



MINUTES OF LEGISLATIVE AND ORDINANCE COMMITTEE MEETING
59 COURT ST, WESTFIELD, MA
CITY HALL - ROOM 201
OCTOBER 6, 2021 at 5:30 PM



1. The meeting was called to order by Councilor Onyski at 5:30 PM.
2. Councilor Onyski called the Roll. The following committee members were present: Chair, William Onyski, James Adams and Michael Burns.
3. Councilor Onyski opened the meeting for public participation. There was no one present to speak.
4. Upon Motion of Councilor Adams, it was
VOTED: That the L&O Minutes of September 15, 2021 meeting be accepted.
Motion seconded by Councilor Burns.
Approved by Roll Call 3-0
5. Upon motion of Councilor Adams, it was
VOTED: to SUBMIT a Resolution for the Mayor to sign a Non-Participating Costs Agreement between Mass DOT and City of Westfield for the Columbia Greenway-Central Construction Project with a POSITIVE RECOMMENDATION.

The vote on the foregoing was as follows:

James Adams	Yes
Michael Burns	Yes
William Onyski	Yes

Prior to the vote, Councilor Onyski introduced City Engineer Mark Cressotti. He explained that generally before a project begins, Mass DOT requires three agreements: a Traffic Control Agreement, A Non-Participating Agreement and A Cost Overrun Not to Exceed 110% Agreement. These are all standard agreements for large projects that MassDOT does. A Non-Participating Agreement is required when work is being done on behalf of the City and the City will be paying for the costs. The 110% Agreement is a typical policy when a project exceeds 10% over the contract value, the City will be responsible for the cost in excess of that. The City has not gone over on previous projects but this is a requirement of MassDOT. The City was required to sign the 110% Agreement for the Columbia Greenway Project that included verbiage regarding Non-Participating. The City asked if a separate Non-Participating Agreement would be necessary and at that time it was not. Nine months later, MassDOT has come back and is requesting a separate Non-Participating Agreement. By not having one, the contractor is unable to bill the City directly for completed work and the state is not paying him.

This is work that the City has already agreed to pay for. Mr. Cressotti began to explain the 110% Agreement when Councilor Onyski informed him that authorizing the 110% Agreement had been removed from the Resolution per the Law Department. Councilor Adams confirmed this vote was for the Non-Participating Agreement only to ensure the contractor is paid by the City for work that is being done. Councilor Burns referenced page 2 of Agreement 114641 that listed the 110% Agreement and questioned if that was supposed to be part of the Resolution. Mr. Cressotti reviewed the Agreements before the Committee and noted that this Resolution only authorizes the Mayor to sign the Agreement, it does not require him to sign. He stated that if City Solicitor Shanna Reed said to restrict it to Non-Participating, that is fine. Councilor Onyski explained that the Agreements attached were from last week, prior to the Law Department making the change to the Resolution. He stated he would be contacting Attorney Reed the following day for clarification. All Councilors and Mr. Cressotti agreed that this vote would be for the Non-Participating Agreement only. Councilor Burns asked if there were any plans on extending it past the Turnpike, towards Southampton. Mr. Cressotti referenced the recent authorization of a grant to do a study on how to connect Women's Temperence Park to North of the Turnpike. He is working on that with the Purchasing and Law Departments. Once a contract is signed, he will go before the full Council with a presentation and invite interested Councilors to help develop a plan. His intent before retiring is to have a plan on how to get there, for someone else to carry it forward.

6. Upon motion of Councilor Adams, it was VOTED: for the Street acceptance petitions for Angelica Drive (Ward 4) and Day Lily Lane (Ward 1) submitted by City Planner Jay Vinskey to REMAIN IN COMMITTEE.

The vote on the foregoing was as follows:

James Adams	Yes
Michael Burns	Yes
William Onyski	Yes

Prior to the vote, Councilor Onyski welcomed City Planner Jay Vinskey. He reviewed the Street Acceptance Checklist and explained that the Planning Board piece is done. He noted that the referrals from other departments were in place and that full City Council Public Hearings were still needed. Councilor Burns asked if Mr. Vinskey had any contact with Mr. Kelly (the builder of Angelica Drive). Mr. Vinskey stated that last he spoke with Attorney Reed, Day Lily had filed up to date annual reports with the Secretary of State's Office but Angelica Drive had since dissolved the LLC. Councilor Burns stated that unless the developer of Angelica Drive turns the street over, the City will be required to take it by eminent domain and then the City could be held liable for up to two years. Councilor Adams questioned the process and asked if there was a quicker way to get this done. Could the City hold a developer's bond in order to ensure they follow through with the street acceptance process? Mr. Vinskey informed the committee that it was not a requirement to go through the street acceptance process. Councilor Adams suggested adding it to the plan. Mr. Cressotti stated that if someone owns real estate (the road), they can be assessed taxes and failure to pay taxes could result in

taking of the real estate. He wasn't sure of the legal process and Councilor Burns stated he would follow up with Attorney Reed. Mr. Vinskey stated they could look into updating subdivision requirements to steer people towards conveying the property. Mr. Cressotti informed the committee that they switched to the developer maintaining ownership of the road thinking it would expedite the conveyance of the way. If the City is subject to Eminent Domain and Property Tax Takings, he questioned if the City was better off leaving it in the property of holders. He suggested updating the subdivision regulations with a petition by the property owner to accept the street and then all the conditions follow. There would be an expressed desire to convey before the project is started. All the Councilors were in favor of this idea. Mr. Vinskey said he would look into it. Councilor Onyski stated that they would need to follow up with the Law Department. Councilor Burns informed the committee that Angelica Drive was going to dissolve the Homeowners Association (HOA). Councilor Onyski stated he believed they were required to watch over the retention pond. Councilor Burns stated it would behoove the City to take over the street. Mr. Cressotti stated it would be best for the City to take every street, Councilor Adams agreed. Councilor Onyski asked Councilor Burns to gather recommendations from the Planning Board and DPW for Day Lily. He will add the Day Lily layout order from the Law Department to the file as well. The Councilors all agreed to leave the item in committee.

At 5:57 PM, and upon motion of Councilor Burns, it was VOTED to ADJOURN.

The vote on the foregoing was as follows:

James Adams	Yes
Michael Burns	Yes
William Onyski	Yes

Respectfully submitted,
Kaitlyn Bruce, Scribe for the Legislative and Ordinance Subcommittee