

This meeting is being held in accordance with Governor Charlie Baker's signed open meeting law order dated March 12, 2020 which relieves a public body from the requirement of section 20 of chapter 30A that it conduct its meetings in a public place that is open and physically accessible to the public, provided that the public body makes provision to ensure public access to the deliberations of the public body for interested members of the public through adequate, alternative means **following COVID-19 procedures.**

In City Council, November 23, 2020

A regular meeting of the City Council was held on Monday November 23, 2020 in the City Council Chambers, 2<sup>nd</sup> floor of City Hall, 45 School St., Brockton, MA. President Asack presiding. The meeting was called to order at 7:00 PM with ten members present. Councilor Farwell absent.

**570** Acceptance of the November 9, 2020 City Council minutes

Accepted and placed on file

### **REPORTS**

**571** Of the Ordinance Committee for its meeting of November 5, 2020

Accepted and placed on file

**572** Of the Finance Committee for its meeting on November 17, 2020

Accepted and placed on file

### **APPOINTMENTS**

**573** Reappointment of Stephen Hooke of 31 Hammond St. Brockton, MA to the Traffic Commission for a three-year term.

Referred to Finance Committee

**574** Appointment of Allison Cogliano to the position of Assistant City Solicitor-Part Time for a three-year term, effective November 18, 2020.

Accepted and placed on file

**575** Appointment of Matthew Albanese to the position of Assistant City Solicitor-Part Time for a three-year term, effective November 30, 2020.

Accepted and placed on file

### **COMMUNICATIONS**

**576** From the Mayor, advising that he has changed Attorney Anthony Donegan's status as an Assistant City Solicitor for the City of Brockton from part-time to full-time effective November 16, 2020.

Accepted and placed on file

**577** From the Chief of the Police Department, requesting authorization to expend \$8,000 in donated funds from an anonymous source to be used for K-9 supplies and equipment as needed for the Brockton Police Department.

Accepted and placed on file

## COMMUNICATIONS (CONT'D)

**578** From the Mayor, in accordance with M.G.L. Chapter 44, recommending that the City Council authorize the acceptance and expenditure of the donation in the amount of \$8,000 from an anonymous donation to the Police Department. The donation will be used to purchase equipment for K-9 related needs. There is no required match for these funds.

Accepted and placed on file

**579** From the CFO, in accordance with Section 5 of Chapter 324 of the Acts of 1990, certifying the total acceptance and expenditure of the donation in the amount of \$8,000 from an Anonymous Donation to Police Department.

Accepted and placed on file

**580** From the DPW Commissioner, regarding the October 30, 2020 MassDEP grant received by Brockton DPW Recycling in the amount of \$68,000. This is a no-match grant which will be used to defray the cost of purchasing the 96-gallon wheeled containers for the curbside recycling program.

Accepted and placed on file

**581** From the Mayor, in accordance with M.G.L. Chapter 44, recommending that the City Council authorize the acceptance and expenditure of the total grant award in the amount of \$68,000 from the Massachusetts Department of Environmental Protection (MassDEP)-Sustainable Materials Recovery Program grant to the Department of Public Works-Sustainable Materials Recovery Program fund. The Sustainable Materials recovery Program grant will be used to defray the cost of purchasing the 96-gallon wheeled containers for the curbside recycling program. There is no required match for these funds.

Accepted and placed on file

**582** From the CFO, in accordance with Section 5 of Chapter 324 of the Acts of 1990, certifying the total acceptance and expenditure of the grant award in the amount of \$68,000 from Massachusetts Department of Environmental Protection (MassDEP)-Sustainable Materials Recovery Program grant to the Department of Public Works-Sustainable Materials Recovery Program fund.

Accepted and placed on file

**583** From the Mayor authorizing the City of Brockton Public Works Department to transfer \$1,400,000 of the \$2,000,000 that was originally appropriated to fund the water main replacement on Thomas Street, Thomas Circle and Morse Avenue. While this transfer is not required to be authorized by the City Council, CFO Troy Clarkson and the Mayor committed to communicate with the City Council about the way in which these funds would be expended. The Mayor respectfully requests that this communication be referred to the City of Brockton Finance Committee, so that this matter may be further discussed.

Referred to Finance Committee

**584** From the CFO, in accordance with Section 5 of Chapter 324 of the Acts of 1990, certifying the proposed appropriation of \$1,400,000 from the \$2,000,000 previously appropriated in the FY21 Budget. This appropriation represents an expenditure within the approved budget which does not require a transfer. However, the Mayor and him both committed to a transparent and collaborative process to expend these funds. Accordingly, this action has been filed without a detrimental impact on the continuous provision of the existing level of municipal services.

