

REGULAR MEETING OF THE AGAWAM CITY COUNCIL

Minutes dated June 4, 2018

Meeting was called to order by Council President Johnson at 7:00pm in the Auditorium at the Roberta G. Doering School, 68 Main Street, Agawam.

Item A. Roll Call

ROLL CALL – 9 PRESENT, 2 ABSENT

Roll Call was taken with the following councilors present: Council Vice President Cecilia Calabrese, Paul Cavallo, Council President Christopher Johnson, Gina Letellier, Robert Magovern, Dino Mercadante, Robert Rossi, Rosemary Sandlin and Anthony Suffriti. Councilor Bitzas was absent and Councilor Mineo arrived late. With nine present, there was a quorum.

Item B. Moment of Silence and the Pledge of Allegiance.

Council President Calabrese asked for a moment of silence and the Pledge of Allegiance.

Item C. Citizen's Speak Time

There were no citizens who spoke.

Item D. Minutes

1. Regular Council Meeting – May 21, 2018

Motion to approve was moved and seconded all around. Voice vote approved.

Item E. Declaration from Council President

Council President Johnson stated the City Council has no control over the audio or video of these meetings. We are dealing with antiquated equipment which will be replaced when we relocate by the end of the year. It should be more consistent at that time. We apologize for any inconvenience these inconsistencies have given to you at home watching.

Item F. Presentation of Resolutions

1. TR-2018-36 - A Resolution appropriating \$220,000.00 from Free Cash to Building Maintenance Electricity/Heat Account (#11922-52110) (Mayor Sapelli) (Referred to Finance Committee)

Motion to approve made by Councilor Sandlin and seconded by Councilor Cavallo. As Chair of the Finance Committee, Councilor Letellier provided the report stating that in prior years, the town over-budgeted and left over money went to Free Cash. This winter was a very long heating season and the budget was cut last year. Motion to send a positive recommendation to the Full Council made by Councilor Mercadante and seconded by Councilor Cavallo. The vote was 4 Yes, 0 No, 1 Absent (Councilor Mineo)

The vote was **9 YES, 0 NO, 2 ABSENT** (Councilors Bitzas and Mineo) approving the item.

2. **TR-2018-37 - A Resolution confirming the appointment of Susan Cameron, LMT, 19 Witheridge Street, Feeding Hills, MA to the Whiting Street and Thomas Pyne Fund Commission for a term expiring December 31, 2021 (Mayor Sapelli)**

Motion to approve made by Council Vice President Calabrese and seconded by Councilor Magovern.

The vote was **9 YES, 0 NO, 2 ABSENT** (Councilors Bitzas and Mineo) approving the item.

Item I. Public Hearings

1. **TR-2018-35 (PH-2018-4) - A Resolution adopting the Fiscal Year 2019 Annual Operating Budget for the Town of Agawam (Mayor Sapelli)**

Council President Johnson declared the Public Hearing open at 7:06PM and asked for anyone wishing to speak in favor of the item to approach. Corinne Wingard spoke and thanked the Mayor, Department Heads and City Council for the very informative budget workshops and performing their due diligence. No one else spoke in favor or in favor name only. Will Clark spoke in opposition specifically about overflow trash, ambulance fees and weekly disposal fees all being sources of revenue and about our taxes going up however noted there is a lot of unspent money. The town bonded for recent ‘emergencies’ – why does the Free Cash “padding” exist if it’s not used for these types of emergencies? No one else spoke in opposition or in opposition name only. Council President Johnson declared the Public Hearing closed at 7:11PM.

