

CITY OF LYNN

Regular City Council Meeting, September 28, 2010 Council President Timothy Phelan Presiding

9 Councillors Present (Councillor Cahill and Councillor Trahant absent).

Moment of Silence.

Pledge of Allegiance

Council President Phelan stated that Councillor Trahant would not be at the meeting as he was recovering from surgery and Councillor Cahill called to say a family matter came up and he would not be at the meeting.

Motion made by Councillor Lozzi and seconded by Councillor Colucci to accept the Meeting Minutes of September 7, 2010 and September 21, 2010.

Motion carried.

COMMUNICATIONS:

Communication from Her Honor the Mayor:

Dear Councilors:

I am hereby appointing Laurence Donahue to Associate Commissioner at the Department of Public Works. Mr. Donahue's term is effective immediately and will expire on September 24, 2013. Sincerely, Judith Flanagan Kennedy, Mayor

Motion made by Councillor Colucci and seconded by Councillor Ford to suspend the rules to appoint Laurence Donahue to Associate Commissioner at the Department of Public Works, effective immediately and will expire on September 24, 2013.

Motion carried by the following yea and nay vote:

9 YES 0 NO (Councillor Cahill and Councillor Trahant absent).

Communication from Her Honor the Mayor:

Dear Councilors:

As of September 9, 2010, I designate Daniel Small, 103 Euclid Avenue, Lynn, MA to perform the duties of Tree Warden for the City of Lynn on a temporary basis until such time as a permanent appointment may be made pursuant to the terms of the Lynn City Charter and Massachusetts General Laws. I certify that said person is competent to perform the duties which will be required and that I make this designation solely in the interests of the City of Lynn. Thank you for your attention to this matter. Very truly yours, Judith Flanagan Kennedy, Mayor

Motion made by Councillor Lozzi and seconded by Councillor Colucci to accept.

Motion carried by the following yea and nay vote:

9 YES 0 NO (Councillor Cahill and Councillor Trahant absent).

Communication from Richard Fortucci, City Treasurer:

Dear Councilors:

The City of Lynn has foreclosed on the following properties:

15-19 South Street, Unit 19-2 - owner: Julienne Muteba

Lot 010 Strawberry Avenue – owner: Peter Osazuwa

321 Essex Street – owner: Tina Siphon

15-17 Rockingham Street – owner: Ana Carrion

Please adjust your records accordingly.

Richard J. Fortucci, City Treasurer

Motion made by Councillor Crowley and seconded by Councillor Cyr to accept for the files.

Motion carried.

Communication from James P. Lamanna, Law Department:

Dear Council President Phelan:

Enclosed please find a Disclosure of Financial Interest Pursuant to Massachusetts General Laws Chapter 268A, 20(b) for Henry Ryan and Andrew Young. Please be advised that Henry Ryan is employed as a custodian with the Department of Inspectional Services. Earlier this summer, the Department of Community Development sought quotations for persons to serve as a promoter for events at the City of Lynn Auditorium. Mr. Ryan had previously worked as a promoter prior to commencing employment with the City of Lynn. Mr. Ryan was ultimately selected over the other individuals who had submitted proposals. Mr. Young is a Building Inspector for the City of Lynn and also performs snow plowing for the Department of Public Works. This office has contacted the State Ethic's Commission to seek a ruling whether any Ethic's Commission rules, regulations or statutes would prohibit such a contractual relationship. The State Ethic's Commission states that the Lynn City Council is authorized to exempt an employee from Massachusetts General Laws Chapter 268A provided that the contractor/employee works less than 500 hours pursuant to the separate contract and provided further that the contract complies with the public procurement laws.

Should you have any further questions regarding this matter, please do not hesitate to contact this office. Very truly yours, James P. Lamanna

Motion made by Councillor Crowley and seconded by Councillor Colucci to accept.

Motion carried.

PUBLIC HEARINGS:

Public Hearing on Ordinance Regulating Adult Entertainment in the City of Lynn.

