



Medford City Council
Medford, Massachusetts

The Seventeenth Regular Meeting, September 17, 2024

City Council

Isaac B. "Zac" Bears
Anna Callahan
Kit Collins
Emily Lazzaro
Matt Leming
George A. Scarpelli
Justin Tseng

This meeting will take place at 7:00 P.M. in the City Council Chamber, 2nd Floor, Medford City Hall, 85 George P. Hassett Drive, Medford, MA and via Zoom.

Zoom Link: <https://us06web.zoom.us/j/82141338930>

Call-in Number: +13017158592,,82141338930# US

Broadcast Live: Channel 22 (Comcast), Channel 43 (Verizon), and medfordtv.org.

To submit written comments, please email AHurtubise@medford-ma.gov.

CALL TO ORDER & ROLL CALL

SALUTE TO THE FLAG

ANNOUNCEMENTS, ACCOLADES, REMEMBRANCES, REPORTS, AND RECORDS

24-469 - Offered by Justin Tseng, City Councilor

Resolution to Celebrate the Importance of Chevalier Theater and Gene Mack Gym

Records

The Records of the Meeting of September 10, 2024 were passed to Councillor Lazzaro

Reports of Committees

24-033 - Offered by Kit Collins, Council Vice President

Planning and Permitting Committee, September 11, 2024, Report to Follow

Refer to Committee for Further Discussion

24-468 - Offered by Justin Tseng, City Councilor

Resolution to Discuss Updates to the City Charter

PETITIONS, PRESENTATIONS, AND SIMILAR PAPERS

24-439

Continued - Petition For a Special Permit For Hours - Panda Express

MOTIONS, ORDERS, AND RESOLUTIONS

24-470 - Offered by Justin Tseng, City Councilor

Resolution to Discuss the Installation of Sanitary Facilities in Public Spaces

COMMUNICATIONS FROM THE MAYOR

24-467

Offered by Mayor Breanna Lungo-Koehn

Capital Stabilization Fund Appropriation Requests

PUBLIC PARTICIPATION

To participate outside of Zoom, please e-mail AHurtubise@medford-ma.gov.

UNFINISHED BUSINESS

24-457

Request for Amendment to Previously Approved Grant of Location

IN CITY COUNCIL

SEPTEMBER 10, 2024

TABLED

23-449

Wildlife Feeding Ordinance

IN CITY COUNCIL SEPTEMBER 10, 2024 Approved for First Reading

TO BE ADVERTISED

IN CITY COUNCIL TBD

24-458 **Establish an EV Charging Revolving Fund**

IN CITY COUNCIL SEPTEMBER 10, 2024 Approved for First Reading

ADVERTISED

ELIGIBLE FOR THIRD TBD
READING

23-412 **Petition to Amend Deed Restriction - 12 Dell Avenue**

IN CITY COUNCIL SEPTEMBER 19, 2023

TABLED

24-031 **Request a Representative from BJ's Wholesale Club Meet
to Discuss Construction and Neighborhood Concerns**

IN CITY COUNCIL FEBRUARY 6, 2024

TABLED

24-352 **Petition For a Class II Auto Body License - Finest Auto
Body, Inc**

IN CITY COUNCIL MAY 14, 2024

TABLED

Reports Due/Deadlines

16-574 University Accountability Spring 2017-Report (Next Report
Due in November 2024)

22-026 Quarterly Presentation on City's Financial Health by Chief
Financial Officer/Auditor

22-027 Monthly Copy of Warrant Articles from Chief Financial
Officer/Auditor

Adjournment



Medford City Council
Medford, Massachusetts

MEETING DATE

September 17, 2024

SPONSORED BY

Justin Tseng, City Councilor

AGENDA ITEM

24-469 - Resolution to Celebrate the Importance of Chevalier Theater and Gene Mack Gym

FULL TEXT AND DESCRIPTION

Be it Resolved, that the City Council celebrate the importance of the Chevalier Theater and commend the Friends of the Chevalier Theater and Gene Mack Gym for their hard work in ensuring the success of the theater.

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

None



Medford City Council
Medford, Massachusetts

MEETING DATE

September 17, 2024

SPONSORED BY

Justin Tseng, City Councilor

AGENDA ITEM

24-468 - Resolution to Discuss Updates to the City Charter

FULL TEXT AND DESCRIPTION

Be it Resolved by the Medford City Council that the Governance Committee discuss updates to the City Charter, including creating a timeline for action and reviewing proposals of the Charter Study Committee once finalized.

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

None



Medford City Council
Medford, Massachusetts

MEETING DATE

September 17, 2024

SPONSORED BY

AGENDA ITEM

24-439 - Continued - Petition For a Special Permit For Hours - Panda Express

FULL TEXT AND DESCRIPTION

**LEGAL NOTICE
MEDFORD CITY CLERK'S OFFICE
CONTINUED - NOTICE OF PUBLIC HEARING**

The Medford City Council will hold a public hearing in the Howard F. Alden Chambers on the second floor of Medford City Hall, 85 George P. Hassett Drive, Medford, MA and via Zoom on Tuesday, September 10, 2024 at 7:00 p.m., a link to be posted no later than Friday, September 6, 2024, on a petition for a Special Permit for Hours filed by Panda Express, 491 Riverside Avenue, Medford, MA 02155. The petitioner is seeking to extend the hours of operation of the restaurant in a commercial (C-1) Zoning District at 491 Riverside Avenue, Parcel ID. Q-15-11.

The petition seeks a:

Special Permit For Hours
Monday – Sunday 11:00 p.m. to 3:00 a.m.

Petition and Plan may be viewed in the Office of the City Clerk, Room 103, Medford City Hall, Medford, MA. Call 781-393-2435 for any accommodations/aids. The City of Medford is an EEO/AA/504 Employer.

By the order of the City Council

S/Adam L. Hurtubise
City Clerk

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

None



Medford City Council
Medford, Massachusetts

MEETING DATE

September 17, 2024

SPONSORED BY

Justin Tseng, City Councilor

AGENDA ITEM

24-470 - Resolution to Discuss the Installation of Sanitary Facilities in Public Spaces

FULL TEXT AND DESCRIPTION

Be it Resolved, that the Committee on Public Health discuss the possibility of installing sanitary facilities in public spaces, including in our parks.

