

22.

A regular meeting of the City Council was held on Monday February 11, 2019 at the Arnone School, 135 Belmont St., auditorium, due to the elevator not working. Councillor Rodrigues presiding. The meeting was called to order at 7:08pm with eleven members present.

Councillor Sullivan asks for a moment silence Bobby Regan who passed away over the weekend. He was a former Brockton High School Principal. Prayers go out to his family.

In City Council, February 11, 2019

- 74** Acceptance of the minutes of the January 28, 2019 City Council meeting.

Accepted and place on file

APPOINTMENTS:

Pursuant to the communication from the Mayor and the communication from the Fire Chief, Councillor Farwell motioned to waive the reading of items **81** and **82** and motioned to postpone and was properly seconded. The motion carried by a hand vote.

- 75** Of Jeffrey Charnell of 685 Oak Street, Unit 12, Brockton, MA from Alternate to Member of the Brockton license Commission for a three year term.

Referred to Finance.

Councillor Sullivan motioned to take items **76-88** collectively excluding items **81-82** and motioned to suspend rules and act on these tonight and was properly seconded. The motion carried by a hand vote.

Councillor Cruise stated that Heather Doten is the first female Firefighter in Brockton.

- 76** Promotion of Firefighter David P. Owen to the rank of Fire Lieutenant in the Brockton Fire Department.
- 77** Promotion of Firefighter James E. Croker to the rank of Fire Lieutenant in the Brockton Fire Department.
- 78** Promotion of Firefighter Robert J. Reiser to the rank of Fire Lieutenant in the Brockton Fire Department.
- 79** Promotion of Firefighter Heather Doten to the rank of Fire Lieutenant in the Brockton Fire Department.
- 80** Promotion of Firefighter Richard S. Gagne to the rank of Fire Lieutenant in the Brockton Fire Department.
- 81** Promotion of Firefighter Benjamin D. Denny to the rank of Fire Lieutenant in the Brockton Fire Department.
- Postponed.
- 82** Promotion of Fire Lieutenant Michael C. McKenna to the rank of Fire Captain in the Brockton Fire Department.
- Postponed.
- 83** Promotion of Fire Lieutenant Christopher J. Martin to the rank of Fire Captain in the Brockton Fire Department.

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APPOINTMENTS (cont'd)

- 84** Promotion of Fire Lieutenant Timothy J. Lacouture to the rank of Fire Captain in the Brockton Fire Department.
- 85** Promotion of Fire Lieutenant Christopher J. Beyers to the rank of Fire Captain in the Brockton Fire Department.
- 86** Promotion of Fire Captain Edward R. Williams to the rank of Deputy Fire Chief in the Brockton Fire Department.
- 87** Promotion of Fire Captain Jeffrey J. Marchetti to the rank of Deputy Fire Chief in the Brockton Fire Department.
- 88** Promotion of Fire Captain Joseph M. Solomon to the rank of Deputy Fire Chief in the Brockton Fire Department.

Confirmed by a roll call vote taken by “yeas’ and “nays”; eleven members present and all voting in the affirmative. Councillor Sullivan motioned to file for reconsideration with the wish that it not prevail and was properly seconded. Reconsideration failed by a hand vote.

Councillor Cruise wanted to note that Heather Doten was the first female appointed to the rank of Fire Lieutenant in the City of Brockton.

Five minute recess was called.

Back in session.

- 89** Re-appointment of Eugene S. Marrow of 128 Healey Terrace, Brockton, MA to the Brockton Redevelopment Authority for a five year term.

Referred to Finance.

REPORT:

- 90** Of the Finance Committee for its meeting of February 4, 2019.

Accepted and place on file

COMMUNICATIONS:

- 91** From the DPW Commissioner requesting that the City Council Transfer the total appropriation in the amount of \$215,000. ; \$200,000 from DPW-Purchase of Services and \$15,000 From DPW-Goods & Supplies to DPW-Overtime (in order to cover the projected overtime expenses and emergencies for the remainder of the year).

Accepted and place on file

- 92** From the Mayor in accordance with M.G.L., Ch. 44, recommending that the City Council authorize the total appropriation of \$215,000.: \$200,000 from DPW-Purchase of Services and \$15,000 From DPW-Goods & Supplies to DPW-Overtime \$215,000 in order to cover the projected overtime expenses and emergencies for the remainder of the year.

