

CITY OF LYNN**Regular City Council Meeting, September 7, 2010
Council President Timothy Phelan Presiding**

11 Councillors Present
Moment of Silence.
Pledge of Allegiance

Motion made by Councillor Colucci and seconded by Councillor Cahill to accept the Meeting Minutes of July 13, 2010, July 20, 2010 and August 10, 2010.

Motion carried.

COMMUNICATIONS:**Communication from Her Honor the Mayor:**

Dear Councilors: I am hereby reappointing Mr. Steven Babbitt to the Lynn Parks Commission. Mr. Babbitt's term is effective immediately and will expire on May 4, 2015. Sincerely, Judith Flanagan Kennedy, Mayor.

Motion made by Councillor Colucci and seconded by Councillor Crowley to suspend the rules to reappoint Steven Babbitt to the Lynn Parks Commission, effective immediately and will expire May 4, 2015.

Motion carried by the following yea and nay vote:

11 YES 0 NO

Communication from Brendan P. Crighton, Ward Five Councillor:

Dear Council President Phelan and Members:

I am writing at this time in regards to the regular City Council meeting of August 10, 2010, which included a Public Hearing for the Home Rule Petition of Gregg LeBlanc. Because of my state employment and my role with the Massachusetts State Senate, I was advised by counsel to abstain from voting on the Home Rule Petition due to a potential conflict of interest. As a result I voted "Present" on the motion to table the matter. Upon further review, it has become evident that Home Rule Petitions are excluded from the state laws relative to conflicts of interest. Section 1 of Chapter 268A of the Massachusetts General Laws exempts "petitions of cities, towns, counties and districts for special laws related to their governmental organizations, powers, duties, finances and property." I am thus able to participate in deliberations of this Home Rule Petition, should it come before the City Council. Thank you in advance for your attention to this matter. Sincerely, Brendan P. Crighton, Councilor Ward Five

Motion made by Councillor Crowley and seconded to Councillor Colucci to accept For the files.

PUBLIC HEARINGS:

Petition of Lewis Laundry, Henry Nguyen, for permission for a Laundromat service at 219B Lewis Street.

The following appeared in Favor:

Ted Ball, Crown Drug, Lynn

Mr. Joseph, Contractor

The following appeared in Opposition

Resident, 4 Chestnut Street

Letter from Laureen MacBradaigh submitted.

Public Hearing Closed.

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

Motion carried by the following yea and nay vote:

10 YES 0 NO (Councillor Crighton absent at vote).

Petition of Higher Ground Sports & Fitness, Neil Liston, for permission for a Personal Training Center in a Light Industrial Zone at 161 Eastern Avenue.

The following appeared in Favor

John Miller, Lynn

No one appeared in Opposition.

Public Hearing Closed.

Motion made by Councillor Trahant and seconded by Councillor Ford to Grant the prayer of the Petitioner.

Motion carried by the following yea and nay vote:

9 YES 0 NO (Councillor Crighton and Councillor Cyr absent at vote).

Petition of National Grid, Greg Spinale, for permission to install 5' +/- of secondary conduit for new lighting at Memorial Park, Memorial Park Avenue.

The following appeared in Favor:

Greg Spinale, National Grid

No one appeared in Opposition.

Public Hearing Closed.

Motion made by Councillor Trahant and seconded by Councillor Cyr to grant the prayer of the Petitioner with the stipulation that the City Clerk be notified of the date and time when the work will be begin and when it will be completed.

Motion carried by the following yea and nay vote:

11 YES 0 NO

Petition of National Grid, Paul McGrath, for permission to replace existing regulating vault at 57-59 President Street, with new vault to be located on Lexington Street, approximately 60 ft. down from President Street.

The following appeared in Favor:

Paul McGrath

Chris Casey

The following appeared in Opposition:

Richard Batezel, 94 Lexington Street, Lynn

Public Hearing Closed.

Motion made by Councillor Trahant and seconded by Councillor Cahill to grant the prayer of the Petitioner.

Motion carried by the following yea and nay vote:

10 YES 1 NO (Councillor Duffy voting NO).

Petition of National Grid, Paul McGrath, for permission to install 100' of 2: plastic gas main in Curwin Terrace from Curwin Circle.

The following appeared in Favor:

Paul McGrath, National Grid stated that he would like to withdraw this petition as the work has been re-routed a different way.

No one appeared in Opposition.

Motion made by Councillor Ford and seconded by Councillor Duffy to TABLE.

Motion carried by the following yea and nay vote:

10 YES 1 NO (Councillor Colucci voting NO).

Petition of Boston St. Car Wash, Jeffrey Carroll, for permission for a sign permit at 75 Boston Street.

The following appeared in Favor:

Jeffrey Carroll

No one appeared in Opposition.

