

WATER AND SEWER COMMITTEE MEETING MINUTES

TUESDAY, JUNE 13, 2017

In attendance: Patrick Dello Russo – Auditor/CFO, John Scenna – Director of Public Works, Elena Proakis Ellis – City Engineer, Scott Forbes – BOA Representative, Donna Cardillo – MUNIS/Programming Consultant, Lisa Patterson – Water and Sewer Billing Clerk, Francis X. Wright – BOA Representative, Amy Heidebrecht - Clerk, Gerry Mroz.

The meeting was opened at 3:31 PM.

1. PUBLIC PARTICIPATION

Scott Forbes made a motion to open up public participation and Patrick Dello Russo seconded. All approved.

Alderman Francis X. Wright of 191 Florence Street explains his thought process behind Order 2017-124. He receives calls from residents regarding two-family homes and he explains that they are often family members who live upstairs and downstairs or they have elderly tenants and therefore they do not want to have to increase rent to cover water fees. He believes they deserve the opportunity to have two segregated meters, with base fees for both, to help avoid going into the 2nd Tier pricing. He continues that the residents and have voiced their concerns have been here for decades that want to keep their rents stabilized.

Gerry Mroz of 62 Mt. Vernon Street addresses the committee. He states that there should not be a separate class of people for two-family residents. He disagrees with the 2 Tier system of pricing and adds that it is illegal if you do not show that there are resource demands that justify the increased tiered pricing for high volume users. He continues that the appeals court ruling in Flatley vs. Malden years ago basically said that you cannot average out the use with a tiered system. He suggests eliminating the tiered rate, suggests that we have one water rate – a flat fee. He also goes on to express that Order 2017-124 is a way for select residents to circumvent the system that is in place. He continues that he has not seen anything over the past few years from any consultants, or any of the Alderman meetings, that shows that there is a cost increase for the city due to the high volume users. He explains that Melrose has not had to build anything to help service these high volume users and therefore believes that they should not have to pay the Tier 2 rates.

Mr. Mroz brings up schools and hospitals and the redundant service for them as discussed in a different meeting with the City Engineer. He believes that the schools should be paying for water and sewer. He thinks those particular cases would be a case for paying the 2nd Tier because there is a cost associated with providing service to them. He makes a plea for a cost of service analysis.

Mr. Mroz adds that our rates are primarily based on a volumetric flow and explains that if we have a rainy season we could get into trouble by basing our pricing that way. He mentions that the City Auditor claims that he is always worried about not making enough revenues to cover our MWRA bills. He suggests that we have a higher fixed cost per unit, per user because that is really what our costs are. He concludes that it is disingenuous for the Board of Alderman to create a rate system that hurts people

intentionally and then try to present an Order (referring to Order 2017-124) that only a small group benefits from because they are special.

Elena Proakis Ellis made a motion to close public participation. John Scenna seconded. All were in favor.

2. PAST MEETING MINUTES

John Scenna presented draft meeting minutes from Thursday March 27th and Thursday May 22nd which had been emailed to the Committee members in advance of the meeting. Patrick Dello Russo made a motion to accept the two sets of minutes. John Scenna seconded. All were in favor.

3. BOARD OF ALDERMAN ORDER 2017-124

John Scenna provides print outs of Order 2017-124 and an email from City Solicitor, Robert Van Campen, to Alderman Scott Forbes from May, 3rd 2017 (see attached). He offers time for the Committee to review the documents and summarizes the documents for the Committee. He states that the City Solicitor has reviewed the Order and determined it was legal to pursue. John Scenna asks for a little bit of leniency and a suspension of the rules as the author of the Order, Francis X. Wright, is in attendance and could answer any questions that they may have regarding the Order.

Patrick Dello Russo makes the motion to open up questioning, Scott Forbes seconds the motion.

Elena Proakis Ellis asks Mr. Wright a question regarding sub-metering and state requirements about passing the cost down to the tenant. He replies that it would be up to the owner whether to pass it onto the tenant and brought up that a lot of the two families are relatives so they might not pass down the cost to the tenant. Mr. Wright further added that it should not matter to the city whether they receive one check from the owner or two checks from the owner and tenant for the water bill. They discuss whether the homeowner would still be responsible for the bill still. State law specifically says that the owner is responsible for the bill regardless of whether there's a second meter in the rental unit. Mr. Wright stated that all state legal requirements pertaining to billing tenants would still need to be met if this order passes.