**COMMUNICATIONS (CONT'D)**

Accepted and placed on file

- 585** From the Executive Director of PERAC (Public Employee Retirement Administration Commission) submitting the amount to be appropriated for the Brockton Retirement System for FY22, which commences July 1, 2021.

Accepted and placed on file

**UNFINISHED BUSINESS**

- 458** Ordinance: An Ordinance to Provide Noise Control and Establish, and To Enforce, Civil Infraction for Violation  
Be it ordained by the City Council of the City of Brockton, a new ordinance to be added to the Revised Ordinances, Chapter 14 – Offenses – Miscellaneous, as Section 14-49 or in the next section available. (FAVORABLE, AS AMENDED)

The amendment passed by a hand vote.

Passed to a third reading as amended, by a hand vote

- 525** Ordered: that sum of \$2,000,000 is appropriated to pay costs of replacing water transmission main piping and valves, including the payment of all costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Mayor, is authorized to borrow said amount under and pursuant to M.G.L. c. 44, ss 8 (5) or pursuant to any other enabling authority, and to issue bonds or notes of the City therefor. All or any portion of this borrowing may be obtained through the Massachusetts Clean Water Trust (the "Trust"). Any premium received by the City upon the sale of any bonds or notes approved by this order, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this order in accordance with M.G.L. c. 44, ss 20, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount. Further Ordered: That the City Treasurer is authorized to file an application with The Commonwealth of Massachusetts' Municipal Finance Oversight Board to qualify under M.G.L. c. 44A any and all bonds or notes of the City authorized by this vote, and to provide such information and execute such documents as the Municipal Finance Oversight Board of The Commonwealth of Massachusetts may require. (IN CITY COUNCIL, NOVEMBER 9, 2020, PASSED TO A THIRD READING BY A HAND VOTE)

Adopted by a roll call vote taken by “yeas” and “nays”: ten members present and all voting in the affirmative. Councilor Farwell absent.

Councilor Cruise motioned for reconsideration in the hopes that it does not pass and was properly seconded. Motion failed by a hand vote.

- 568** Ordered: The City Council reviews an exemption from the residency requirement in accordance with the Revised Ordinances of the City of Brockton Article III Section 2-110, City of Brockton Ordinance Waiver of Residency in reference to James Plouffe of the Building Department. (FAVORABLE)

Adopted by a roll call vote taken by “yeas” and “nays”: ten members present and all voting in the affirmative. Councilor Farwell absent.

- 551** Appointment of James Plouffe of 3 Carriage House Drive Lakeville, MA 02347 to the position of Building Superintendent of the Public Property Department for the City of Brockton for a three-year term ending November 2023. (FAVORABLE)

Confirmed by a roll call vote taken by “yeas” and “nays”: ten members present and all voting in the affirmative. Councilor Farwell absent.

**190.**  
**UNFINISHED BUSINESS (CONT'D)**

**563** Ordered: Acceptance and expenditure of the donation in the amount of \$1,000.00  
From: C. Carney Environmental  
To: Police Department  
No match required (FAVORABLE)

Adopted by a roll call vote taken by “yeas” and “nays”: ten members present and all voting in the affirmative. Councilor Farwell absent.

**564** Ordered: Acceptance and expenditure of the grant award in the amount of \$25,600  
From: Massachusetts Emergency Management Agency (MEMA)-  
FY20 Emergency Management Preparedness Grant  
To: City of Brockton Emergency Management-FY20 Emergency  
Management Preparedness Grant fund. (FAVORABLE)

Adopted by a roll call vote taken by “yeas” and “nays”: ten members present and all voting in the affirmative. Councilor Farwell absent.

**565** Ordered: Acceptance and expenditure of the grant award in the amount of \$13,265  
From: U.S. Department of Justice- FY2020 Patrick Leahy Bulletproof Vest  
Partnership grant  
To: Police Department-FY2020 Patrick Leahy Bulletproof Vest Partnership Grant  
fund. (FAVORABLE)

Adopted by a roll call vote taken by “yeas” and “nays”: ten members present and all voting in the affirmative. Councilor Farwell absent.

**569** Resolve: To invite Rob May, Director of Planning, and the Chairperson of the Zoning and Planning boards to discuss means to inform the public as to the lack of availability of adult use retail marijuana in the City of Brockton. (FAVORABLE)

Adopted by a roll call vote taken by “yeas” and “nays”: ten members present and all voting in the affirmative. Councilor Farwell absent.