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

None



Medford City Council
Medford, Massachusetts

MEETING DATE

September 17, 2024

SPONSORED BY

AGENDA ITEM

24-467 - Capital Stabilization Fund Appropriation Requests

FULL TEXT AND DESCRIPTION

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

- I. 2024-09-17_CapitalStabilizationFundAppropriationRequests



**MEDFORD, MASSACHUSETTS
MAYOR BREANNA LUNGO-KOEHN**

September 12, 2024

Via Electronic Delivery

To the Honorable President and
Members of the Medford City Council
Medford City Hall
Medford, MA 02155

Re: Capital Stabilization Fund Appropriation Requests

Dear President Bears and Members of the City Council:

I respectfully request and recommend that your Honorable Body approves the following two appropriations from the Capital Stabilization Fund:

- Spring Street at Central Avenue Traffic Signal Safety Improvement Project in the amount of Two Hundred Eighty-Three Thousand, Five Hundred Thirty-Five Dollars (\$283,535); and
- Matching funds for the MassDEP VW and Refuse Truck Electric grant program, to purchase one electric refuse truck in the amount of One Hundred Seventy-Eight Thousand Dollars (\$178,000).

As your Honorable Body knows, the Capital Stabilization Fund presently has a balance of \$5,000,000. Further, any appropriation from any stabilization account requires a 2/3rds majority vote of the City Council.

Director of Traffic and Transportation Todd Blake will be present to answer any questions on the Traffic Safety Improvement Project and CPA Manager Theresa Dupont will be present to answer any questions on the Electric Refuse Truck project.

Finally, I respectfully request that both, or at least for the Traffic Signal Safety Project, your Honorable Body wave the three readings, as the City is under some tight timelines for award and Director Blake will elaborate on those details at and/or before the meeting.

Thank you for your kind attention to this matter.

Respectfully submitted,


Breanna Lungo-Koehn
Mayor

**85 George P. Hassett Drive, Medford, MA 02155
781-396-5500 * www.medfordma.org**



Medford City Council
Medford, Massachusetts

MEETING DATE

September 17, 2024

SPONSORED BY

AGENDA ITEM

24-457 - Request for Amendment to Previously Approved Grant of Location

FULL TEXT AND DESCRIPTION

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

- I. 2024.07.19 - Petition by National Grid to Amend Grant of Location



July 19, 2024

To the City Council of Medford, Massachusetts

To Whom It May Concern:

Enclosed please find a petition of NATIONAL GRID covering the installation of underground facilities.

****This GOL application was previously approved, and this is a GOL amendment hearing.**

If you have any questions regarding this permit, please contact:

Moses Okokuro – moses.okokuro@nationalgrid.com

Please notify National Grid's Jenn Iannalfo of the **hearing date / time** to
Jennifer.Iannalfo@nationalgrid.com

If this petition meets with your approval, please return an executed copy to:

National Grid: Jennifer Iannalfo; 1101 Turnpike Street; North Andover, MA 01845

Very truly yours,

Nick Memmolo

Nick Memmolo
Distribution Design Supervisor

Enclosures

Questions contact – Moses Okokuro – moses.okokuro@nationalgrid.com

Petition of the Massachusetts Electric Company d/b/a NATIONAL GRID
Of NORTH ANDOVER, MASSACHUSETTS
For Electric Conduit Location:

To the City Council of Medford, Massachusetts

Respectfully represents the Massachusetts Electric Company d/b/a NATIONAL GRID of North Andover, Massachusetts, that it desires to construct a line of underground electric conduits, including the necessary sustaining and protecting fixtures, under and across the public way or ways hereinafter named.

Wherefore it prays that after due notice and hearing as provided by law, it be granted permission to excavate the public highways and to run and maintain underground electric conduits, together with such sustaining and protecting fixtures as it may find necessary for the transmission of electricity, said underground conduits to be located substantially in accordance with the plan filed herewith marked – Main Street - Medford, Massachusetts.

The following are the streets and highways referred to:

WR# 30658427

Main Street - Beginning at a point approximately 15 feet South-West of the centerline of the intersection of Main Street & South Street and continuing approximately 760 feet in a South direction. National Grid is petitioning to install 5" ducts between 101 Main Street and 151 Main Street; *approx. 370 feet of 4-5" ducts from existing manhole MH186 to MH187 and *approx. 390 feet of 2-5" ducts from existing manhole MH 187 to MH 188, Medford, MA.

***This is linked to previously approved GOL.**

Location approximately as shown on plan attached.

Massachusetts Electric Company d/b/a
NATIONAL GRID *Nick Memmolo*

BY _____
Engineering Department

Questions contact – Moses Okokuro – moses.okokuro@nationalgrid.com

Dated: July 19, 2024

ORDERED:

Notice having been given and public hearing held, as provided by law, that the Massachusetts Electric Company d/b/a NATIONAL GRID be and it is hereby granted permission to excavate the public highways and to run and maintain underground electric conduits, together with such sustaining and protecting fixtures as said company may deem necessary, in the public way or ways hereinafter referred to, and to make the necessary house connections along said extensions, as requested in petition with said company dated the 20th day of October, 2022.

Said underground electric conduits shall be located substantially in accordance with the plan filed herewith marked – Main Street - Medford, Massachusetts.

The following are the public ways or part of ways along which the underground electric conduits above referred to may be laid:

WR# 30658427

Main Street - Beginning at a point approximately 15 feet South-West of the centerline of the intersection of Main Street & South Street and continuing approximately 760 feet in a South direction. National Grid is petitioning to install 5" ducts between 101 Main Street and 151 Main Street; *approx. 370 feet of 4-5" ducts from existing manhole MH186 to MH187 and *approx. 390 feet of 2-5" ducts from existing manhole MH 187 to MH 188, Medford, MA.

***This is linked to previously approved GOL.**

I hereby certify that the foregoing order was adopted at a meeting of the

.....

....., held on the day of, 20

....., 20

Received and entered in the records of location orders of the City/Town of

Book Page

Attest:

.....

..... hereby certify that on20....., at o'clock,M

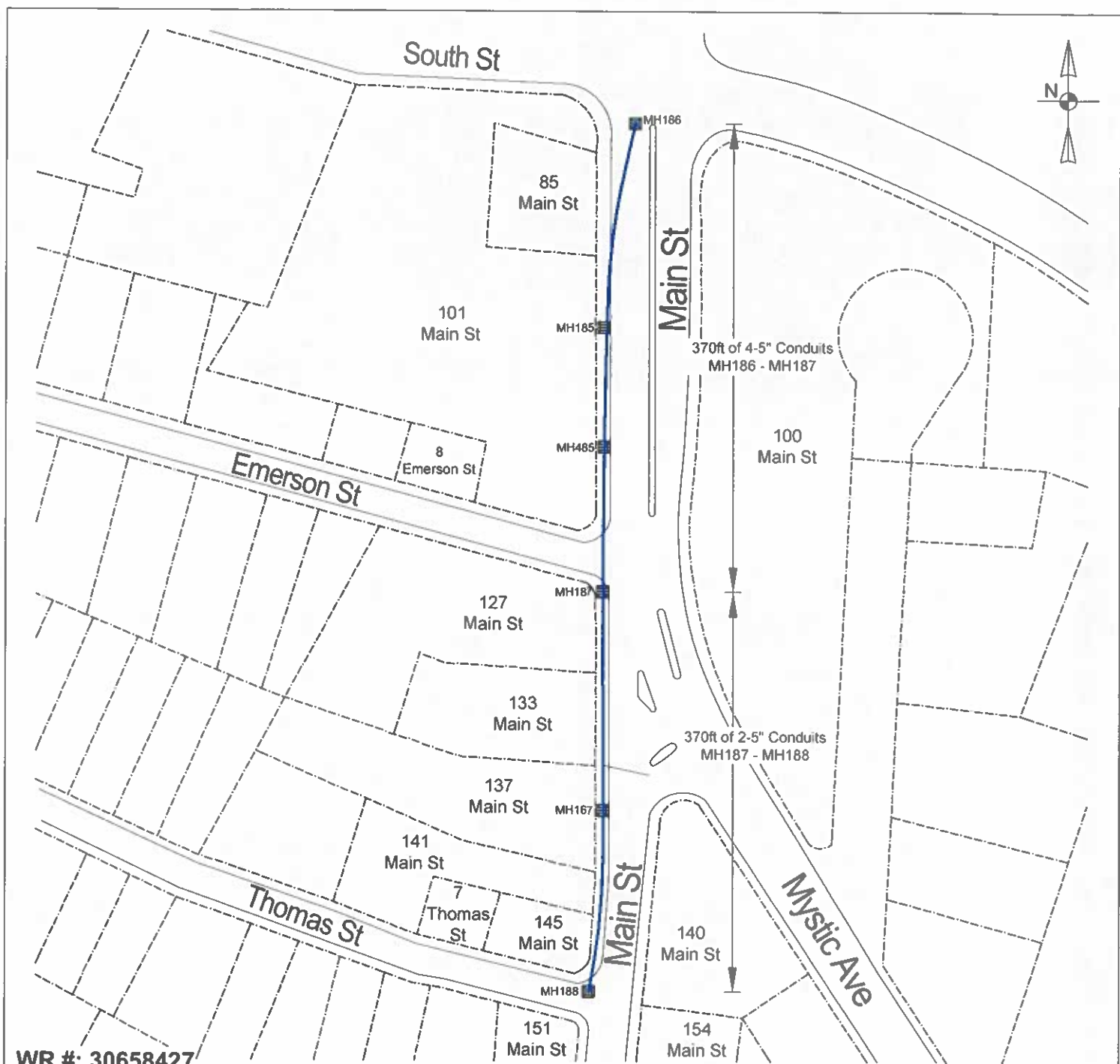
at, a public hearing was held on the petition of Massachusetts Electric Company d/b/a NATIONAL GRID for permission to construct the

underground electric conduits described in the order herewith recorded, and that I mailed at least seven days before said hearing a written notice of the time and place of said hearing to each of the owners of real estate (as determined by the last preceding assessment for taxation) along the ways or parts of ways upon which the Company is permitted to construct the underground electric conduits under said order. And that thereupon said order was duly adopted.

.....

.....

.....



WR #: 30658427

CIVIL SKETCH			
MANHOLE (EXISTING)	PROPOSED 5" CONDUITS		
Job description National Grid is petitioning to install 5" ducts between 101 Main St and 151 Main St; * approx 370ft of 4-5" ducts from existing manhole MH186 to MH187 and * approx 390ft of 2-5" ducts from existing manhole MH187 to MH188.		WORK REQUEST: # 30658427	
		To The: City Of Medford	
		For Proposed: 5" PVC Conduit Location: Main St	
		Drawn By: Moses Okokuro	
DISTANCES ARE APPROXIMATE			

ABUTTERS LIST

S/NO.	Address	Owner	Acct#	Map	Block	PID
1	85 MAIN ST	Owner: M & E 85 MAIN STREET LLC Address: 85 MAIN ST MEDFORD, MA 02155	10854	N-08	51	10854
2	100-120 MAIN ST	Owner: MEDFORD CITY OF Co-Owner: POLICE/FIRE Address: 85 GEO P HASSETT DR MEDFORD, MA 02155	10915	N-09	1	10915
3	127 MAIN ST	Owner: O T M LLC Co-Owner: GMSNEIRSON Address: PO BOX 505125 CHELSEA, MA 02150	11751	O-08	33	11751
4	133 MAIN ST	Owner: O T M LLC Co-Owner: C/O GM SNEIRSON Address: PO BOX 505125 CHELSEA, MA 02150	11750	O-08	32	11750
5	137 MAIN ST	Owner: O T M LLC Co-Owner: C/O GM SNEIRSON Address: PO BOX 505125 CHELSEA, MA 02150	11749	O-08	31	11749

S/NO.	Address	Owner	Acct#	Map	Block	PID
6	140 MAIN ST	Owner GLOBAL COMPANIES LLC Co-Owner C/O ALLIANCE ENERGY LLC Address ATTN TAX DEPARTMENT 15 NORTHEAST INDUSTRIAL RD BRANFORD, CT 06405	11811	O-09	8	11811
7	141 MAIN ST	Owner BROADWAY PIANO EXCHANGE INC Address 28 KING AVE MEDFORD, MA 02155	11748	O-08	30	11748
8	145 MAIN ST	Owner BROADWAY PIANO EXCHANGE INC Address 28 KING AVE MEDFORD, MA 02155	11747	O-08	29	11747
9	151 MAIN ST	Owner 151 MAIN STREET MEDFORD LLC Address 151 MAIN ST MEDFORD, MA 02155	11771	O-08	54	11771
10	153 MAIN ST	Owner PROTEGE COMMERCIAL PROPERTIES, LLC Co-Owner C/O EMANUEL TSANTOULOS Address 6 HELD CIRCLE MEDFORD, MA 02155	11772	O-08	55	11772