Council President Phelan asked the City Clerk to read into the record the recommendation from the Lynn Planning Board:

Communication from Robert J. Stilian, Chairman, Lynn Planning Board:

Dear Council President Phelan:

At a meeting of the Lynn Planning Board held this evening, the following action was taken in regard to the following proposed Ordinance as it pertains to the Regulations of Adult Entertainment in the City of Lynn.

Motion by David N. Angelli, seconded by Stephen Upton, to recommend to the Lynn City Council that they approve the proposed amendment as it pertains to adult entertainment in the City of Lynn

The motion carried.

Sincerely, Robert J. Stilian, Chairman

The following appeared in Favor:

Attorney Fred Riley, Lynn Restaurant Association

John Olson, Lynn

Chris Border, 25 Exchange Street, Lynn

Joceltn Almy-Testa, Little Gallery Under the Stairs, Lynn

Corey Jackson, Lynn

No one appeared in Opposition:

Public Hearing Closed.

Motion made by Councillor Colucci to grant.

Motion made by Councillor Crighton to amend as follows:

Section 3

19. The City Council may, on a case by case basis, issue a special permit for Artistic Stage Performances, Artistic Expression Shows, or other similar events of like kind which are not in conflict or inconsistent with the overall nature, intent or purpose of this ordinance.

Motion made by Councillor Crighton and seconded by Councillor Colucci to approve.

Motion carried by the following yea and nay vote:

8 YES 1 NO (Councillor Cyr voting NO; Councillors Cahill and Trahant absent).

Motion made by Councillor Crighton and seconded by Councillor Colucci to amend Section 5 (f) by reducing the fee to \$175.00 to be consistent with the fee currently charged for Special Permits.

Motion carried by the following yea and nay vote:

9 YES 0 NO (Councillor Cahill and Councillor Trahant absent).

Motion carried.

Motion made by Councillor Ford and seconded by Councillor Colucci to approve as amended.

Motion carried by the following yea and nay vote:

9 YES 0 NO (Councillor Cahill and Councillor Trahant absent).

Public Hearing on Ordinance Amending the Zone Ordinance and Zone Map of the City of Lynn (Waterfront)

Council President Phelan asked the City Clerk to read into the records the recommendation from the Lynn Planning Board.

Communication from Robert J. Stilian, Chairman, Lynn Planning Board:

Dear Council President Phelan:

At a meeting of the Lynn Planning Board held this evening, the following action was taken in regard to the following proposed Ordinance as it pertains to the City of Lynn Zone Ordinance and City of Lynn Zone Map Establishment of Districts:

Motion by David N. Angelli, seconded by Stephen Upton, to recommend to the Lynn City Council that they approve the proposed amendments to Section 3 (Waterfront) and Section 3.2.1 as outlined in the legal advertisement dated September 9, 2010.

The motion carried.

Sincerely, Robert J. Stilian, Chairman

The following appeared in Favor:

Warren Sawyer, 50 Lynnway

No one appeared in Opposition.

Motion made by Councillor Crowley and seconded by Councillor Ford to amend by deleting the proposed Section 17.1.13 and inserting the following new section:

17.1.13 SITE PLAN REVIEW: There shall be created a Waterfront Zone Site Plan Review Committee, consisting of Seven (7) members, which is responsible to ensure that all such projects are consistent with the Lynn Waterfront Master Plan which has been adopted and approved by the City of Lynn. Said Waterfront Zone Site Plan Review Committee shall consist of four individuals, appointed by the City Council President, one of whom shall be a member of the local business community and at least two City Council Members. The Committee shall further consist of the Director of the Department of Community Development or the Director of the Economic Industrial Development Corporation of Lynn, the Commissioner of the Department of Public Works and the Director of Housing Authority of the City of Lynn. The Waterfront Zone Site Plan Review Committee shall be responsible for reviewing all Site Plans required under 16.2 for their consistency with the Waterfront Master Plan Report, dated September 2007 prepared by Sasaki in collaboration with ZHA GEI as adopted by the City of Lynn and which is available for inspection at the Department of Inspectional Services and/or the Washington Street Gateway Master Plan dated April 2008 prepared by Sasaki as adopted by the City of Lynn and which is available for inspection at the Department of Inspectional Services and/or the available for inspection at the Department of Inspectional Services and/or the Municipal Harbor Plan as approved by the Secretary of the Executive Office of Energy and Environmental Affairs in June, 2010 and which is available for Inspection at the Department of Inspectional Services.

