



Apr 19 2023 11:41 am

City of Fitchburg Massachusetts 01420

CITY COUNCIL

Councillors at Large

Sally H. Cragin
Marcus L. DiNatale
Amy Green
Samantha M. Squailia
Anthony M. Zarrella

President

Anthony M. Zarrella

Vice President

Andrew J. Van Hazinga

Ward Councillors

Ward 1 – Bernard J. Schultz III
Ward 2 – Paul R. Beauchemin
Ward 3 – Andrew J. Couture
Ward 4 – Andrew J. Van Hazinga
Ward 5 – Marisa R. Fleming
Ward 6 – Derrick J. Cruz

The regular meeting of the City Council of the City of Fitchburg was held at the Legislative Building at 700 Main Street and over the Zoom meeting platform and live streamed at FATV Studios, Fitchburg, on April 4, 2023.

The meeting was called to order by President Zarrella at 7:02 P.M. The meeting opened with a salute to the Flag led by Councilor Schultz. The City Clerk called the roll and 11 Councilors were present (Councilor Fleming via Zoom). Board consists of 11 members.

I. PUBLIC FORUM

Jacquelyn Wehtje, Fitchburg MA, spoke on Agenda item 098-23 and 099-23.

II. ANNOUNCEMENTS

Councilor Schultz Submitted: The next meeting of the Widowed Helping Widowed Support Group will take place on Thursday, April 6, 2023 from 4 until 5:30 p.m. in Room 203 at the Fitchburg State University Recreation Center, 130 North Street. Kelley Lynn and Bernie Schultz will co-facilitate the meeting.

Councilor Schultz Submitted: Ward 1 City Councilor Bernie Schultz is hosting a Ward 1 Community Meeting on Monday, April 10, 2023 at 6:30 p.m. right here in the Fitchburg Legislative Building, 700 Main Street. Community Development and Planning Department Executive Director Liz Murphy and NewVue Communities Executive Director Marc Dohan will make presentations, and then answer questions following their presentations.

Councilor Cragin & Cruz Submitted: Civic Ambassador Stewards Training, April 5, 2023, from 6:30 – 8:00PM, at Fitchburg Cultural Alliance, 675 Main Street, Protocol of Public Meetings speakers: Robert Jokela, Fitchburg Public Schools Superintendent, Pete Stephens, Vice-Chair, Fitchburg School Committee. Preliminary work write a letter for a board or commission position or write a letter to voters on why you are running for public office.

Councilor Cragin Submitted: First Thursday Poets of the Past, April 6, 2023, from 5:30PM - 8:30PM, at Mill Street Stage, it will feature, Music, reading of “Return of the Regiment”, and other

works by CAM and Historical Fitchburg poets, Featured Poets Original Works, Open Mic Poetry Night.

III. REPORT OF THE APPOINTMENTS COMMITTEE

Appointments Committee

Oral Report

Meeting of April 4, 2023

Re-Appointment:

Fitchburg Housing Authority

(Term to expire March 1, 2028)

Adam G. Goodwin

New Appointment:

Fitchburg Disability Commission

(Term to expire April 1, 2028)

Camila Arsenault

Report accepted. Appointments confirmed by unanimous consent 11/0. 11 members present. Board consists of 11 members.

IV. REPORT OF COMMITTEE ON RECORDS

The Committee on records reported the minutes of the Regular Meeting of March 7, 2023 and March 21, 2023 were correctly recorded. Report accepted and minutes adopted.

V. COMMUNICATION

His Honor the Mayor

1. New Appointment letter:

Annie L. Belmer, as a member of the Fitchburg Council on Aging, term to expire April 1, 2026.

2. New Appointment letter:

Special Police Officer
Mr. Philip Kearns

3. New Appointment letters:

Full-Time Student Police Officers for the Fitchburg Police Department

Matthew Pawson
Zachary Saldana
Shawn Burns
Sotheavy Kay
Ramon Viches
Conor Monaghan
Brandon Bento

4. New Appointment letter:

Permanent Full Time Firefighter
Alec M. Dymant

5. New Appointment letter:

Dianne F. Evans, as a member of the Board of Health, term to expire January 1, 2026.

