CITY OF LYNN

Regular City Council Meeting, May 8, 2012
Council President Timothy Phelan Presiding

Eleven Councillors Present
Moment of Silence.
Pledge of Allegiance.

COMMUNICATIONS:

Communication from Her Honor the Mayor:
Dear Councilors:
I am hereby appointing Ms. Linda Carbone, 196 Locust Street, Unit 705, to the Lynn Municipal Finance Corporation to replace expired member James McLaughlin. Ms. Carbone’s term is effective immediately and will expire on September 1, 2014.
Sincerely, Judith Flanagan Kennedy, Mayor

Motion made by Councillor Colucci and seconded by Councillor Trahant to suspend the rules to appoint Linda Carbone, 196 Locust Street to the Lynn Municipal Finance Corporation effective immediately and will expire on September 1, 2014.
Motion carried by the following yea and nay vote:
11 YES 0 NO

Motion made by Councillor Crighton and seconded by Councillor Lozzi to suspend the rules and invite Mr. Wig Zamore (representing the Athanas family) to update the Council on the Anthony’s Hawthorne Property.

PUBLIC HEARINGS:

Petition of Neighborhood Development Associates, Inc., Oliver Toomey, Clerk, for permission for allow the construction of four single family dwellings in a business district (Lesser use) at Summer and Morris Street.
The following spoke in Favor:
Ted Smith, NDA
No one spoke in Opposition.
Public Hearing Closed.

Motion made by Councillor Ford and seconded by Councillor Capano to grant the prayer of the Petitioner.
Motion carried by the following yea and nay vote:
11 YES 0 NO
An Ordinance Proposed Recodifying the City of Lynn Zone Ordinance.
Motion made by Councillor Cyr and second by Councillor Ford to Grant.
Motion carried by the following yea and nay vote:
11 YES  0 NO
(FINAL VOTE LAYS OVER TO MAY 22, 2012).

Petition of Seattle Lobster Company, Colin Reid, for permission for the packing of live lobster for shipment out of Logan Airport at 271 Western Avenue (211c).
The following appeared in Favor:
Colin Reid, Owner
No one spoke in Opposition.
Public Hearing Closed.
Motion made by Councillor Lozzi and seconded by Councillor Cahill to grant the prayer of the Petition with the stipulations that removal of any and all collateral refuse and materials in the process of delivery and packing daily, and that refrigeration van not be stored overnight.
Motion carried by the following yea and nay vote:
11 YES  0 NO

Petition of Lynn Auditorium, James Marsh, Community Development, for permission for Wine & Malt Beverage License at 3 City Hall Square.
The following appeared in Favor:
Jaime Marsh, OECD Director
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.
Motion carried by the following yea and nay vote:
11 YES  0 NO

Petition of B&J Auto Center, Cesar Felix Vidal, for permission for auto repair w/Flammables at 22-28 Oakville Street from 8 a.m – 8 p.m..
The following appeared in Favor:
Pat McGrath, Lynn
No one appeared in Opposition.
Public Hearing Closed.
Motion made by Councillor Capano and seconded by Councillor Colucci to grant the prayer of the Petitioner with the stipulations that the hours are 8:00 a.m. to 6:00 p.m., no work to be conducted on street and sidewalk, and that no customer cars be parked on street or sidewalk.
Motion carried by the following yea and nay vote:
11 YES  0 NO
Petition of Fiesta Shows, Eugene J. Dean, for permission for a Carnival Fundraiser for 4th of July Fireworks at Keaney Park @ Lynn English on Fri-July 6 through Sun July 8, with set up on July 5, 2012.
No one appeared in Favor.
No one appeared in Opposition.
Public Hearing Closed.
**Motion made by Councillor Trahant and seconded by Councillor Colucci to grant the prayer of the Petitioner.**
**Motion carried by the following yea and nay vote:**
11 YES 0 NO

Petition of Lynnway Auto Sales, Richard Aswad, Trustee, for permission for Sales Room for Motor Vehicles and Auto Repair/Body Shop with Flammable at 461 Broad Street & Pleasant Street.
The following appeared in Favor:
Attorney Richard Cuffe
Richard Asward, Owner
Calvin Anderson, Lynn
No one appeared in Opposition.
Public Hearing Closed.
**Motion made by Councillor Capano and seconded by Councillor Colucci to grant the prayer of the Petitioner.**
**Motion carried by the following yea and nay vote:**
10 YES 0 NO (Councillor Ford absent at vote).