Councilor Letellier inquired if councilors could ask questions at this point. Councilor Sandlin made the Motion to go into Committee as a Whole which was seconded by Councilor Letellier. Councilor Suffriti asked Cheryl St. John what was currently in certified Free Cash. Council President Johnson reminded everyone that that number disappears on July 1st. Cheryl St. Johnson said there was \$10,281,798. Councilor Suffriti asked if we could use \$1,000,000 of this to offset the taxes. Council President Johnson stated that the Mayor determines that amount. Councilor Mercadante asked what the standard amount or percentage was to keep in Free Cash. Council President Johnson noted that he wasn’t aware of any particular standard however the amount we keep is significantly high in his opinion however it isn’t generally used to support the budget. Councilor Cavallo was concerned with leftover money after reviewing the list of encumbrances sent by Auditor and believes we should sharpen our pencils. He specifically mentioned Police Court Time and that we should be more prudent. Council President Johnson reminded everyone to keep focused on questions and not discussions. Councilor Magovern would like to see at least one year without taxes increasing. Councilor Letellier asked if we could use more Free Cash but would also like to see how the Mayor handles this budget and appreciates what he has done so far. She also again asked for job descriptions of the solicitors and guidelines for billing. Councilor Mercadante understands how the new Health Agent is overwhelmed right now and needs help however is this new Sanitarian position actually necessary for the future? There was a Health Agent for many years and we didn’t need another position in that department. Why create a permanent position? Council President Johnson made an observation that this budget is a vastly different approach with the new mayor who seems to be setting priorities. Next year’s budget will be his first full year budget and he is very optimistic that Mayor Sapelli will hear all the concerns we have voiced. Council President Johnson is convinced we have an administration that actually has priorities which is quite pleasing. Please get any questions to Barbara in the Council Office so she can get them answered by June 18th and a reminder that the City Council can cut but cannot add to the budget.

Motion to table until June 18th made by Councilor Sandlin and seconded by Councilor Rossi. Voice vote approved tabling the item.

2. *TOR-2018-6 (PH-2018-4) - An Ordinance amending the Code of the Town of Agawam Chapter 149 entitled “Smoking and Tobacco Products” (Mayor Sapelli) (Two Readings Required) – Public Hearing Set for June 18, 2018 (Referred to Legislative Committee)*

Public Hearing is set for June 18th.

Item J. Old Business

1. TOR-2018-7 - An Ordinance to amend Section 103-8 of Chapter 103 of the Code of the Town of Agawam (Mayor Sapelli) (2 of 2 Readings) (Referred to Legislative Committee)

Motion to approve the second reading made by Councilor Cavallo and seconded by Councilor Magovern.

The vote was **9 YES, 0 NO, 2 ABSENT** (Councilors Bitzas and Mineo) approving the second and final reading.

2. TOR-2018-8 - An Ordinance to amended Section 49-7(c) of the Code of the Town of Agawam (Mayor Sapelli) (1 of 2 Readings) (Referred to Legislative Committee) (Tabled 5/21/18)

Motion to remove the item from the table made by Councilor Magovern and seconded by Councilor Rossi. The item was off the table. Motion to approve the first reading made by Councilor Magovern and seconded by Councilor Mercadante. Council President Johnson reminded everyone that this item involved the increase in the solicitors' salaries and that the Legislative Committee provided a positive recommendation to the Full Council. Councilor Letellier said this item was tabled to wait for job descriptions however the information that was sent to the Council was NOT a job description. She again noted this was not about personalities and that it was about the process. Council President Johnson said that the Mayor addressed the billable hours. Councilor Letellier said she did read his memo but wanted more complete information. Councilor Magovern said he thought it was fair and was satisfied. Councilor Sandlin asked what the hourly rate of the Solicitor was. Councilor Letellier still said she wants more clarity. Is it a 15 hour work week? Twenty hour? She wants more details. When does overtime kick in? What is the difference between the Solicitor and the Assistant Solicitor? Council President Johnson voiced concern over tabling the item since the increase is included in the budget. Councilor Letellier emphasized that she would vote for the first reading but will NOT vote for the second reading until she has the requested information. Council President Johnson stated that was a fair request.

The vote was **10 YES, 0 NO, 1 Absent** (Councilor Bitzas) (Councilor Mineo arrived during discussion) approving the first reading.