S/NO.	Address	Owner		Acct#	Map	Block	PID
11	154 MAIN ST	Owner	VRL REALTY TRUST	11810	O-09	7	11810
		Co-Owner	VINCENT R LEO TRUSTEE				
		Address	517 CONCORD AV CAMBRIDGE, MA 02138				
12	101 MAIN ST #101,118,119	Owner	SPAULDING REHAB HOSP CORP	10902	N-08	5201	10902
		Co-Owner	ROBERT FELDMAN				
		Address	125 NASHUA ST BOSTON, MA 02114				
13	101 MAIN ST #102-105	Owner	MAROTTA FAMILY HOLDINGS LLC	10903	N-08	5202	10903
		Address	2150 NORTH OCEAN BLVD, APT 2N BOCA RATON, FL 33431-7867				
14	101 MAIN ST #106	Owner	HALLMARK HEALTH SYSTEM	10904	N-08	5203	10904
		Co-Owner	C/O JOHN DONOFRIO PROPERTY MANAGER				
		Address	LAWRENCE MEMORIAL HOSPITAL 170 GOVERNORS AVE MEDFORD, MA 02155				
15	101 MAIN ST #107	Owner	GEMINI REALTY TRUST	16950	N-08	5204	16950
		Co-Owner	KO BING H				
		Address	168 SUTTON HILL RD NORTH ANDOVER, MA 01845				

S/NO.	Address	Owner		Acct#	Map	Block	PID
16	101 MAIN ST #108-110	Owner	GEMINI TRUST	10905	N-08	5204	10905
		Co-Owner	MCNITT ROBERT				
		Address	168 SUTTON HILL RD NORTH ANDOVER, MA 01845				
17	101 MAIN ST #111-112	Owner	LAWRENCE MEMORIAL ASSOC INC	16993	N-08	5205	16993
		Address	170 GOVERNORS AV MEDFORD, MA 02155				
18	101 MAIN ST #113	Owner	LAWRENCE MEMORIAL ASSOC INC	16951	N-08	5205	16951
		Co-Owner	LAWRENCE MEML HOSP				
		Address	170 GOVERNORS AV MEDFORD, MA 02155				
19	101 MAIN ST #114-117	Owner	LAWRENCE MEMORIAL ASSOC INC	10906	N-08	5205	10906
		Co-Owner	LAWRENCE MEMORIAL HOSP				
		Address	170 GOVERNORS AV MEDFORD, MA 02155				
20	101 MAIN ST #201	Owner	LAWRENCE MEMORIAL ASSOC INC	10908	N-08	5207	10908
		Co-Owner	ACCOUNTING DEPT				
		Address	170 GOVERNORS AVE MEDFORD, MA 02155				

S/NO.	Address	Owner	Acct#	Map	Block	PID
21	101 MAIN ST #202	Owner HALLMARK HEALTH PROPERTIES INC Co-Owner ATTN: JOHN DONOFRIO Address LAWRENCE MEMORIAL HOSPITAL 170 GOVERNORS AVE MEDFORD, MA 02155	16955	N-08	5208	16955
22	101 MAIN ST #203-204	Owner LAWRENCE MEMORIAL ASSOC INC Address 170 GOVERNORS AV MEDFORD, MA 02155	10911	N-08	5208	10911
23	101 MAIN ST #205-206	Owner NELIDA T LEPORE REV TRUST Co-Owner LEPORE LORENZO & NELIDA T TRUSTEES Address 117 WHITNEY RD MEDFORD, MA 02155	10912	N-08	5209	10912
24	101 MAIN ST #207	Owner SHARON A MURANO REVOCABLE TRUST Co-Owner MURANO JOSEPH R Address 101 MAIN ST, UNIT 207 MEDFORD, MA 02155	10913	N-08	5210	10913
25	101 MAIN ST #208-209	Owner CATFLOOR LLC Address 101 MAIN ST, UNITS 208-209 MEDFORD, MA 02155	10914	N-08	5211	10914

S/NO.	Address	Owner	Acct#	Map	Block	PID
26	101 MAIN ST #210	Owner THACKER REALTY TRUST Co-Owner THACKER MUKUND M & VASANT M TRUSTEES Address 3 PINEHURST RD BELMONT, MA 02478	16956	N-08	5211	16956
27	101 MAIN ST #211-212	Owner MAIN ST #101 REALTY CORP Co-Owner KATHLEEN NATH PRESIDENT Address 6 CABOT ST WINCHESTER, MA 01890	10909	N-08	5207	10909
28	101 MAIN ST #213-214	Owner LAWRENCE MEMORIAL ASSOC INC Address 170 GOVERNORS AV MEDFORD, MA 02155	16953	N-08	5207	16953
29	101 MAIN ST #215-219	Owner LAWRENCE MEMORIAL ASSOCIATION Address 170 GOVERNORS AVE MEDFORD, MA 02155	10910	N-08	5207	10910
30	101 MAIN ST #220	Owner 101 MAIN STREET UNIT 220 MEDFORD LLC Address 101 MAIN ST, UNIT 220 MEDFORD, MA 02155	100395	N-08	5207	100395



via hand delivery

July 11, 2024

City Council of the City of Medford
c/o City Clerk
85 George P. Hassett Drive
Medford, MA 02155

Re: Petition to Amend Grant of Location Petition 23-445 for Massachusetts Electric
Company's Main Street Project

Dear City Council:

I write on behalf of the Massachusetts Electric Company d/b/a National Grid (the Company) to respectfully request that the Medford City Council amend its decision on November 14, 2023, which allowed the Company's petition for a Grant of Location (GOL) to install underground electrical conduits beneath Main Street beginning close to the intersection of South Street and extending approximately 370 feet southward. For the reasons explained below, the Company requests that the decision be reissued with Condition No. 5 deleted in its entirety and replaced with the following:

Pursuant to the pavement restoration agreement reached between the DPW Commissioner, the Engineering Division and National Grid, which agreement is depicted on the Civil Layout plan dated 7.13.2023, provided to the Engineering Division, National Grid shall:

- (a) saw cut the bituminous concrete pavement at the outside painted edge of the bike lane;
- (b) mill and overlay the area between the outside painted edge of the bike lane and the western curb plus an approximately 35' x 35' section of curb-to-median curb pavement at the South Street crosswalk south of Manhole 186; and
- (c) at National Grid's election either: (i) restore the remainder of the west side of Main Street from curb-to-median-curb for the length of the project; or (ii) pay a Street Preservation Offset Fee pursuant to Section 74-144(2)(b) of the City Ordinance.