Petition of Lynnway Auto Exchange, LLC James Lamb, George Russo, Robert Brest, for permission for a Class II Dealers License to sell second hand motor vehicles with auto repair and flammables at 270 South Common Street.
The following appeared in Favor:
Attorney Tiffany Rowe
The following appeared in Opposition:
An Abutter with father Joseph Tansey, 274 South Common Street (Submitted a Petition in Opposition for the record).
Ray Smith, 20 South Street, Lynn
Rose Sharples, 26 Hobson Street, Lynn
Public Hearing Closed.
**Motion made by Councillor Capano and seconded by Councillor Lozzi to TABLE.**
**Motion carried by the following yea and nay vote:**
11 YES 0 NO
Petition of Tacos Martinez, Rafael Martinez for a Catering Truck to be parked in lot only at 810 Lynnway. (Building 19)
No one appeared in Favor.
No one appeared in Opposition.
Public Hearing Closed.
**Motion made by Councillor Capano and seconded by Councillor Cyr to DENY**
**Motion carried by the following yea and nay vote:**
11 YES  0 NO

Petition of Albert Kemperle, Inc., Brian Gear, for permission for a sign permit at 1073R Western Avenue.
The following appeared in Favor:
Brian Gear
No one appeared in Opposition.
Public Hearing Closed.
**Motion made by Councillor Capano and seconded by Councillor Colucci to grant the prayer of the Petitioner.**
**Motion carried by the following yea and nay vote:**
11 YES  0 NO

**UNFINISHED BUSINESS:**

**Ways & Means Committee Meeting of April 24, 2012:**

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.

**AN ACT AUTHORIZING THE CITY OF LYNN TO ESTABLISH A PROGRAM FOR ENFORCEMENT AGAINST ILLEGAL DUMPING**

**SECTION 1.**
Notwithstanding any general or special law or rule or regulation to the contrary, it shall be unlawful for any person in the city of Lynn, directly or indirectly, to dump, place, throw, deposit or discharge any refuse, rubbish, garbage, household goods, appliances or furniture, construction debris, landscaping debris, scrap, trash or other material of any kind on any way, public or private, appearing on the official map of the City of Lynn, or within 20 yards thereof or on any land owned or controlled by the city.
SECTION 2. Notwithstanding any general or special law or rule or regulation to the contrary, it shall be unlawful for any person owning, in whole or in part, directly or indirectly, any real property, including ownership of any right to pass and repass on a private way in the city of Lynn upon which any refuse, rubbish, garbage, household goods, appliances or furniture, construction debris, landscaping debris, scrap, trash or other material of any kind has been dumped, placed, thrown, deposited or discharged to fail to remove such material within 7 calendar days of receipt of a written notice from a police officer, code inspector or other officer or employee of the city of Lynn duly authorized by ordinance or order of the mayor to remove and lawfully dispose of such material.

SECTION 3. The City of Lynn may enforce section 1 by issuing a citation with the penalty as described in Section 5 or prosecuting criminal or civil actions in the housing court, superior court or the district court of Lynn and may enforce section 2 by issuing citation with the penalty as described in Section 5 or prosecuting civil actions in those courts. The City of Lynn Department of Inspectional Services, the Department of Public Works and/or the Lynn Police Department may issue such citations. No action commenced as a criminal action shall be converted to a civil enforcement action except with the consent of the city.

SECTION 4. A person convicted of a violation of section 1 shall be punished by a fine of not less than $5,000 nor more than $10,000 or by imprisonment in the house of correction for not more than 7 days or by both such fine and imprisonment.

SECTION 5. A person found responsible in a civil action for a violation of section 1 or 2 shall be required to pay a civil penalty of 3 times the amount, up to a maximum of $5,000, estimated or actually paid by the city to remove the dumped material from the property. The court may also issue other orders and injunctions to remedy the circumstances of each case.

SECTION 6. All fines and penalties collected for violations of this act shall be paid to the city of Lynn. Notwithstanding section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, the city shall establish and maintain a Disposal Enforcement Fund into which all such payments shall be deposited. The city treasurer may invest funds in the fund in the manner authorized by sections 55 and 55B of said chapter 44 and any interest earned on the fund shall be credited to and become part of the account. The city shall appropriate and expend amounts from the account to finance the enforcement of this act, removing improperly deposited material from the property subject to this act and financing programs and personnel involved in the collection and lawful disposal of unwanted household goods generated by residents of the city.

SECTION 7. This act shall take effect upon its passage.