6. Re-Appointment letter:

Anne M. Cervantes, as City Treasurer and Tax Collector, term to expire May 1, 2026.

7. Re-Appointment letter:

Calvin Brooks, as City Auditor and Finance Director, term to expire May 1, 2026.

Councilor Beauchemin requested suspension of the rules on Item 4.

President Zarrella requested by unanimous consent to move to VII. Special Presentations not keep our guest waiting. Approved by unanimous consent 11/0. 11 members present. Board consists of 11 members.

Motion in second for suspension of the rules on item 4 by roll call vote of 5 in favor and 6 opposed (Councilor Van Hazinga, Zarrella, Couture, DiNatale, Fleming and Green), motion fails. 11 members present. Board consists of 11 members.

The Appointments were read and referred to the Appointments Committee by unanimous consent 11/0. 11 members present. Board consists of 11 members.

VI. ANNUAL REPORT

086-23. ANNUAL REPORT: Fitchburg Fire Department for the FY 2022.
[Fitchburg Fire Department 2022 Annual Report](#)

Reading waived. Report placed on file in the City Clerk's Office by unanimous consent 11/0. 11 members present. Board consists of 11 members.

VII. SPECIAL PRESENTATIONS

Presentation of trophies from Fitchburg Police Department to the winners of the Dog License Awareness Poster Contest

President Zarrella announced that the following Presentation be taken out of order:

Presentation of trophies from Councilor Cragin and the Fitchburg Police Department to the winners of the Dog License Awareness Poster Contest.

VIII. ORDERS

The following Orders were referred to the Finance Committee:

- 087-23. ORDER THAT: the City of Fitchburg hereby approves the expenditure of funds from the National Council on Aging (NCOA) grant in the approximate amount of \$149,848.73 (ONE HUNDRED FORTY-NINE THOUSAND, EIGHT HUNDRED FORTY-EIGHT AND 73/100 DOLLARS) for the purpose of said grant, which is to increase COVID-19 vaccination rates in MPHN communities and to ensure older adults and people with disabilities get the latest COVID and flu vaccines.
- 088-23. ORDER THAT: there be and hereby is appropriated the sum of ONE MILLION, FOUR HUNDRED THOUSAND AND 00/100 DOLLARS (\$1,400,000.00) same to be charged against AVAILABLE FUNDS and credited to LONGSJO SCHOOL WINDOWS & DOORS CAPITAL PROJECT.
- 089-23. ORDER THAT: there be and hereby is appropriated the sum of FOUR HUNDRED THOUSAND AND 00/100 DOLLARS (\$400,000.00) same to be charged against AVAILABLE FUNDS and credited to DPW ADMIN. EXPENSES, STORMWATER CONTRACT SERVICES.

Wave the reading and refer the following orders 087-23 through 089-23 to the Finance Committee by unanimous consent 11/0. 11 members present. Board consists of 11 members.

IX. LOAN ORDER

The City of Fitchburg, In the Year 2023

Final Publication of Loan Order 198-22

- 198-22. LOAN ORDER: That the City appropriate the amount of Four Million, Eight Hundred Thousand Dollars (\$4,800,000.00) for the purpose of paying costs of an Accelerated Repair Project at the Arthur M. Longsjo Middle School, located at 98 Academy Street, Fitchburg, Massachusetts, to replace windows and doors, including the payment of all costs incidental or related thereto (the "Project") which proposed repair project would materially extend the useful life of the school and preserve an asset that otherwise is capable of supporting the required educational program, and for which the City may be eligible for a grant from the Massachusetts School Building Authority ("MSBA"), said amount to be expended under the direction of the School Committee. To meet this appropriation the City Treasurer, with the approval of the Mayor, is authorized to borrow said amount under M.G.L. Chapter 44, or pursuant to any other enabling authority. The City acknowledges that the MSBA's grant program is non-entitlement, discretionary program based on need, as determined by the MSBA, and , if the MSBA's Board of Directors vote to invite the City to collaborate with the MSBA on this proposed repair project, any project costs the City incurs in excess of any grant that may be approved by and received from the MSBA shall be sole responsibility of the City; provided that any grant the City may receive from the MSBA for the Project shall not exceed the lesser of (1) eighty percent (80%) of eligible approved project costs, as determined by the MSBA, or (2) the total maximum grant amount determined by the MSBA;