Motion carried by the following yea and nay vote:

9 YES 0 NO (Councillor Cahill and Councillor Trahan absent).

Motion made by Councillor Crowley and seconded by Councillor Lozzi to grant as amended.

Motion carried by the following yea and nay vote;

9 YES 0 NO (Councillor Cahill and Councillor Trahan absent).

Public Hearing relative to a burnt, dilapidated or dangerous building or other structure located at 394-396 Eastern Avenue and after hearing, may make record an order adjudging it to be a nuisance to the neighborhood or dangerous and prescribing to its disposition, alteration, or regulation all as authorized by Massachusetts General Laws, Chapter 139, Section 1.

No one appeared in Favor.

No one appeared in Opposition.

Public Hearing Closed.

Motion made by Councillor Cyr and seconded by Councillor Colucci to grant.

Motion carried by the following yea and nay vote:

9 YES 0 NO (Councillor Cahill and Councillor Trahant absent at vote).

Public Hearing relative to a burnt, dilapidated or dangerous building or other structure located at 29 Grant Street and after hearing, may make record an order adjudging it to be a nuisance to the neighborhood or dangerous and prescribing to its disposition, alteration, or regulation all as authorized by Massachusetts General Laws, Chapter 139, Section 1.

No one appeared in Favor.

No one appeared in Opposition.

Public Hearing Closed.

Motion made by Councillor Cyr and seconded by Councillor Crowley to TABLE.

Motion carried by the following yea and nay vote:

9 YES 0 NO (Councillor Cahill and Councillor Trahant absent).

Petition of RCM Food Service, Ruben Ramos, for permission for Food Service Establishment/Caterer business at 20 Wheeler Street.

The following appeared in Favor:

Ruben Ramos, Owner

No one appeared in Opposition.

Public Hearing Closed.

Motion made by Councillor Capano to grant the prayer of the Petitioner with the stipulation that the petitioner obtain all proper permits and licenses necessary from the City of Lynn.

Motion carried by the following yea and nay vote:

9 YES 0 NO (Councillor Cahill and Councillor Trahant absent).

Petition of Lighttower Fiber Networks, Dean Foster, for permission to install approximately 348' of single 4: Schedule 40 PVC, concrete encased communication and cable underground, running at a depth of 20" from Pole 60-1 Essex Street, west to Baldwin Street, south on Baldwin Street then turning north on the south side of the

asphalt parking lot to intercept the existing hand hole located at 424 Essex Street and installation of a single 4" x 10' galvanized steel riser on Pole 60-1 Essex Street.

On one appeared in Favor.

No one appeared in Opposition.

Public Hearing Closed.

Motion made by Councillor Colucci and seconded by Councillor Crowley to TABLE.

Motion carried by the following yea and nay vote:

9 YES 0 NO (Councillor Cahill and Councillor Trahant absent).

Petition of Joan Bonia, Bonia Motors, for change of location for 2nd Class Dealer's License from 1069A Western Avenue to 1071 Western Avenue.

No one appeared in Favor.

No one appeared in Opposition.

Public Hearing Closed.

Motion made by Councillor Capano and seconded by Councillor Cyr to grant the prayer of the Petitioner with the stipulation that no vehicles be parked on any adjacent property or in the Cap's parking lot.

Motion carried by the following yea and nay vote:

9 YES 0 NO (Councillor Cahill and Councillor Trahant absent).

Petition of Zachary Andrews for permission for a Lesser Use – Apartment House in Light Industrial District at 70 Granite Street.

The following appeared in Favor:

Attorney Sam Vitali

No one appeared in Opposition.

Public Hearing Closed.

Motion made by Councillor Crighton to TABLE.

