



City of Methuen, Massachusetts

OFFICE OF THE CITY COUNCIL

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Michael W. Hennessy
Chairman

METHUEN CITY COUNCIL REGULAR MEETING MONDAY, DECEMBER 5, 2005 – 7:00 P.M. GREAT HALL, SEARLES BUILDING

Chairman Hennessy called the regular meeting to order at 7:00 p.m. with all members present.

ACCEPTANCE OF THE AGENDA

MOTION BY: Councilor Uliano, seconded by Councilor Kraunelis to adopt the agenda and include TO-05-16 An Ordinance Amending the Comprehensive Zoning Ordinance (RGCD).

UPON VOTE: UNANIMOUS.

MOTION BY: Councilor Corey Rahme, seconded by Councilor Condon to amend the agenda to include TR-05-34 A Resolution for the Indemnification of Public Officials.

Councilor Willette stated he is voting “no”.

UPON ROLL CALL VOTE: 5 yes, 4 no (Clr. Henrick, Clr. Uliano, Clr. Willette, and Clr. Hennessy)

MOTION BY: Councilor Manzi, seconded by Councilor Condon to accept the agenda, as amended.

UPON VOTE: 7 yes, 2 no (Clr. Uliano, Clr. Willette)

Invocation/Pledge of Allegiance

Councilor Henrick gave the Invocation for the evening. Everyone remained standing for the Pledge of Allegiance.

William M. Manzi III
Central District

Matthew A. Kraunelis
East District

Michael E. Condon
At - Large

Linda D. Campbell
West District

Kathleen Corey Rahme
Central District

Patricia Uliano
Vice - Chair

Kenneth R. Willette, Jr.
At - Large

Kenneth A. Henrick
West District

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ACCEPTANCE OF MINUTES

MOTION BY: Councilor Uliano, seconded by Councilor Condon to waive the reading and accept the minutes of November 21, 2005.

UPON VOTE: UNANIMOUS.

PUBLIC SERVICE:

Grants: None

Licenses: None

Contracts: None

MOTION BY: Councilor Manzi, seconded by Councilor Uliano to take TR-05-53 out of order. UPON VOTE: UNANIMOUS.

TR-05-53 Resolution Amending the FY 2006 General Government Budget (EPA REQUESTED)

MOTION BY: Councilor Manzi, seconded by Councilor Uliano to adopt an EPA for the good and welfare of the community.

UPON VOTE: UNANIMOUS.

MOTION BY: Councilor Uliano, seconded by Councilor Condon to adopt.

City Auditor, Thomas Kelly, said there were additional assessment charges in October assigned to the Cherry Sheet, approximately \$96,000. In order to put the tax rate together and submit it to Boston, we need to balance the budget. With this resolution we are changing the assessed charges on the Cherry Sheet that is contained in the body of the resolution adopting the FY 06 budget. If that gets passed and adopted, the budget is back in balance and we can move to vote the factors in on the tax rate.

UPON VOTE: UNANIMOUS.

Vote – Tax Classification

MOTION BY: Councilor Uliano, seconded by Councilor Kraunelis to adopt a residential factor of 0.907500. Chairman Hennessy explained that this factor reflects the residential rate is down from \$10.04 to \$9.28 and the commercial decreases from \$18.32. With the tax rate going down, the average house would see an increase of \$96.62.

Councilor Campbell said as a resident, one of the things that is helpful is if the tax rate does not change drastically from year to year. While it does require State intervention, it is helpful to residents not to have large fluctuations in their tax rate and it certainly requires Mayors and communities to set a tax rate and valuations that are current with market value. That is helpful for people because we are more mobile, because we buy and sell homes more often and quicker. She appreciates having a more fair evaluation of what her home is worth. It is difficult for the elderly to see a very substantial change in their taxes and is a burden to them. She said she is very supportive

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of the moderate exemption for open space. She thanked the Mayor for including it in the packet brought before Council. UPON VOTE: 8 yes, 1 no (Clr. Willette)

Residential exemption of up to 20% of the average assessed valuation of residential property

MOTION BY: Councilor Manzi, seconded by Councilor Condon to not grant a residential exemption. UPON VOTE: UNANIMOUS.