3. TO-2018-13 - Budgetary Transfer of \$20,000.00 from the Firearms Qualification (#12101-51130) and \$50,000.00 from the Uniform Allowance (#12101-51070) to Longevity (#12101-51400) for a total transfer of \$70,000.00 (Mayor Sapelli) (Referred to Finance Committee) (Tabled 5/21/18)

Motion to remove the item off the table made by Councilor Suffriti and seconded by Council Vice President Calabrese. Motion to approve made by Council Vice President Calabrese and seconded by Councilor Suffriti. As Chair of the Finance Committee, Councilor Letellier provided the report stating that there was much discussion on this item and it was met with many questions and an overall sense of disappointment. This was done to add to retirement and not to benefit the town. It basically comes down to it is a signed negotiated contract and if we say no, then we will lose in arbitration. Councilor Mercadante asked what would happen if we said no to this? Would they have to renegotiate? This is not good for the town's retirement fund. Mayor Sapelli if this was defeated then the union would file a grievance and there would surely be arbitration. We would love to renegotiate this when the time comes to address it. Motion to NOT send any recommendation to the Full Council made by Councilor Mercadante and seconded by Councilor Calabrese. The vote was 4 Yes, 0 No, 1 Absent (Councilor Mineo).

Councilor Rossi reiterated what he said at the budget workshop and said this was one of the most egregious misrepresentations of public funds he has ever seen. The clothing benefit was done for a specific purpose. He does not believe it to be legal and most clearly misrepresented to be placing this into longevity. He believes it should be challenged and again stated he thinks it is illegal. Councilor Letellier wanted to table this to get the Solicitor's opinion. Council President Johnson means no disrespect but is amazed at the prior administration in actually doing this. It will absolutely cost the taxpayers significant funds especially into the future. At this point, two or three of the unions have already gone this route and you can rest assured all of the others will be standing in line to follow suit. He doesn't know, however, if this is actually challengeable unless the Solicitor says something different, we will have to vote to pass this. If we don't pass this, the union will just sue the town and get a judgment against the town in court. Councilor Sandlin noted the Council never really gets contracts or Memorandums of Understanding from the administration so we can see what is going on and asks for them for future negotiations. Hers will be a protest vote. Council President Johnson stated that the Council's role is different than the School Committee's role in that the

Mayor is the sole person involved in signing contracts. The Council has nothing to do with it – our job is to approve the first year of funding for each contract although it is a pet peeve of his that past administration refused to highlight any changes negotiated from prior contracts. Councilor Magovern commended and agreed with Councilor Rossi although meaning no disrespect for the Police Department noting we have one of the finest around. He disagreed with tabling this and wanted to vote tonight. Council President Johnson said this item is for funding current year – not next year. Councilor Rossi talked about the Massachusetts Wage Act and that clothing is excluded from the Wage Act. If the town wants to give the APD money for uniforms that’s great – you just can’t put it into their retirement like this is doing. Council President Johnson is correct – we fund for the first year only. It’s our biggest job along with the budget. Mr. Cohen had a warped sense of what the town pays for and in the future, let’s get someone in there to negotiate contracts that knows what the hell they are doing. Councilor Mercadante said Agawam is healthy and strong but one problem is pension and this could be seriously problematic in the near future. Councilor Mineo agreed with everything everyone said and tried to convey this at the last meeting. He said we will have to pay for this for decades and is not in favor of it; however the contract has already been negotiated and already accepted. He asked what the repercussions were if we said no and could we even do that. He said we can’t blame the APD but should blame the negotiator for doing this. Council President Johnson stated the Council has a contractual obligation to pay this – if we don’t then they will go to court and likely get a judgment and those get added directly to the levy. Even though we do not agree with this one little bit, the Council doesn’t have much choice in the matter. Councilor Mercadante asked if it made sense to get a legal opinion from the Solicitor. Council President Johnson said sure however his guess would it would be similar to what he previously stated and hopefully Mayor Sapelli gets a strong message of what we are saying. Councilor Letellier keeps hearing Councilor Rossi say fraud, fraud and it makes sense to her to table this item and request a legal opinion. Councilor Rossi noted that he believes it to be fraud on both sides of the table. Council President Johnson added that it wouldn’t be fraud on the part of the union – we are now playing mop up duty from prior years’ budgets. Councilor Letellier added that Auditor Cheryl St. John said that account is clearly in deficit. Councilor Magovern asked if there was any chance a judge would agree with us in a court case to which Council President Johnson said a judge would not make a determination on the fund however if you’d like we could draft a letter to PERAC. He is still amazed that whoever represented the town in these negotiations couldn’t see how staggering these numbers would cost the town! Councilor Letellier made the Motion to table and request an opinion letter from the Solicitor/PERAC and was seconded.