Donna Cardillo has a financial analysis on two-families (see attached). There are 863 two-families total that use over 2500 cf of water. She said it is not worth it for the owners to add the second meter if they are using less than 2500 cf per quarter because the base fees outweigh the cost advantage. That brings the total down to 592 two-families that are under the 2500 cf per quarter. Then she removed the two-families that have their bills sent outside of Melrose from that list, assuming they are not owner occupied. That leaves us with 184 two-families that are charged over and above the 2nd Tier. If they all went with the new two meter system, Melrose would lose approximately \$40K per year. Donna further explains that this would most likely not happen because out of the 184 two-families the median use is 3400 cf, which would save them 7.25%, or \$190 per year. Any owners using 2000 cf to 3400 cf would need to decide for themselves whether it is worth it to spend money on the plumbing to get the second meter. Costs to the homeowner would be around \$300 for the meter (that cost could go up), plus plumbing costs and inspection fees.

Donna Cardillo continues that we only have 90 three-family houses that we might want to include in this program should it move forward. Both Mr. Scenna and Mrs. Cardillo said they would not recommend

offering it to anyone over a three-family. Donna explains that our system jumps from a three-family to a four to eight-family. Elena Proakis Ellis adds that a four-family is more likely a commercially based property and not owner occupied.

Donna Cardillo supports Order 2017-124 as presented because she receives calls from a lot of elderly residents in two-family homes that cannot take advantage of the senior discount because they are over on consumption.

Mr. Scenna states that only 10% of the two-families are not owner occupied according to our information. Elena Proakis Ellis asks what the timeline is for the special legislation. Francis X. Wright thinks that it could be by the end of the year or might be pushed into 2018.

Patrick Dello Russo makes a motion to accept, Mr. Forbes follows up with concerns about how people apply for this. He wants to make sure there is a system in place to verify that applicants are established residents and not renters.

Mrs. Cardillo explains that they would need to apply for this like they apply for the senior discounts. They would need to fill out an application and provide documentation (like utility bills and picture ID) showing that the property is owner occupied.

Elena Proakis Ellis brings up that we might want include three-families since we are going through the process of special legislation. She also asks if both units would be considered for senior discounts, for which Donna explains that they won't because both units cannot be owner occupied.

Lisa Patterson and Donna Cardillo discuss the master and 2nd meter set up. Elena Proakis Ellis suggests that we set some sort of standard for this.

John Scenna summarizes that if the Water and Sewer Committee votes to support Order 2017-124, he will draft a letter on behalf of the Committee to present to the Board of Alderman where they can continue the debate and discussion at their level. The memo will include the financial impact analysis, the letter from Attorney Van Campen, as well as the following criteria: Owner occupied two-family, comply with state law and the 2nd base fee applies, senior discount allowed (under same conditions as usual), upon transfer a final read will take place and if the meters need to be reconfigured they would have to be done at that point in time if it is not going to remain as owner occupied.

Patrick Dello Russo made a motion to accept and support this, Scott Forbes seconded. All were in favor.

John Scenna made a motion to close. Scott Forbes seconded. All were in favor.

The meeting was adjourned at 4:12 PM.

CITY OF MELROSE
562 Main Street, Melrose, MA
Water Committee Sign-In Sheet

Name

Phone Number or Email

Gerry Mroz
62 Mt. Vernon St.

Scenna, John

From: Van Campen, Robert
Sent: Tuesday, May 16, 2017 2:13 PM
To: Forbes, Scott
Cc: Tramontozzi, John; Wright, Francis X.; Dello Russo, Patrick; Scenna, John; Kamosa, Amy; Cogavin, Kelly
Subject: ORDER 2017-124
Attachments: Forbes, Scott (Order 2017-124).pdf

Alderman Forbes-

In connection with the questions raised in your May 3rd email, please find the attached correspondence in response.

Please let me know if I can assist in any other way.

Rob

Robert J. Van Campen
City Solicitor
City of Melrose
562 Main Street
Melrose, MA 02176
P: (781) 979-4184
F: (781) 979-4205

From: Forbes, Scott
Sent: Wednesday, May 3, 2017 1:52 PM
To: Van Campen, Robert
Subject: ORDER 2017-124

Mr. Van Campen,

Per our conversations, here is the proposed order from Alderman Wright:

ORDER-2017-124 : Petition to the Great and General Court to enact a Special Act: "An Act Authorizing the City of Melrose to allow the Installation of Secondary Water Meters in TwoFamily, Owner Occupied Residential Properties".

Questions from the BOA are as follows:

- Is the order proposed my Alderman Wright legal to pursue?
- If so could this be applied to 1-4 family properties, rather than the 2 family stated in the order?
- Are there any communities doing this, currently?