An exemption of up to 25% for all property that may be classified as Class II – Open Space

MOTION BY: Councilor Manzi, seconded by Councilor Corey Rahme to not grant a discount to open space property.

UPON VOTE: 8 yes, 1 no (Clr. Campbell)

MOTION BY: Councilor Uliano, seconded by Councilor Kraunelis to adopt the following percentage shares of total tax.

Class	Percentage Shares of Total Tax
Residential	79.4445%
Open Space	0.0000%
Commercial	11.9659%
Industrial	5.1807%
Personal Property	3.4089%

UPON VOTE: 8 yes, 1 no (Clr. Willette)

PUBLIC PARTICIPATION – None

OLD BUSINESS

Resolution:

TR-05-34 Resolution For Indemnification of Public Officials

MOTION BY: Councilor Corey Rahme, seconded by Councilor Condon to remove from the table.

UPON ROLL CALL VOTE: 6 yes, 3 no (Clr. Uliano, Clr. Willette, Clr. Hennessy)

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TR-05-34 Resolution For Indemnification of Public Officials
MOTION BY: Councilor Condon, seconded by councilor Corey Rahme

Councilor Campbell offered an amendment "However pursuant to General Law, Chapter 258, Section 9, no employee or official shall be indemnified for violation of any civil rights if that employee acted in a grossly negligent, willful, or malicious manner." She said this is an explanation put forth so that our residents understand that indemnification is something that is offered routinely to protect our public servants when they take risks to protect the public. This legislation will protect them simply from retaliation taken against them in the course of their duties and its not going to protect them in the case of negligent performance on their part whatsoever in the course of their duties. That's important for people to understand and she wanted to clarify that in the form of an amendment. Motioned seconded by Councilor Manzi.

Chairman Hennessy said he was unsure if he could accept the amendment because that is the law in any event. The amendment quotes the law.

Attorney McQuillan said there is no impediment to accepting the amendment if its superfluous with the statute. The resolution itself invokes the terms of the statute and to accept that language for the purposes of clarification would certainly be proper.

Councilor Corey Rahme said she's done some research in this area and spoke with several Solicitors and clerks in various cities, including Haverhill, Amesbury, North Andover, Lawrence, and someone from the Massachusetts Municipal Association and coupled with what Councilor Campbell said, this is typical of many cities and towns in our area and also willful intentional criminal acts are not covered in this. As the City Solicitor indicated it would be superfluous but it is important to point out that any criminal acts would not be covered.

Chairman Hennessy said he is not in favor of this resolution at this time. Having worked in the public sector in the City he knows about indemnification and knows that it doesn't cover you if you do something wrong. The unfortunate part here is it is a blank check and anybody out there can see that the City is going to pick up any amount of money that they finally find against the City in this litigation. In the past, we have indemnified people, when we've got rulings against them and the City has paid because that is our obligation to protect our employees. If there is no wrong doing the City will step to the plate and they will pay. There's no problem with that. He doesn't see why we should be bringing it forward now. This item was tabled over two months ago. All of a sudden the law comes to people's minds and we are going to do this with two meetings left. He would have said "let's leave it to the next Council". If there is a problem that comes forward, that the city will be liable for, then let the City pay the bills. He doesn't like the "blank check" idea and is opposed to it as he was two months ago. No one has changed his mind and he doesn't see what the rush is to move forward on this. Also in

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the resolution, the language said "and others" not just the Police Chief and Deputy Chief. He wants to know whom the other people are that we are protecting.

MOTION BY: Councilor Willette, seconded by Councilor Uliano to remove the following language (the third paragraph) WHEREAS during the course of litigation additional municipal officials may be designated as Defendants therein:"

Councilor Henrick asked the Solicitor to explain the effect of the above amendment. He further stated that he is upset this is happening at the last minute. He said he doesn't have a problem with the Chief or Deputy Chief. They are both bright guys and if they did everything by the book, which is right. The Chief said he did that, right here, he dotted the I's and crossed the T's with the District Attorney. Councilor Henrick said he doesn't understand the problem. He knows the case with Maurice has gone away but it may come back, he doesn't know. He really doesn't understand the reasoning for the indemnification at this time. He's heard comments that if this committee doesn't pass it the next committee won't. With the amendments he is unsure what the resolution does.

