

**ATTLEBORO MUNICIPAL COUNCIL
DOCKET
SEPTEMBER 7, 2021**

PUBLIC HEARING regarding the request from National Grid and Verizon to install pole 16-50 with an anchor along Commerce Way to provide service for a solar array located at New England Sports Village

PUBLIC HEARING regarding the request from National Grid and Verizon to install a new “JO” pole on Peckham Street to install three-phase primary side tap for future solar farm at #179 Peckham.

PUBLIC HEARING regarding the request from National Grid and Verizon to install a new 45’ pole between P6369 and P6370 on Richardson Avenue to be used to supply future solar farm with three phase overhead electrical service.

CONTINUED PUBLIC HEARING regarding the proposed amendments to Chapter 18, Local Wetland Protection, of the Revised Ordinances of the City of Attleboro.

PUBLIC SAFETY

Peter Blais, Chairperson

A communication from Linda D’Agostino of Ellendale Road to request contact regarding overgrown weeds and the condition of Route 1A.

CAPITAL IMPROVEMENTS

Richard Conti, Chairperson

The Mayor respectfully submits a communication from Director of Budget & Administration Jeremy Stull regarding the need for additional funds for the replacement of two fire station roofs. Therefore, the Mayor hereby requests Your Honorable Body vote to transfer \$47,000.00 from account 11241000-578380 (City-Wide – Reserve for Capital) to 11241000-599300 (City-Wide – Transfer to Capital Fund) and to further transfer the \$47,000.00 from 11241000-599300 (City-Wide – Transfer to Capital Fund) to Fund 3558-499000 (Fire Department Roofs – Other Financing Source) for costs associated with the design and construction of the roofs at Brigg’s Corner and Union Street fire stations.

The Mayor respectfully submits a communication from Director of Council on Aging Melissa Tucker regarding the receipt of approximately \$16,060.00 through the Community Development Block Grant for FY22. No match is required by the City of Attleboro. In accordance with Chapter 1, Section 12 of the Revised Ordinances of the City of Attleboro, the Mayor hereby requests Your Honorable Body to approve the expenditure of such funds and any further grant amendments by the Council on Aging.

PERSONNEL, VETERANS AND HUMAN SERVICES

Ty Waterman, Chairperson

A resolution Commemorating the Twentieth Anniversary of the September 11, 2001 Terrorist Attack and calling upon Attleboro residents to participate in the Annual National Day of Service and Remembrance.

The Mayor respectfully submits for confirmation by Your Honorable Body the appointment of Heather Rockwood, 100 South Main Street, Apt. 1, to fill an unexpired term on the Cultural Council. Term to expire February 2023.

The Mayor respectfully submits for confirmation by Your Honorable Body the appointment of Juliet Teixeira, 5 Hanisch Road, to fill an unexpired term on the Council on Aging. Term to expire February 2024.

The Mayor respectfully submits a communication from Veteran's Agent Ben Quelle regarding the need for funds to replace flags that have become dry and brittle. Therefore, the Mayor hereby requests Your Honorable Body transfer \$8,020.00 from Account 11241000-578300 (City Wide – Reserve Fund for Transfer) to Account 15431000-558315 (Veterans – Replacement Flags). Upon approval, the available balance in Reserve Fund for Transfer, to include any pending requests, will be \$414,380.00.

The Mayor respectfully submits for confirmation by Your Honorable Body the appointment of Rose Brown, 58 Holden Street, to fill an unexpired term on the Cultural Council. Term to expire February 2022.

PUBLIC WORKS

Kate Jackson, Chairperson

The Mayor respectfully submits a communication from Superintendent of Water Kourtney Wunschel regarding the need for funds to update Emergency Response Planning (ERP) of the water systems required under the America's Water Infrastructure Act (AWIA). Therefore, the Mayor hereby requests Your Honorable Body transfer \$10,500.00 from Account 6100-578300 (Water Enterprise Fund – Reserve Fund for Transfer) to Account 6100-530108 (Water Enterprise Fund – Engineering Services).

The Mayor respectfully submits a communication from Superintendent of Parks & Forestry Derek Corsi regarding the need for funds to pay an FY21 invoice to *Flynn Pest Control*. Therefore, the Mayor hereby requests Your Honorable Body transfer \$30.00 from Account 11241000 – 578300 (City Wide – Reserve Fund for Transfer) to Account 16501000-578020 (Park – Bills from Previous Years). Upon approval, the available balance in Reserve Fund for Transfer, to include any pending requests, will be \$414,350.00.