Accepted and place on file

- 93** From the CFO in accordance with Section 5 of Ch. 324 of the Acts of 1990, certifying the total proposed appropriation of \$215,000.\$200,000 from DPW-Purchase of Services and \$15,000 From DPW-Goods & Supplies to DPW-Overtime \$215,000.

Accepted and place on file

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COMMUNICATIONS (cont'd)

- 94** From the Brockton Police Chief requesting that the City Council authorize the acceptance and expenditure of the additional grant funds in the amount of \$18,992.10 From Executive Office Public Safety and Security, Office of Grants and Research-FY19 Governor's Safer Communities Initiative Local Law Enforcement Equipment and Technology Grant To City of Brockton Police Department-FY19 Governor's Safer Communities Initiative Local Law Enforcement Equipment and Technology Grant Fund. The grant funds are provided for the Brockton Police to purchase P25 compliant interoperable radios. The BFD will be purchasing nine radio units and five batteries. There is no match required.

Accepted and place on file

- 95** From the Mayor in accordance with M.G.L., Ch. 44, recommending that the City Council authorize the acceptance and expenditure of the additional grant funds in the amount of \$18,992.10 From Executive Office Public Safety and Security, Office of Grants and Research-FY19 Governor's Safer Communities Initiative Local Law Enforcement Equipment and Technology Grant To City of Brockton Police Department-FY19 Governor's Safer Communities Initiative Local Law Enforcement Equipment and Technology Grant Fund. The grant funds are provided for the Brockton Police to purchase P25 compliant interoperable radios. The BFD will be purchasing nine radio units and five batteries. There is no match required.

Accepted and place on file

- 96** From the CFO in accordance with Section 5 of Ch. 324 of the Acts of 1990, certifying the appropriation of additional funds in the amount of \$18,992.10 From Executive Office Public Safety and Security, Office of Grants and Research-FY19 Governor's Safer Communities Initiative Local Law Enforcement Equipment and Technology Grant To City of Brockton Police Department-FY19 Governor's Safer Communities Initiative Local Law Enforcement Equipment and Technology Grant Fund.

Accepted and place on file

Councillor Sullivan steps down

- 107** From the Assistant City Solicitor with regard to the senior citizen discount agreed to as part of the 2018-2028 Comcast Cable Renewal License, Comcast has informed the City that the discount will be implemented no later than March 1, 2019. To obtain the discount, qualified seniors must call Comcast at 800-266-2278 or 888-633-4266 after March 1, and Comcast will send a form to complete. As indicated in the letter Comcast forwarded along with the Cable Renewal License, Comcast will offer a discount equal to \$2.00 per month off Digital Starter or a discount equal to ten percent (10%) off Limited Basic Cable. The discount will be for those persons age sixty-five (65) or older, who are head of household and receiving SSI or Medicaid. Qualifying seniors may be asked to show documentation proving their qualifications. Acceptable documentation would be the following: Proof of Age: Driver's License, Birth Certificate or Passport; Head of Household: Lease, Deed, Town Tax Bill; Receiving SSI or Medicaid benefits under Social Security.

Accepted and place on file

Councillor Sullivan steps back in

UNFINISHED BUSINESS:

- 106** Report of the Planning Board for its meeting of February 5, 2019.

Accepted and placed on file.

25.

UNFINISHED BUSINESS (cont'd)

Council President Rodrigues motioned to accept a late file communication from Legal Counsel and asked that it be read into the minutes and was properly seconded. The motion carried by a hand vote.

109 Re: Marijuana Regulations in the City of Brockton
Dear City Council President and the Brockton City Council:
I wanted to take an opportunity to provide a brief history relative to the Marijuana Regulations developed in the City of Brockton. The City Council, the Ordinance Committee, and myself as Legislative Counsel have been working on these matters for more than a year. Of note, the following accurately recounts some of the history of these matters. At the beginning of 2018, a Resolve was filed by Councilor at Large Win Farwell to commence discussion regarding Marijuana Legislation in the City of Brockton. The Resolve was discussed at the March 19, 2018 Finance Meeting. Thereafter, at the next City Council meeting on March 26, 2018, the following matters were brought before the City Council.