and that the amount of borrowing authorized pursuant to this vote shall be reduced by any grant amount set forth in the Project Funding Agreement that may be executed between the City and the MSBA. The Treasurer is authorized to file an application with the Municipal Finance Oversight Board to qualify under M.G.L. Chapter 44A any or all of the bonds authorized by this order and to provide such information and execute such documents as the Municipal Finance Oversight Board may require for these purposes.

Bond Counsel recommended that the City republish that loan order in full for at least 10 days, which was advertised on March 22, 2023, and have the City Council re-vote to approve the order. Third and final reading on Loan Order 198-22 by roll call vote of 11 in favor and 0 opposed. 11 members present. Board consists of 11 members.

X. ORDINANCES

036-23. BE IT ORDAINED THAT - The following be added to Chapter 3 of the Fitchburg City Code:

3-19A Flags to be Flown

In addition to the flags of the United States of America, the Commonwealth of Massachusetts, and the City of Fitchburg, other flags shall not be flown on City flagpoles or otherwise displayed in official fashion on City property, except as permitted by the subsequent paragraph, unless authorized by a resolution approved by a majority vote of the City Council, affirming that such flag will stand as an expression of the official sentiments of the City of Fitchburg. The City’s flagpoles and other facilities are not designated as a forum for expression by the public.

If, due to unforeseen or sudden circumstances, the expression of official sentiments through the raising of a flag would be unduly hindered by delaying until the next scheduled City Council meeting, the Mayor may communicate a proposed resolution pursuant to the preceding paragraph directly to all members of the City Council and the City Clerk, along with a thorough explanation of the asserted urgency. If, after forty-eight (48) hours no objection is raised by a City Councilor, that flag may be raised and the resolution included as a Communication from the Mayor at the following meeting of the City Council. If any Councilor raises an objection in writing, the flag in question shall not be flown until the City Council has approved the proposed resolution.

Mayoral Veto

Mayor DiNatale read into record communication of the Veto.

Councilor Van Hazinga stated this is an issue due to Boston, the City of Fitchburg wants to use the Flag poles for Government Speech. Best way for government speech, not a public forum for speech, have it through a legislative process, not an executive process, which is made in private by one person. The Mayor has updated his policy to include the legislative in the process. Anything by executive order can be changed. One when person is in control in deciding what the government speech is it creates problems. If our public facilities and flag poles are going to be used for public speech there needs to be a process and it should be a legislative process.

President Zarrella appreciates the Mayors update to the policy, however the issue under the current policy the Council can say yes, but cannot say no. If the mayor wants to convey his own thoughts, it is an issue of comity, a city as whole has to be speaking in unison, the City itself should not be convey a message the Council is not conformable with.

Councilor Fleming did not have any constituents in her ward reach out to her on the Flag discussions. We need to keep the City moving forward.

Councilor Green does not want this to me a morale debate or pitting ourselves against colleagues or residents as a whole. Supports the Mayor in his decisions, does not want to start overruling his decisions.

Councilor Cragin was glad to see the revisions in the order from the Mayor. Glad to see the update to section D and the Parks and Recreations. Is happy with the revision with this letter.

Councilor Schultz thinks the updated executive order is more detailed than the first one, does agree that the Executive order can be changed at any time. Come with an Ordinance not just an Executive Order, which would require more input from the Mayor.

Councilor DiNatale does not want to get involved with every flag request. To be fair and consistent, I will not vote for any flag as a member of this council. The council will be branded by every flag they approve or deny. The executive order states that City Council will still vote on the flags, I do not want the discord within this Council. All the other organizations' are out there waiting for us to say no, so they can litigate against the City.