The Mayor respectfully submits a communication from Building Commissioner William McDonough regarding the need for funds to purchase a 2021 Ford Explorer Hybrid, light package and lettering. This vehicle will replace the Ford Taurus with over 165,000 miles and in need of major repair. Therefore, the mayor hereby request Your Honorable Body transfer \$51,138.11 from 11241000-578300 (City Wide – Reserve Fund for Transfer) to 12401000-587065 (Protective Inspections – Purchase Vehicle). Upon approval, the available balance in Reserve Fund for Transfer, to include any pending requests, will be \$363,211.89.

BUDGET AND APPROPRIATIONS

Jay DiLisio, Chairperson

The city is in the process of entering into a performance contract with Trane Technologies after energy audits were performed in the School Department to determine the scope of the project. The project will take place at Brennan, Coelho, and Wamsutta Middle Schools and Hyman Fine, Hill Roberts, Studley, Thacher, and Willett Elementary Schools. The work being done on each school varies, but includes boiler replacement, new HVAC systems and controls, new chillers, new kitchen hood and freezer controls, building envelope improvements, water conservation measures, and new electric transformers. The project costs roughly \$5.9 million and will take approximately 18 months to complete. The schedule currently anticipates a November 2021 start date.

The upgrades that make up this project will result in significant energy savings for the school department over the next 20 years. A loan authorization of \$6,200,000 is now needed for this project.

Therefore, the Mayor hereby requests Your Honorable Body to approve the following loan order:

ORDERED: That the City appropriates the amount of Six Million Two Hundred Thousand Dollars (\$6,200,000) for the purpose of paying costs of making energy efficiency improvements to City school buildings (the “Project”) as described in the Energy Management Services Agreement (“EMSA”) to be entered into between the City and Trane, Inc., and for the payment of any other costs incidental or related thereto; that to meet this appropriation the Treasurer, with the approval of the Mayor, is authorized to borrow Six Million Two Hundred Thousand Dollars (\$6,200,000) and to issue bonds or notes therefor under G.L. c.44 or any other enabling authority. Any premium received by the City upon the sale of any bonds or notes hereunder, less any such applied to the payment of the costs of issuance of such bonds or notes, may be applied to pay project costs and the amount authorized to be borrowed hereunder shall be reduced by the amount of any such premium so applied; and further that the Mayor is authorized to execute and deliver any and all documents and agreements that in his view are reasonably necessary to accomplish the purposes of this Order, including the EMSA or any other any energy services and/or energy savings guarantee agreements with respect to the Project, and take any other action necessary to carry out the Project.

The Mayor respectfully submits a communication from Director of Budget & Administration Jeremy Stull and Personnel Director Owen Bebeau regarding the executed memorandum of agreement with the Attleboro Laborers’ Association Local #1144 D.P.W., which covers fiscal years 2021, 2022 and 2023. The City was able to obtain its goal of a 0% Cost of Living Adjustment (COLA) in year one with a 3% and 2% COLA increases in years 2 and 3 of the agreement, respectively. The agreement also includes a one-time payment to unit members. Additional funding is needed in order to complete this agreement. Therefore, the Mayor hereby requests Your Honorable Body transfer \$37,083.53 from Account 11241000-578350 (City Wide – Reserve for Labor Negotiations) to the following accounts:

Account 14201000-511000 (DPW- Salaries and Wages)	\$28,033.53
Account 14201000-513000 (DPW – Overtime)	\$950.00
Account 14201000-513001 (DPW – Lump sum Retro)	\$8,000.00
Account 14201000-514030 (DPW – Longevity)	\$100.00

ZONING AND LAND USE COMMITTEE

Todd Kobus, Chairperson

The Mayor hereby requests Your Honorable Body to schedule a public hearing pursuant to §16-2.2 of the REVISED ORDINANCES OF THE CITY OF ATTLEBORO, as amended, to layout a portion of Nichol Avenue (length of 486.50 feet, from STA 0+00 to STA 4+86.50) as a public way and accept said way and any related drainage, water or sewer facilities or easements, all as shown on a plan and profile entitled “ROADWAY ACCEPTANCE PLAN OF NICHOL AVENUE IN ATTLEBORO, MASSACHUSETTS”, dated July 6, 2018, prepared by Sean Michael Leach, P.L.S., which plan has been deemed satisfactory to the Superintendent of Public Works. Enclosed please find the necessary documents.

LICENSES

A communication submitted to the Clerk’s office from Chair Dolan of the License Committee, requesting a public hearing September 21, 2021 for the potential revocation of the class II license for R & D Motors. (Public hearing called for 9-21-21)

CITY PROPERTY AND CLAIMS

Sara-Lynn Reynolds, Chairperson

The Mayor respectfully submits a communication from Library Director Amy Rhilinger regarding the donation of 20 laptop computers to the Attleboro Public Library from Sensata Technologies with an estimated value of \$10,000.00. In accordance with Section 1-12 of the Revised Ordinances of the City of Attleboro, the Mayor hereby requests Your Honorable Body to accept this generous donation to the City of Attleboro.

ORDINANCES, ELECTIONS AND LEGISLATIVE MATTERS

Diana Holmes, Chairperson

A report from Planner Gary Ayrassian and Conservation Agent Nick Wyllie containing questions and answers from the July 7, 2021 public forum regarding the proposed Amendments to the Wetlands Protection Ordinance.

A 192-signature petition, presented by Paulette Rioux, against the Wetlands Ordinance change as “property owners’ rights are being diminished” and “takings” would be recognized with this change.

The Mayor respectfully submits a communication from Superintendent of Water Kourtney Wunschel regarding four amendments to the Revised Ordinance of the City of Attleboro for the Water Department. City Solicitor Cynthia Amara reviewed the proposed changes to the Revised Ordinances of the City of Attleboro and approved them to form. Therefore, the Mayor hereby requests Your Honorable Body vote on the following amendments:

- **REQUEST FOR ADDITION OF SECTION 16-9.3 OF THE REVISED ORDINANCES OF THE CITY OF ATTLEBORO:**

The Water Management Act Withdrawal Permit for the Taunton River Basin was received in early May 2021. This permit guarantees that the Attleboro Water Department will be authorized to withdraw 380,000 gallons per day from the Taunton River Basin over the 1.62 million registered gallons in the basin until the permit expires in February 2030. This volume is essential for maximum water production from the Wading River Treatment Plant. A requirement of this permit is that the Water Department adopts a local land use control ordinance that meets 310 CMR 22.20C (attached) for its reservoir Zone A protection areas that exist within the City. In order to meet this requirement, I am proposing that the following changes to the ordinance be made:

Add the following section:

16-9.3 Zone A Protection Areas

According to 310 CMR 22.20C, the following activities are prohibited within 400 feet of Manchester Reservoir, Orr's Pond, and those areas of Luther Reservoir which lie within the city limits, as well as within 200 feet of the 4-Mile Brook, the portions of the 7-Mile River which lie within City limits, and tributaries to both rivers:

- 1.) Facilities that, through their acts or processes, generate, treat, store or dispose of hazardous waste that are subject to M.G.L. c. 21C and 310 CMR 30.000: Hazardous Waste, except for the following:
 - a.) very small quantity generators, as defined by 310 CMR 30.000: Hazardous Waste;
 - b.) treatment works approved by the MassDEP designed in accordance with 314 CMR 5.00: Ground Water Discharge Permit Program for the treatment of contaminated ground or surface waters;
- 2.) Sand and gravel excavation operations;
- 3.) Uncovered or uncontained storage of fertilizers;
- 4.) Uncovered or uncontained storage of road or parking lot de-icing and sanding materials;
- 5.) Storage or disposal of snow or ice, removed from highways and streets outside the Zone A, that contains deicing chemicals;
- 6.) Uncovered or uncontained storage of manure;
- 7.) Junk and salvage operations;
- 8.) Motor vehicle repair operations;
- 9.) Cemeteries (human and animal) and mausoleums;
- 10.) Solid waste combustion facilities or handling facilities as defined at 310 CMR 16.00: Site Assignment Regulations for Solid Waste Facilities;
- 11.) Land uses that result in the rendering impervious of more than 15%, or more than 20% with artificial recharge, or 2500 square feet of any lot, whichever is greater; and
- 12.) Commercial outdoor washing of vehicles, commercial car washes.

13.) All underground storage tanks,

14.) Above-ground storage of liquid hazardous material as defined in M.G.L. c. 21E, or liquid propane or liquid petroleum products, except as follows:

a.) The storage is incidental to:

(1) normal household use, outdoor maintenance, or the heating of a structure; 310 CMR: DEPARTMENT OF ENVIRONMENTAL PROTECTION 22.20B: continued

(2) use of emergency generators;

(3) a response action conducted or performed in accordance with M.G.L. c. 21E and 310 CMR 40.000: Massachusetts Contingency Plan and which is exempt from a ground water discharge permit pursuant to 314 CMR 5.05(14); and

b.) The storage is either in container(s) or above-ground tank(s) within a building, or outdoors in covered container(s) or above-ground tank(s) in an area that has a containment system designed and operated to hold either 10% of the total possible storage capacity of all containers, or 110% of the largest container's storage capacity, whichever is greater. However, these storage requirements do not apply to the replacement of existing tanks or systems for the keeping, dispensing or storing of gasoline provided the replacement is performed in accordance with applicable state and local requirements;

(c) Treatment or disposal works subject to 314 CMR 3.00: Surface Water Discharge Permit Program or 5.00: Ground Water Discharge Permit Program, except the following:

(1) The replacement or repair of an existing treatment or disposal works that will not result in a design capacity greater than the design capacity of the existing treatment or disposal works;

(2) Treatment or disposal works for sanitary sewage if necessary to treat existing sanitary sewage discharges in non-compliance with 310 CMR 15.000: The State Environmental Code, Title 5: Standard Requirements for the Siting, Construction, Inspection, Upgrade and Expansion of On-site Sewage Treatment and Disposal Systems and for the Transport and Disposal of Septage, provided the facility owner demonstrates to the Department's satisfaction that there are no feasible siting locations outside of the Zone A. Any such facility shall be permitted in accordance with 314 CMR 5.00: Ground Water Discharge Permit Program and shall be required to disinfect the effluent. MassDEP may also require the facility to provide a higher level of treatment prior to discharge;

(3) Treatment works approved by the MassDEP designed for the treatment of contaminated ground or surface waters and operated in compliance with 314 CMR 5.05(3) or (13).

(4) Discharge by public water system of waters incidental to water treatment processes.

- **REQUEST FOR ADDITION OF SECTION 16-9.4 OF THE REVISED ORDINANCES OF THE CITY OF ATTLEBORO:**

In review of the ordinance, it was discovered that Section 16-20 is listed amongst Wastewater ordinances, and for clarity, it should be moved to the Water ordinances. I am therefore proposing that the following change to the ordinance be made:

Remove the entirety of Section 16-20 from the Wastewater Sections and place it as a new section, numbered as follows:

Section 16-9.4 Restricted Use of Orr's Pond and Manchester Reservoir (amended 10/17/17)

16-9.4.1 No unauthorized person shall enter upon any pond or reservoir owned or used as a source of water supply by the City of Attleboro, or the land owned by the City of Attleboro and surrounding the same for any reason whatsoever, except that fishing from the shore shall be permitted in Orr's Pond and Manchester Reservoir if a permit therefore has been granted. Notwithstanding the foregoing, passive recreation, as that term is defined in Section 17-11.2 herein, shall also be allowed in the City's land surrounding Orr's Pond and Manchester Reservoir, subject to the conditions and restrictions set forth in sections 16-9.4.5 through 16-9.4.9 below.

16-9.4.2 Any resident of the City of Attleboro who holds a fishing license from the Commonwealth of Massachusetts and who has attained the age of fifteen (15) years may obtain from the City Clerk a permit to fish in Orr's Pond and Manchester Reservoir. A person under the age of fifteen may fish without a permit if he is accompanied by an adult holder of a permit.

16-9.4.3 The permit shall be effective for the same period as the fishing license from the Commonwealth of Massachusetts. Fishing shall be permitted from one hour before sunrise to one hour after sunset.

16-9.4.4 Fishing shall be from designated areas on shore by hook and line only, in numbers, lengths and kinds allowed by the Fish and Game Laws of the Commonwealth of Massachusetts. No live bait shall be used. A map of designated areas shall be provided by the Superintendent of Water.

16-9.4.5 No person shall drink or have in his possession alcoholic beverages of any nature while on these fishing grounds. No person shall dispose of rubbish or refuse or deposit or discharge human excrement on this fishing grounds.