Attorney McQuillan explained that this is a resolution to indemnify already designated defendants, which is the City of Methuen, Chief of Police Joseph Solomon and Deputy Chief Joseph Alaimo in the action presently pending in the United States District Court of Maurice Lariviere vs. the City of Methuen. Sometimes during the course of the process and the prosecution of a lawsuit in exchange of discovery, in the phase of discovery, certain information might be determined and called for the plaintiff where they might want to add additional defendants depending on the information they receive, whether it is appropriate, whether it is substantive and whether it can be substantiated. It is not unusual during the course of a lawsuit to add parties as information is gathered during the discovery process. What this resolution does is, it was introduced in August and at that time we knew who the parties were. We knew a said plaintiff. We knew said defendants. The purpose of the resolution being drafted the way it was at that time, we didn't know as a result of discovery, whether additional defendants were going to be included and today, as we speak and discovery is still in process, we still don't know. The purpose of the resolution is not only to indemnify the City of Methuen, again in any city, specific designated officials, which is the Chief and Deputy Chief of Police, but also any other official or employee who may be incorporated as an additional defendant while the case progresses through the court. That's the purpose of the indemnification.

Councilor Henrick said to make it culpable to pay bills, wouldn't a court come in and adjudicate that the individuals did something wrong?

Attorney McQuillan said its been done both ways ever since he can remember. There were several motions for indemnification in the 70's when he was Town Counsel then, where depending upon the case, depending upon the nature of the case, and the individuals involved, indemnifications were done prior to any judgment being arrived at by the court. There are two ways of doing. Council could indemnify now, whatever the judgment might be, whatever the costs or damages, if any, that result after the case is adjudicated, the town will accommodate and indemnify for those costs. There is also the fact pattern where the case has gone to judgment and there is a definitive amount of costs, expenses, and damages. In that case, also, indemnification would be appropriate. It really is at the pleasure of this Council, as to when you indemnify.

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Councilor Henrick said if there was some litigation costs, we could do it at a later date, we only have one more meeting or the next Council could do it then.

Attorney McQuillan responded, yes.

Councilor Manzi said it is important that people realize what we are doing here. He, as a City Councilor, has been indemnified by the City Council in the past as well as in the same sweeping indemnification the Council granted to him, Mayor DiZoglio, Eugene O'Neill and Maurice Lariviere, all were granted indemnification based on a suit and based on a potential for further suits. At the time, this action or contemplated action by a plaintiff was covered by City insurance. He remains indemnified to that case to this day and as a matter of fact, even though the case is five years old, his indemnification still stands. My indemnification has no cost the city one penny. It is covered by insurance as this is here. This is a way to protect the employees of the city. This is not a blank check. This is not anything in which the City's taxpayers are being asked to empty the vault, sort of speak. This case is covered by insurance. This is an indemnification that goes over and beyond that. Again, the indemnification that he referred is still in existence today, to his knowledge. He said an attorney briefed him not more than one and half months ago on the same case and again, it is covered by insurance. He stands as the beneficiary of a prior indemnification action by the City Council. There's been some misconception about what it is that we're doing here but in general and in many cases, indemnification may be built into employment contracts because that is what happens. People get sued in this business and he is ready to take a vote because it's the correct thing to do. It is not in any way, shape, or form something that's going to present a blank check to the taxpayers. That was an important point to clarify.

Chairman Hennessy asked the Solicitor if we are covered on all counts, under the insurance.

Attorney McQuillan responded, "Yes, we are covered on all counts. There is a deductible in the amount of \$25,000."

Chairman Hennessy said the defendants could not go out and hire another attorney and have the city pay the bill.

Attorney McQuillan responded, no. One of the specific conditions of the insurance coverage is to be represented by the insurance company's attorneys. They reserved that right July 12, 2005 and all defendants, including the city itself, are being represented by Insurance Counsel.