Motion carried by the following yea and nay vote:

9 YES 0 NO (Councillor Cahill and Councillor Trahant absent).

PUBLIC HEARINGS TO BE SET DOWN FOR OCTOBER 19, 2010:

-Petition of The Dry Cleaner by Val, Val DePPerrio, for permission to install washers & dryers to clean, wash and fold (retail) at 170 Liberty Street. (Crighton)

-Petition of Osborne Pharmacy, William Booras, for permission for more than the number of signs allowed at 59 Essex Street. (Cyr)

-Petition of A. J. Auto Sales, Alfred Scibelli, for permission for a sign permit at 232 Western Avenue. (Trahan)

Motion made by Councillor Colucci and seconded by Councillor Cyr to set down for Public Hearings.

Motion carried.

UNFINISHED BUSINESS:

Finance Meeting of September 7, 2010:

Ordered that the City Comptroller be and is hereby authorized to make the following appropriation transfers:

From the Account of Incidental Expense:

To the Account of Unpaid Bills of Prior Years: \$1,440.00

Motion made by Councillor Colucci and seconded by Councillor Lozzi to grant.

From the Account of the City Clerk Expense:

To the Account of Unpaid Bills of Prior Years: \$222.89

Motion made by Councillor Colucci and seconded by Councillor Lozzi to grant.

From the Account of Collector's Expense:

To the Account of Unpaid Bills of Prior Years: \$125.00

Motion made by Councillor Colucci and seconded by Councillor Lozzi to grant.

From the Account of Treasurer's Expense

To the Account of Unpaid Bills of Prior Years: \$1,700.00

Motion made by Councillor Colucci and seconded by Councillor Lozzi to grant.

From the Account of Fire Department Expense:

To the Account of Unpaid Bills of Prior Years: \$390.27

Motion made by Councillor Colucci and seconded by Councillor Lozzi to grant.

COMMITTEE REPORTS:

Report of the September 28, 2010 Committee on Minor Licenses recommending the following to be accepted:

TAXI OPERATORS (NEW)

Adeyemi, Babtunde, 95 Neptune St. Lynn #1- **Granted**

Hodgdon, Christopher A.-8 Summer St. Pl. #2 90 day review tabled 9/7/10 - **TABLED**

Jacinthe, Jean Jacques, 76 Park St. #18 tabled 9/7/10- **Granted**

O'Keefe, Frank, 135 Nichols St. Everett, Ma- **Granted**

Yerow, Abdirashid, 97 Washington St. - **Granted**

SIGN LICENSE – RENEW

549 Boston Street, Dynasty Fashion- **Granted**

159 Broad Street, Congress Auto Insurance- **Granted**

778 Summer Street, Vito's Pizzeria- **Granted**

SIGN LICENSE- RENEW

(Council request for Business Owners to attend meeting)

99 Essex St., Essex Market Enterprises *(request by Counc. Cyr)* - **TABLED**

151 Central Ave., Kevin's Bar & Grille *(no payment on tax title)* – **Granted to December**

DOOR TO DOOR SALES – NEW

401 Main St., Brockton, MA, Verizon - **DENIED**

SIGN LICENSE- RENEW

99 Essex St., Essex Market Enterprises ***(Request by D. Cyr to have Business owner attend)*** - **TABLED**

CLASS I AUTO DEALER

522 Lynnway, Kelly Honda-540 Lynnway -extend existing license to include 522

Lynnway - **Granted**

CLASS II AUTO DEALER TRANSFER OF OWNERSHIP

592-596 Lynnway - Island Auto Sales- **Granted**

AUTO REPAIR- FLAMMABLE RENEWAL

Duran Auto Repair – 106 Chestnut St. (reapplied 9/15/10, property owner owes taxes) - **Granted**

FLAMMABLE RENEWAL

47 Alley St. – Jim Appleyard Bonded Storage, Inc. - **Granted**

COIN OPERATED DEVICES – RENEWAL

90 High Rock St. – Lynn Post 507 – 2 Class II, 1 Class III- **Granted**

155 Lewis St. – J.D.'s – 1 Class III - **Granted**

130 Union St. – Brava Night Club – 2 Class II- **Granted**

714 Washington St. – Sand Bar – 1 Class III- **Granted**

858 Western Ave. – Player's Sports Bar - 2 Class II, 2 Class III- **Granted**

COIN OPERATED VENDOR RENEWAL

American Amusements, 42 Cherry St. Danvers, MA- **Granted**

CANNING:

Knights of Pythias (Adults Only) – October 17, 2010 and November 14, 2010- **Granted**

Lynn English Volleyball (Adults Only) – October 12, 13, 19, & 20, 2010- **Granted**

REPORT ACCEPTED.