The last question relates to identification of these types of properties in the City, however, that is something that the W/S Committee to answer.



CITY OF MELROSE

Legal Department

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Melrose, Massachusetts 02176
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Facsimile - (781) 979-4205

May 16, 2017

VIA ELECTRONIC MAIL

Alderman Scott Forbes
Melrose Board of Aldermen
562 Main Street
Melrose, MA 02176

Re: Order No. 2017-124

Dear Alderman Forbes:

By email dated May 3, 2017 you have requested my opinion relative to Order No. 2017-124 a Home Rule Petition offered by Aldermen Francis X. Wright, Jr. seeking legislative authority for the City of Melrose ("City") to allow the installation of permanent second water meters in two-family, owner-occupied residential properties. Please accept this response to the questions you have raised.

As currently drafted, Order 2017-124 authorizes – via Special Act of the Legislature – the installation of permanent secondary water meters in owner-occupied two-family properties within the City. My understanding is that such secondary water meter would be for the purpose of allowing water consumption to be measured separately for each dwelling unit within a particular two-family property, and the secondary meter account would be subject to a separate base charge and be the responsibility of the property owner to initially purchase and install. Additionally, the expense associated with any necessary plumbing changes within the property to accommodate a second meter would be the home owner's responsibility.

Your first question is whether Order 2017-124 – as proposed – is lawful to pursue. In essence, enactments of local legislative bodies in Massachusetts are valid so long as they are determined to be consistent with the Massachusetts Constitution and the laws of the Commonwealth. In reviewing the language of the order currently before the Legal & Legislative Affairs Committee within the parameters of G.L. c.186, §22 – the statute authorizing water sub-metering in residential properties – I see no conflict between the language of Order 2017-124 and the provisions of G.L. c.186, §22, nor do I see any constitutional issues associated with passage of this Home Rule Petition. My view is based on an understanding that this proposed Home Rule Petition is intended to provide an option to owners of two-family properties that is in addition to, not in conflict with, the benefits already conferred by G.L. c.186, §22. It is also worth noting that this Order – if passed locally and approved by the Legislature – would result in the creation of a

Alderman Scott Forbes
May 16, 2017
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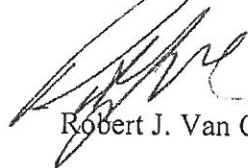
Special Act of the Legislature having the same force and effect as any other law passed by that body, including G.L. c.186, §22.

You have also asked whether this proposed Home Rule Petition could be applied to multi-family rather than just two-family properties. Where such a question involves the discretionary decision-making authority of the Board of Aldermen, it would not be appropriate for me to offer my personal opinion in this regard. However, I would note that there may be other operational and financial matters to be taken into account in contemplating the expansion of such a program to other multi-unit properties.

Lastly, I reviewed prior Special Acts of the Legislature and was not able to locate any similar enactments from other communities. Although I did not have the opportunity to conduct a more comprehensive search to determine whether other communities allow for the installation of second meters in owner-occupied two-family properties, I suspect there is a small universe of communities doing so. To the extent the committee wishes, I would suggest contacting the Massachusetts Municipal Association to see if that organization may have such information in database format.

If I can answer any additional questions that members may have in connection with this matter, please do not hesitate to contact me.

Very truly yours,



Robert J. Van Campen

Cc: Alderman John Tramontozzi, Chair, Legal & Legislative Affairs Committee (via email)
Alderman Francis X. Wright, Jr. (via email)
Patrick Dello Russo, CFO/Auditor (via email)
John V. Scenna, Director of Public Works (via email)



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City of Melrose
Massachusetts

Order
ORDER-2017-124

No Action Taken
May 1, 2017 7:45 PM

Petition to the Great and General Court to enact a Special Act: "An Act Authorizing the City of Melrose to allow the Installation of Secondary Water Meters in Two-Family, Owner Occupied Residential Properties".

Information

Department:	City Clerk	Sponsors:	Ward 3 Alderman Francis X. Wright Jr.
Category:	Home Rule Petition/Special Act		

Attachments

Printout
Forbes Scott (Order 2017-124)

Financial Impact

N/A

Body

Offered by Alderman Francis X. Wright, Jr.