Councilor Willette referred back to his original amendment – it is cart blank to provide for protection of future defendants that have not been identified. We can have a discussion in reference to the City of Methuen, the Chief of Police, and the Deputy Chief of Police, in terms of indemnification. But when you have a provision within this proposal to potentially add additional municipal officials that have not been identified and we've had no public hearing on this, no discussion, because if council votes on this tonight, its an automatic thing. If they're listed as defendants, they're automatically included under this protection. His amendment, offered previously, is offered because he is very leery of the generalized language that provides for protecting people in the future who have not been identified. It establishes a dangerous precedent for this Council, for this community, that could potentially costs this community millions of dollars. We can have a discussion on individual people identified in this proposal. But to extend it to future defendants is uncalled for.

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Councilor Condon asked Attorney McQuillan for clarification on the proposal.

Attorney McQuillan said, given additional defendants, that and speaking speculatively, given the possibility of additional defendants. Defendants, if any at all, arising out of the same set of circumstances contemplated in the lawsuit. It logically follows that if any additional defendants are going to be incorporated into this lawsuit, that they also will enjoy insurance coverage. That's why we pay this premium.

Councilor Condon asked if there is additional thousands of dollars to the public.

Attorney McQuillan said any additional defendants would not be standing outside the coverage provided to the current defendants in the lawsuit. They would be incorporated as part of the coverage under the insurance, represented by the Insurance Counsel.

Councilor Campbell commented on the generalization of the Legislation. If Council passes it with designated people identified, it should be passed for all those that could potentially be involved. That is the only fair and just thing to do. Otherwise, we are saying we are going to protect "you" but if another happens to be involved in a lawsuit against him/her (based on the same lawsuit), the additional individual is not protected. It makes no sense to her. Her vote is going to be, if Council indemnifies one person, it should be done for all because that's the right thing to do.

Councilor Uliano asked if the resolution that indemnified Councilor Manzi was specific to individuals involved.

Attorney McQuillan said he doesn't have that information on the lawsuit against the town at that time.

Councilor Uliano said if this is specific to the Police Chief and the Deputy Chief tomorrow comes, January 3rd, and now someone else is brought into this specific case, could the new Council look to indemnify him or her? Add to this without a problem?

Attorney McQuillan said, if in fact, the Council adopts the amendment proposed by Councilor Willette, and confine their indemnification to the specifically designated defendants and tomorrow or January 3rd a specific another defendant is incorporated, yes, Council has the right to do that. They have a right under the statute at any time to indemnify any official or employee who is being sued allegedly for working within the scope of his employment and allegedly causing damage. The fact of the matter is the purpose of this resolution being worded the way it was by my pen, and being a trial attorney for 30 years, and knowing the vagaries of lawsuits, he thought it was appropriate that if any, any official or any employee is incorporated as a party defendant in this case, it would have to be as a result of the circumstances contemplated in the case, it would be appropriate to pass this ordinance as submitted. It seems to be all encompassing but to echo Councilor Campbell, you have to take care of your own, sort to speak and whether they are designated parties or parties to be, the same principles apply to the same individuals for the same purpose.

Councilor Uliano said they can still be indemnified whether they are included tonight, next week, or in three weeks.

Attorney McQuillan said that is correct.

UPON VOTE: (amendment to delete paragraph 3) 5 no, 4 yes (Clr. Henrick, Clr. Uliano, Clr. Willette, Clr. Hennessy)

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MOTION BY: Councilor Uliano to include language that indemnification would only cover whatever is covered under the insurance contract.

Chairman Hennessy asked the Solicitor how the language would read – “The indemnification would only be for what the coverage of the insurance allows.”

Attorney McQuillan offered the following language “the indemnification would only cover the parameters as contained in the insurance policy applicable to this particular litigation.

Councilor Willette seconded the motion.

Councilor Kraunelis asked the Solicitor what the policy limits are.

Attorney McQuillan said the policy limits are sufficient to cover the statute, which covers a maximum of one million dollars per individual.

Councilor Kraunelis said if the resolution passes, it would be limited to one million dollars and it wouldn't cover over and above that.

Attorney McQuillan said the statute itself couldn't indemnify over one million dollars, individually.

Councilor Willette asked if the policy covers up to one million dollars per person or is that the maximum limit of damages.

Attorney McQuillan said the policy is consistent with the statute in that indemnification according to the statute provides a ceiling of one million dollars per person and that echoes the coverage contained in the insurance policy. They are parallel.