**567** Resolve: To invite Mr. John O'Donnell, as he is the Chairperson of the Brockton Board of Assessors, and any other persons he wishes to accompany him, to come before a committee of this Council to discuss the results of the recent comprehensive reassessment of all classes of property in the City of Brockton, the resulting proposed 2021 property valuations, and information related to the valuations and tax rate. (UNFAVORABLE)

President Asack stated Mr. O'Donnell was present and would have a presentation for the Council later in the meeting.

Adopted by a roll call vote taken by “yeas” and “nays”: ten members present and six voting in the affirmative. Councilors Cardoso, Mendes, Nicaastro and Rodrigues voting in the negative. Councilor Farwell absent

**ORDERS**

**586** Ordered: Acceptance of an anonymous donation of \$8,000 to be used to purchase equipment for K-9 related needs.  
From: An anonymous donation  
To: Police Department.  
There is no required match for these funds.

Referred to Finance Committee

**587** Ordered: Appropriation of \$68,000  
From: Massachusetts Department of Environmental Protection (MassDEP)-  
Sustainable Materials Recovery Program grant

**191.**  
**ORDERS (CONT'D)**

To: Department of Public Works-Sustainable Materials Recovery Program fund.

Referred to Finance Committee

**588** Resolve as follows: That the City Council shall recommend approval for the City of Brockton to enter into an Intermunicipal Agreement with the Town of West Bridgewater for all properties seeking water and sewer connections with Brockton. That the City Council shall recommend approval for the City of Brockton to approve the water connection for the 46-acre parcel approved by the Brockton Water Commission and execute the Intermunicipal Agreement with West Bridgewater for the water and sewer connections for said Parcel.

Referred to Finance Committee

**LATE FILES**

Councilor Monahan motioned to accept late files and to act under the suspension of the rules to act on this tonight and was properly seconded. Motion carried by a hand vote.

**589** Communication from the Mayor, in accordance with M.G.L. Chapter 44, recommending that the City Council authorize the total transfer of \$15,136,093 from the General Fund to the Stabilization Fund for State Aid.

Accepted and placed on file.

**590** Communication From the CFO, in accordance with Section 5 of Chapter 324 of the Acts of 1990, certifying the total transfer of \$15,136,093 from General Fund to Stabilization Fund for State Aid (draft State budget awaiting final approval.) This transfer is being requested to accommodate the extraordinary nature of this fiscal year (FY), given the delay in the State budget. During the FY21 budget planning process, the Mayor, working closely with the Superintendent of Schools, the School CFO, and the CFO's office, developed a conservative approach to revenue estimates and balanced the budget on those estimates. This transfer request represents the difference between the original projections and the current Cherry Sheet estimates from the MA Department of Revenue. While it is atypical to request a transfer like this before the Legislature has voted a final budget, it is important to vote this transfer to finalize the total appropriations before setting the tax rate, something that will be done after the classification hearing on Dec. 2.

Accepted and placed on file.

**591** Ordered: Appropriation of \$15,136,093  
From General Fund  
To: Stabilization Fund for State Aid

CFO Troy Clarkson thanked the Council on behalf of the mayor for taking this under suspension of rules. He continued that this is an extraordinary circumstance. When the budget was proposed for this fiscal year, they were in a very uncertain time and they intentionally were conservative in the estimates for both State Aid and Chapter 78, which is education aid from the Commonwealth. The year was started by transferring money from last year's budget for stabilization then transferring it back for the purposes of this budget along with leaving about \$1 million in current, vacant positions. They did not know the State budget was to not be approved so late in the year. The State Legislature is now ready to vote on the budget and the Commonwealth has issued Cherry Sheet numbers, which is the actual official document that lists the State Aid that will be received. A spreadsheet was sent to the Councilors with the original projections for State Aid with the changes in those numbers. Because of the conservative approach, the final numbers from the State are more than \$15 million more than what had been budgeted for.

**192.**  
**LATE FILES (CONT'D)**

CFO Clarkson stated he is asking for the money to be transferred into the Stabilization fund. If this is not done, the money will still come from the State, but on June 30<sup>th</sup> it would accrue to free cash and would not be available for appropriation until more than a year from now. He's asking for this transfer and then the Mayor and he will come back to the Council and ask via a super-majority to further appropriate this. He continued that approximately \$10.5 Million of this money is Chapter 70 money and expect to ask to have that appropriated to Net School spending, which both the School Superintendent and CFO are aware of this action. He continued that this is an opportunity, before setting the tax rate, to make this money available for future appropriation or, if they choose, this fiscal year.