Home Rule Petition to allow 2 family, owner-occupied residences to have a secondary water meter for the non-owner occupied dwelling unit, as follows:

AN ACT AUTHORIZING THE CITY OF MELROSE TO ALLOW THE INSTALLATION OF SECONDARY WATER METERS IN TWO-FAMILY, OWNER OCCUPIED RESIDENTIAL PROPERTIES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. Notwithstanding chapter 417 of the Acts of 2004 or any other general or special law to the contrary, the city of Melrose may allow a landlord who occupies a two family residential property, to install a permanent secondary meter so as to enable the landlord to separately measure water supplied to each dwelling units.

SECTION 2. The secondary meter shall only measure water usage in the tenant's dwelling unit. All common and other areas water usage shall be measured by the meter that measures water usage in the owner's dwelling unit.

SECTION 3. The secondary meter shall be charged to the owner as a second water account, shall be subject to a separate base charge and shall be the responsibility of the owner and not the tenant.

SECTION 4. The owner occupant shall be subject to all requirements of a landlord as set forth in chapter 417 of the Acts of 2004, and for purposes of this act the term "secondary meter" shall replace the word "submeter," and the secondary meter shall be subject to all submeter requirements.

SECTION 5. This act shall take effect upon its passage.

Meeting History

Apr 3, 2017 7:45 PM **Board of Aldermen** **Regular Meeting**  **Draft**

RESULT: ASSIGNED TO COMMITTEE

Apr 24, 2017 7:30 PM **Legal & Legislative Committee** **Committee Meeting**  **Draft**

Alderman Wright, the originator of the order, asked that the order be placed on hold so that it can be referred to the water and sewer committee as well as the city solicitor for input before being acted on by the Board of Aldermen.

Wright explained his purpose for originating the order is to allow owner-occupied two-family dwellings to install a second meter for the second dwelling which should help keep these residences in the first tier for water & sewer rates. Since it is not legal to install second meters in Massachusetts, the city would need to petition the Commonwealth for special legislation allowing the second meter installation.

President Conn asked that when water and sewer committee representative Forbes brings this order to the water & sewer committee, that he inquire about extending the order to owner occupied units of 1-4 units.

Alderman Zwirko asked Wright if he is aware of any other communities that have passed similar special legislation. Wright replied that he was not aware of any, but had not searched extensively.

Alderman Medeiros (non-voting member) asked Forbes to have the water & sewer committee clarify what exactly the state law is regarding this issue, as she has heard mixed reports.

Motion: Hold

By: Alderman Wright, Second: Alderman Forbes- motion carried.

RESULT: HOLD [UNANIMOUS]

MOVER: Francis X. Wright Jr., Vice Chairman

SECONDER: Scott M. Forbes, Ward 7 Alderman

AYES: John N. Tramontozzi, Francis X. Wright Jr., Peter D. Mortimer, Scott M. Forbes, Michael P. Zwirko

Apr 24, 2017 7:45 PM **Board of Aldermen** **Regular Meeting**  **Draft**

Committee Meeting held prior to Regular Meeting of the Board of Aldermen

HELD IN COMMITTEE

RESULT: NO ACTION TAKEN

May 1, 2017 7:40 PM **Legal & Legislative Committee** **Committee Meeting**  **Draft**

Chairman Tramontozzi explained that this order had been tabled by the water and sewer committee pending the opinion of the city solicitor. Alderman Mortimer moved to retain the order in committee until the water and sewer committee provided their official opinion on the order.

RESULT: RECOMMITTED TO COMMITTEE [UNANIMOUS]

MOVER: Peter D. Mortimer, Ward 6 Alderman

SECONDER: Scott M. Forbes, Ward 7 Alderman

AYES: John N. Tramontozzi, Francis X. Wright Jr., Peter D. Mortimer, Scott M. Forbes, Michael P. Zwirko

May 1, 2017 7:45 PM **Board of Aldermen** **Regular Meeting**  **Draft**

Held in Committee

RESULT: NO ACTION TAKEN

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2 Family Analysis - 2nd meter for 2nd unit if owner occupied

1) Number of Residential 2 Families in Melrose	863	
- subtract those 2 families using under 2500 cubic feet per quarter	-592	
- subtract those that are not owner-occupied	-87	
<hr/> Total number of 2 Families who would benefit	184	21%
2) Total Lost Water/Sewer Revenue if all 184 2-family homes installed 2nd meter for 2 unit	\$ 39,800	
3) Average Savings Percent Annually (if using about 3,400 cf per quarter, or 13,500 cf annually)	7.25%	
Average Savings Amount Annually (if using about 3,400 cf per quarter, or 13,500 cf annually)	\$190	
4) Cost to Homeowner		
meter (plus tax and shipping)	\$300	
plumbing (approximate)		
plumbing inspection		
<hr/> Total Approximate Cost		