Councilor Willette said there is a maximum amount that could be levied against a person and the coverage is the same.

Attorney McQuillan agreed and noted there is a maximum amount that Council can indemnify which is the one million dollars.

Councilor Corey Rahme asked for clarification of the amendment proposed by Councilor Uliano.

The clerk read the motion made by Councilor Uliano to change the language that this indemnification resolution only covers the parameters as stated within the insurance policy as it relates to this particular case.

Chairman Hennessy said if passed, we are guaranteeing indemnification according to the insurance policy. Looking back, there were a couple of cases where one of our employees got into trouble and the individual was indemnified only to the provision that the City Solicitor went to court for him. That was the intent of the indemnification. In this case you're indemnifying what the insurance will cover. By law, they can't go more than one million dollars and we're covered to a million dollars. He said he feels comfortable with that because it isn't a blank check.

Councilor Corey Rahme asked if the language would cloud the resolution.

Attorney McQuillan said he is comfortable with the language of the statute. The limits are already. We are under contract and they are legally obligated to cover us for the extent contained in the policy. There is no argument or issue. The indemnification or Council's power and authority to indemnify are endowed solely by virtue of the statute and Council is acting by virtue of that statute. His advice would be to indemnify pursuant to the statute. The coverage is there. It's supplemental to Council's authority to indemnify under the statute. Council is given the right to do so by virtue of the law and he suggests that the vote be pursuant to the law as opposed to an insurance policy.

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Councilor Corey Rahme said the amendment being proposed is virtually what is already in existence in the insurance policy.

Attorney McQuillan said they are separate and distinct in that Council is given the right – We have a particular insurance policy to cover us for the maximum provided by statute. However, we have a \$25,000 deductible. Take the worse case scenario where an individual defendant in this case has an adjudication against that person for one million dollars. The statute covers him - by the indemnification. He's covered by the insurance policy also. There is a \$25,000 deductible that the insurance company is not responsible for. We are responsible for the deductible. This million-dollar ceiling – a lot of the municipalities don't have the insurance coverage we have for certain situations! In this particular situation we do have the coverage. If in fact there is a million dollar judgment, we are covered up to \$975,000. The indemnification is for the individual who is left with the \$25,000 deductible that the municipality will cover on his/her behalf. That's the purpose of this legislation.

Councilor Uliano withdrew her amendment.

MOTION BY: Councilor Campbell, seconded by Councilor Manzi to adopt TR-05-34 including the amendment (language pursuant to Chapter 258, Section 9 offered by Councilor Campbell).

UPON VOTE: (main motion as amended)

UNANIMOUS.

Ordinances:

TO-05-16 An Ordinance Amending the Comprehensive Zoning Ordinance of the City of Methuen (RGCD)

MOTION BY: Councilor Uliano, seconded by Councilor Kraunelis to adopt.

UPON VOTE: 8 yes, 1 no (Clr. Henrick)

NEW BUSINESS

Resolutions

TR-05-52 Resolution Authorizing a Transfer of Funds from the Reserve Fund to the Unpaid Bills Account (EPA)

MOTION BY: Councilor Manzi, seconded by Councilor Kraunelis to adopt an EPA for the good and welfare of the community.

UPON VOTE: UNANIMOUS.

TR-05-54 Resolution Amending Traffic Rules and Regulations of the City of Methuen – Williams Terrace

MOTION BY: Councilor Uliano, seconded by Councilor Campbell to table to a public hearing. UPON VOTE: UNANIMOUS.

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Councilor Kraunelis left the room.

TR-05-55 Resolution Submitting a Home Rule Petition for the Purposes of Waiving Certain Provisions of Methuen Home Rule Charter – Article 2, Section 2-5 (Waive Public Hearing Requirement) (EPA REQUESTED) (Req. of Cir. Manzi)

MOTION BY: Councilor Manzi, seconded by Councilor Condon to waive the rules requiring a public hearing on Home rule petitions. UPON VOTE: UNANIMOUS.

MOTION BY: Councilor Manzi, seconded by Councilor Uliano to adopt an EPA for the good and welfare of the community.
UPON VOTE: UNANIMOUS.