Councilor Eaniri clarified that if approved they would be able to use the money for any short falls that may come up, which CFO Clarkson said yes. Councilor Eaniri asked if there was anything left at that point, would it be available as they prepared for the next budget with this in the stabilization fund, which was answered yes that it is available at the request of the Mayor for appropriations.

Councilor Nicastro stated that in the last paragraph of the email sent stated that a delay in this would likely result in a delay in sending out tax bills and asked for an expansion on that. CFO Clarkson stated that the setting of the tax rate on an annual basis is based on the totality of the spending in a fiscal year. They are asking to have this money transferred so that it is available for when the official forms are filled out for the Department of Revenue. One of the consequences should this be delayed is that it could delay setting the tax rate and sending those bills until the rate is set. Councilor Nicastro clarified that they do not want this money to stay in free cash because that would impact the amount of funds given by the State next fiscal year. CFO Clarkson said not necessarily, but if the funds go to free cash it takes over a year to get certified and are not available for use until certified, which would be the FY2023 budget. Because of the lean nature of this budget, particularly on the education side, the prudent thing to do would be to put it in Stabilization to best determine how to use the money and develop a plan with the Mayor on amending the FY2021 budget.

Councilor Cruise clarified how much would be transferred into the Stabilization fund, which is \$15,136,093, then asked what would be in the Stabilization fund. CFO Clarkson stated there would be approximately \$25 million.

Adopted by a roll call vote taken by "yeas" and "nays": ten members present and all voting in the affirmative. Councilor Farwell absent

Councilor Nicastro motioned for reconsideration in the hopes that it does not prevail and was properly seconded. Motion failed by a hand vote.

**Councilor's Recognition**

CFO Clarkson provided an introduction stating Assessor John O'Donnell would provide the detail on property assessment while he drew a distinction between the amount of tax money that is available to spend each year versus the value of the property. The change in property values does not impact the amount of tax money available to spend on an annual basis. The amount of money that can be collected in property tax is called a levy limit and is the maximum amount that can be spent or collected by law and every year that levy limit can be increased by 2.5% plus new growth, currently about \$155 million. New growth is the actual tax revenue from new construction. Property value, at \$9.1 billion, is the highest it has been in the City's history, but this does not change the amount that can be collected in taxes every year. The value of the property is inversely proportional to the tax rate, so as property value goes up, the tax rate goes down and has for the last five years. The only way to exceed that limit is if there is a vote by the Council to override Proposition 2 ½ or exclude Proposition 2 ½ which has been done in the past for capital exclusions.

Councilor Cardoso asked how do you explain to residents how their taxes are based on what their property is worth. CFO Clarkson answered that he is not saying that tax bills for some will not

**COUNCILOR'S RECOGNITION (CONT'D)**

go up for some, but for others they will go down since the total amount that the City can collect is constant and not dependent on the values. Councilor Cardoso commented that the public sees this as a tax increase and want to be clear.

Assessor O'Donnell was available to answer questions. Councilor Cardoso stated the major concern for residents is the increase in their taxes and how taxes are assessed on their homes. Assessor O'Donnell requested that any questions can be referred to his office. Councilor Cardoso asked who is responsible for the data input on the tax assessor's database. Assessor O'Donnell answered this is done by the three assessors and the rebound technician. His clerks can only make name changes seal date changes. Councilor Cardoso asked how frequently are assessments scheduled and by whom. Assessor O'Donnell answered that the City is required by the Department of Revenue to reassess every year. This year was a five-year certification year, formally called a full assessment. The difference in this year opposed to a normal year is that a field review needs to be done and public disclosure. Normally, six to eight field workers would do this by driving the City. This January, they met with Tyler Technologies and reimaged the whole city so there are new images on all property cards. They also have a geo-cycle ram that takes at least ten views of every property and can measure from this service. This was how the field review was done this year and Brockton was the first community in Massachusetts to utilize this and was approved by the Department of Revenue. All values were posted publicly on the city website and in the library once we got our certification on October 28th. Councilor Cardoso asked how long did that information stay up, and was answered that is was supposed to stay up for five days but was left up for eight days and is still available. Property record cards were also updated on that date with FY21 information.

Councilor Cardoso asked if he could speak to square footage versus amount of rent that is collected. Assessor O'Donnell stated that rent is only utilized on any property that is four or more units. On two and three family homes they only utilize a sales comparison approach. Councilor Cardoso asked how do you measure square footage and the amount of rent being collected. Assessor O'Donnell said they are required by the Department of Revenue every ten years to do an inspection of every house. They also use MLS data and other services, but if someone called questioning gross living area, they would go out and measure the home. Councilor Cardoso asked how they measure quality on input of property cards. Assessor O'Donnell stated that before it is done it is discussed and if there is a major change, the board of assessors votes on it and the Department of Revenue checks all of their information.