The vote was **7 YES** (Councilors Calabrese, Johnson, Letellier, Mercadante, Mineo, Rossi and Sandlin), **3 NO** (Councilors Cavallo, Magovern and Suffriti), **1 ABSENT** (Councilor Bitzas) tabling the item.

4. TO-2018-15 - Budgetary Transfer of \$2,800.00 from Carry Over Professional Services (#11379-52190) to Professional Services (#11372-52190) (Mayor Sapelli) (Referred to Finance Committee)

Motion to approve made by Councilor Cavallo and seconded by Councilor Letellier. As Chair of the Finance Committee, Councilor Letellier provided a report stating that Auditor Cheryl St. John explained that the new assessor is processing under the appropriate accounts. Motion to send a positive recommendation to the Full Council made by Councilor Cavallo and seconded by Councilor Mercadante. The vote was 4 Yes, 0 No, 1 Absent (Councilor Mineo).

The vote was **10 YES, 0 NO, 1 Absent** (Councilor Bitzas) (Councilor Mineo arrived during discussion) approving the transfer.

Item K. New Business

1. TR-2018-38 - A Resolution appropriating from the Community Preservation Fund and authorizing the expenditure of Community Preservation Funds for an update to the historic inventory (CPA)

Referred to Community Relations Committee, next Agenda.

2. TR-2018-39 - A Resolution authorizing the reservation and appropriation of funds from the Community Preservation Fund (CPA)

Next Agenda.

- 3. TR-2018-40 - A Resolution authorizing the appropriation to fund deficits in Snow and Ice Overtime and Equipment Rentals Snow Accounts (\$177,544.09) (Mayor Sapelli)**

Referred to Finance Committee, next Agenda.

- 4. TOR-2018-9 - An Ordinance amending Chapter 33 of the Code of the Town of Agawam (Mayor Sapelli) (Two Readings Required)**

Referred to Legislative Committee, next Agenda.

- 5. TOR-2018-10 - An Ordinance authorizing the acceptance of General Laws Chapter 44, Section 53F ³/₄ which establishes a Special Revenue Fund known as "The PEG Access and Cable Related Fund) (Mayor Sapelli) (Two Readings Required)**

Referred to Legislative Committee, next Agenda.

- 6. TR-2018-41 - A Resolution transferring funds to the CATV PEG Access and Cable Related Fund and appropriating funds to support cable related expenditures (Mayor Sapelli)**

Next Agenda.

- 7. TR-2018-42 - A Resolution appropriating Twenty Two Thousand, Six Hundred and Forty Seven Dollars (\$22,647.00) from Free Cash for the Funding of Temporary Salaries and Contractual Services for the Agawam Municipal Golf Course (Mayor Sapelli)**

Referred to Finance Committee, next Agenda.

- 8. TO-2018-16 - Budgetary Transfer of \$7,675.00 from Fire - Science College (#12201-51120) and \$10,000.00 from Regular Temporary (#12201-51020) and \$5,000.00 from Regular Salary (#12201-51010) to Employee Benefits Buy Back (#16602-51040) (Mayor Sapelli)**

Referred to Finance Committee, next Agenda.

- 9. TO-2018-17 - Voucher List in the amount of \$1,188.00 for BoardPaq annual invoice (City Council)**

Next Agenda.

- 10. TO-2018-18 - Budgetary Transfer of \$15,000.00 from Law Regular Temporary (#11511-51020) to Law Department Professional Services (#11512-52190) (Mayor Sapelli)**

Referred to Finance Committee, next Agenda.

- 11. TO-2018-19 - Budgetary Transfer of \$9,850.00 from Line Item Reserve Fund (#16605-57300) to Professional Services (#16602-52190) (Mayor Sapelli)**

Referred to Finance Committee, next Agenda.

- 12. TO-2018-20 - Budgetary Transfer of \$20,000.00 from Highway Grounds Building Maintenance (#14202-52020) to Highway Electricity & Heat (#14202-52110) for \$5,000.00 and MV Maintenance Electricity & Heat (#14902-52110) for \$5,000.00 and Wastewater Electricity & Heat (#22542-52110) for \$5,000.00 and Water Electricity & Heat (#60142-52110) for \$5,000.00 (Mayor Sapelli)**

Referred to Finance Committee, next Agenda.