MOTION BY: Councilor Uliano, seconded by Councilor Campbell to adopt. Councilor Manzi said he would appreciate the Council's consideration on this resolution for Councilor Kraunelis, who would be a fine addition to the staff.

Chairman Hennessy explained that as an elected official a Councilor cannot be hired by the City for one year and this resolution would allow Council to waive that provision for one individual.

Councilor Corey Rahme: "I read with great interest this proposal tonight. I, for one, don't take charter changes haphazardly easily. All that being said, I consider this a very serious matter. In my opinion, it is the prerogative of the Mayor-elect Bill Manzi to appoint his Chief of Staff. It is an immensely personal decision that he's made and I would like to say that I will support this, this evening and the specific wording that has lead me to this decision is that it is a waiver that is specific and for the sole purpose of this appointment this evening. And all that being said, I think Matthew Kraunelis is a quintessential professional. I've served with him for the past two years. I look forward to working with him, should he be appointed by this body, and approved for appointment by this body and I look forward to working with the Mayor-elect. Thank you, Mr. Chairman."

Chairman Hennessy said this is the first step in a long process and he hope that the Legislature can expedite this resolution.

UPON VOTE: UNANIMOUS.

Councilor Kraunelis returned to the room.

Ordinances:

TO-05-20 Ordinance Amending Chapter 18 of the Methuen Municipal Code, Public Parks, Playgrounds and Beaches – Running Track – Pop Warner Field at Stadium Complex

MOTION BY: Councilor Uliano, seconded by Councilor Campbell to adopt for first read.

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Councilor Willette said he doesn't necessarily have a problem with the proposal. It is commonsensical. He does have a concern with the specific reference to wheelchairs. A number of people utilize athletic facilities that are wheelchair bound. They participate in the Olympics and in various events that are sanctioned. Including any reference to wheelchairs in this legislation could potentially be a violation of Title II of the Americans with Disabilities Act that prohibits any discrimination when it comes to services, programs, and events that are sponsored by local government.

MOTION BY: Councilor Willette, seconded by Councilor Uliano to amend to remove any reference to wheelchairs and also at the end of the first subsection A, the last sentence, he would add "excluding wheelchairs" because it makes reference to wheelchairs, prohibiting the use of wheelchairs at the track and the last item makes reference to self-propelled or otherwise wheel apparatus on said track. If Council removes wheelchairs within that put the language at the end "excluding wheelchairs", would allow for the wheelchairs to be used at that facility.

Mayor Pollard said she wants to make sure everyone understands why the language is there. The city has just spent over \$250,000 in cash plus an enormous contribution by the Department of Public Works. If it hadn't been for the Department of Public Works, the renovation, restoration and creation of the new track for our High School would have been substantially more. The track is such that certain vehicles, certain movement on that track, will compromise the membrane of it. And as it is now the track should last us a good thirty years but with certain movement, certain items running over the track, certain shoes on the track will quickly break the track down so that is once again rendered unusable by our High School sports athletics department. We have just spent several hundred thousands dollars to create a beautiful track which the community justifiably should be exceptionally proud of and she wants to make sure that there is nothing, movement of certain things on the track that will harm the track, and that's just the reality of how these are built and what the materials are made of and we have nothing to do about that. That's the way the tracks are built and it's the materials that have to be used for their construction. It's not meant to in any way in prohibiting anyone's constitutional rights to have access to facilities. But like most facilities there are some substances, which will harm the surface and we have a fiduciary responsibility as well as a responsibility to the young people of the community to make sure that we don't allow that. In the best of worlds, the city could not afford to do so, but in the best of worlds we would have surrounded the track, both internally and externally with fencing. This is done in most communities and we did not have the funds to put up a fence. But, in the absence of having the resources to be able to do so and it is my hope at some future point the community will be able to afford that because it is a magnificent track and we owe it to the taxpayers of the city to make sure that it lasts the time that it is designed and built to last.

Chairman Hennessy asked if the municipality could face a federal lawsuit by denying wheelchair access to a public facility. If you said motorized, definitely we could say any motorized vehicle. He doesn't want to vote for something that Council may need indemnification on at a later date.