Councilor Cardoso asked how do we help our residents under this in a simple, easy format in different languages. Assessor O'Donnell stated he has two bilingual employees in his office and during the abatement season he will come up with documents in different languages. Councilor Cardoso asked when was the last audit of the tax assessment done to which the answer was this is done every year by the Division of Local Services. Councilor Cardoso asked if any internal audits are done to which the answer was no.

Councilor Nicastro stated that since a lot of values have gone up, a lot of tax bills will be increasing and asked about any available exemptions. Assessor O'Donnell said there are basically two exemptions. One is the deferring of taxes (41C) that is only available for people at age 65 and they can defer their taxes until they sell their house at age 85, at an interest rate of 2.5%. Once a person dies or sells their house, the taxes are paid or interest is accrued at 16% and automatically goes into tax title. The second is for hardship that is either age based, though this year the age will be lowered, and people would need to have a medical problem certified by a doctor or income based that is subjective by the Board. Councilor Nicastro asked, under 41C, what is the triggering event. Assessor O'Donnell said it could be death or house sale and there is 90 days before the interest is increased. He continued there were also two senior exemptions, 17D, based on assets, which is worth \$192/year and 41A, based on income and assets, which is worth \$750/year plus trash collection worth another \$280/year. Councilor Nicastro asked who sets the income threshold which was answered the State sets the maximum, which is \$1,000. This can be increased by the Assessor and Mayor bringing an increase to the Council.

Councilor Thompson clarified that Tyler Technologies is the service contractor and asked if they do the five-year assessment. Assessor O'Donnell said they were obtained through a one-year

RFP and that they assisted with the assessment each year, but completely do the five-year assessment. Councilor Thompson asked if the Assessor's office review their work. Assessor O'Donnell states that one of his staff works with Tyler Technologies and the submissions are done together. Councilor Thompson understood that the State is the one that imposes the maximum on the exemption and the City determines what it will be within that range, which was answered yes. Assessor O'Donnell stated Brockton is not at the maximum for 41A, which he believes is \$1,000. Councilor Thompson asked if this was to be increased to the maximum, would it have to come back before Council to which the answer was yes.

Councilor Lally asked. Compared to other communities, how do we stack up in Brockton with the tax rate. Assessor O'Donnell stated he knew that Brockton's split was 83.91% of the tax levy is residential and has gone up over 5% over the last five years. He continued that Brockton has become more of a bedroom community and does not have the commercial properties. Councilor Lally asked about pilot programs, payment in lieu of taxes with large non-profits, and if there are any non-profits or entities not paying taxes that could make a difference. Assessor O'Donnell stated there are only two pilots in the city. One is from 1999 for West Acres on Pleasant St., the only true pilot, and Father Bill's that voluntarily pays \$27,00/year on their properties. As far as properties that would help, Brockton Hospital would be the largest tax payer if they were not non-profit.

Councilor Mendes stated she was under the impression that assessed values were always a year behind and asked if this year assessed values will affect next year's taxes, to which the answer was yes that FY21 taxes are based on sales from calendar year 2019. Councilor Mendes asked how often the property cards are reassessed which was answered every year.

President Asack stated that Mr. O'Donnell provided all councilors with information to read before the special meeting on Wednesday, December 2<sup>nd</sup> at 7:00PM and you can get questions to Mr. O'Donnell beforehand and he can include those in his presentation before the tax hearing.

President Asack thanked all the councilors that participated in the first professional development workshop on Saturday at City Hall. She also thanked the presenters, HR Director Sandra Knight, who was assisted by Lucia Centeio, Legislative Counsel Shannon Resnick and former Councilor Thomas Brophy.

President Asack stated that Thursday is Thanksgiving and on behalf of the Council wished everyone a Happy and Healthy Thanksgiving.

All council business as listed on the agenda have been emailed to the City Council members in their complete form, with exception of oversized material, such as maps, photos, etc. Recommendations are based on reports from committees.

Executive Session: to discuss strategy with respect to litigation as an open meeting may have a detrimental effect on the litigating position of the public body.

Councilor Lally motioned to enter into executive Session and was properly seconded. Motion carried by a roll call vote taken by "yeas" and "nays"; ten members present and all voting in the affirmative. Councilor Farwell absent.

The City Council will not return after Executive Session.

Adjourned at 7:55PM