The Civil Layout drawing is attached.

Background & Reasoning

Condition No. 5 should be amended to accurately reflect the agreement reached between and to avoid conflict with prevailing law as described below. Condition No. 5 currently states:

The Sidewalk and street restoration shall be done in consultation with the Engineering Division and per the requirements of an approved Street Opening permit. This must include a site inspection with the permit officer to determine extends [sic] of pavement restoration. Any concrete sidewalk damaged during this work must be replaced in-kind and cleanly cut at the control joints. The bituminous pavement over the trench shall be milled and overlaid to an offset approved by the Engineering Division. Vice President Bears offered an amendment requesting that Engineer Wartella's Condition 5 (this condition) be further amended to reflect that National Grid will provide the repaving of another roadway(s) in the City that is equal to all the work associated with 'curb to curb' roadway restoration within the project's limits.

Prior to submitting its GOL petition the Company had reached agreement with the DPW Commissioner and Engineering Division to (a) saw cut the bituminous concrete pavement at the outside painted edge of the bike lane; and (b) mill and overlay the area between that bike lane and the western curb and an approximately 35' x 35' section of curb-to-curb pavement at the South St crosswalk south of Manhole 186. The GOL should incorporate that prior agreement to avoid any confusion and/or the imposition of additional or inconsistent requirements in connection with the Street Opening Permit.

The Company's electrical distribution designer represented the Company on the evening of the City Council's hearing. He did not object to Condition No. 5 because he did not understand the legal constraints described below and because he understood "curb to curb" to mean curb-to-median-curb for the length of the project. Subsequently, the City Engineer took the position that "curb-to-curb" included both sides of Main Street for the length of the project – effectively doubling the restoration area – on the ground that doing so was an "industry standard." There is no pavement restoration "industry", however, let alone one that has established uniform standards. The City Engineer is also requiring that the repaving of "another roadway(s)" be completed *before* the City would issue any permits to the Company to begin the Main Street project, which is a requirement that the City Council did not impose. Efforts to negotiate a resolution with the City Engineer have been unsuccessful, leading the project team to consult with legal counsel, who advised that Condition No. 5 was unlawful for the following reasons:

First, the requirement to restore other undisturbed streets exceeds the City's authority relative to regulating utilities. The Legislature vested the DPU with exclusive authority to regulate utilities. See G.L. c. 164, § 105A. "[T]he Legislature [also] intended to preempt local activity on the subject [of utilities] absent an affirmative grant" of authority. Boston Edison Co. v. Town of Bedford, 444 Mass. 775, 782 (2005). There is no state statute or regulation that grants municipalities the authority to require a utility to repave streets that it had not excavated or otherwise disturbed.

Second, the Department of Telecommunications and Energy (now the Department of Public Utilities) issued Order D.T.E. 98-22 to establish uniform processes and methods for

restoring public roadways excavated by utilities.¹ Section 9.1 of that Order expressly requires restoration of disturbed areas only:

The Utility shall be responsible to replace all pavement disturbed by work under the Permit with homogeneous and in-kind pavement, unless otherwise stipulated, to the original strength and condition.

This limitation applies in all instances, including guaranteed streets less than five years old, like Main Street. Section 9.16 of the Order grants municipalities the “jurisdiction to determine the pavement repair method to be utilized on all pavements which have been installed for less than five years”; however, nothing in Order authorizes municipalities to require a utility to repave roadways that are entirely unrelated to and undisturbed by a project.

Lastly, Condition No. 5 contradicts statewide policy aimed at ensuring that utility service is delivered in a uniform and efficient manner.² Condition No. 5 is inconsistent with how every other municipality in the Company’s service territory handles roadway restoration. It is also inefficient because it would result in significant increases in the cost of gas and electric service, particularly if this approach were widely adopted by other municipalities. Further, it unfairly shifts the costs of maintaining Medford’s roads onto customers in other cities and towns.³

Street Preservation Offset Fee (SPOF)

Under Section 74-144 of the City Ordinance, an applicant can elect to pay a SPOF to defer part of the permanent restoration costs. In this case, the Company’s trench would be less than two feet wide, meaning that the SPOF would be determined pursuant to City Ordinance § 74-144(2)(b) by “multiplying the most recent City of Medford contract price for street reconstruction times the product of the length of the street to be restored and one-half of the paved width of the street measured from curb to curb.” In this case, the Company voluntarily agreed to the City’s request to restore the pavement to the edge of the bike lane. Because that agreement resulted in a larger disturbed area, the City Engineer now takes the position that the SPOF should be calculated using the full width of the street pursuant to Section 74-144(2)(c). In

¹ Section 74-141(2) of Article IV of the City Ordinance expressly requires compliance with Order D.T.E. 98-22.

² See Boston Gas Co. v. Somerville, 420 Mass. 702, 706 (1995) (holding that the City “cannot use its limited authority enact an ordinance which has the practical effect of frustrating the fundamental State policy of ensuring uniform and efficient utility services to the public”).

³ Courts have struck down municipal efforts to shift costs on to utilities. See Boston Edison Co. v. Town of Bedford, 444 Mass. 775, 784-85 (2005) (rejecting local enforcement against double poles because it creates “inappropriate economic incentives that [would] compel pole owners to devote resources to those cities and towns where the penalties are the most onerous” and thereby putting “purely local interests” above state policy); Colonial Gas Company v. Town of Wilmington, 1998 Mass. Super. LEXIS 495, *7 (Middlesex Super. Ct. 1998) (“Requiring the utility to pave the entire road “gutter-to-gutter” far exceeds this statutory requirement unless the excavation is so extensive as to effect [sic] the entire road. Additionally, such a requirement unfairly benefits the municipality by forcing the utility to improve portions of the road which were not excavated but were otherwise in disrepair.”).

effect, the City Engineer is penalizing the Company for having agreed to the City's request to restore an area larger than the width of its trench.⁴

Accordingly, in order to accurately reflect the agreement reached between the Company and the City prior to the GOL hearing and to avoid conflicts with prevailing law, the Company respectfully submits that Condition No. 5 be deleted in its entirety and replaced with the language suggested above.⁵

Respectfully Submitted,



Mark R. Rielly
Assistant General Counsel
National Grid Service Company Inc.

cc: Mayor Lungo-Koehn
Timothy McGivern, P.E., DPW Commissioner
Owen Wartella, P.E., City Engineer

⁴ As noted, Section 9.16 of Order 98-22 grants municipalities the "jurisdiction to determine the pavement repair method to be utilized on all pavements which have been installed for less than five years." But Section 9.16 must be read in concert with Section 9.1, which expressly limits restoration to disturbed areas only. Accordingly, the term "repair method" means *how* the pavement should be restored, not *how much*. The City Engineer disagrees but has not cited to any authority or support for that position either in the Order or elsewhere.