Report of the September 28, 2010 Committee on Public Property recommending the following to be accepted:

Ordered that the owner, Beverly Sverka, of the property at 300 Lynn Shore Drive, Unit 307 be allowed to redeem the property with the stipulation that all taxes, fines, and fees be paid immediately and that documentation pertaining to the liens against the property

be received and approved by the Law Department, no later than 12:00 noon on Friday, October 1, 2010.

Councillor Colucci attached the following Emergency Preamble:

WHEREAS, A Special Emergency exists involving the peace, health and safety of the people or their property in the City of Lynn.

WHEREAS, An Emergency relative to an Order that the owner, Beverly Sverka, of the property at 300 Lynn Shore Drive, Unit 307 be allowed to redeem the property with the stipulation that all taxes, fines, and fees be paid immediately and that documentation pertaining to the liens against the property be received and approved by the Law Department, no later than 12:00 noon on Friday, October 1, 2010.

THEREFORE BE IT VOTED BY THE LYNN CITY COUNCIL THAT THE FOREGOING CONSTITUTES AN EMERGENCY.

Emergency Preamble was adopted by the following yea and nay vote:

9 YES 0 NO (Councillor Cahill and Councillor Trahan absent).

Emergency Order was then adopted by the following yea and nay vote:

9 YES 0 NO (Councillor Cahill and Councillor Trahan absent).

Ordered that the owner, Arthur Costonis, Trustee, Tails Realty Trust, of the property at 9 Chancery Lane be allowed to redeem the property with the stipulation that all taxes, fines, and fees be paid immediately.- **(Granted – Lays over to October 19, 2010).**

REPORT ACCEPTED.

Report of the September 28, 2010 Committee on Ways and Means recommending the following to be accepted:

Ordered that the City Solicitor send a correspondence to all licensed constables in the City of Lynn regarding their obligations to deposit a percentage of fees earned into the City of Lynn Treasury.

Councillor Lozzi attached the following Emergency Preamble:

WHEREAS, A Special Emergency exists involving the peace, health and safety of the people or their property in the City of Lynn.

WHEREAS, An Emergency relative to an Order that the City Solicitor send a correspondence to all licensed constables in the City of Lynn regarding their obligations to deposit a percentage of fees earned into the City of Lynn Treasury.

THEREFORE BE IT VOTED BY THE LYNN CITY COUNCIL THAT THE FOREGOING CONSTITUTES AN EMERGENCY.

Emergency Preamble was adopted by the following yea and nay vote:

9 YES 0 NO (Councillor Cahill and Councillor Trahan absent).

Emergency Order was then adopted by the following yea and nay vote:

9 YES 0 NO (Councillor Cahill and Councillor Trahan absent).

Ordered that Her Honor the Mayor is authorized to execute all documents necessary relating to a renewal of the City of Lynn Overdose Prevention Grant from the Massachusetts Department of Public Health.

Councillor Lozzi attached the following Emergency Preamble:

WHEREAS, A Special Emergency exists involving the peace, health and safety of the people or their property in the City of Lynn.

WHEREAS, An Emergency relative to an Order that Her Honor the Mayor is authorized to execute all documents necessary relating to a renewal of the City of Lynn Overdose Prevention Grant from the Massachusetts Department of Public Health.

THEREFORE BE IT VOTED BY THE LYNN CITY COUNCIL THAT THE FOREGOING CONSTITUTES AN EMERGENCY.

Emergency Preamble was adopted by the following yea and nay vote:

9 YES 0 NO (Councillor Cahill and Councillor Trahan absent).

Emergency Order was then adopted by the following yea and nay vote:

9 YES 0 NO (Councillor Cahill and Councillor Trahan absent).

Ordered that Her Honor the Mayor is authorized to execute all documents necessary relating to a renewal of the City of Lynn Substance Abuse Prevention Grant from the Massachusetts Department of Public Health.

