

CITY OF LYNN

**Regular City Council Meeting, February 12, 2013
Council President Timothy Phelan Presiding**

Eleven Councillors Present

Moment of Silence. Council President Phelan asked the Councillors to remember in their prayers former Council President Dick Coppinger who is recuperating at home from surgery. Councillor Ford asked that Jay Alicudo, Rich Viger, and his wife's Uncle Jack Hogan who recently passed away also be remembered.

Pledge of Allegiance.

Motion made by Councillor Colucci and seconded by Councillor Lozzi to accept the Meeting Minutes of January 8, 2013 and January 22, 2013.

Motion carried.

Motion made by Councillor Lozzi and seconded by Councillor Barton to suspend the rules to present citations to the East Lynn Pop Warner Cheerleaders: Junior Midget Medium Level Three Cheer "2012 National Silver Medalist"; Junior Midget Medium Level One Cheer "2012 National Champions"; and Pee Wee Medium Level One Cheer "2012 National Champions".

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

Re: Medical Marijuana Ordinance

Dear Councilors:

As I indicated to you in my letter of January 18, 2013, I am writing to elaborate on my reasons for vetoing the medical marijuana dispensary ordinance. The overriding principle that I have borne in mind in considering this ordinance is that Massachusetts voters approved the medical use of marijuana by nearly a two-to-one margin (63% to 37%) in the 2012 election. As elected officials, we must respect the clearly expressed views of the public when drafting any such restrictive ordinance.

I further believe that the Council is acting too hastily in promulgating these restrictions when the Department of Public Health has not yet released its initial regulations for implementing the law. Some of these provisions, such as clarification of the "hardship" requirements, the specific locations chosen for the five dispensaries scheduled to open in Essex County, and the quantity of marijuana deemed to constitute a 60-day supply, will

certainly affect the City's decisions on where and under what circumstances a dispensary will be permitted to open.

I also have contacted Attorney Lamanna in order to view a map of the restricted areas contemplated by the proposed ordinance. He has informed me that a medical marijuana map is not yet available, but he has used the sex offender map as a comparable guide, as that ordinance contains similar, although less restrictive, boundary lines.

After reviewing the map and the dispensary ordinance, Attorney Lamanna has come to the conclusion that the practical effect of the ordinance would be to preclude dispensaries throughout the city. I believe that such an outright prohibition would be found to be unconstitutional. But, even if these restrictions were to pass constitutional muster, I suggest that they fly in the face of the expressed preferences of the voters. It is neither mine nor the Council's prerogative to substitute our "better judgment" in place of the judgment of the citizens.

Lastly, I found that the timing of the removal of this agenda item from the table was far from ideal. Although Robert's Rules of Order would not have required to list the intent to revive this discussion on the agenda, common courtesy and the tenets of a transparent government would have clearly indicated that some notice to the public would have been proper. There was no deadline or other emergency that necessitated the discussion of the dispensary ordinance at the Council meeting of January 8, 2013. Likewise, the fact that the discussion took place during Councilor Capano's absence (arguably the Councilor whose ward is most likely to be affected by this ordinance's passage), shows a lack of courtesy, at best, and outright disrespect, at worst, toward the Councilor. He should have been given notice and an opportunity to be heard on this matter.

For the foregoing reasons, I respectfully request that your Honorable Body uphold my veto of the medical marijuana dispensary ordinance. Sincerely, Judith Flanagan Kennedy, Mayor, City of Lynn

Motion made by Councillor Trahant and seconded by Councillor Cyr to Override the VETO.

Motion carried by the following yea and nay vote:

8 YES 3 NO (Councillors Cahill, Capano and Crighton voting NO).

PUBLIC HEARINGS:

Petition of Tony's Pub & Grill, 196 Franklin Street, Ottavio Bolognese, for a permission for a sign permit.

No one appeared in Favor.

No one appeared in Opposition.

Public Hearing Closed.

Motion made by Councillor Crighton and seconded by Councillor Ford to grant the prayer of the Petitioner.

Motion carried by the following ye and nay vote:

11 YES 0 NO

Petition of National Grid, Jason Dwyer, for permission to install approximately 10' of 2-4" PVC conduit from MH20 to property line of 219-229 Lewis Street.

The following appeared in Favor:

Mike Gardena, National Grid

No one appeared in Opposition.

Public Hearing Closed.