⁵ The amendment of Condition No. 5 would also resolve the dispute regarding the City Engineer's requirement that the Company complete the restoration of "another roadway(s)" before issuing any permits for the Main Street project.



Medford City Council
Medford, Massachusetts

MEETING DATE

September 17, 2024

SPONSORED BY

Kit Collins, Council Vice President

AGENDA ITEM

23-449 - Wildlife Feeding Ordinance

FULL TEXT AND DESCRIPTION

Amended Wildlife Feeding Ordinance as reported out of the Planning and Permitting Committee on August 13, 2024

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

- I. 23-449 Wildlife_Feeding_Ordinance_Version 9.4.2024

Wildlife Feeding Ordinance DRAFT 9.4.2024

Part 1, Ch. 6, Article 6 – In General.

Section 6–49. Wildlife Feeding Prohibited.

A. Purpose and Intent.

- a. The intent of this ordinance is to protect the health, safety, and welfare of the community via curtailing the inappropriate feeding of wildlife.
- b. Medford is home to a large population of wild animals, including but not limited to rats, pigeons, gulls, and raccoons. It has been established that feeding such wildlife, whether intentionally or passively, entices and attracts these wild animals around and into private property and in Medford, including into private porches and backyards.
- c. Feeding creates nuisances and health hazards for residents and prevents residents from the unfettered enjoyment of their outdoor spaces. Furthermore, inappropriate or excessive feeding of wildlife can create health hazards for wild animal populations, can interrupt their normal feeding patterns, can cause nutritional issues, threaten their health, promote the spread of diseases, and entice them into areas of the City that are unsafe for them.
- d. As private properties in Medford share permeable boundaries with one another, the feeding of wildlife on one property, whether intentionally or passively, stands to create nuisances or problems for neighboring residents, particularly in the densely settled areas of the City.
- e. This ordinance should not be interpreted in any way to interfere with the authority of the Massachusetts Division of Fisheries and Wildlife, or any other state agency with jurisdiction over wildlife.

A. Definitions

- f. Wildlife shall mean any undomesticated and unrestrained animal or fowl, including but not limited to pigeons, raccoons, rats, gulls, geese, foxes, skunks, coyotes, and/or any other animals or fowl.
- g. Feed or Feeding shall mean the act of distributing, scattering, placing, exposing, or depositing, directly or indirectly, any feed or foodstuffs, including but not limited to grain, seeds, or other food products, in any manner or form, so as to constitute a lure, attraction, or enticement to wildlife.
- h. Bird feeder shall mean any apparatus designed for the feeding of songbirds, and not fowl, that is equipped with attachments and catchments that prevent access to food, seed, nuts and dried fruit by any other wildlife.
- i. Pet or pets shall mean any domesticated animal, such as a dog, cat, bird, or other animal that is kept for pleasure in a residence rather than for commercial purposes.

B. Prohibited activity

- a. No person shall feed any wildlife on or in any public or private property within the City of Medford.
- b. Whenever the Animal Control Officer, Health Director, Sanitarians, or Code Enforcement Officers becomes aware that wildlife has been found feeding on any substance, and the resident or person responsible for the property has been notified of the

Commented [DB1]: Some municipalities seek to add an "intent" element to distinguish between accidental feedings and intentional misconduct. For example, you may wish to consider adding something like "Whenever the Animal Control Officer becomes aware that wildlife has been found feeding on any substance, and the resident or person responsible for the property has been notified of the occurrence thereof, any subsequent feedings shall be prima facie evidence that the feeding was with the knowledge or intent of the resident or person responsible for the property."

occurrence thereof, any subsequent feedings shall be prima facie evidence that the feeding was with the knowledge or intent of the resident or person responsible for the property. The Animal Control Officer, Health Director, Sanitarians, or Code Enforcement Officers shall use their discretion to distinguish between accidental feedings and intentional and/or repeated misconduct.

- c. Any outdoor trash receptacles or composters containing any material edible to wildlife must not be accessible by wildlife; no trash or materials may be exposed. In responding to a feeding issue, the enforcing authority shall determine whether garbage, trash, and/or refuse container(s) on the premises is the source of the wildlife feeding problem. If the refuse containers are determined to be the source of the wildlife feeding problem, the resident or person responsible for the premises shall replace them with a more secure wildlife-proof container or permanent structure. Failure to comply with an order to replace or secure refuse containers identified as attractants within seven (7) days will constitute a violation of this section.

A. Exceptions

- d. Nothing in this section shall be interpreted to prohibit bird feeders. However, if a bird feeder is determined to be the cause of a public safety threat or nuisance by the Animal Control Officer, Health Director, Sanitarians, or Code Enforcement Officers, the bird feeder(s) and seed debris will be required to be removed at the instruction of the enforcing officer.
- e. Nothing in this section shall be interpreted so as to prohibit the feeding of domesticated pets, provided that if food intended for pets is determined to be the source of wildlife feeding, the resident or person responsible for the premises will be required to take steps to render such pet food inaccessible to wildlife. If any wildlife continues to gain access to pet food, the condition allowing access must be corrected or the pet food removed within 48 hours.
- f. Nothing in this section shall be interpreted so as to prohibit the storage of food products, pet food, or other material on any premises in a manner which does not constitute a lure, attraction or enticement of wildlife on property within the City of Medford, provided that if such storage is determined to be the source of a wildlife feeding problem, the resident or person responsible for the premises will be required to take steps to render such storage area inaccessible to wildlife and the area near the storage be kept free from such debris. If any wildlife continues to gain access to a storage area, the condition allowing access must be corrected or the stored material removed within 48 hours.

C. Stray or feral cats

- a. No person shall feed any feral or stray cats, with the following exceptions.
- b. This section shall not apply to any persons registered as a Feral Cat Caretaker per Ch. 6, Article III, Sec. 6-110; nor is this section intended to in any way interfere with the work of duly registered Feral Cat Caretakers.
- c. This section shall not apply to persons feeding feral or stray cats with the express purpose of adopting and domesticating said cat(s) within fourteen (14) days of the initial feeding by said persons, in accordance with M.G.L. c 140, Sec. 145B, having them vaccinated against rabies within ninety (90) days or upon said cat(s) reaching the age of six (6) months, whichever last occurs.