Councilor Zarrella clarified any three residents already have the right to bring any petition to Council. This is not about this Mayor, I would not be comfortable with any Mayor to having that unilateral power. Government is a State entity, we can promote a particular policy on behalf of the City. The voice of the Government as an entity, is deictic from the voice of community as a collective of 40,000 people.

Councilor Couture requested move to vote on Ordinance 036-23, President clarify that a yes vote would uphold the Ordinance and No vote would allow a Veto to stand. By roll call vote of 5 in favor and 6 opposed (Councilors Schultz, Couture, Cragin, DiNatale, Fleming and Green) veto stands. 11 members present. Board consists of 11 members.

Councilor DiNatale recused himself at 8:09 P.M.

090-23. BE IT ORDAINED THAT – Chapter 44, §10 of the City of Fitchburg City Code, under Positions Paid Annually, as most recently amended, shall be amended by striking the following:

Under Positions Paid Annually

Effective: 1/1/2014

Mayor \$83,320.00 (\$1,596.15/week)

The following shall be added in its place:

Under Positions Paid Annually

Effective: 1/1/2024
Mayor \$120,000.00 (\$2,307/week)

091-23. BE IT ORDAINED THAT – Chapter 44, §10 of the City of Fitchburg City Code, under Positions Paid Annually, as most recently amended, shall be amended by striking the following:

Under Positions Paid Annually

Effective: 1/1/2014
City Councilor \$10,000.00

The following shall be added in its place:

Effective: 1/1/2024
City Councilor \$13,000.00

092-23. BE IT ORDAINED THAT – Chapter 3, Article IV, section 3-43 O. shall be amended as follows by adding to the end:

Attached to said petition shall be a communication from the City Auditor indicating what each salary would be if increased by the “CPI Adjustment Factor” as defined below, which communication shall be read out or summarized by the Chair at any session in which the Council or a subcommittee thereof debates or votes on such petition. For the purposes of this subsection, the CPI Adjustment Factor shall be defined as the lesser of five percent (5%) or the result of the following calculation: [(CPI-U for January of the then current year minus the January CPI-U for the preceding year) divided by the previous year’s January CPI-U] multiplied by 100 equals the CPI Adjustment Factor. But in no case shall the CPI Adjustment Factor be less than zero percent (0%). CPI-U shall mean the Consumer Price Index Boston-Cambridge-Newton MA-NH (1982-84 = 100) as published by the New England Information Office of the U.S. Bureau of Labor Statistics. (www.bls.gov/regions/new-england/data/ConsumerPriceIndex_Boston_Table.htm). After a review of the proposed increase the City Council shall then vote on the Mayor’s salary and the City Councilors’ salary.

President Zarrella recommends referring Ordinances 090-23 through 092-23 to Legislative Affairs. Councilor DiNatale returned at 8:10 P.M.

XI.PETITIONS

The following Petitions were referred to Public Works Committee:

093-23. City Councilors Bernie Schultz and Amy Green, on behalf of Barry Watson petition for a sidewalk repair located at 24 Spruce St. (see enclosed photo) (Refer to Public Works)

094-23. City Councilor Andrew Van Hazinga on behalf of 138 Mount Vernon Street, to repair the asphalt berm, which was extensively damaged by snow plows during the winter.
(Refer to Public Works)

095-23. City Councilor Andrew Van Hazinga on behalf of Jeff Jollimore, to petition for repairs to the asphalt berm at 131 Longwood Avenue along Caswell Street, which was damaged by snow plows during last winter.
(Refer to Public Works)

096-23. Anthony Zarrella respectfully requests your unanimous support of the attached petition for a Home Rule amendment to address the issue of personal leave buy back as it relates to retirement allowance calculation.
(Suspension of Rules)

President Zarrella informed the council this is a technical item. There was a practice for over 30 years, which the Fitchburg Retirement System treated employee's vacation and personal leave buyback amounts as regular compensation. In 2018 a State Board issued a decision causing the Retirement Board to stop treating employee vacation and personal leave buybacks as compensation. In 2022 the State passed a statute to restore vacation time, however the State did not include the personal leave. The State recommended filing this Home Rule Petition to fulfill our promise to include personal leave buyback in the retirement benefits.