13. **TO-2018-21 - Budgetary Transfer of \$6,000.00 from Reserve Fund (#16605-57300) to Sewer & Water (#16602-52490) (Mayor Sapelli)**

Referred to Finance Committee, next Agenda.

14. **TO-2018-22 - Budgetary Transfer of \$12,000.00 from Reserve Fund (#16605-57300) to Medicare Insurance (#16603-57040) (Mayor Sapelli)**

Referred to Finance Committee, next Agenda.

15. **TO-2018-23 - Budgetary Transfer of \$2,000.00 from Fringe Benefits (#16603-52350) and \$70,000.00 from Unemployment Claims and \$106,000.00 from Property & Liability Insurance (#16603-57500) for a total transfer of \$178,000.00 to Medical Claims (#16603-57060) and Medicare Insurance (#16603-57040) (Mayor Sapelli)**

Referred to Finance Committee, next Agenda.

16. **TO-2018-24 - Budgetary Transfer of \$9,604.87 from various Golf Accounts to various Golf Accounts (Mayor Sapelli)**

Referred to Finance Committee, next Agenda.

17. **ZC-2018-1 - Petition for Zone Change by Owner, Salmar Realty, Inc., for property located at 779 and 0 Suffield Street from Residence A-2 and Agricultural to Business A – Refer to Planning Board for their Public Hearing (June 21, 2018) and suggest a City Council Public Hearing date of July 9, 2018**

According to the Solicitor, the applicant wishes to withdraw this item so it is referred to the next Agenda where the Council can vote to remove it from the Agenda.

18. **ZC-2018-2 - Petition for Zone Change by Owners, Thomas F. Reidy II and Sherry M. Reidy for property located at 466 South Westfield Street from Agricultural to an Age Restricted Housing District (Residence A-5) - Refer to Planning Board for their Public Hearing (June 21, 2018) and suggest a City Council Public Hearing date of July 9, 2018**

Referred to Legislative Committee, next Agenda.

Item L. Any other matter that may legally come before the City Council.

Councilor Magovern mentioned what a great Memorial Day celebration it was and thanked Aldo Mancini for all of his hard work and dedication. Councilor Cavallo agreed and especially loved the ringing of the bells. Councilor Letellier celebrated Memorial Day in Gettysburg and Valley Forge. Councilor Sandlin commended the students who wrote essays about what Memorial Day meant to them and hoped these essays would be in the town paper for all to see. Councilor Cavallo added that the young lady who sang the National Anthem was amazing! Council President closed with wishing Council Vice President Calabrese a very Happy Birthday on behalf of the entire Council.

Item M. Adjournment.

The Motion to adjourn was moved by Councilor Magovern and seconded by Councilor Mercadante. Meeting was adjourned at 8:16pm.

Approved

TR-2018-36

A RESOLUTION APPROPRIATING \$220,000.00 FROM FREE CASH TO BUILDING MAINTENANCE ELECTRICITY/HEAT ACCOUNT (11922-52110)

Sponsored by Mayor William P. Sapelli

WHEREAS, the Building Maintenance Electricity/Heat account is used to pay all electric and heat bills for the Agawam Public Schools, Town Hall, Library, Police Headquarters, Parks the Building Maintenance Building; and

WHEREAS, funds appropriated for Building Maintenance Electricity/Heat were reduced for fiscal year 2018; and

WHEREAS, most of the funds appropriated for Building Maintenance Electricity/Heat have been expended; and

WHEREAS, it is anticipated that remaining fiscal year 2018 electricity and gas bills will total \$220,000.00; and

WHEREAS, it is in the best interest of the Town of Agawam to pay utility bills in a timely fashion,

NOW THEREFORE, THE AGAWAM CITY COUNCIL hereby resolves to appropriate two hundred and twenty thousand (\$220,000.00) dollars from free cash to the Building Maintenance Electricity/Heat Account (11922-52110).

DATED THIS 4th OF June, 2018.