Public Hearing Closed.

Motion made by Councillor Crighton and seconded by Councillor Trahant to grant the prayer of the Petitioner with the stipulation that sign be dimmed between the hours of 9:00 p.m. and 7:00 a.m.

Motion carried by the following yea and nay vote:

11 YES 0 NO

PUBLIC HEARINGS TO BE SET DOWN FOR PUBLIC HEARINGS:

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

-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. (Colucci)

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

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

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

Motion carried.

UNFINISHED BUSINESS:

Finance Committee Meeting of August 10, 2010:

Ordered that the City Comptroller be and is hereby authorized to make the following Appropriation Transfers:

From the Account of Fire Dept. Expense:

To the Account of Assistance to Firefighters Expense: \$11,588.61

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

Motion carried by the following ye and nay vote:

11 YES 0 NO

From the Account of Fire Dept. Expense:

To the Account of Unpaid Bills of Prior Year: \$266.00

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

Motion carried by the following ye and nay vote:

11 YES 0 NO

From the Account of Fire Dept. Expense:

To the Account of Unpaid Bills of Prior Year: \$163.00

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

Motion carried by the following ye and nay vote:

11 YES 0 NO

From the Account of Fire Dept. Expense:

To the Account of Assistance to Firefighters Expense: \$692.23

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

Motion carried by the following ye and nay vote:

11 YES 0 NO

From the Account of Fire Dept. Expense

To the Account of Emergency Management Expense: \$1,099.00

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

Motion carried by the following ye and nay vote:

11 YES 0 NO

Ordered that the sum of \$15,724.75 derived from a contract between the Commonwealth Corporation and the North Shore Workforce Investment Board be designated as an available fund for the Youth Works Jobs Program in the City of Lynn.

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

Motion carried by the following yea and nay vote:

11 YES 0 NO

Ordinance Committee Meeting of August 17, 2010:

A Proposed Ordinance Regulating Adult Entertainment in the City of Lynn and An Ordinance Amending the City of Lynn Zone Ordinance and City of Lynn Zone Map (Waterfront) – **Set Down for Public Hearings.**

Motion made by Councillor Cyr and seconded by Councillor Crowley to set down for Public Hearing.

Motion carried by the following yea and nay vote:

11 YES 0 NO

Motion made by Councillor Crowley and seconded by Councillor Lozzi to remove from the table the Ordinance Pertaining to Vicious Dogs and Animal Regulations in the City of Lynn.

Motion carried by the following yea and nay vote:

11 YES 0 NO

Motion made by Councillor Crowley and seconded by Councillor Lozzi to amend as follows:

Section 8:00: Exceptions

- c. Training Certification. No Pit Bull that has successfully completed a dog or K-9 training program which specifically includes anti-aggressiveness training, from a facility or instructor possessing a nationally accredited certification in dog training, shall be subject to wear a muzzle pursuant to this ordinance, unless said dog is otherwise deemed a danger by the City. The Owner or Keeper must produce written evidence of the dog's successful completion of said program at the time of registration or licensing, or upon completion of the program, to the City Clerk, Animal Control Officer, and the Lynn Police Department, which shall retain said information in its records. Failure to provide this certification shall be conclusively deemed as if the dog has not completed any training. This exception is not applicable to any Pit Bull that is not licensed by the City of Lynn even if they have completed training as outlined herein.**

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

Motion carried by the following yea and nay vote:

10 YES 1 NO (Councillor Cyr voting NO).

Council President Phelan passed the gavel to Vice-President Ford.

Motion made by Council President Phelan and seconded by Councillor Trahan to remove from the table the Home Rule Petition Pertaining to Greg LeBlanc.

Motion carried by the following ye and nay vote:

11 YES 0 NO

Voted to petition the General Court to the end that legislation be adopted precisely as follows. The General Court may make clerical or editorial changes of form only to the bill, unless the City Council and the Mayor approve amendments to the bill before enactment by the General Court. The City Council and the Mayor are hereby authorized to approve amendments, which shall be within the scope of the general public objectives of this petition.

SECTION 1. Notwithstanding the provisions of section 91A of chapter 32 of the General Laws or any other general or special law or rule to the contrary, the accidental disability retirement allowance payable to Gregory LeBlanc, a retired police officer of the City of Lynn who, as a result of injuries sustained by him while in the performance of his duties while responding to a felony, is totally and permanently disabled from further service as a police officer, shall be adjusted as follows. Officer LeBlanc was critically injured and required multiple emergency surgeries. The foregoing adjustments to the accidental disability retirement pensions are further justified based upon other unique circumstantial factors.

SECTION 2. Notwithstanding Section 8 of Chapter 32 of the General laws, upon the approval of an accidental disability retirement, Gregory LeBlanc shall not have his retirement allowance subject to modification as a result of earnings from alterative employment; provided however, that he shall be required to submit earning reports to the public employee retirement administration pursuant to section 91A of section 32 of the General Laws. Gregory LeBlanc shall be subject to the limitation of earnings formula as set forth in section 91A of chapter 32, with the ability to earn the amount described in said section 91A plus an additional thirty-eight (38%) of the regular compensation which would have been payable to him if he had continued in the service in the grade held by him at the time he retired. If he earns in excess of these allowable amounts, the public employee retirement administration shall inform him of the excess amount earned and the amount owed by him to the retirement board of the City of Lynn. The retirement administration shall, in its discretion, require repayment of that amount to the retirement board or may withhold amounts as it considers appropriate from future allowable payments until the amounts owed to the retirement board have been paid in full.

SECTION 3. The retirement allowances payable pursuant to this act shall remain subject to all other provisions of chapter 32 of the General Laws as if they had been granted as accidental disability retirement benefits in the normal course of events pursuant to chapter 32, except to the extent that said chapter 32 conflicts with this act.

SECTION 4. This act shall take full effect upon its acceptance by the Mayor and the City Council, but not otherwise.

Motion made by Council President Phelan and seconded by Councillor Trahan to grant as amended.

Motion carried by the following yea and nay vote:

9 YES 2 NO (Councillor Cahill and Councillor Crighton voting NO).

Motion made by Councillor Colucci and seconded by Councillor Capano to remove from the Table the Petition of Clear Wireless, LLC, Tower Resource Management, James George, for permission to install a wireless antenna and related equipment on the roof of a building at 285 Lynn Shore Drive and to grant the prayer of the Petitioner with the stipulation that the antenna blend in with the façade of the building.

Motion carried by the following yea and nay vote:

11 YES 0 NO

COMMITTEE REPORTS:

Report of the September 7, 2010 Committee on Public Property recommending the following to be accepted:

Request to redeem property at 300 Lynn Shore Drive, Unit 307. – **Tabled**

Request to allow the Lynn Lion's Club to hang a banner during the month of October for their annual fundraiser. – **Granted**

REPORT ACCEPTED.

Report of the September 7, 2010 Committee on Licenses recommending the following to be accepted:

TAXI OPERATORS (NEW)

Alexis, Pierre Moise, 30 Moulton St.- **Granted**

DeJesus, Feliciano, 5 Belvidere Pl.- **Granted**

Flaherty, Frank, 188 Washington St.-30 day review tabled 8/10/10- **Withdrawn**

Garcia, Brian, 8 Lewis St. #1.- **Granted**

Garcia, Leovigildo, 144 Williams Ave. 60 day review- **Tabled**

Gilliard, Carrie, 69A Hollingsworth St.- **Granted**

Hodgdon, Christopher A.-8 Summer St. Pl. #2 90 day review - **Tabled**

Jacinte, Jean Jacques, 76 Park St. #18- **Tabled**

Jimenez, Rafael, 15 Grove St. #3 tabled 8/10/10 - **DENIED**

Khun, Mao, 14 Wardwell Place 30 day review.- **Granted**

Lavrentios, James H. 20 Neptune Blvd #512.- **Granted w/30-60-90 Day Review**

Nunez, Nelson, 20 Sagamore St. .- **Granted**

Sandler, Mark, 30 Sculpin Way, Swampscott-90 day review.- **Granted**

Tavarez, Jose, 5 Belvidere Pl tabled 8/10/10.- **Granted w/30-60-90 Day Review**

LIVERY OPERATORS (NEW)

Gilliard, Carrie, 69A Hollingsworth St. .- **Granted**

Gilroy, Daniel M. 244 Euclid Ave. .- **Granted**

Heard, Nicole, 10 Pleasant St. tabled 8/10/10.- **Granted**

Lavrentios, James H. 20 Neptune Blvd #512.- **Granted w/30-60-90 Day Review**

TAXI COMPLAINT

Letter from a concerned citizen regarding the cab service in the city of Lynn. –

Committee members requested to receive a copy for their review.

SIGN LICENSE – RENEW

208 Essex St., Palace Auto Music.- **Granted**

391a Essex Street, Hair Plus.- **Granted**

90 Munroe St., Gold Block Associates.- **Granted**

57 North Common St., Desi's.- **Granted**

108 Union St., Mike Neloms Okikukia .- **Granted**

341 Western Ave., Dr. Joseph Dowling.- **Granted**

844 Western Ave., Gonzalez Refrigeration (no show last meeting) paid in full - **Granted**

SIGN LICENSE- RENEW

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

RENEW OLD GOLD & SILVER LICENSE

810 LYNNWAY, MARCELINO JEWELRY.- **Granted**

AUTO BODY,AUTO REPAIR, FLAMMABLE (NEW)

1069 Western Ave. – Protech Autobody & Performance.- **Granted**

AUTO REPAIR, FLAMMABLE, (RENEWAL)

15 Alley St. – Crystal Diamond Auto Body (**tabled from Aug. 10, 2010 meeting problems with CORI**) - **Tabled**

68R Bennett St. – E and J Auto Repair.- **Granted**

585 Essex St. – Bill Woods Towing Service.- **Granted**

453 Lynnway – George's Expert Auto & Marine.- **Granted**

800 Western Ave. – Valvoline Instant Oil Change.- **Granted**

105 Willow St. – Bill Walsh Auto Repair.- **Granted**

FLAMMABLE, (RENEWAL)

95 Munroe St. – Beden Hardware.- **Granted**

56 Sanderson Ave. – Leahy Landscaping (**tabled from Aug. 10, 2010 meeting**) .- **Granted**

60 DAY REVIEW AUTO REPAIR/FLAMMABLE

119 Essex St. – Jerry's Auto Care, Inc. (**no show at 8/10/10 meeting sent letter to appear at 9/7/10**) .- **Granted for 6 months.**

THE FOLLOWING RENEWALS OWE TAXES:

SIGN LICENSE – RENEW – *Tabled to have Owners Attend meeting:*

151 Central Ave., Kevin's Place (tax title 2008-2009) - **Tabled**

337-339 Union Street, Vecina Beauty Salon (tax title 2009) - **DENIED**

FLAMMABLE, (RENEWAL)

41 Carolyn Rd. - Petruccelli Construction Co.(**owes taxes has letter from F. Cronin**) .- **Granted**

Review and Tabled

77 Alley St. – European Legends (Auto Body/Auto Repair/Flammable) **90 Day review for taxes owed.- Granted**

CANNING:

Lynn Tech Class of 2013 (Adults Only) – November 24, 2010.- **Granted**
REPORT ACCEPTED.

Report of the September 7, 2010 Committee on Ways and Means recommending the following to be accepted:

Recommends that the Lynn City Council be requested to set down a 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. - **Granted**

Recommends that the Lynn City Council be requested to set down a 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. - **Granted**

Recommends that the Law Department research the feasibility of tenants who apply for licenses and/or permits from the City of Lynn pay their rent directly to the City of Lynn to pay for any outstanding tax arrearage of the property owners. - **Granted**
REPORT ACCEPTED.

Report of the September 7, 2010 Committee on Finance recommending the following be accepted:

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

From the Account of Reserve Fund:

To the Account of Unpaid Bills of Prior Years: \$7,600.00

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 a financial transfer from the Account of Reserve Fund to the Account of Unpaid Bills of Prior Year (Personnel) in the amount of \$7,600.00.

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

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

11 YES 0 NO

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

11 YES 0 NO

Ordered that the City Comptroller is hereby authorized to take the following action: Certify as an "Available Fund" from the Executive Office of Public Safety (EOPSS) in the amount of TEN THOUSAND DOLLARS AND ZERO CENTS (\$10,000.00) FOR Child Passenger Safety Equipment (CPS Grant.)

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 City Comptroller is hereby authorized to take the following action: Certify as an "Available Fund" from the Executive Office of Public Safety (EOPSS) in the amount of TEN THOUSAND DOLLARS AND ZERO CENTS (\$10,000.00) FOR Child Passenger Safety Equipment (CPS Grant.)

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

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

11 YES 0 NO

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

11 YES 0 NO

From the Account of Incidental Expense:

To the Account of Unpaid Bills of Prior Years: \$1,440.00
(Lays over to September 28, 2010).

From the Account of the City Clerk Expense:

To the Account of Unpaid Bills of Prior Years: \$222.89
(Lays over to September 28, 2010).

From the Account of Collector's Expense:

To the Account of Unpaid Bills of Prior Years: \$125.00
(Lays over to September 28, 2010).

From the Account of Treasurer's Expense

To the Account of Unpaid Bills of Prior Years: \$1,700.00
(Lays over to September 28, 2010).

From the Account of Fire Department Expense:

To the Account of Unpaid Bills of Prior Years: \$390.27
(Lays over to September 28, 2010).

REPORT ACCEPTED.

NEW BUSINESS:

Motion made by Councillor Cahill and seconded by Councillor Trahan to send a communication to Her Honor the Mayor, asking her to be expeditious in the filling of the position of the Associate Commissioner for the Department of Public Works.

Motion made by Councillor Lozzi and seconded by Councillor Trahan to amend to include the position of the Tree Warden and to request Her Honor the Mayor send an update to the City Council Office when these positions are filled.

Motion carried by the following yea and nay vote:

11 YES 0 NO

Motion made by Councillor Duffy and seconded by Councillor Crowley 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