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

Motion carried by the following ye and nay vote:

11 YES 0 NO

Petition of Artic Oil, Scott Finlay, for permission for fuel storage with flammable license at 172-176 Boston Street.

The following appeared in Favor:

Attorney Girdelli with Owner

No one appeared in Opposition.

Public Hearing Closed.

Motion made by Councillor Crighton and seconded by Councillor Colucci to grant the prayer of the Petitioner.

Motion carried by the following ye and nay vote:

11 YES 0 NO

Petition of Artic Oil/Ferrari Landscaping, Scott Finlay, for permission for a Contractor Storage yard (landscaping and oil delivery dispatch business) at 172-176 Boston Street.

The following appeared in Favor:

Attorney Girdelli with Owner

No one appeared in Opposition.

Public Hearing Closed.

Motion made by Councillor Crighton and seconded by Councillor Colucci to grant the prayer of the Petitioner.

Motion carried by the following ye and nay vote:

11 YES 0 NO

Petition of 223-227 Union Street Realty Trust, Omar Guerrero, for permission to construct a 6 unit apartment house with 2 retail stores on the ground floor at 223-227 Union Street.

No one appeared in Favor.

No one appeared in Opposition.

Public Hearing Closed.

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

Motion carried by the following ye and nay vote:

11 YES 0 NO

Petition of Enzo's Pizzeria & Italian Specialties, Gunes Murphy, for permission for a Pizzeria, take out only at 129 Oxford Street.

The following appeared in Favor:

Gunes Murphy, Owner

No one appeared in Opposition.

Public Hearing Closed.

Motion made by Councillor Crighton and seconded by Councillor Colucci to grant the prayer of the Petitioner.

Motion carried by the following ye and nay vote:

11 YES 0 NO

Petition of Tony Tipico, Inc., Osvaldo Salcedo, for permission for a sign permit at 268-272 Essex Street.

No one appeared in Favor.

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 ye and nay vote:

11 YES 0 NO

PUBLIC HEARINGS TO BE SET DOWN:

-Petition of James Mitchell, Tropic Star Development, LLC, for permission to allow a retail use in a Light Industrial Zone at 47, 55, 65 Boston Street. (Lozzi)

-Petition of City Enterprises, Inc., P. Anthony Raccuia, for permission for a Laundromat at 597 Essex Street. Hours of operation 6 a.m. to 11:59 p.m. (Crighton)

-Petition of 133 Eastern Real Estate, Paul F. Gallo, for permission to allow apartment house use in Light Industrial Zone at 133 Eastern Avenue. (Cyr)

-Petition of El Quetzal, Arthur Garza, for permission for an eat in and take out Restaurant with approximately 24 Seats with hours of operation 7 am to 10 pm 7 days a week.
(Colucci)

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

Motion carried.

COMMITTEE MEETINGS:

Report of the February 12, 2013 Committee on Public Safety recommending the following to be accepted:

1. Discussion with Police Chief regarding an Amendment to an Ordinance:
BARTON/An Amendment to the Ordinance Regulating Public Safety Within Convenience Stores in the City of Lynn. **(Motion to refer to the Ordinance Committee for discussion).**
REPORT ACCEPTED.

Report of the February 12, 2013 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 13 Lander 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).**

REPORT ACCEPTED.

Report of the February 12, 2013 Committee on Ordinance recommending the following to be accepted:

1. Discussion re: CAPANO/PHELAN An Ordinance Amending Portion of the Zone Map of the City of Lynn and Zone Ordinance of the City of Lynn (Waterhill/Federal Streets)

Councillor Cyr 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 to set down a Public Hearing before the full City Council on the proposed Ordinance Amending a Portion of the Zone Map of the city of Lynn and Zone Ordinance of the City of Lynn (Waterhill/Federal Streets).

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:

11 YES 0 NO

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

11 YES 0 NO

2. Discussion re: An Ordinance Amending the Ordinance Consolidating the Election Department with the City Clerk's Office. **(Granted to set down for Public Hearing)**

3. Discussion re: An Ordinance Establishing a Dog Park in the City of Lynn and Regulating the Use of the Dog Park. **(Granted to set down for Public Hearing)**

REPORT ACCEPTED.

Report of the February 12, 2013 Committee on Personnel recommending the following to be accepted:

Discussion re: Request from ISD Director

re: One Permanent Full-Time Sanitarian / Health Division – **Granted**

REPORT ACCEPTED.