PER ORDER OF THE AGAWAM CITY COUNCIL

Christopher C. Johnson, President

APPROVED AS TO FORM AND LEGALITY

Stephen J. Buoniconti, Solicitor

org- TACK
cc- Council
cc- Bldg Maint
cc- Auditor
cc- Treasurer

Approved

TR-2018-36

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WHEREAS, it is in the best interest of the Town of Agawam to pay utility bills in a timely fashion,

NOW THEREFORE, THE AGAWAM CITY COUNCIL hereby resolves to appropriate two hundred and twenty thousand (\$220,000.00) dollars from free cash to the Building Maintenance Electricity/Heat Account (11922-52110).

DATED THIS 4th OF June, 2018.

PER ORDER OF THE AGAWAM CITY COUNCIL

Christopher C. Johnson, President

APPROVED AS TO FORM AND LEGALITY

Stephen J. Buoniconti, Solicitor

org- TACK
cc- Council
cc- Bldg Maint
cc- Auditor
cc- Treasurer

TOR-2018-7

AN ORDINANCE TO AMEND SECTION 103-8 OF CHAPTER 103 OF THE CODE OF THE TOWN OF AGAWAM

(Sponsored by Mayor William P. Sapelli)

WHEREAS, Chapter 103, Article I, Section 103-8 of the Code of the Town of Agawam relates to fees for services and licenses within the Health Department; and

WHEREAS, most municipalities in the Commonwealth charge a disposal works construction permit fee for the installation of a septic system due to the required multiple site visits from the Health Agent; and

WHEREAS, the Town of Agawam currently does not assess a disposal works construction permit fee for the installation of a septic system; and

WHEREAS, the average municipal permit fee in the region for disposal works construction is one hundred (\$100.00) dollars; and

WHEREAS, the Town of Agawam currently does not assess a permit fee for the sale of tobacco products; and

WHEREAS, most municipalities in the Commonwealth charge a permit fee for the sale of tobacco products ranging from one hundred (\$100.00) dollars to three hundred (\$300.00) dollars; and

WHEREAS, it is in the best interest of the Town of Agawam to charge a disposal works construction fee for septic installations and a permit fee for the sale of tobacco products.

NOW THEREFORE, the Agawam City Council hereby amends Chapter 103, Article I, Section 103-8 of the Code of the Town of Agawam by inserting the following:

Type	Fee
Disposal Works Construction	\$100
Tobacco Sales	\$200

Dated this 4th day of June, 2018.

PER ORDER OF THE AGAWAM CITY COUNCIL

Christopher C. Johnson, President

APPROVED AS TO FORM AND LEGALITY

Stephen J. Buoniconti, City Solicitor

org- TACK
cc- Council
cc- Law
cc- Health
cc- Auditor
cc- Treasurer

1st Reading 5/21/18
2nd Reading 6/4/18
Approved

BUDGETARY TRANSFER FORM

TO-2018-15

Department: Assessor's Office

Amount: \$2,800 Date: 4-26-18

From: Carry Over Professional Services 11379-52190

To: Professional Services 11379-52190

Reason for Transfer: Payment of Professional Services From Carry Over Professional Services

Samuel Lomaggio, Department Head

I hereby certify that funds are available to make the above-stated transfer.

Date: 5/4/18 Cheryl St. John, Auditor

I hereby approve placement of the above-stated transfer on the Council agenda.

Date: 5/8/18 William Sapelli, Mayor

Approved as to form and legality.

Date: 5/5/18 Stephen Buoniconti, Solicitor

PER ORDER OF THE AGAWAM CITY COUNCIL - APPROVED ON June 4, 2018

Date: 6/4/18 Christopher Johnson, President

APPROVAL OF LEGISLATION: Pursuant to Section 3-6 of the Agawam Home Rule Charter, I hereby approve the Council passage of the above-stated transfer.

Date: William Sapelli, Mayor

DISAPPROVAL OF LEGISLATION: Pursuant to Section 3-6 of the Agawam Home Rule Charter, I hereby disapprove the Council passage of the above-stated transfer.

Date: William Sapelli, Mayor

Org- TACK, cc- Council, Auditor, Treasurer, Assessor