Councillor Lozzi attached the following Emergency Preamble:

WHEREAS, A Special Emergency exists involving the peace, health and safety of the people or their property in the City of Lynn.

WHEREAS, An Emergency relative to an Order that Her Honor the Mayor is authorized to execute all documents necessary relating to a renewal of the City of Lynn Substance Abuse Prevention Grant from the Massachusetts Department of Public Health.

THEREFORE BE IT VOTED BY THE LYNN CITY COUNCIL THAT THE FOREGOING CONSTITUTES AN EMERGENCY.

Emergency Preamble was adopted by the following yea and nay vote:

9 YES 0 NO (Councillor Cahill and Councillor Trahan absent).

Emergency Order was then adopted by the following yea and nay vote:

9 YES 0 NO (Councillor Cahill and Councillor Trahan absent).

REPORT ACCEPTED.

Report of the September 28, 2010 Committee on Finance recommending the following to be accepted:

Ordered that the City Comptroller is hereby authorized to make the following appropriation transfer from the Account of Parking Meter Receipts the sum of Twenty Eight Thousand Six Hundred Dollars (\$28,600.00) to the Account of Parking Expenses.

Councillor Lozzi attached the following Emergency Preamble:

WHEREAS, A Special Emergency exists involving the peace, health and safety of the people or their property in the City of Lynn.

WHEREAS, An Emergency relative to an Order that the City Comptroller is hereby authorized to make the following appropriation transfer from the Account of

Parking Meter Receipts the sum of Twenty Eight Thousand Six Hundred Dollars (\$28,600.00) to the Account of Parking Expenses.

THEREFORE BE IT VOTED BY THE LYNN CITY COUNCIL THAT THE FOREGOING CONSTITUTES AN EMERGENCY.

Emergency Preamble was adopted by the following yea and nay vote:

9 YES 0 NO (Councillor Cahill and Councillor Trahant absent).

Emergency Order was then adopted by the following yea and nay vote:

9 YES 0 NO (Councillor Cahill and Councillor Trahant absent).

Ordered that funds from the DPH MassCall 2 Prevention Grand Fund, awarded to the City of Lynn be approved as an available fund.

Councillor Lozzi attached the following Emergency Preamble:

WHEREAS, A Special Emergency exists involving the peace, health and safety of the people or their property in the City of Lynn.

WHEREAS, An Emergency relative to an Order that funds from the DPH MassCall 2 Prevention Grand Fund, awarded to the City of Lynn be approved as an available fund.

THEREFORE BE IT VOTED BY THE LYNN CITY COUNCIL THAT THE FOREGOING CONSTITUTES AN EMERGENCY.

Emergency Preamble was adopted by the following yea and nay vote:

9 YES 0 NO (Councillor Cahill and Councillor Trahant absent).

Emergency Order was then adopted by the following yea and nay vote:

9 YES 0 NO (Councillor Cahill and Councillor Trahant absent).

NEW BUSINESS:

Motion made by Councillor Crowley and seconded by Councillor Lozzi to reappoint the following 10 individuals to the Pine Grove Cemetery Commission on a temporary basis until November 30, 2010:

Anthony Capano, Arthur Dulong, Daniel Horgan, James Barr, Jay Fink, Walter Proodian, Richard Fortucci, Harold Samuelson, David Travers and Albert Waldron.

Motion carried by the following yea and nay vote:

9 YES 0 NO (Councillor Cahill and Councillor Trahant absent).

Motion made by Councillor Colucci and seconded by Councillor Lozzi to affirm and accept all votes taken in the past by the Pine Grove Cemetery Commission.

Motion carried by the following yea and nay vote:

9 YES 0 NO (Councillor Cahill and Councillor Trahant absent).

Motion made by Councillor Crowley and seconded by Councillor Crighton to adjourn.

Notice of this meeting was posted in the City Clerk's Office at least forty-eight (48) hours in advance.

A True Copy Attest:

CITY CLERK