Report of the February 12, 2013 Committee on Minor Licenses recommending the following to be accepted:

TAXI OPERATORS (NEW)

Ehiabhi, Moses M. 10 Safford St. – **Granted w/30-60-90 Day Review**

Lambert, George G., 50 Green St - **Granted**

Roselien, Daniel, 116 Johnson St. - **Granted**

TAXI OPERATORS- 30 DAY REVIEW

Crawford, David, 27 Cook St. - **Tabled**

Doucette, Justin, 126 Eastern Ave. - **Granted**

LIVERY OPERATORS -30 DAY REVIEW

Caissie, Justin , 18 Rantoul Ave.- **Tabled**

Sanon, Samuel, 199 Allen Ave. - **Tabled**

Severino, Brailin, 8 Duke St. #2- **Granted**

SECOND HAND-RENEWAL

323 Broadway, Broadway Antiques- **Granted**

SECOND HAND ARTICLE – NEW155 Chestnut St., De todo Y Mas- **Granted**270 Lynnway, R & B Imports, LTD- **Granted**810 Lynnway, We Buy Gold 24 – **Tabled (Requested by LPD)****OLD GOLD & SILVER – NEW**810 Lynnway, We Buy Gold 24 – **Tabled (Requested by LPD)****CLASS II AUTO DEALER, AUTO REPAIR/FLAMMABLE LICENSE/RENEWAL**75 Boston St. – Boston St. Auto Sales- **Granted****COIN OPERATED DEVICES VENDOR –NEW**Phoung Nguyen – 5 Felmont Ave. Saugus, MA - **DENIED****COIN OPERATED DEVICES – NEW**7-9 Market Sq. – Bright Start Laundromat – 2 Class III (Coin Pusher Machines) - **DENIED**17 Market Sq. – People’s Choice – 1 Class III (Coin Push Machine-NOT in Ordinance)- **DENIED****CANNING:**Lynn Band Boosters (Adults Only) – March 29, 30, 31, 2013- **Granted**Knights of Columbus (Adults Only) – October 11-14, 2013- **Granted**Item Santa/Salvation Army Santa’s Island (Adults Only) – Month of December 2013- **Granted****OTHER BUSINESS:****REPORT ACCEPTED.****Report of the February 12, 2013 Committee on Public Property recommending the following to be accepted:**

1. Discussion re: Request to redeem property at 29 Parrott Street.

(Tabled at January 8th Meeting – Update on Finances for Repairs) – **TABLED**
REPORT ACCEPTED.**Report of the February 12, 2013 Committee on Finance recommending the following to be accepted:**

Ordered that the City Comptroller be authorized to take the following action:

Certify as an “Available Fund” the amount of TWO MILLION ONE HUNDRED SEVENTY FOUR THOUSAND NINE HUNDRED TWENTY TWO DOLLARS AND ZERO CENTS

(\$2,174,922.00) as allotted to the City of Lynn School Department by the Massachusetts Department of Education (DOE). These funds are designated for the SPED 94-142 Allocation Grant. Grant Period is 9/18/12 to 8/31/13.

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 Order to Certify as an "Available Fund" the amount of TWO MILLION ONE HUNDRED SEVENTY FOUR THOUSAND NINE HUNDRED TWENTY TWO DOLLARS AND ZERO CENTS (\$2,174,922.00) as allotted to the City of Lynn School Department by the Massachusetts Department of Education (DOE). These funds are designated for the SPED 94-142 Allocation Grant. Grant Period is 9/18/12 to 8/31/13.

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:

11 YES 0 NO

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

11 YES 0 NO

Transfer the sum of ONE HUNDRED TWENTY FIVE DOLLARS AND ZERO CENTS (\$125.00) from the Account of Collector's Expense to the Account of Unpaid Bills of Prior Years.

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 Collector's Expense to the Account of Unpaid Bills of Prior Years in the amount of \$125.00.

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:

11 YES 0 NO

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

11 YES 0 NO

Transfer the sum of TWENTY FOUR THOUSAND SEVEN HUNDRED FIFTY DOLLARS AND ZERO CENTS (\$24,750.00) from the Reserve Account to the Account of ISD Maintenance Expense.

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 Reserve Account to the Account of ISD Maintenance Expense in the amount of \$24,750.00.

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:

11 YES 0 NO

Emergency Order was then adopted by the following yea and nay vote:
11 YES 0 NO

Motion made by Councillor Colucci and seconded by Councillor Cyr to adjourn.
Motion carried.

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