- An Ordinance Amending Chapter 27 of the revised Ordinance of the City of Brockton Concerning The Humanitarian Medical Use Of Marijuana.
- An Ordinance Amending Chapter 27 of the Revised Ordinance of the City of Brockton concerning the regulations and taxation of Marijuana
- Order: Acceptance of M.G.L Chapter 64N, Section 3 Local Option Tax Of Marijuana Products be it ordered by the City Council of the City of Brockton to accept the provisions of Section 3 of Chapter 64N of the General Laws, empowering the City of Brockton to implement a three (3%) tax upon the sale or transfer of marijuana or marijuana products by a marijuana retailer operating within the City of Brockton.
- Order: Medical and Adult use Marijuana Establishments-Host Community Agreements be it ordered by the City Council of the City of Brockton.

Order: Adult use Marijuana Establishments-Licensing and Regulations

The Matter relative to the implementation of a 3% tax was recommended Favorable by the Finance Committee and voted favorable by the City Council on April 9, 2018.

I advised the City Council that a Moratorium on the retail sale of Marijuana in the City of Brockton would be necessary for the vetting and final passage of the Licensing and Zoning Regulations. On April 9, 2018, the City Council passed a Moratorium extending the ban on retail sales through December 31, 2018, or upon final passage of the Licensing and Zoning Regulations, whichever occurred sooner. The Moratorium was later extended through February 28, 2019.

On June 25, 2018, a matter relative to a ballot question for preventing marijuana retail sales was referred to the Finance Committee. This matter subsequently did not receive favorable recommendation.

The Marijuana Licensing Regulations were originally filed as an Order as opposed to Ordinances. I opined that the matter be

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UNFINISHED BUSINESS (cont'd)

filed as an Ordinance instead. Councilors Sullivan and Rodrigues which submitted a new Ordinance to the City Council relative to the Marijuana Licensing Regulations on June 25, 2018 and that referred to the Ordinance Sub Committee.

On July 25, 2018, September 6, 2018, November 7, 2018 and November 20, 2018 the Ordinance Committee met to review the matter relative to Licensing of Marijuana retail establishments.

On July 25, 2018, October 18, 2018, November 7, 2018, November 20, 2018 and December 18, 2018 the Ordinance Committee met to review the matter relative to Zoning of Marijuana retail establishments.

In the interim, months of research and drafting took place to ready the matters for final passage. On November 20, 2018 the Ordinance Committee voted to recommend favorably the Licensing Regulations. That matter was passed to a third reading at the December 10, 2018 City Council Meeting and passed for final passage on December 27, 2018.

At the December 18, 2018 Ordinance Committee meeting the Committee and myself were informed that it was agreed that the Planning Board must take a new vote as their vote had expired and there were substantial amendments to the Zoning Ordinance that the Planning Board had originally reviewed and voted on. We were informed that the Planning Board would review the amended Zoning Ordinance at their January 2019 meeting. I've learned that due to advertising (requirement for Zoning matters) the Planning Board was not able to hear the matter until their February 5, 2019 meeting.

After the December 18, 2018 Ordinance Committee meeting on the Zoning matter, the matter was properly submitted by Councilor Sullivan at the December 27, 2018 City Council Meeting. At that time, the matter was referred to Planning (as required by Massachusetts law). On January 28, 2019, a public hearing was held (as required by Massachusetts law) and the matter was postpone until the

February 11, 2019 meeting as I advised that Massachusetts law requires the Planning Board's vote prior to final passage by the City Council.

Tonight, I will be recommending that the Zoning Ordinance be passed to a third reading, with the final vote being marked on the Agenda for the February 28, 2019 City Council Meeting.

Massachusetts Laws regulate the standards for passage of Zoning matters. This is my recommend to insure adequate advertising of the final passage in the newspaper, as required by law.