16-9.4.6 No person shall build a fire, picnic, smoke, hunt, shoot or trap on these fishing grounds. No person shall in any way bring firearms of any nature on these fishing grounds.

16-9.4.7 No person shall tamper with or damage any gate, barrier, or lock or deface or defile signs, trees or other property on these fishing grounds.

16-9.4.8 No person shall refuse or neglect to obey any reasonable request made or order given by officers or employees of the Department of Water or the Commonwealth of Massachusetts Department of Natural Resources.

16-9.4.9 These ordinances are in addition to any regulation established by the Commonwealth of Massachusetts Department of Natural Resources and the Massachusetts Department of Public Health covering public use and water supply areas for recreation.

16-9.4.10 Persons found to be in violation of this Section 16-20 shall be liable to a fine of Seventy-Five (\$75.00) dollars for a first offense and a fine of One Hundred (\$100.00) Dollars for the second and subsequent violations; said penalties to be assessed in accordance with the provisions for the non-criminal disposition of violations in General Laws Chapter 40, Section 21D or as criminal penalties under General Laws Chapter 40 Section 20, as amended.

- **REQUEST FOR REVISION OF SECTION 16-12.5 OF THE REVISED ORDINANCES OF THE CITY OF ATTLEBORO:**

An additional requirement of the Water Management Act Withdrawal Permit discussed above is that “Attleboro shall have water use regulations in place that require property owners to expeditiously repair leaks on their property.” I am therefore proposing that the following change to the ordinance be made:

Add the following sections:

16-12.5(e) The Water Department requires that any property owner with a known plumbing leak or water service leak on the property side of the service repair the leak in the following time frame: For 3 gallons per minute or more, the leak must be repaired within 90 days of notice to the property owner. For leaks less than 3 gallons per minute, the leak must be repaired within 180 days of notice to the property owner. The repair is to be made at the expense of the property owner.

16-12.5(f) The deadlines listed in Section 16-12.5(e) may be extended by the Water Superintendent for good cause shown. Such causes may include inclement weather, financial hardship, on-going plumbing or other water renovations, or similar instances.

16-12.5(g) Should the property owner not meet the repair deadlines in Section 16-12.5(e), the water will be shut off to the property until the repair is made. Final notice of shutoff will be sent by certified mail no less than 10 days prior to shutoff. There will be a \$25.00 fee for restoring water service to the property.

• **REQUEST FOR REVISION OF SECTIONS 16-12.7 AND 16-12.27 OF THE REVISED ORDINANCES OF THE CITY OF ATTLEBORO:**

A review of Section 16-12.27 of the ordinance has shown that this section is ambiguous and would be better placed within Section 16-12.7. In addition, the current language in Section 16-12.27 is unclear regarding ownership of water meters larger than 5/8” and must be revised. I am therefore proposing that the following change to the ordinance be made:

Delete Section 16-12.27 in its entirety.

Add the following sections:

16-12.7(d) For meters 1” and larger, it is the responsibility of the property owner to test the meter according to the schedule below and to maintain the meter in proper working order. Testing reports are to be submitted to the Water Department before December 31 of the year in which the meter is required to be tested.

<u>Meter Size (Inches)</u>	<u>Testing Frequency (Years)</u>
1	6
1.5	4
2	4
3	3
4	2
6	1
8	1

16-12.7(e) Should a property owner not comply with Section 16-12.7(d), the Water Department may test, replace, repair, or maintain the meter, using either Department personnel or an outside

contractor to perform the work, and shall invoice the property owner the cost for such service and materials.

The Mayor respectfully submits a communication from Election Office Manager Cheryl Perry requesting the approval to move Ward 5 polling location in accordance with Chapter 255, Subsection (i) of the Acts of 2020, as the Elections Division of the Secretary of the Commonwealth's office has lifted the COVID-19 restrictions that were imposed during 2020. The Election Commission has approved the proposed change. Therefore, the Mayor hereby requests Your Honorable Body approve the change of Ward 5 polling place to LaSalette Shrine, Welcome Center at 947 Park Street, Attleboro. As the voters in Ward 5 should be notified of this change, 30 days prior to the election in September, the Mayor is requesting this be considered any emergency measure. (Voted 8-17-21)

Therefore, in accordance with Article 2, Section 2-9 (b) of the City Charter of the City of Attleboro, the Mayor respectfully requests Your Honorable Body to consider this as an **emergency measure**.