Attorney McQuillan said in his opinion, to make an exception under this particular resolution would probably create more problems because we are going to reverse discrimination. We're going to have people stating that if one apparatus is

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allowed to the expense of others, its selective enforcement of an ordinance. It really has to apply. It is not in any sense discrimination in the sense that a person who must use a certain wheeled apparatus to get around is not allowed on the track. Nobody with any wheels, whether it be a skateboarder, a roller blader, or any body who has to utilize wheels for the purposes of enjoyment or simply for conveyance, we have a responsibility to protect our property and that should be without exception. Making exception would not be wise and that would be selective enforcement and that inherently on its face is discrimination. The ordinance as written applies equally to all for the purposes of whatever conveyances that has wheels that you want to use to convey yourself from one point to the other. This is solely for the protection of public property and to allow any conveyance on that track is simply a waste of \$250,000 because it will deteriorate very quickly and will not serve the purposes for which it was constructed.

Councilor Manzi said he knows Councilor Willette's intent but he would like to point out that it is a first read and Council will deliberate again at the next meeting. He suggested gathering additional information on what other communities do with new tracks and any problems. Perhaps we could gather some data on this so we don't engage in discrimination but at the same time try to protect the investment that we've made.

Councilor Willette said we are talking about a person if they want to use roller blades or a scooter, that's a choice. If someone is wheelchair bound, that's not a choice and they should be afforded the same opportunities to be provided recreational activities as any other group in this community and he knows of one person specifically who resides on Davis Road who would like to utilize the track. Now, we have the winter where the track will not be utilized. We may be able to approach the Department of Justice for a legal advisory on this and if we have other material regarding what Councilor Manzi indicated, he has no problem with that. He said he doesn't want to pass this legislation and have someone complain to the department of justice where we could have avoided it.

MOTION BY: Councilor Willette to table.

Mayor Pollard said she wanted to give the Council a sense of how sensitive the track membrane is that when Pop Warner utilizes the field that we have just completed, mats are going to have to be placed across the track, where the children will walk from the outer edge to the inside for the Pop Warner Field. They will only be able to walk across mats with their football shoes and cleats. Everybody is going to have to be very careful with what the city has just done. Between the Pop Warner Field and the track we have spent hundreds of thousands of dollars to create a facility for our young people that is superb. She just wants the Council to be aware of that, that's the care and treatment that this track is going to have to receive so that it last the number of years that it is guaranteed to last.

Chairman Hennessy said the motion to table failed due to the lack of a second.

UPON ROLL CALL VOTE: (amendment to eliminate "wheelchairs in paragraph A" and add at the end of the paragraph "excluding wheelchairs".

5 no, 4 yes (Clr. Campbell, Clr. Henrick, Clr. Willette, Clr. Hennessy)

UPON VOTE: (first read) UNANIMOUS

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Councilor Uliano asked the Solicitor if he could get a ruling from the Disabilities Commission.

Councilor Campbell asked Councilor Willette to provide the Council with some additional information about the track.

Councilor Willette said people should be allowed the opportunity to walk at that track or have wheelchairs. But now the track is so fragile that only certain groups can use it.

Chairman Hennessy said it is a waste of money in that case.

Councilor Condon said the next administration should really try to fence the area, noting that the track is made for running and it really should be fenced in.

Councilor Campbell said someone in a wheelchair couldn't inflict serious damage to a track.

Chairman Hennessy said we probably should have looked deeper into the make up of the track so that it was more suitable for the use of everyone in the community rather than one certain group.

REQUEST OF COUNCILORS

Councilor Willette thanked John Fazio, who served as the Host of Your Council Agenda for five years and congratulated Councilor Uliano the new Host of Your Council Agenda.

Councilor Condon wished Charlotte Blood a Happy 90th Birthday.

Councilor Campbell thanked everyone for his or her efforts Alison Hawkes Fundraiser. They raised a tremendous amount of money for her and the family is very appreciative for all the people who participated.

ADJOURN

MOTION BY: Councilor Condon, seconded by Councilor Uliano to adjourn.

UPON VOTE: UNANIMOUS

The meeting adjourned at 8:15 p.m.

I do hereby certify that at a meeting of which a quorum was present, the foregoing minutes were adopted by the Methuen City Council by a unanimous vote on December 29, 2005.

Rinda Logan
COUNCIL CLERK