The City of Brockton, and with emphasis on the Ordinance Committee, have vigorously vetted the licensing, taxation,

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UNFINISHED BUSINESS (cont'd)

and zoning of the Marijuana matters. As Legislative Counsel, numerous communities have reached out to me for copies of the drafting by the Ordinance Committee to serve as standards in other communities. Representatives from other communities travelled great distances to attend the Ordinance Committee meetings to follow the lead of the Brockton City Council in vetting, licensing, and zoning of Retail Sales.

At all times, the Brockton City Council and the five (5) members of the Ordinance Committee followed MA General Law, abided by the Open Meeting law, and acted under the guidance of legal counsel.

Very Truly Yours,

Shannon D. Resnick, Esq.

Accepted and placed on file

Councillor Sullivan thanked Legal Counsel Attorney Resnick, the Ordinance Committee and Planning Committee and the Chair of Planning for all of their work regarding the marijuana ordinances.

Councillor Cruise asked that the councilors get copies of the communication from legal counsel.

- 210** An Ordinance Amending Chapter 27 of the Revised Ordinance of the City of Brockton concerning the regulations and taxation of Marijuana be it ordained by the City Council of the City of Brockton. Article III. General Regulations and Permitted Modifications, is hereby amended by adding the following Section 27-24.4 Adult use of marijuana. (FAVORABLE AS AMENDED IN ORDINANCE COMMITTEE).(IN CITY COUNCIL, JANUARY 28, 2019, HEARING HELD. POSTPONED TO FEBRUARY 11, 2019 MEETING) (FAVORABLE WITH RECOMMENDATION/PLANNING BOARD)

The Clerk to the Council read the recommendation from the Planning Board.

Passed to a third reading, as amended, by a hand vote.

- 68** Ordered: That the sum of \$7,800,000 is appropriated to pay costs of making improvements to the City's Wastewater Treatment Facilities, including the payment of all planning and engineering costs, and all other costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Mayor, is authorized to borrow said amount under and pursuant to M.G.L. c. 44 and/or M.G.L. c. 29C, or pursuant to any other enabling authority, and to issue bonds or notes of the City therefor; that such bonds or notes shall be general obligations of the City unless the Treasurer with the approval of the Mayor determines that they should be issued as limited obligations and may be secured by local system revenues as defined in M.G.L. c. 29C, §1; that the Treasurer with the approval of the Mayor is authorized to borrow all or a portion of such amount from the Massachusetts Clean Water Trust (the ("Trust") established pursuant to M.G.L. c. 29C and in connection therewith to enter into a financing agreement and/or a security agreement with the Trust and otherwise to contract with the Trust and the Department of Environmental Protection ("DEP") with respect to such loan and for any federal or state aid available for the project or for the financing thereof; and that the Mayor is authorized to enter into a project regulatory agreement with DEP, to expend all funds available for the project and to take any other action necessary to

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UNFINISHED BUSINESS (cont'd)

carry out the project. FURTHER ORDERED: Any premium received by the City upon the sale of any bonds or notes approved by this order, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this order in accordance with M.G.L. c. 44, §20 of the General Laws, Thereby reducing the amount authorized to be borrowed to pay such costs by like amount. FURTHER ORDERED: That the City Treasurer is authorized to file an application with The Commonwealth of Massachusetts' Municipal Finance Oversight Board to qualify under M.G.L. c. 44A of the General Laws any and all bonds or notes of the City authorized by this vote, and to provide such information and execute such documents as the Municipal Finance Oversight Board of The Commonwealth of Massachusetts may require. Each order must be published at least 10 days prior to final passage and requires at least a two-thirds vote of all members of the Council. For each order, a certificate from you as the Chief Financial Officer is required by Section 5 of Chapter 324 of Acts of 1990 and should be filled prior to adoption of the loan order. If you do not give the required certification or if you are unable to make the certification without expressing qualifications or contingencies, the loan order may only be passed by the City Council if the absence of such certification or qualified or contingent nature of such certification is expressly noted in such order. If any funds are to be advanced for these purposes and reimbursed from bond proceeds, please note the requirements of M.G.L. c. 44ss 20A and the guidelines issued by the Director of the Bureau of Accounts. (FAVORABLE)

Councillor Nicastro motioned to send back to Finance for more information and was properly seconded. She stated that she has received calls from her constituents regarding the increase in rates that the CFO had detailed in the communication of January 28, 2019. She is not ready to vote on this. She would like it sent back to Finance to have a representative from CDM Smith to bring additional information regarding what the 5% increase would look like.

Councillor Beauregard stated that she also has concerns and would like to have the engineer explain why it is necessary.

Councillor Derenoncourt feels that they can wait to make decision. He also has reservations. He would like it to be set back to Finance Committee.

Councillor Eaniri stated that the council has already brought it before the Finance Committee and thinks it should move forward and not be nit picking. We need to move forward with it.

Councillor Derenoncourt stepped down.

Councillor Eaniri stated that we haven't had an increase in 8 or 9 years, and eventually it has to go up.

Councillor Lally stated that the CFO and the DPW Commissioner explained the need for the loan order, so he is not comfortable postponing the vote.

Councillor Derenoncourt stepped back in.

Councillor Sullivan stated that if we are going to wait on this, we need to be cautious, as the interest rate may go up and be financially detrimental to the city. They need to be crystal clear moving forward.

Councillor Monahan asked how many more questions can they ask? The sewer rate is another subject that can be taken up down the road and he disagrees with send it back to Finance.

29.

UNFINISHED BUSINESS (cont'd)

Legal Counsel stated that we need to have the permit every year. The information that Councillor Nicaastro is requesting should have been submitted to the councilors already. It should be easily attainable.

Councillor Derenoncourt stated that they are asking for 7 million dollars. It is an important matter and should be postponed to get all relevant information. The new CFO should be able to advise the council, though he is just starting or they can ask Jay Condon for his input.

Councillor Cruise stated that losing Jay Condon is big, but they can't ask Jay to come back as he is not the CFO. They can't do it legally. Mr. Clarkson should be able to direct them.

Councillor Rodrigues states that they need to live within their means and deal with what they have to do even if it is difficult.

The motion to send back to Finance Committee carried by a roll call vote taken by "yeas" and "nays"; eleven members present with six voting in the affirmative. Councillors Asack , Cruise, Eaniri, Lally and Monahan voting in the negative.

Referred to Finance.

Councillor Sullivan asks that Councillor Nicaastro get the invites and the information requested, so her questions can be answered in Finance Committee.

Councillor Asack stepped down.

- 72** Appropriation of the total grant in the amount of \$7,109.69
From: the Board of Health-Massachusetts Association of Health Boards Grant
To: City of Brockton Board of Health-Massachusetts Association of Health Boards Grant Fund.(FAVORABLE)

Adopted by a roll call vote taken by "yeas" and "nays"; ten members present and all voting in the affirmative. Councillor Asack absent.

Councillor Asack stepped back in.

- 73** Appropriation of \$80,000
From: Stabilization Fund
To: Fire Department / Personal Services Non OT. (FAVORABLE)

Adopted by a roll call vote taken by "yeas" and "nays"; eleven members present and all voting in the affirmative. Councillor Sullivan motioned to file for reconsideration with the wish that it not prevail and was properly seconded. Reconsideration failed by a hand vote.

ORDERS:

- 97** Ordered: that the Mayor and/or Real Estate Custodian be authorized to accept on behalf of the City of Brockton a parcel of land containing approximately 0.11 acres, located at and known as Plot 66, 243 Green Street, more particularly described as Parcel Identification Number 051-081.

Referred to Real Estate

- 98** Ordered: That the Mayor and/or Treasurer/Collector be authorized to execute any and all documents necessary to convey the property located and known as Plot Number 31, 115 Newbury Street, Parcel ID: 053-061 to Melisa Gillings, 10 Ellsworth Street, Brockton, MA 02301 for the purchase price of One Thousand Three Hundred Dollars (\$1,300). Said

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ORDERS (cont'd)

property to be sold under the Abutter Lot Program and to be sold with a permanent non-buildable restriction. Said property shall also merge with abutting lot of the purchaser.

Referred to Real Estate

- 99** Total appropriation in the amount of \$215,000
\$200,000 From: DPW-Purchase of Services
\$15,000 From: DPW-Goods & Supplies
To: DPW-Overtime

Referred to Finance.