Motion made by Councillor Lozzi and seconded by Councillor Trahant to grant.
Motion carried by the following yea and nay vote:
10 YES  0 NO  (Councilor Capano absent at vote).

Discussion:

Nextera – Council Recommendation
Motion made by Councillor Cahill and seconded by Councillor Trahant to authorize the Mayor to enter into negotiations with NextEra for the purpose of a municipal aggregation agreement.
Motion carried by the following yea and nay vote:
10 YES  0 NO  (Councillor Capano absent at vote).

COMMITTEE REPORTS:

Report of the May 8, 2012 Committee on Audit recommending the following to be accepted:
1. Introduction of New Comptroller, Stephen Spencer
2. Review and Update from FY’11
3. Review and Approve Audit Proposal for FY’12
4. Discuss Overall Financial Footprint of FY’12 and FY’13
5. Discussion re: Future Agendas
6. OTHER BUSINESS
Motion made By Councillor Capano and seconded by Councillor Ford to recommend approval of FY’2010 Audit Report. Motion carried
Motion made by Councillor Ford and seconded by Councillor Capano to recommend that Her Honor the Mayor execute the proposal for the Annual Audit for FY’2012.
REPORT ACCEPTED.

Report of the May 8, 2012 Committee on Minor Licenses recommending the following to be accepted:
TAXI OPERATORS (NEW)
Colucci, Michael, 18 Countryside Lane, Marblehead, Ma - Tabled
DeLaCruz, Manuel, 90 Kirtland St. - Granted
Georgakellis, Dimitrios, 10 Franklin Ave. Revere - DENED
Sacco, Michael, 39 Cottage St. Lynn-90 day review- Granted
PUBLIC HEARING-COMPLAINT-TAXI OPERATOR
Bingham, Joseph T. Sr., 58 Broad St. #2 tabled 4/24/12 – Granted w/30-60-90 Review
LIVERY OPERATORS (NEW)
Colucci, Michael, 18 Countryside Lane, Marblehead - Tabled
Contreras, Joel, 28 Lynnfield St- Granted
EXTENDED HOURS-P.H. TO BE SET DOWN FOR JUNE 12, 2012
Wendy’s, 377 Lynnway 24 Hours- Granted
PUBLIC HEARING EXTENDED HOURS
Paaastelitos, 112 Union St.—7:00 a.m.-2:00 a.m 7 days- Tabled
SIGN LICENSE- RENEWAL
115 Commercial St., Pollo Royal Restaurant- Granted
SECOND HAND ARTICLE - NEW
800-810 Lynnway, Miguel Shipping- Granted
COIN OPERATED AMUSEMENT DEVICES, (NEW)
649 Lynnway – Peke 3 Inc. dba Northern Nights – 1 Class II
AUTO BODY/AUTO REPAIR/FLAMMABLE (RENEWAL)
18B Alley St. – Caribbean Auto Body- Granted
22 Bennett St. – Munoz Auto Body and Repair- Granted
10 Camden St. – Iacor Corp. dba Thibedeau Auto Body- Granted
148 Fayette St. – Mike’s Auto Repair and Body- Granted
9 Green St. – Legere’s Auto Body- Granted
122 Boston St – S and H Auto Service REVIEW 30-60-90- Granted
AUTO REPAIR/FLAMMABLE (RENEWAL)
17B Rear Alley St. – Magic Auto Repair- Granted
36-38 Alley St. – McGinn Bus Company, Inc. - Granted
606 Rear Boston St. – Barry Park Foreign & Domestic Car Service- Granted
805 Boston St. – A.G. Inc. dba Town Line Service- Granted
16 Chestnut St. – Ed & Vin’s Garage of Lynn, Inc. - Granted
503R Chestnut St. – A.J.’s Auto Service- Granted
129 Commercial St. – Ernesto Auto Repair Corp. - Granted
159 Commercial St. – Advance Auto Repair- Granted
99R Cottage St. – Mark A. King, LLC- Granted
109 Lynnway – R & R American- Granted
FLAMMABLE (RENEWAL)
86 Bennett St. – Seacrest Foods International, Inc. - Granted
255 Blossom St. – National Grid- Granted
122 Boston St. – Nouria Energy- Granted
180 Boston St. – Global- Granted
419-423 Boston St. – A.L. Prime Energy Consultant, Inc. - Granted
134 Broadway – Catholic Cemetery Association- Granted
512 Chestnut St. – Global #2450- Granted
653 Eastern Ave. – Global- Granted
84-86 Lynnway – Lynn Yacht Club, Inc. - