of whether we trained poll workers. He said he has done it all prior to 2023. He said we used to squeeze at least two election trainings for poll workers for every election every year, for wardens, clerks, and inspectors. He said that there was training in 2023. He said he as a citizen was not happy with that training and that it was not done well. He said that caused an impact on the November election. He said we had poll workers who took action that they weren't supposed to be taking. He said we took corrective action. He said we did what we said we were going to do. He said we resolved them a little bit late, but the equipment that we use for the election is as old as Medford. He said we have to take the training into consideration. He said we do the best we can with that. He said people in his own family received multiple ballots. He said we will send you up to three notifications if your census is not returned, but after the third one, you are inactivated. He said that doesn't stop you from voting. He said you are still a registered voter but you are not on the active list. He said he sent a personal report after that election. He said any election without irregularities is a selection, not an election. Because any time you have human transactions, there can be mistakes and you document that. He detailed all the work he did supervising the 2023 election. He said he does his work to serve the people of Medford.

Councillor Scarpelli said he doesn't know how this process got to the point where anyone doesn't appreciate what Chair Milorin does for this community. He said he has great respect for Chair Milorin. He said we should want this process to be perfect. He said Chair Milorin has legitimized any work he has undertaken. He said the issues with the ballots going out were not Chair Milorin's fault. He said what Chair Milorin does is above and beyond what any election commissioner should be doing. He said he respects Chair Milorin and what he has done.

Chair Milorin said that Councillor Scarpelli may have misunderstood what he said. He said people of Medford are calling him names and disrespecting him. He said our relationship existed long before anybody was in office.

Councillor Leming said he appreciates the work of everyone here. He said these are questions about the system, not about individuals. He said he would be interested in hearing from the Chief of Staff. He said he knows that running the March election was not something she planned to do. He asked if there was anything planned for technology and staffing.

Chief of Staff Nazarian said that task number one is hiring an Elections Manager. She said that this is our best method to expedite and ensure that there is proper planning in place immediately. She said she does not disagree with any of Chair Milorin's points. She said that getting an Elections Manager here is the most critical thing. She said she is happy to learn more. She said we have an A-Team of people who are very well-trained. She said that there are roughly a dozen incredibly talented people who work part-time, in addition to Joan Limone in the Elections Office. She said that the staffing level prescribed in this year's budget is sustainable because of the support of the A-Team members we have available, including the people already mentioned. She said there were no hiccups in terms of staffing the office or completing the work for March. She said we have the right FTE count right now. She said she really enjoyed working with the staff and the A-Team.

Councillor Leming asked how the search for the new Elections Manager is going. Chief of Staff Nazarian said it is going well. She said that it is considered a confidential process in the industry.

President Bears asked about the timeline. He asked if it would be possible to have someone in place in four to six weeks. Chief of Staff Nazarian said that this is her hope. She said we have a formal interview committee.

Vice President Collins thanked the Chief of Staff and Chair Milorin. She said that she agrees that priority number one is filling the Elections Manager role. She said she knows every Councillor appreciates the hard work put in by the Election Commissioners. She said we still need to make sure we have enough people to get the work done.

President Bears said he appreciates that we are going to ask the team what did and didn't go well. He said it may make sense to have the new Elections Manager do an entry audit to identify things that are going well and that can be improved. He said that being a person in charge of elections has a certain highly public amount of responsibility.

Chief of Staff Nazarian said that her role pertains to the March 5 election. She said she takes responsibility for that election and that any errors for that election are on her. She said that in terms of any other involvement, she said she can speak to anything budget-oriented. She said she will be here to take back ideas for a future Elections Manager but that she also has to respect the roles and experience of the Election Commission.

Chair Milorin said he would share a report with the Council. He said that one of the key things that strikes him the most is the result of transparency. He detailed his hour to hour work on March 5. He said one of his biggest issues is training. He said if someone sees a problem with an election, they bring it to the Commission's attention and we take action.

Chair Tseng asked about the audit process after the election. Chief of Staff Nazarian said she would defer to Chair Milorin. She said she has prioritized her time and resources into hiring. Chair Milorin detailed the post-election audit. He said every poll worker was invited to submit documentation of any irregularities. He said those are compiled into a master document and reviewed. He said that way the Elections Manager will know what didn't go right.

Chair Tseng said that the March election seemed to go better than previous elections. He said we have all made our stances clear on our preference for more FTEs in the department and he has heard that from the A-Team as well. Chief of Staff Nazarian said she can only speak first-hand about one election. She said she doesn't want to speak in haste. She said that there is a lot that goes into elections. She said she feels fortunate to have had that opportunity. She said the biggest reflection she can share is that one election only gives you a snapshot of everything that goes into an election. She said she knew she was flying blind for part of that time. She said we had signs at 18 locations in the City. She said that the November Election is going to be a challenging Election. She said that there will still be problems even though we are preparing and will be prepared. She said she's not sure that support for the Elections Office comes in the form of more FTEs. She said that the first step is getting fully staffed.

Vice President Collins said she appreciates everyone's time tonight and that she thinks that this has been a real exercise in transparency.

Chair Tseng thanked Chief of Staff Nazarian, the Commissioners, and the Elections Department. He said we are all united in wanting to get a better department and process. Chief of Staff Nazarian thanked all the other departments that assisted. She also thanked Joan Limone and Chair Milorin and the Commission.

Melanie Tringali, 116 Forest Street, said that it's good to see that there is work being done. She said she requested a recount in the November election. She said that this election went smoother but there were hiccups. She said you are wasting money by sending papers to people who aren't eligible to vote. She said that Chair Milorin doesn't

have any plan on what is to be done. She said that machines were counting ballots incorrectly. She said 60 to 75% of machines had different counts than actual ballots. She said that there is no plan to count the number of ballots that were received and the ballots that were counted.

Vice President Collins moved to adjourn at 8:50 p.m. (Councillor Scarpelli second)—approved.

Chair Tseng adjourned the meeting at 8:50 p.m.

[End of Governance Committee Report.]

Councillor Tseng moved to approve the report (Councillor Callahan second)—approved.

23-427 & 24-008 - Offered by Vice President Collins

Planning and Permitting Committee Report, March 27, 2024.

23-427 & 24-008
PLANNING AND PERMITTING COMMITTEE
MEETING REPORT
WEDNESDAY, MARCH 27, 2024 @ 6:00 P.M.

Attendees: Council Vice President Kit Collins, Committee Chair; Councillor Matt Leming, Committee Vice-Chair; Council President Isaac “Zac” Bears; Councillor Anna Callahan; Councillor George Scarpelli; City Clerk Adam Hurtubise; other participants as noted in the body of this report.

Vice President Collins called the meeting to order at 6:15 p.m. on March 27, 2024 in the Medford City Council Chambers on the second floor of Medford City Hall and via Zoom. The purpose of the meeting was the proposed short-term rental ordinance (Paper **23-427**) and a resolution to review Fee Schedules (Paper **24-008**).

Vice President Collins thanked participants for attending. She read the two resolutions, offered by President Bears. President Bears said that 94-8.4 specifically regulates short-term rental units and requires registration of short-term rental unit owners. This is designed to regulate short-term rentals. He said it is not to say we oppose short-term rental options but the City needs to understand how much housing stock is taken up by short-term rentals and other matters. The ordinance has been in place for about two years. He said that one of the issues is that there is not enough staffing in the City to know if every unit is registered or if units are being rented through online platforms without permission. He said one solution is going to major short-term rental platforms and requiring the platforms to issue reports to the City on all the properties being rented through those platforms. He said it is worth amending the ordinance to include this requirement.

Vice President Collins said that we feel the effects of short-term rentals in the availability of rental units city-wide.

Councillor Callahan asked who would go over such a monthly report. President Bears said that there would need to be discussions with the Building Department. He said he envisions having the Building Department enforce this ordinance. He said he would also like to hear from planning. President Bears shared relevant language from a similar ordinance in Boston.

President Bears moved to refer the amended language (see below) to the Building Commissioner, the IT Director, and the PDS Director for comments within 60 Days (Councillor Callahan second)—approved on a roll call vote of five in favor and zero opposed.

Proposed amended Chapter 94-8.4.13 and 94-12 to include a version of the following language:

94-12 - Definitions

Booking Agent, needed (AirBnB, VRBO, Homeaway, etc...)

9-8.4.13 - STR Registration Process

4. Data Sharing. A Booking Agent shall provide to the City, on a monthly basis, an electronic report, in a format determined by the City, in consultation with Building Department, IT Department, and Office of Planning, Development and Sustainability, of the listings maintained, authorized, facilitated or advertised by the Booking Agent within the City of Medford for the applicable reporting period. The report shall include a breakdown of where the listings are located, whether the listing is for a room or a whole unit, and shall include the number of nights each unit was reported as occupied during the applicable reporting period.

Discussion turned to the fee structure for various transaction in the City. Vice President Collins said that they might need updating to come closer to parity with neighboring municipalities and the administrative costs associated with the fees.

President Bears said that in terms of fees created by ordinance, he said we have only updated one by ordinance and he doesn't believe we have updated any others since he has been on the Council. He said from feedback he has received that some of these fees might be 25 or 30 years old. He said that the Clerk has said that people come to get married in Medford because it is so much cheaper to get married here than anywhere else. He said it is clear that there are things that have not been looked at in a very long time. He said building permits might be ripe for discussion.

President Bears detailed the reasoning behind the raising of fees, the reasons for bringing this into line with our neighbors, and the fact that these have not been changed in many years.

Senior Planner Danielle Evans said that community development fees were updated in January for the first time since the 1990s after a review of peer communities. She said that the Community Development team does not need ordinances to update fees in that office.

President Bears said that we might want to update fees by ordinance. Planner Evans said that there should be a full review of all fees. President Bears said he does not know if all fees are set by the Council. Planner Evans also suggested checking to see if other communities incorporate by reference.

Vice President Collins said we are always trying to look at the procedure to see if this makes sense. Councillor Callahan said she said she noticed tax accounts online as well. President Bears said we have fees that we collect from Uber and from short-term rentals, and none of the community development fees are listed.

Councillor Callahan asked if we know which fees bring in what amounts. President Bears said that he has not seen a spreadsheet or table on this, but if it existed, Finance would produce it.

Councillor Leming asked if it is possible or legal to tie these fees to the consumer price index to make them go up with inflation? President Bears said he thinks it would make sense.

Councillor Scarpelli asked if we could sever that part because he is not in favor of anything involving KP Law

President Bears moved to have Department Heads take 90 days to review fees in their office and to look into fee changes they might recommend (amended by Councillor Callahan) (Councillor Callahan second)—approved on a roll call vote of five in favor and zero opposed.

Councillor Leming moved to request the legal opinion of KP Law on tying the City’s fee schedule in Appendix A to the consumer price index or another inflation measure (President Bears second)—approved on a roll call vote of four in favor and Councillor Scarpelli opposed.

President Bears made the following motion:

Motion to request that the below Department Heads reply to the Council within 90 days with a recommendation to update fees in the city Fee Schedule (Appendix A of the City Ordinances) based on fee rates in neighboring and peer communities and other assessments deemed relevant.

Appendix A to the City Ordinances

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-
- Animals/Rodents - Clerk, Health, Building
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- Building - Building
-
-
-
- Electrical - Electrical
-
-
- Plumbing - Building
-
-
-
- Businesses - Clerk, DPW, Building
-
-
- Cemetery - DPW
-
-
-
- Fire Prevention and Protection - Fire
-
-
-
- Streets, Sidewalks, and Public Places - DPW, Engineering
-
-
- Utilities - DPW, Engineering, Water-Sewer
-
-
-
- Vehicles for Hire - Engineering, PDS
-
-
-
- Zoning - Building, PDS
-

Councillor Callahan made the following amendment: Request that Department Heads consider incentive structures within fee changes to encourage meeting climate and housing goals outlined in the city’s Comprehensive Plan, Climate Action and Adaptation Plan, Housing Production Plan, and Open Space Plan.

—(Councillor Callahan second)—approved on a roll call vote of five in favor and zero opposed.

President Bears moved to request that all City Departments provide a report to the City Council within 90 days on any fees that they assess as a department and share a complete list of those fees and legal authority, such as state law, city ordinance, board and commission rules and regulations) that allows them to charge those fees (Councillor Callahan second)—approved on a roll call vote of five in favor and zero opposed.

Councillor Callhan moved to adjourn at 7:00 p.m. (Councillor Leming second)—approved on a roll call vote of four in favor and President Bears opposed.

Vice President Collins adjourned the meeting at 7:00 p.m.

[End of Planning and Permitting Committee Report.]

Vice President Collins moved to approve the report (Councillor Leming second)—approved.

HEARINGS
23-319
LEGAL NOTICE
MEDFORD CITY CLERK’S OFFICE
NOTICE OF PUBLIC HEARING

The Medford City Council will hold a continued public hearing in the Howard F. Alden Chambers at Medford City Hall, 85 George P. Hassett Drive, Medford, MA and via Zoom on Tuesday, March 12th at 7:00 p.m., a link to be posted no later than Friday, March 8, 2024, on a petition for a special permit for signs by Raising Cane’s Restaurants, LLC, d/b/a Raising Cane’s Chicken Fingers, 6800 Bishop Road, Plano, TX 75024. The petitioner is seeking to construct an eat-in restaurant (Allowed Use) in a commercial one (C-1) Zoning District at 509-511 Riverside Avenue a/k/a 760 Fellsway, Parcel ID. Lot 7-02-27, with **Additional On-Premises Signage requiring a Special Permit from the Medford City Council pursuant to Ch. 94 Section 6.2.20 of the Medford Zoning Ordinance.**

The petition seeks a special permit for:

Additional On-Premises Signage

The Petition and Site Plans for this project may be viewed in the Office of the City Clerk, Room 103, Medford City Hall, Medford, MA. The site plans can also be viewed on the City’s website at <https://www.medfordma.org/boards-commissions/community-development-board> by clicking on “Current CD Board Filings.”

Call 781-393-2435 for any accommodations/aids. The City of Medford is an EEO/AA/504 Employer.

By the order of the City Council

S/Adam L. Hurtubise
City Clerk

Addressing the Council:

Attorney Kathleen Desmond, for the Petitioner
Sarah Holmes, Senior Property Manager, Raising Cane's

President Bears re-opened the public hearing at 7:18 p.m.

Addressing the Council IN FAVOR:

Attorney Kathleen Desmond, for the Petitioner
Sarah Holmes, Senior Property Development Manager, Raising Cane's
Sharon Deyeso, Mass. Ave. and Circuit Road

President Bears declared the public hearing closed at 7:23 p.m.

During, prior discussion in committee, The signs that were approved:

- (1) Two (2) additional 4x8 Wall Signs not to exceed 31 square feet and to read: "RAISING CANE'S CHICKEN FINGERS," as further described and depicted in Exhibit "A" of the special permit materials submitted by the Applicant;
- (2) "One Love Heart" City art mural as further described and depicted in Exhibit "B" of the special permit materials submitted by the Applicant;
- (3) A digital print of a "Red Dog" on an Aluminum Substrate to read: "CANE 1" as further described and depicted in Exhibit "D" of the special permit materials submitted by Applicant;
- (4) Two (2) "DRIVE THRU MENU BOARD" signs as further described and depicted in Exhibit "F" of the special permit materials submitted by the Applicant; and
- (5) One "PRE-SELL BOARD" sign as further described and depicted in Exhibit "G" of the special permit materials submitted by the Applicant.

The items which were not approved:

- (1) Painted Arrow Mural shown as Exhibit "C";
- (2) One Love Canopy shown as Exhibit "E"; and,
- (3) Monument shown as Exhibit "H."

Councillor Scarpelli moved to approve the special permit, with the conditions as outlined above (Vice President Collins second)—approved, with conditions, on a roll call vote of seven in favor and zero opposed.

MOTIONS, ORDERS, AND RESOLUTIONS

24-056 - Offered by Councilor Leming

Chapter 94 - Zoning

SECTION 94-10.0. DEVELOPMENT LINKAGE FEES

Sec. 94-10.1. Parks and recreational facilities.

94-10.1.1 Purpose. The purpose of this section is to promote the public health, safety, convenience and welfare; to prevent the deterioration of existing parks and public recreational facilities; to establish a balance between real estate development and the open space and recreational needs of city residents; and to mitigate the impacts

of future development on the deterioration of parks and public recreational facilities, by provisions designed to:

1. Afford review and regulation of real estate development projects which directly or indirectly lead to conditions of the use of parks and public recreational facilities that contribute to an increase in the costs for the upgrade, repair and maintenance of parks and public recreational facilities, and the need for new capital improvements.
2. Provide a fund for parks and public recreational facility capital improvements through a linkage grant to the park and recreational facilities trust, as a condition of the approval of any nonresidential development of 10,000 square feet of gross floor area or more; any residential development of six units or more; any subdivision of property which creates six or more units or buildable lots; or any residential or nonresidential project requiring a density bonus, variance, special permit, or zoning map amendment that is requested for a project of 5,000 square feet or more except those that are exempt pursuant to section 94-10.1.4. Requests for such zoning relief may include bonuses in density of use such as increases in gross floor area, height or other changes in dimensional requirements.
3. The imposition of linkage fees is one of the preferred methods of ensuring that development bears a proportionate share of the cost of capital facilities necessary to accommodate such development. This must be done in order to promote and protect the public health, safety and welfare.
4. The methodology and analysis for the determination of the impact of new development, the need for new facilities and their costs, and the establishment and calculation of the linkage fees shall be established as a result of an investigation and report with supporting documentation, which shall be available for inspection by any feepayer or the public. Calculations of linkage fees may be based on the methodology established by previous studies that outline methods for an escalating linkage fee formula.
5. The provisions of this section shall be construed so as to effectively carry out its purpose in the interest of the public health, safety and welfare.

94-10.1.2 Definitions. See section 94-12.0, "Development linkage fees".

94-10.1.3 Procedures. The mayor or the office of community development shall be empowered to promulgate regulations and establish fees it deems necessary to implement this section. For a development impact project, no building permit or density bonus, variance, special permit or zoning amendment shall be granted or adopted unless the following requirements are met:

1. The office of community development shall review and calculate the fees for all development impact projects. Applicants may request a schedule for the payment of linkage fees in accordance with regulations established by the community development board.
2. If an applicant elects not to pay the linkage fee as determined by the office of community development, then the applicant shall prepare and submit to the office of community development an independent fee calculation study for the land development activity for which a building or use permit is sought. The independent fee calculation study shall show the basis upon which the independent fee calculation was made, and shall follow the prescribed methodologies and formats based on regulations promulgated by the community development board.
3. The person or persons making application for a building permit or a density bonus, variance, special permit or zoning map amendment to construct, substantially rehabilitate, enlarge or extend a structure pursuant

to a development impact project plan shall also enter into an agreement with the city to pay a park and recreational facilities linkage fee. For each development impact project, except for those exemptions found in section 94-10.1.4, a park and recreational facilities linkage fee will be paid as reviewed and approved by the office of community development.

4. The building commissioner shall not issue any building or use permit with respect to any building, structure, or land within an area covered by a development impact project plan until the office of community development provides certification to the building commissioner that the applicant has entered into a fee payment agreement as provided for herein .
5. The park and recreational facilities linkage fee shall be paid to, and eventually withdrawn from, the park and recreational facilities trust based upon a schedule of fees and rules and regulations established by the community development board.
6. The formula (amount and rate of payment) for the park and recreational facilities linkage fee shall be subject to recalculation at least three years after the effective date of this provision, and at least every three years thereafter. The mayor or the office of community development, after public notice and a public hearing of the Community Development Board, may recalculate and amend the formula for the park and recreational facilities linkage fee, based on a methodology and analysis established as a result of report(s), documentation and information.

94-10.1.4 Exemptions. The following are not development impact projects and will not be subject to development impact project requirements:

1. Any structure for which a building or use permit has been lawfully issued prior to the city council adopting this division, provided that construction work under such a permit is commenced within six months after its issuance, and the work proceeds in good faith continuously to completion so far as is reasonably practicable under the circumstances.
2. Any building, structure, addition or substantial rehabilitation below the thresholds described in section 94-10.1.4.
3. Any building, structure, substantial rehabilitation, or addition that is proposed for subsidized, or affordable homeowner or rental housing, which falls within criteria established by the Commonwealth of Massachusetts or the department of housing and urban development, and confirmed by vote of the community development board.
4. Any building, structure, substantial rehabilitation, or addition that is proposed for: a religious or nonprofit educational purpose; a preschool or child care center; a hospital, nursing home, associated outpatient clinic or other health care facility licensed by the Massachusetts Department of Public Health; a social service center, nonprofit community or recreation center, museum, library, art gallery or other public service use.
5. Any structure, conforming or otherwise, damaged or destroyed by fire or other catastrophe where the structure will not be rebuilt beyond its former dimensions.
6. Any claim of exemption shall be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.

94-10.1.5 Refund of Linkage Fee Paid. The applicant shall be entitled to a refund of linkage fees for a development impact project provided that a written request is submitted to the office of community development within six months of the issuance of a building permit, and provided that no work has commenced on the project. The request shall be reviewed by the office of community development and the linkage fee, minus ten percent to offset the costs of collection and refund, may be returned to the applicant.

Any funds not expended or encumbered by the end of the calendar quarter immediately following six years from the date the linkage fee was paid shall, upon application of the applicant or his assign(s), be returned to such landowner provided that the applicant or his assign(s) submits an application for a refund to the office of community development within 180 days of the expiration of the six-year period.

94-10.1.6 Credits. A credit may be given for voluntary site-related improvements or dedications as approved by the community development board or work performed as required by section 94-6.4.

1. Credit against a linkage fee otherwise due will not be provided until:
 - a. The construction is completed and accepted by the city, or the state, whichever is applicable.
 - b. Security in the form of a performance bond, irrevocable letter of credit, or escrow agreement shall be posted with and approved by the office of community development.
 - c. All design, construction, inspection, testing, bonding and acceptance procedures are in strict compliance with the current state and city requirements.
2. Credit may be provided before completion of specified improvements if adequate assurances are given by the applicant that the standards set out in section 94-10.1.6 will be met, and if the applicant posts security as provided herein for the costs of such construction.
3. Any claim for credit must be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.
4. Credits shall not be transferable from one project or development to another without the approval of the community development board, and may only be transferred to another development upon a finding by the community development board that the voluntary dedication for which the credit was given equally benefits the city.
5. Determinations made by the community development board or the office of community development pursuant to the linkage fees or credit provision of this section may be appealed to the city council by filing a written request with the city council within 30 days of the community development board or the office of community development's determination. The appeal procedure shall be as provided for in M.G.L.A. c. 40A, § 15.

94-10.1.7 Penalty. A violation of this section shall be prosecuted in the same manner as misdemeanors are prosecuted and upon conviction the violator shall be punishable according to section 94-11.3.2. However, in addition to or in lieu of any criminal prosecution, the city shall have the power to sue in civil court to enforce the provisions of this section.

Sec. 94-10.2. Police and fire facilities.

94-10.2.1 Purpose. The purpose of this section is to promote the public health, safety, convenience and welfare; to prevent overuse and deterioration of existing police and fire facilities; to establish a balance between real estate development and the police and fire needs of city residents; and to mitigate the impacts of future development on the overuse and deterioration of police and fire facilities, and the need for new capital improvements, by provisions designed to:

1. Afford review and regulation of real estate development projects which directly or indirectly lead to conditions of the use of police and fire facilities that contribute to an increase in the costs for the upgrade, repair and maintenance of police and fire facilities, and the need for new capital improvements.
2. Provide a fund for police and fire facility capital improvements through a linkage grant to the police and fire linkage trust, as a condition of the

approval of: any nonresidential development of 10,000 square feet of gross floor area or more; any residential development of six units or more; any subdivision of property which creates six or more units or buildable lots; or any residential or nonresidential project requiring a density bonus, variance, special permit, or zoning map amendment that is requested for a project of 5,000 square feet or more, except those that are exempt pursuant to section 94-10.2.4. Requests for such zoning relief may include bonuses in density of use such as increases in gross floor area, height or other changes in dimensional requirements.

3. The imposition of linkage fees is one of the preferred methods of ensuring that development bears a proportionate share of the cost of capital facilities necessary to accommodate such development. This must be done in order to promote and protect the public health, safety and welfare.
4. The methodology and analysis for the determination of the impact of new development, the need for new facilities and their costs, and the establishment and calculation of the linkage fees shall be established as a result of an investigation and report with supporting documentation, which shall be available for inspection by any feepayer or the public. Calculations of linkage fees may be based on the methodology established by previous studies that outline methods for an escalating linkage fee formula.

94-10.2.2 Definitions. See section 94-12.0, "Development linkage fees".

94-10.2.3 Procedures. The mayor or the office of community development shall be empowered to promulgate regulations and establish fees it deems necessary to implement this section. For a development impact project, no building permit or density bonus, variance, special permit or zoning amendment shall be granted or adopted unless the following are met:

1. The office of community development shall review and calculate the fees for all development impact projects. Applicants may request a schedule for the payment of linkage fees in accordance with regulations established by the community development board.
2. If an applicant elects not to pay the linkage fee as determined by office of community development, then the applicant shall prepare and submit to the office of community development an independent fee calculation study for the land development activity for which a building or use permit is sought. The independent fee calculation study shall show the basis upon which the independent fee calculation was made, and shall follow the prescribed methodologies and formats based on regulations promulgated by the community development board.
3. The person or persons making application for a building permit or a density bonus, variance, special permit, or zoning map amendment to construct, substantially rehabilitate, enlarge or extend a structure pursuant to a development impact project plan shall also enter into an agreement with the city to pay a police and fire facilities linkage fee. For each development impact project, except for those exemptions found in section 94-10.2.4, a police and fire facilities linkage fee will be paid as reviewed and approved by the office of community development.
4. The building commissioner shall not issue any building or use permit with respect to any building, structure, or land within an area covered by a development impact project plan until the office of community development provides certification to the building commissioner that the applicant has entered into a fee payment agreement.
5. The police and fire facilities linkage fee shall be paid to, and eventually withdrawn from, the police and fire facilities trust based upon a schedule

of fees and rules and regulations established by the community development board.

6. The formula (amount and rate of payment) for the police and fire facilities linkage fee shall be subject to recalculation at least three years after the effective date of this provision, and at least every three years thereafter. The mayor or the office of community development, after public notice and a public hearing of the Community Development Board, may recalculate and amend the formula for the police and fire facilities linkage fee, based on a methodology and analysis established as a result of report(s), documentation and information.

94-10.2.4 Exemptions. The following are not development impact projects and will not be subject to development impact project requirements:

1. Any structure for which a building or use permit has been lawfully issued prior to the city council adopting this section, provided that construction work under such a permit is commenced within six months after its issuance, and the work proceeds in good faith continuously to completion so far as is reasonably practicable under the circumstances.
2. Any building, structure, addition or substantial rehabilitation below the thresholds described herein.
3. Any building, structure, substantial rehabilitation, or addition that is proposed for subsidized, or affordable homeowner or rental housing, which falls within criteria established by the Commonwealth of Massachusetts or the department of housing and urban development, and confirmed by vote of the city community development board.
4. Any building, structure, substantial rehabilitation or addition that is proposed for: a religious or nonprofit educational purpose; a preschool or child care center; a hospital, nursing home, associated outpatient clinic or other health care facility licensed by the Massachusetts Department of Public Health; a social service center, nonprofit community or recreation center, museum, library, art gallery or other public service use.
5. Any structure, conforming or otherwise, damaged or destroyed by fire or other catastrophe where the structure will not be rebuilt beyond its former dimensions.
6. Any claim of exemption shall be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.

94-10.2.5 Refund of Linkage Fee Paid. The applicant shall be entitled a refund of linkage fees for a development impact project provided that a written request is submitted to the office of community development within six months of the issuance of a building permit, and provided that no work has commenced on the project. The request shall be reviewed by the office of community development and the linkage fee, minus ten percent to offset the costs of collection and refund, may be returned to the applicant. Any funds not expended or encumbered by the end of the calendar quarter immediately following six years from the date the linkage fee was paid shall, upon application of the applicant or his assign(s), be returned to such landowner provided that the applicant or his assign(s) submits an application for a refund to the office of community development within 180 days of the expiration of the six-year period.

94-10.2.6 Credits. A credit may be given for voluntary site-related improvements or dedications as approved by the community development board or work performed as required by section 94-6.4.

1. Credit against a linkage fee otherwise due will not be provided until:
 - a. The construction is completed and accepted by the city, or the state, whichever is applicable.

- b. Security in the form of a performance bond, irrevocable letter of credit, or escrow agreement shall be posted with and approved by the office of community development.
 - c. All design, construction, inspection, testing, bonding and acceptance procedures are in strict compliance with the current state and city requirements.
- 2. Credit may be provided before completion of specified improvements if adequate assurances are given by the applicant as to the standards set out herein, and if the applicant posts security as provided herein for the costs of such construction.
- 3. Any claim for credit must be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.
- 4. Credits shall not be transferable from one project or development to another without the approval of the community development board, and may only be transferred to another development upon a finding by the community development board that the voluntary dedication for which the credit was given equally benefits the city.
- 5. Determinations made by the community development board or the office of community development pursuant to the linkage fees or credit provision of this section may be appealed to the city council by filing a written request with the city council within 30 days of the community development board or the office of community development's determination. The appeal procedure shall be as provided for in M.G.L.A. c. 40A, § 15.

94-10.2.7 Penalty. A violation of this section shall be prosecuted in the same manner as misdemeanors are prosecuted and upon conviction the violator shall be punishable according to section 94-11.3.2. However, in addition to or in lieu of any criminal prosecution, the city shall have the power to sue in civil court to enforce the provisions of this section.

Sec. 94-10.3. Roads and traffic facilities.

94-10.3.1 Purpose. The purpose of this division is to promote public health, safety, convenience and welfare; to prevent overuse and deterioration of existing roads and traffic facilities; to establish a balance between real estate development and the road and traffic needs of city residents; and to mitigate the impacts of future development on the overuse and deterioration of road and traffic facilities, by provisions designed to:

- 1. Afford review and regulation of real estate development projects which directly or indirectly lead to conditions of the use of road and traffic facilities that contribute to an increase in the costs for the upgrade, repair and maintenance of road and traffic facilities, and the need for new capital improvements.
- 2. Provide a fund for roads and traffic facility capital improvements through a linkage grant to the roads and traffic linkage trust as a condition of the approval of: any nonresidential development of 10,000 square feet of gross floor area or more; any residential development of six units or more; any subdivision of property which creates six or more units or buildable lots; or any residential or nonresidential project requiring a density bonus, variance, special permit or zoning map amendment that is requested for a project of 5,000 square feet or more, except those that are exempt pursuant to section 94-10.3.4. Requests for such zoning relief may include bonuses in density of use such as increases in gross floor area, height or other changes in dimensional requirements.
- 3. The imposition of linkage fees is one of the preferred methods of ensuring that development bears a proportionate share of the cost of capital facilities necessary to accommodate such development. This must be done in order to promote and protect the public health, safety and welfare.

4. The methodology and analysis for the determination of the impact of new development, the need for new facilities and their costs, and the establishment and calculation of the linkage fees shall be established as a result of an investigation and report with supporting documentation, which shall be available for inspection by any feepayer or the public. Calculations of linkage fees may be based on the methodology established by previous studies that outline methods for an escalating linkage fee formula.

94-10.3.2 Definitions. See section 94-12.0, "Development linkage fees".

94-10.3.3 Procedures. The mayor or the office of community development shall be empowered to promulgate regulations and establish fees it deems necessary to implement this division. For a development impact project, no building permit or density bonus, variance, special permit, or zoning amendment shall be granted or adopted unless the following requirements are met:

1. The office of community development shall review and calculate the fees for all development impact projects. Applicants may request a schedule for the payment of linkage fees in accordance with regulations established by the community development board.
2. If an applicant elects not to pay the linkage fee as determined by office of community development, then the applicant shall prepare and submit to the office of community development an independent fee calculation study for the land development activity for which a building or use permit is sought. The independent fee calculation study shall follow the prescribed methodologies and formats based on regulations promulgated by the community development board.
3. The person or persons making application for a building permit or a density bonus, variance, special permit or zoning map amendment to construct, substantially rehabilitate, enlarge or extend a structure pursuant to a development impact project plan shall also enter into an agreement with the city to pay a roads and traffic facilities linkage fee. For each development impact project, except for those exemptions found in section 94-10.3.4, a roads and traffic facilities linkage fee will be paid as reviewed and approved by the office of community development.
4. The building commissioner shall not issue any building or use permit with respect to any building, structure, or land within an area covered by a development impact project plan until the office of community development provides certification to the building commissioner that the applicant has entered into a fee payment agreement as provided for herein.
5. The roads and traffic facilities linkage fee shall be paid to, and eventually withdrawn from, the roads and traffic facilities trust based upon a schedule of fees and rules and regulations established by the community development board.
6. The formula (amount and rate of payment) for the roads and traffic facilities linkage fee shall be subject to recalculation at least three years after the effective date of this provision, and at least every three years thereafter. The mayor or the office of community development, after public notice and a public hearing of the Community Development Board, may recalculate and amend the formula for the roads and traffic facilities linkage fee, based on a methodology and analysis established as a result of report(s), documentation and information.

94-10.3.4 Exemptions. The following are not development impact projects and will not be subject to the development impact project requirements:

1. Any structure for which a building or use permit has been lawfully issued prior to the city council adopting this section provided that construction work under such a permit is commenced within six months after its issuance, and the work proceeds in good faith continuously to completion so far as is reasonably practicable under the circumstances.
2. Any building, structure, addition or substantial rehabilitation below the thresholds described herein.
3. Any building, structure, substantial rehabilitation, or addition that is proposed for subsidized, or affordable homeowner or rental housing, which falls within criteria established by the Commonwealth of Massachusetts or the department of housing and urban development, and confirmed by vote of the city community development board.
4. Any building, structure, substantial rehabilitation, or addition that is proposed for: a religious or nonprofit educational purpose; a preschool or child care center; a hospital, nursing home, associated outpatient clinic or other health care facility licensed by the Massachusetts Department of Public Health; a social service center, nonprofit community or recreation center, museum, library, art gallery or other public service use.
5. Any structure, conforming or otherwise, damaged or destroyed by fire or other catastrophe where the structure will not be rebuilt beyond its former dimensions.
6. Any claim of exemption shall be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.

94-10.3.5 Refund of Linkage Fee Paid. The applicant shall be entitled to a refund of linkage fees for a development impact project provided that a written request is submitted to the office of community development within six months of the issuance of a building permit, and provided that no work has commenced on the project. The request shall be reviewed by the office of community development and the linkage fee, minus ten percent to offset the costs of collection and refund, may be returned to the applicant. Any funds not expended or encumbered by the end of the calendar quarter immediately following six years from the date the linkage fee was paid shall, upon application of the applicant or his assign(s), be returned to such landowner provided that the applicant or his assign(s) submits an application for a refund to the office of community development within 180 days of the expiration of the six-year period.

94-10.3.6 Credits. A credit may be given for voluntary site-related improvements or dedications as approved by the community development board or work performed as required by section 94-6.4.

1. Credit against a linkage fee otherwise due will not be provided until:
 - a. The construction is completed and accepted by the city, or the state, whichever is applicable.
 - b. Security in the form of a performance bond, irrevocable letter of credit, or escrow agreement shall be posted with and approved by the office of community development.
 - c. All design, construction, inspection, testing, bonding and acceptance procedures are in strict compliance with the current state and city requirements.
2. Credit may be provided before completion of specified improvements if adequate assurances are given by the applicant as to the standards set out herein, and if the applicant posts security as provided herein for the costs of such construction.
3. Any claim for credit must be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.

4. Credits shall not be transferable from one project or development to another without the approval of the community development board, and may only be transferred to another development upon a finding by the community development board that the voluntary dedication for which the credit was given equally benefits the city.
5. Determinations made by the community development board or the office of community development pursuant to the linkage fees or credit provision of this section may be appealed to the city council by filing a written request with the city council within 30 days of the community development board or the office of community development's determination. The appeal procedure shall be as provided for in M.G.L.A. c. 40A, § 15.

94-10.3.7 Penalty. A violation of this section shall be prosecuted in the same manner as misdemeanors are prosecuted and upon conviction the violator shall be punishable according to section 94-11.3.2. However, in addition to or in lieu of any criminal prosecution, the city shall have the power to sue in civil court to enforce the provisions of this section.

Sec. 94-10.4. Water and sewer facilities.

94-10.4.1 Purpose. The purpose of this section is to promote the public health, safety, convenience and welfare; to prevent overuse and deterioration of existing water and sewer facilities; to establish a balance between real estate development and the road and traffic needs of city residents; and to mitigate the impacts of future development on the overuse and deterioration of road and traffic facilities, by provisions designed to:

1. Afford review and regulation of real estate development projects which directly or indirectly lead to conditions of the use of road and traffic facilities that contribute to an increase in the costs for the upgrade, repair and maintenance of road and traffic facilities; and the need for new capital improvements.
2. Provide a fund for water and sewer facility capital improvements through a linkage grant to the water and sewer linkage trust, as a condition of the approval of: any nonresidential development of 10,000 square feet of gross floor area or more; any residential development of six units or more; any subdivision of property which creates six or more units or buildable lots; or any residential or nonresidential project requiring a density bonus, variance, special permit, or zoning map amendment that is requested for a project of 5,000 square feet or more, except those that are exempt pursuant to section 94-10.4.4. Requests for such zoning relief may include bonuses in density of use such as increases in gross floor area, height or other changes in dimensional requirements.
3. The imposition of linkage fees is one of the preferred methods of ensuring that development bears a proportionate share of the cost of capital facilities necessary to accommodate such development. This must be done in order to promote and protect the public health, safety and welfare.
4. The methodology and analysis for the determination of the impact of new development, the need for new facilities and their costs, and the establishment and calculation of the linkage fees shall be established as a result of an investigation and report with supporting documentation, which shall be available for inspection by any feepayer or the public. Calculations of linkage fees may be based on the methodology established by previous studies that outline methods for an escalating linkage fee formula

94-10.4.2 Definitions. See section 94-12.0, "Development linkage fees".

94-10.4.3 Procedures. The mayor or the office of community development shall be empowered to promulgate regulations and establish fees it deems necessary to

implement this division. For a development impact project no building permit or density bonus, variance, special permit, or zoning amendment shall be granted or adopted unless the following requirements are met:

1. The office of community development shall review and calculate the fees for all development impact projects. Applicants may request a schedule for the payment of linkage fees in accordance with regulations established by the community development board.
2. If an applicant elects not to pay the linkage fee as determined by office of community development, then the applicant shall prepare and submit to the office of community development an independent fee calculation study for the land development activity for which a building or use permit is sought. The independent fee calculation study shall show the basis upon which the independent fee calculation was made, and shall follow the prescribed methodologies and formats based on regulations promulgated by the community development board.
3. The person or persons making application for a building permit or a density bonus, variance, special permit, or zoning map amendment to construct, substantially rehabilitate, enlarge or extend a structure pursuant to a development impact project plan shall also enter into an agreement with the city to pay a water and sewer facilities linkage fee. For each development impact project, except for those exemptions found in section 94-10.4.4, a water and sewer facilities linkage fee will be paid as reviewed and approved by the office of community development.
4. The building commissioner shall not issue any building or use permit with respect to any building, structure, or land within an area covered by a development impact project plan until the office of community development provides certification to the building commissioner that the applicant has entered into a fee patent agreement as provided for herein.
5. The water and sewer facilities linkage fee shall be paid to, and eventually withdrawn from, the water and sewer facilities trust based upon a schedule of fees and rules and regulations established by the community development board.
6. The formula (amount and rate of payment) for the water and sewer facilities linkage fee shall be subject to recalculation at least three years after the effective date of this provision, and at least every three years thereafter. The mayor or the office of community development, after public notice and a public hearing of the Community Development Board, may recalculate and amend the formula for the water and sewer facilities linkage fee, based on a methodology and analysis established as a result of report(s) and documentation and information.

94-10.4.4 Exemptions. The following are not development impact projects and will not be subject to the development impact project requirements:

1. Any structure for which a building or use permit has been lawfully issued prior to the city council adopting this section provided that construction work under such a permit is commenced within six months after its issuance, and the work proceeds in good faith continuously to completion so far as is reasonably practicable under the circumstances.
2. Any building, structure, addition or substantial rehabilitation below the thresholds described herein.
3. Any building, structure, substantial rehabilitation, or addition that is proposed for subsidized, or affordable homeowner or rental housing, which falls within criteria established by the Commonwealth of Massachusetts or the department of housing and urban development, and confirmed by vote of the city community development board.

4. Any building, structure, substantial rehabilitation, or addition that is proposed for: a religious or nonprofit educational purpose; a preschool or child care center; a hospital, nursing home, associated outpatient clinic or other health care facility licensed by the Massachusetts Department of Public Health; a social service center, nonprofit community or recreation center, museum, library, art gallery or other public service use.
5. Any structure, conforming or otherwise, damaged or destroyed by fire or other catastrophe where the structure will not be rebuilt beyond its former dimensions.
6. Any claim of exemption shall be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.

94-10.4.5 Refund of Linkage Fee Paid. The applicant shall be entitled to a refund of linkage fees for a development impact project provided that a written request is submitted to the office of community development within six months of the issuance of a building permit, and provided that no work has commenced on the project. The request shall be reviewed by the office of community development and the linkage fee, minus ten percent to offset the costs of collection and refund, may be returned to the applicant. Any funds not expended or encumbered by the end of the calendar quarter immediately following six years from the date the linkage fee was paid shall, upon application of the applicant or his assign(s), be returned to such landowner provided that the applicant or his assign(s) submits an application for a refund to the office of community development within 180 days of the expiration of the six-year period.

94-10.4.6 Credits. A credit may be given for voluntary site-related improvements or dedications as approved by the community development board or work performed as required by section 94-6.4.

1. Credit against a linkage fee otherwise due will not be provided until:
 - a. The construction is completed and accepted by the city, or the state, whichever is applicable.
 - b. Security in the form of a performance bond, irrevocable letter of credit, or escrow agreement shall be posted with and approved by the office of community development.
 - c. All design, construction, inspection, testing, bonding and acceptance procedures are in strict compliance with the current state and city requirements.
2. Credit may be provided before completion of specified improvements if adequate assurances are given by the applicant as to the standards set out herein, and if the applicant posts security as provided herein for the costs of such construction.
3. Any claim for credit must be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.
4. Credits shall not be transferable from one project or development to another without the approval of the community development board, and may only be transferred to another development upon a finding by the community development board that the voluntary dedication for which the credit was given equally benefits the city.
5. Determinations made by the community development board or the office of community development pursuant to the linkage fees or credit provision of this section may be appealed to the city council by filing a written request with the city council within 30 days of the community development board or the office of community development's determination. The appeal procedure shall be as provided for in M.G.L.A. c. 40A, § 15.

94-10.4.7 Penalty. A violation of this section shall be prosecuted in the same manner as misdemeanors are prosecuted and upon conviction the violator shall be punishable

according to section 94-11.3.2. However, in addition to or in lieu of any criminal prosecution, the city shall have the power to sue in civil court to enforce the provisions of this section.

Sec. 94-10.5. Affordable housing.

94-10.5.1 Purpose. The purpose of this section is to promote the public health, safety, convenience and welfare; to incentivize the development of new affordable housing units; to prevent the deterioration of existing affordable housing facilities; to establish a balance between market-rate real estate development and the affordable housing needs of city residents; and to mitigate the impacts of future development on the deterioration of affordable housing facilities, by provisions designed to:

1. Afford review and regulation of real estate development projects which directly or indirectly lead to conditions of the use of affordable housing facilities that contribute to an increase in the costs for the upgrade, repair and maintenance of affordable housing facilities, and the need for new capital improvements.
2. Provide a fund for affordable housing facility capital improvements through a linkage grant to the affordable housing trust, as a condition of the approval of any nonresidential development of 10,000 square feet of gross floor area or more; any residential development of six units or more; any subdivision of property which creates six or more units or buildable lots; or any residential or nonresidential project requiring a density bonus, variance, special permit, or zoning map amendment that is requested for a project of 5,000 square feet or more except those that are exempt pursuant to section 94-10.5.4. Requests for such zoning relief may include bonuses in density of use such as increases in gross floor area, height or other changes in dimensional requirements.
3. The imposition of linkage fees is one of the preferred methods of ensuring that development bears a proportionate share of the cost of capital facilities necessary to accommodate such development. This must be done in order to promote and protect the public health, safety and welfare.
4. The methodology and analysis for the determination of the impact of new development, the need for new facilities and their costs, and the establishment and calculation of the linkage fees shall be established as a result of an investigation and report with supporting documentation, which shall be available for inspection by any feepayer or the public. Calculations of linkage fees may be based on the methodology established by previous studies that outline methods for an escalating linkage fee formula.

94-10.5.2 Definitions. See section 94-12.0, "Development linkage fees".

94-10.5.3 Procedures. The mayor or the office of community development shall be empowered to promulgate regulations and establish fees it deems necessary to implement this section. For a development impact project, no building permit or density bonus, variance, special permit or zoning amendment shall be granted or adopted unless the following requirements are met:

1. The office of community development shall review and calculate the fees for all development impact projects. Applicants may request a schedule for the payment of linkage fees in accordance with regulations established by the community development board.
2. If an applicant elects not to pay the linkage fee as determined by the office of community development, then the applicant shall prepare and submit to the office of community development an independent fee calculation study for the land development activity for which a building or use permit is sought. The independent fee calculation study shall show the basis upon which the independent fee calculation was made, and shall follow the prescribed methodologies and formats based on regulations promulgated by the community development board.

3. The person or persons making application for a building permit or a density bonus, variance, special permit or zoning map amendment to construct, substantially rehabilitate, enlarge or extend a structure pursuant to a development impact project plan shall also enter into an agreement with the city to pay an affordable housing linkage fee. For each development impact project, except for those exemptions found in section 94-10.5.4, an affordable housing linkage fee will be paid as reviewed and approved by the office of community development.

4. The building commissioner shall not issue any building or use permit with respect to any building, structure, or land within an area covered by a development impact project plan until the office of community development provides certification to the building commissioner that the applicant has entered into a fee payment agreement as provided for herein .

5. The affordable housing linkage fee shall be paid to, and eventually withdrawn from, the affordable housing trust based upon a schedule of fees and rules and regulations established by the community development board.

6. The formula (amount and rate of payment) for the affordable housing linkage fee shall be subject to recalculation at least three years after the effective date of this provision, and at least every three years thereafter. The mayor or the office of community development, after public notice and a public hearing of the Community Development Board, may recalculate and amend the formula for the affordable housing linkage fee, based on a methodology and analysis established as a result of report(s), documentation and information.

94-10.5.4 Exemptions. The following are not development impact projects and will not be subject to development impact project requirements:

1. Any structure for which a building or use permit has been lawfully issued prior to the city council adopting this division, provided that construction work under such a permit is commenced within six months after its issuance, and the work proceeds in good faith continuously to completion so far as is reasonably practicable under the circumstances.

2. Any building, structure, addition or substantial rehabilitation below the thresholds described in section 94-10.5.4.

3. Any building, structure, substantial rehabilitation, or addition that is proposed for subsidized, or affordable homeowner or rental housing, which falls within criteria established by the Commonwealth of Massachusetts or the department of housing and urban development, and confirmed by vote of the community development board.

4. Any building, structure, substantial rehabilitation, or addition that is proposed for: a religious or nonprofit educational purpose; a preschool or child care center; a hospital, nursing home, associated outpatient clinic or other health care facility licensed by the Massachusetts Department of Public Health; a social service center, nonprofit community or recreation center, museum, library, art gallery or other public service use.

5. Any structure, conforming or otherwise, damaged or destroyed by fire or other catastrophe where the structure will not be rebuilt beyond its former dimensions.

6. Any claim of exemption shall be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.

94-10.5.5 Refund of Linkage Fee Paid. The applicant shall be entitled to a refund of linkage fees for a development impact project provided that a written request is submitted to the office of community development within six months of the issuance of a building permit, and provided that no work has commenced on the project. The request shall be reviewed by the office of community development and the linkage fee, minus ten percent to offset the costs of collection and refund, may be returned to the applicant.

Any funds not expended or encumbered by the end of the calendar quarter immediately following six years from the date the linkage fee was paid shall, upon application of the applicant or his assign(s), be returned to such landowner provided that the applicant or his assign(s) submits an application for a refund to the office of community development within 180 days of the expiration of the six-year period.

94-10.5.6 Credits. A credit may be given for voluntary site-related improvements or dedications as approved by the community development board or work performed as required by section 94-6.4.

1. Credit against a linkage fee otherwise due will not be provided until:
 - a. The construction is completed and accepted by the city, or the state, whichever is applicable.
 - b. Security in the form of a performance bond, irrevocable letter of credit, or escrow agreement shall be posted with and approved by the office of community development.
 - c. All design, construction, inspection, testing, bonding and acceptance procedures are in strict compliance with the current state and city requirements.
2. Credit may be provided before completion of specified improvements if adequate assurances are given by the applicant that the standards set out in section 94-10.5.6 will be met, and if the applicant posts security as provided herein for the costs of such construction.
3. Any claim for credit must be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.
4. Credits shall not be transferable from one project or development to another without the approval of the community development board, and may only be transferred to another development upon a finding by the community development board that the voluntary dedication for which the credit was given equally benefits the city.
5. Determinations made by the community development board or the office of community development pursuant to the linkage fees or credit provision of this section may be appealed to the city council by filing a written request with the city council within 30 days of the community development board or the office of community development's determination. The appeal procedure shall be as provided for in M.G.L.A. c. 40A, § 15.

94-10.5.7 Penalty. A violation of this section shall be prosecuted in the same manner as misdemeanors are prosecuted and upon conviction the violator shall be punishable according to section 94-11.3.2. However, in addition to or in lieu of any criminal prosecution, the city shall have the power to sue in civil court to enforce the provisions of this section.

Councillor Leming moved to waive reading in lieu of a summary from the chair (Councillor Callahan second)—approved.

Vice President Collins moved to refer the paper to the Community Development Board (Councillor Leming second)—referred to the Community Development Board on a roll call vote of seven in favor and zero opposed.

Vice President Collins took the Chair at 7:27 p.m.

24-059 - Offered by Councillor Callahan

Whereas the City of Medford has climate sustainability, affordable housing, and other goals that would be easier to accomplish if we could reach either renters or landlords or both in our city, and

Whereas our lack of a registry of rental properties means that we currently miss opportunities to reach either our renters or our landlords or both,

Be it so Resolved that the Council explore and consider language for a rental licensing ordinance with energy efficiency standards as described in the CAAP section 2.2.D.

Be it Further Resolved that this ordinance be referred to committee for further discussion in the Planning and Permitting Committee.

Be it Further Resolved that members of the Planning and Permitting Committee submit questions to the Chair, Clerk, and city staff ahead of the committee meeting scheduled for this subject.

Be it Further Resolved that the Council work with the Building Department and the Office of Planning, Development, and Sustainability on the drafting of this ordinance to ensure that it best serves the city of Medford and our climate and affordable housing goals.

President Bears resumed the Chair at 7:39 p.m.

Addressing the Council:

Robert Jones, 5 St. Mary's Street
Kathleen Lazzaro, 52 Grace Road
Donna Silva, 1536 Mystic Valley Parkway
Melanie Tringali, 116 Forest Street
Former Councillor Robert Penta, Zero Summit Road
Jessica Healey, via Zoom
Louise D'Antonio
Long Hue Soo, 250 Spring Street
Gaston Fiore, 61 Stickney Road
Bill Carr, 47 Blakely Road
Sharon Deyeso, Mass. Ave. and Circuit Road
Jennifer Fiore, 61 Stickney Road
Injee Kwee, 27 Hancock Street
Andrew Castagnetti, 23 Cushing Street
Ricky Cormio, 150 Middlesex Avenue
Tony Tanks, via Zoom
Jen, 120 Lawrence Street
Kelly Catallo, 23 Salem Street
Kelly Allison, 67 Century Street
John Karofis, 15 Cook Circle
John Souza, 359 Winthrop Street
Peter Petrella, Stearns Avenue
Nick Gerhon, 15 Revere Beach Parkway
Patrick Kierce, 128 Woburn Street
Maureen Donovan, 55 Ellsworth Street

Councillor Tseng moved to call the question and end debate (Vice President Collins second)—question called and debate ended on a roll call vote of five in favor and Councillors Lazzaro and Scarpelli opposed.

Councillor Tseng moved to refer the paper to the Planning and Permitting Committee (Vice President Collins second)—referred to the Planning and Permitting Committee, with Councillors Lazzaro and Scarpelli opposed.

24-060 - Offered by Councillor Lazzaro, Councillor Leming, and Councillor Tseng

Be it Resolved, that Rule 16 of the Rules of the Medford City Council be amended to state the following:

Any resident, petitioner, or interested party shall be able to speak on any item included on the agenda once for no more than 2 minutes. Public participation shall not exceed 90 minutes per agenda item during a single meeting. Interested parties may also contribute written public comment on agenda items via an online form on the Medford City Council website or a paper form in the office of the City Clerk.

All petitions filed by members of the public shall either be sponsored by a member or reviewed by the City Clerk and Council President prior to placement on the agenda.

Any resident participating in-person may provide their residential address to the City Messenger and any resident participating virtually may provide their residential address to the City Clerk prior to speaking and the address shall not be included in the Council Records.

A six calendar day public comment period shall commence upon the consideration of any petition, as defined in Rule 19. Public comments shall be submitted in writing to the City Clerk. The Council can waive this requirement by a majority vote.

- a) Councillor Lazzaro offered an amendment striking the phrase “2 minutes” and replacing that phrase with “3 minutes.” (Councillor Leming second.)

Vice President Collins took the Chair at 9:51 p.m.

President Bears resumed the Chair at 10:00 p.m.

Addressing the Council:

Patrick Clerkin, 50 Princeton Street
Hayley Carr, 68 Central Avenue
Nicholas Chileo, 40 Robinson Road
Maureen Donovan, 55 Ellsworth Street
Former Councillor Robert Penta, Zero Summit Road
Kathleen Lazzaro, 52 Grace Road
William Navarre, 108 Medford Street #1B
Jessica Healey, Locke Road
Gaston Fiore, 61 Stickney Road
Nadeen Moretti, 126 Burget Avenue
Bill Carr, 47 Blakely Road
Tony Tanks, via Zoom
Richard Orlando, Winifred Way
Ron Giovino, 326 East Border Road
Kelly Catallo, 23 Salem Street
Bianca Sasso, 8 Madison Street
Kelly Allen, 67 Century Street
Jennifer Yanco, Monument Street
Ricky Cormio, 150 Middlesex Avenue
John Intoppa, 12 Murray Hill Road
Andrew Castagnetti, 23 Cushing Street

At 11:21 p.m., Councillor Tseng moved for a brief recess (Councillor Lazzaro second)—approved, and President Bears declared a brief recess.

President Bears called the meeting back to order at 11:28 p.m.

- b) Councillor Tseng offered an amendment that during the first 90 minutes of discussion, speakers may speak for three minutes each, and that after 90 minutes, speakers may speak for one minute each.

Vice President Collins took the Chair at 11:30 p.m.

- c) From the Floor, President Bears offered a B-Paper amendment changing Rule 12, Section 3, subsection f, to create a subsection entitled “refer to committee for further discussion.”

President Bears resumed the Chair at 11:33 p.m.

Councillor Callahan moved for approval on the B-Paper (Vice President Collins second)—B-Paper approved on a roll call vote of six in favor and Councillor Scarpelli opposed.

Addressing the Council:

Bob Jones, 5 St. Mary’s Street

Councillor Lazzaro moved for approval on the main paper, as amended (Councillor Tseng second)—approved as amended on a roll call vote of four in favor (Vice President Collins, Councillor Lazzaro, Councillor Leming, and Councillor Tseng) and three opposed (Councillor Callahan, Councillor Scarpelli, and President Bears).

At 11:43 p.m., Councillor Scarpelli moved to suspend the rules to take Papers **24-064** and **24-071** (Councillor Leming second)—approved.

24-064 - Offered by Vice President Collins

Whereas, this legislative session, bill H.872/S.481, “An Act establishing a climate change superfund and promoting polluter responsibility,” also known as the “Make Polluters Pay” Bill, was filed; and

Whereas, if passed, this bill would establish a climate change superfund into which the largest oil and gas companies would pay \$75 billion over 25 years, with each company’s share proportional to their contribution to global greenhouse gas emissions between 2000 and 2018; and

Whereas, oil and gas companies bear the responsibility for exacerbating the climate crisis, and have consistently misrepresented the destructive impacts of fossil fuel combustion on the global climate; and

Whereas, climate change caused by global warming poses many serious threats to the City of Medford and its residents, including extreme heat, flooding, poor air quality, and other extreme weather, which are already impacting the Medford community; and

Whereas, to adequately fund necessary climate adaptation and resilience projects, Medford requires funding at a scale beyond the reasonable constraints of the City’s operating budget, and the passage of the proposed “Make Polluters Pay” legislation in

the State House would provide the means for Medford and other cities like it to adapt to climate impacts more adequately, equitably and meaningfully; and

Whereas, the proposed legislation would mandate that 40% of the monies raised be allocated to projects benefiting environmental justice communities, encourage utilization of apprenticeship work programs, and encourage adherence to prevailing wage laws; and

Whereas, this session the “Make Polluters Pay” Bill was given a study order by the Joint Committee on the Environment and Natural Resources, but will be re-introduced in the next legislative session; and

Whereas, the Commonwealth of Massachusetts currently does not have a plan to adequately, equitably and meaningfully fund necessary resilience and adaptation projects in affected communities like Medford; now, therefore:

Be it Resolved that the Medford City Council expresses its support of H.872/S.481, “An Act establishing a climate change superfund and promoting polluter responsibility;” to build polluter accountability and fund climate resilience.

Be it Further Resolved that the City Clerk forward a copy of this resolution to the Medford legislative delegation as well as the House Speaker, Senate President, and the Office of the Governor.

Addressing the Council:

Gaston Fiore, 61 Stickney Road
Martha Ondras, Energy and Environment Committee, 45 Kilgore Avenue
Luca D’Alessio, 32 Diana Road
Willam Navarre, 108 Medford Street #1B
Tim Peters, 48 Harvard Avenue
Patrick Clerkin, 50 Princeton Street
Stephen Piagiani, 15 Monument Street
Marie Izzo, via Zoom
Daniel Zacken, 5 Warren Square, Boston

Councillor Collins moved for approval (Councillor Tseng second)—approved.

24-071 - Offered by Councilor Scarpelli

Be It Resolved that the Mayor, Superintendent of Schools, and the MPS Finance team meet with the City Council to discuss the financial shortfalls that were expressed in a letter from the Superintendent.

Addressing the Council:

Anthony Geehan, MTA President
Riley Jones, 138 Pleasant Street, Malden
Joanne McKay, Financial Secretary, MTA
Charlene Douglas, MTA

Councillor Scarpelli moved to receive and place on file (Councillor Tseng second)—received and placed on file.

24-072 - Offered by Councilor Scarpelli

Be it Resolved that the Mayor and OCD Director meet with the City Council to review development projects that have stalled and have not moved forward and explain the financial losses that this has caused our community.

Councillor Scarpelli withdrew this resolution before consideration by the Council.

Vice President Collins took the Chair at 1:06 a.m.

24-061 - Offered from the Floor by President Bears

Be it Resolved by the Medford City Council that we join with neighboring communities, environmental protection activists, and the residents of Hardwick, MA in opposing the proposed construction of a landfill by Casella Corporation near the Quabbin Reservoir watershed due to the incredible danger it poses to our regional water supply.

Be it Further Resolved that a copy of this resolution be forwarded to the Massachusetts Water Resources Authority leadership and the Medford state legislative delegation.

From the Floor, President Bears moved for approval (Councillor Callahan second)—approved.

24-065 - Offered by President Bears

Whereas, The public colleges and universities in the Commonwealth of Massachusetts are the foundation of our communities and democracy; and

Whereas, the State Legislature has devastatingly underfunded Massachusetts public colleges and universities, creating a student debt crisis, limiting access to higher education for poor and working-class students, and forcing many adjunct professors and staff members to be overworked and underpaid; and

Whereas, the revenue from the Fair Share Amendment can be allocated towards transformative investments in public colleges and universities to support students, families, and our communities; and

Whereas, the CHERISH Act has overwhelming co-sponsorship among members of the State House and State Senate; now, therefore:

Be it Resolved by the Medford City Council that we support the CHERISH Act (S.816/H.1260) to reinvest in our public higher education system and urge the legislature to pass it this term.

Be it Further Resolved that we thank Representative Garballey as a lead sponsor and Senator Jehlen, Representative Barber, and Representative Donato for being co-sponsors.

Be it Further Resolved that a copy of this resolution be distributed to our state delegation and to the offices of Senate President Spilka, House Speaker Mariano, and Governor Healey.

From the Floor, President Bears moved to waive reading in lieu of a summary by the proponent (Councillor Tseng second)—approved.

Addressing the Council:

Julia Roberto, 89 Central Avenue

From the Floor, President Bears moved for approval (Councillor Callahan second)—approved.

President Bears resumed the Chair at 1:13 a.m.

24-069 - Offered by Councilor Tseng

Be it Resolved that the Committee on Resident Services and Public Engagement meet to discuss a modernization of the Human Rights Commission's enabling ordinance and invite current and former commissioners to provide input.

Councillor Tseng moved to refer the paper to the Committee on Resident Services and Public Engagement (Councillor Collins second)—referred to the Committee on Resident Services and Public Engagement.

24-073 - Offered by Councilor Callahan, Councilor Tseng, and Councilor Lazzaro

Whereas many studies have shown that local governments primarily hear from a small proportion of their residents in addition to corporate interests, and those residents who do reach out tend to be more affluent than the average resident,

Be it Resolved, that the Committee on Resident Services and Public Engagement reach out to city staff, residents, and community groups to develop and implement a series of listening sessions where councilors listen to residents to extend Council outreach to residents, particularly of various underrepresented or under-served neighborhoods and backgrounds.

Councillor Tseng moved to refer the paper to the Committee on Resident Services and Public Engagement (Councillor Callahan second)—referred to the Committee on Resident Services and Public Engagement.

PUBLIC PARTICIPATION

To participate outside of Zoom, please e-mail AHurtubise@medford-ma.gov.

Addressing the Council:

Ron Giovino, 326 East Border Road

UNFINISHED BUSINESS

<u>23-412</u>	Petition to Amend Deed Restriction - 12 Dell Avenue
IN CITY COUNCIL	SEPTEMBER 19, 2023
TABLED	
<u>24-031</u>	Request a Representative from BJ's Wholesale Club Meet to Discuss Construction and Neighborhood Concerns
IN CITY COUNCIL	FEBRUARY 6, 2024
TABLED	
<u>21-057</u>	Leaf Blower Ordinance

IN CITY COUNCIL FIRST READING ADVERTISED	MARCH 12, 2024 APPROVED - MARCH 12, 2024 MEDFORD TRANSCRIPT & SOMERVILLE JOURNAL APRIL 4, 2024
THIRD READING	ELIGIBLE - APRIL 16, 2024

<u>22-494</u> IN CITY COUNCIL FIRST READING ADVERTISED	Budget Ordinance MARCH 19, 2024 APPROVED - MARCH 19, 2024 APRIL 11, 2024 MEDFORD TRANSCRIPT & SOMERVILLE JOURNAL
THIRD READING	ELIGIBLE - APRIL 30, 2024

Reports Due/Deadlines

<u>16-574</u>	University Accountability Spring 2017-Report (Next Report Due in November 2024)
<u>17-606</u>	Evangelical Haitian Church 400 High St. 90 Day Review on Illumination (Tabled - January 9, 2018)
<u>20-086</u>	90-Day Review Report on El Tacuba Cocina and Tequila Bar for a petition for a Special Permit – Hours (granted by the Council, as amended to require 90-day report period to begin on opening of restaurant)
<u>22-007</u>	90 Day Report from Administration to present 5-year plan to address gas leaks (Report due in April 2022)
<u>22-009</u>	90 Day Report from School Administration to identify opportunities to connect classroom learning to career applications (Report due in April 2022)
<u>22-026</u>	Quarterly Presentation on City’s Financial Health by Chief Financial Officer/Auditor
<u>22-027</u>	Monthly Copy of Warrant Articles from Chief Financial Officer/Auditor
<u>22-039</u>	Report due in 30 days on draft ordinances requested by the Council during the 2020-2021 term

Adjournment:

Vice President Collins moved to adjourn at 1:18 a.m. (Councillor Lazzaro second)—approved.

President Bears adjourned the meeting at 1:18 a.m.

A true copy, Attest

Adam L. Hurtubise
City Clerk