- 100** Appropriation of the total grant funds in the amount of \$18,992.10
From: Executive Office Public Safety and Security, Office of Grants and Research-FY19 Governor's Safer Communities Initiative Local Law Enforcement Equipment and Technology Grant
To: City of Brockton Police Department-FY19 Governor's Safer Communities Initiative Local Law Enforcement Equipment and Technology Grant Fund.

Councillor Cruise motioned to move under suspension of rules due to time frame and was properly seconded. The motion carried by a hand vote. Adopted by a roll call vote taken by "yeas and "nays"; eleven members present and all voting in the affirmative. Councillor Cruise motioned to file for reconsideration with the wish that it not prevail and was properly seconded. Reconsideration failed by a hand vote.

Councillor Cruise stated Brockton Police Captain was there to answer questions if needed.

Councillor Farwell motioned to take #'s **101-105** collectively seeing they were all referred to Finance Committee and was properly seconded. The motion carried by a hand vote.

- 101** Resolve: to invite Rob May, Director of Planning, to inform the city council as to what is transpiring with the Ganley Building since we were told over a year ago that we would be seeing a demolition and new structure in place. Businesses located in the same city block have expressed serious concerns.
- 102** Resolve: to invite Rob May, Director of Planning, to inform the city council as to what is transpiring with the Historic Commission since the Ordinance Committee of 2018 had voted to create such an entity to protect our historic locations throughout the city. I wish to bring this before council since the primary advocate for our city's history Carl Landerholm is no longer with us and I believe we should continue his work.
- 103** Resolve: to invite Philip Nessralla, City Solicitor to inform the city council as to what is transpiring with the Lopes Case and other discrimination cases brought forth against the city.
- 104** Resolve: to invite Dan Evans, current chair of the Brockton 21st Century Corporation to inform the city council as to what is transpiring with this organization since the departure of the executive director late in 2018.
- 105** Resolve: to invite the new Chief Financial Officer to come before a committee of this council to enlighten us on any changes that may be made in the operation of the CFO's Office.

Referred to Finance

31.
LATE FILE

Councillor Sullivan asked Councillor Beauregard if they could add to request for someone from Historic Commission to attend for item # **102**.

Councillor Beauregard agreed.

Councillor Farwell motioned to accept a late file and was properly seconded. The motion carried by a hand vote.

- 108** Ordered: 1. The City Solicitor or his designee shall appear before a committee of the City Council to provide all relevant information on the city's criteria and process for review and approval of Host Community Agreements.
2. Copies of all Host Community Agreements approved by the mayor prior to the date of this Order be provided to the City Clerk for distribution to the City Council.
3. For Host Community Agreements approved by the mayor or any other proper person or entity after the date of this Order, a copy of the agreement(s) shall be forwarded to the City Clerk within seven (7) days of approval. All agreements shall be made available for inspection in the Office of the City Clerk by any person, with proper notice at least twenty-four (24) hours in advance of such inspection.

Referred to Finance.

Councillor Beauregard takes a moment of personal privilege to state that no tax returns will be done at the library, due to the holiday. Also, remember to call Comcast to get your discounts.

Councillor Asack takes a moment of personal privilege to publicly thank the DPW Commissioner and the team of workers, who repaired the water main break on Main St. She also thanked the Mayor for keeping the Council up to date with the progress.

Councillor Lally takes a moment of personal privilege to thank the Mayor and the DPW Commissioner for resolving the water main break matters. He also wishes his mother a Happy Birthday.

Councillor Sullivan takes a moment of personal privilege to state that the next Ordinance Committee will be held on February 27, 2019 at 6pm at the Arnone School. He also wanted to wish his son Tommy, a Happy 12th Birthday and his wife Maria, Happy Birthday.

Councillor Eaniri takes a moment of personal privilege to state that the next Public Safety Committee meeting will be held on February 13, 2019 at 5:30pm at the City hall, in the basement.

Councillor Sullivan takes a moment of personal privilege to state that Carlene, who works the sound equipment for the City meetings, will be having a baby due in July.

Adjourned at 8:21pm

All items on agenda are available in their entirety for review in the City Clerk's Office for all interested parties.

All council business as listed on the agenda have been emailed to the City Council members in their complete form, with exception of oversized material, such as maps, photos, etc.