Commented [DB2]: I recommend defining bird feeder in the section above. Something akin to: Bird feeder shall mean any apparatus designed for the feeding of song birds, and not fowl, that is equipped with attachments and catchments that prevent access to any food, seed, nuts, and dried fruit by any other wildlife.

Commented [DB3]: You may wish to similarly define "pets" above. For example, where do feral cats or stray cats fall? Consider whether you want to specifically address cats, such as:

No person shall feed any feral or stray cat. This section shall not apply to persons feeding feral or stray cats with the express purpose of adopting and domesticating said cat(s) within fourteen (14) days of the initial feeding by said persons and, in accordance with M.G.L. c. 140, § 145B, having them vaccinated against rabies within ninety (90) days or upon said cat(s) reaching the age of six (6) months, whichever last occurs.

- d. Feeding of feral and stray cats by registered Feral Cat Caretakers for periods longer than fourteen (14) days prior to domestication may be permitted at the discretion of the Animal Control Officer.

D. Enforcement and Penalties

- a. The Animal Control Officer, Health Director, Sanitarians, and Code Enforcement Officers are authorized to administer and enforce this ordinance.
- b. This ordinance shall be enforced in the manner provided in Section 1-13 of these Ordinances and M.G.L. c. 40, § 21D. Any property owner or tenant who violates any provision of this ordinance shall be subject to the following penalties:
 - i. First offense: Written warning
 - ii. Second offense: \$50.00
 - iii. Third (and each subsequent) offense: \$100.00

E. Effective Date

- a. This ordinance shall become effective immediately upon passage.



Medford City Council
Medford, Massachusetts

MEETING DATE

September 17, 2024

SPONSORED BY

AGENDA ITEM

24-458 - Establish an EV Charging Revolving Fund

FULL TEXT AND DESCRIPTION

Request to Establish a Revolving Fund for Electric Vehicle Charging

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

- I. EstablishEVChargingRevolvingFund_2024.09.10_wEnclosures



**MEDFORD, MASSACHUSETTS
MAYOR BREANNA LUNGO-KOEHN**

August 27, 2024

Via Electronic Delivery

To the Honorable President and
Members of the Medford City Council
Medford City Hall
Medford, MA 02155

RE: Request to Establish a Revolving Fund for Electric Vehicle Charging

Dear President Bears and Members of the City Council,

I respectfully request and recommend that the City Council approve the following amendment to Chapter 2, Article V, Division 4, of the City's Ordinances by adopting the following change:

The table in "Sec. 2-964. – Authorizing revolving funds" shall be amended to include an Electric Vehicle Charging Revolving Fund as per the enclosed table.

Enclosed is a letter from the Director of Planning, Development & Sustainability Alicia Hunt that outlines this request, as well as a memorandum that provides supporting documentation. Finally, I am enclosing a memorandum by Finance Director/Auditor Bob Dickinson that provides the necessary certification pursuant to M.G.L. c. 44, § 53E ½ for establishing a revolving fund in the middle of a fiscal year.

Climate Staff Planner Brenda Pike will be available to speak to this request and answer any questions that you may have.

Thank you for your kind attention to this matter.

Sincerely,


Breanna Lungo-Koehn
Mayor

Enclosures (4)

**85 George P. Hassett Drive, Medford, MA 02155
781-396-5500 * www.medfordma.org**

A	B	C	D	E	F	G
Revolving Fund	Department, Board, Committee, Agency or Officer Authorized to Spend from Fund	Fees, Charges or Other Receipts Credited to Fund	Program or Activity Expenses Payable from Fund	Restrictions or Conditions on Expenses Payable from Fund	Other Reporting Requirements/Reports	Fiscal Years
EV Charging	Department of Planning, Development, and Sustainability	Receipts from City-owned public electric vehicle charging station sessions	Expenses related to City-owned electric vehicle charging stations, to include, but not be limited to, energy, maintenance, and operating costs	Annual expenditures shall not exceed account balances.	Director to prepare an annual report on deposits and expenditures	Fiscal Year 2024 and subsequent years



City of Medford

Office of Development, Planning & Sustainability

City Hall - Room 308
85 George P. Hassett Drive
Medford, Massachusetts 02155

Contact:
(781)393-2480
Fax: (781)393-2342
ocd@medford-ma.gov

August 12, 2024

Mayor Breanna Lungo-Koehn
85 George P Hassett Drive
Medford, MA 02155

The Planning, Development & Sustainability Department is requesting that the City Council establish a revolving fund to be the receipt of the charges generated by City-owned electric vehicle charging station.

M.G.L. c. 44, § 53E ½ the fund shall meet the following specifications:

A) The programs or activities for which the revolving fund may be expended;

The EV Charging revolving fund shall be expended for expenses related to City-owned electric vehicle charging stations. These expenses shall include, but not be limited to, energy, maintenance, and operating costs.

B) The departmental receipts in connection with those programs or activities that shall be credited to the revolving fund;

The EV Charging revolving account shall be established for all receipts from City-owned public electric vehicle charging station sessions.

C) The board, department, or officer authorized to expend from such fund; and

The City of Medford Department of Planning, Development & Sustainability will be the authorized department to initiate expenditure of the EV Charging revolving account funds.

D) any reporting or other requirements the City may impose;

The Director of Planning, Development & Sustainability will prepare an annual report on deposits and expenditures.

I would be happy to answer any of the Council's questions in regard to the creation of this fund. Please feel free to contact me here at City Hall or by email (ahunt@medford-ma.gov).

Thank you,

Alicia Hunt
Director of Planning, Development & Sustainability



City of Medford

Office of Development, Planning & Sustainability

City Hall - Room 308
85 George P. Hassett Drive
Medford, Massachusetts 02155

Contact:
(781)393-2480
Fax: (781)393-2342
ocd@medford-ma.gov

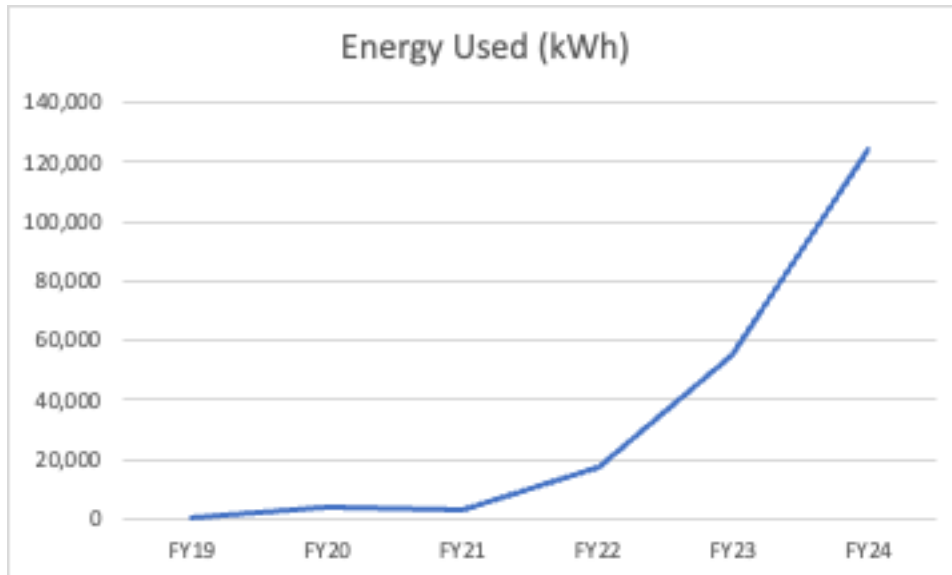
August 12, 2024

Mayor Breanna Lungo-Koehn
85 George P Hassett Drive
Medford, MA 02155

RE: EV Charging Costs

We want to make sure that receipts to the Electric Vehicle Charging revolving fund will cover expenses. Medford's current electric vehicle charging pricing of \$0.25/kWh is not set at a level to cover the current annual operating costs for the stations. Increasing the pricing to \$0.35/kWh is likely to cover the operating costs moving forward, assuming future usage levels increase at a similar rate as they have been. This is a reasonable assumption, since usage has more than doubled every year since 2021.

	Actuals FY23 – 5 installed stations	Actuals FY24 – 13 installed stations	Projection FY25 – 14 installed stations
Energy Used (kWh)	55,297.30	124,740.56	249,481.12
Energy Cost	\$10,953.49	\$29,566.32	\$59,132.64
Network + Maintenance Plans	\$8,070.00	\$17,485.00	\$18,830.00
Total Cost	\$19,023.49	\$47,051.32	\$77,962.64
Received	\$12,476.22	\$28,079.10	\$56,158.20
Difference	\$6,547.27	\$18,972.22	\$21,804.44
Price Increase to Cover Difference	\$0.12	\$0.15	\$0.09



An additional charge could also be included of \$1/hour after the first four hours, to encourage drivers not to leave their cars parked at the station after fully charging, allowing other drivers to use the stations.

Equity considerations

Currently, the average electric vehicle owner has an income of more than \$100,000/year.ⁱ However, to avoid potentially burdening low-income EV drivers with increased costs, the City could set up an income-based EV charging program. Residents could apply and submit documentation of income levels below 80% area median income (AMI). To ease the administrative burden of income verification, proxies could be used, such as Mass Health, Head Start, TAFDC, SNAP, WIC, EAEDC, National School Meal Programs, Veterans’ Service Benefits, or Utility Fuel Assistance.

Because of the current income characteristics of EV drivers, it is anticipated that there would initially be little uptake on this offer, and thus little administrative and operating cost. However, it could be an important safety valve to ensure no harm is done to low-income populations through a price increase.

Comparisons

Level 1 or level 2 charging at home would currently be \$0.31/kWh if residents are enrolled in Medford’s standard Community Electricity Aggregation offering.

Level 2 charging in the area tends to range from free (Watertown) to \$0.35/kWh (Stoneham), with most at \$0.20-\$0.25/kWh (roughly the equivalent of \$2/gallon gas with a Toyota Corolla). Other municipalities with rates at \$0.25/kWh or below have confirmed that their rates are not currently covering their ongoing costs, and Melrose, Arlington, and Somerville have recently increased their rates.

- Stoneham - \$0.35/kWh, plus \$1/hour
- Melrose - \$0.30/kWh, plus \$3/hour after first three hours
- Arlington - \$0.30/kWh
- Somerville - \$0.25/kWh
- Boston - \$0.25/kWh
- Wakefield - \$0.25/kWh
- Reading - \$0.20/kWh
- Cambridge - \$0.19/kWh
- Malden - \$0.18/kWh
- Watertown - free

Level 3 charging in the area tends to be around \$0.42/kWh (roughly the equivalent of \$4/gallon gas with a Toyota Corolla). Because level 3 charging is significantly faster than level 1 or level 2, it's reasonable for drivers to expect to pay more for it.

EV charging choices tend to be geographically based, and the majority of drivers are willing to pay a premium over at-home charging rates to use a public Level 2 charger¹, so it's unlikely that a price increase will reduce usage of Medford's charging stations.

Other considerations

The ChargePoint network and maintenance plans are a fixed annual cost per station, so if station usage continues to increase at the current pace, receipts could outpace operating costs. However, electricity rates are also likely to increase over time. Because of the unpredictability of these factors, rates should be reassessed on an annual basis.

ⁱ "EV Consumer Behavior," Fuels Institute. June 2021. https://www.transportationenergy.org/wp-content/uploads/2022/11/21FI-EVC_ConsumerBehaviorReport_V07-FINAL.pdf



City of Medford
FINANCE DEPARTMENT

City Hall – Room 105
85 George P. Hassett Drive
Medford, MA 02155

Robert D. Dickinson
Finance Director/Auditor

Telephone
(781) 393-2414

TO: Mayor Breanna Lungo-Koehn
FROM: Bob Dickinson, Finance Director/Auditor
DATE: August 12, 2024
RE: Electric Vehicle Charging Revolving Fund

In accordance with M.G.L. c. 44, § 53E ½, which states, in part (**bold emphasis added**):

“...The establishment of any fund shall be made not later than the beginning of the fiscal year in which the fund shall begin. Notwithstanding this section, whenever, **during the course of any fiscal year, any new revenue source becomes available for the establishment of a revolving fund under this section, such a fund may be established in accordance with this section upon certification by the city auditor, town accountant, or other officer having similar duties that the revenue source was not used in computing the most recent tax levy...**”

I hereby certify that the revenue source from the receipts generated by City-owned EV charging stations were not used in computing the most recent tax levy.

Robert D. Dickinson
Finance Director/Auditor
City of Medford, Massachusetts