Anna Farrell, stated the all councilors received a letter, if you have a questions we are happy to answer them.

Councilor Squailia confirmed personal buyback is from 2018 and back. She asked to explain why the stop in personal leave.

Mr. Dateo Jr, shared that the State Legislative passed a law that vacation time be a sellable buyback, they did not include personal leave. The Retirement Board had allowed both for over 30 years, the money was taken out of Fitchburg employees and included both, the law only include vacation, we are asking for buyback for both vacation and personal leave.

Councilor Squailia asked what Fitchburg does differently than other communities with personal leave.

Mr. Dateo Jr, explained the employees in Fitchburg earn personal days, other committees give a specific amount each year.

Councilor Squailia asked about the funding of this.

Mr. Dateo Jr. explained that the employees have already been putting the money in the system. The time is already in the system and paid for. We are trying to honor the union contracts and get the employees their earned personal leave. Every employee prior to May 1, 2018, had already sold back time their time, the retirement board had taken a certain amount of their pay. Employees have been doing this for decades.

Councilor Green shared this is earned personal leave, the employees have been waiting for 4.5 years for this to be resolved and supports this petition moving forward.

Motion to suspend the rules by roll call vote of 11 in favor and 0 opposed. 11 members present. Board consists of 11 members.

Petition was granted by roll call vote of 11 in favor and 0 opposed. 11 members present. Board consists of 11 members.

097-23. Petition to review attached disclosure Municipal Employees pursuant to G.L c268A, §20 (a) (b) to approve the same.

Petition 097-23 referred to Legislative Affairs by unanimous consent 11/0. 11 members present. Board consists of 11 members

098-23. To approve the following increases in water rates, minimum monthly charges, and miscellaneous charges in Article VI, Section 177-15 of the City Code. The fee increase which are proposed by the City of Fitchburg, Division of Water Supply as enclosed.
(Suspension of Rules, Council as a Whole)

099-23. To approve the following increases in wastewater rates and minimum monthly charges in Article III, Section 147-10.1 of the City Code. The fee increases which are proposed by the City of Fitchburg, Division of Wastewater as enclosed in the Petition.
(Suspension of Rules, Council as a Whole)

Petition 098-23 and 099-23 referred to Council as a Whole by unanimous consent 11/0. 11 members present. Board consists of 11members.

XII. OTHER BUSINESS

President Zarrella shared the City Council website is being updated and if the Councilors could provide headshots to go with their contact information.

Councilor Cragin shared a group of Fitchburg State students are researching our city parks for the purpose of adding supplemental material for the City's website. They are working with James Bunnell, Director of Parks and Rec, Department of Public Works, and focusing their studies on Fitchburg Historical Society archives.

I. EXECUTIVE SESSION

CONVENE INTO EXECUTIVE SESSION, under MGL c.30A, §21 (3) to discuss litigation strategy relating to pending litigation, Linda Johnson, Individually and as Trustee of Pine Tree Realty Trust. vs. The City of Fitchburg, if the President declares that an open meeting may have a detrimental effect on the City's litigating and/or negotiating position.

Motion Convening the Executive Session: I move that the City Council go into executive session under M.G.L. c.30A, §21 (3) for the purposes and reasons declared by the President and not return to open session at the conclusion of the executive session.

Roll Call Vote

Motion to enter into Executive Session by roll call vote of 11 in favor and 0 opposed. 11 members present. Board consists of 11 members.

Next Regular Meeting
Tuesday, April 18, 2023, at 7:00 PM

The meeting adjourned at 8:35 P.M.

Joanna Bilotta-Simeone

Joanna Bilotta-Simeone, City Clerk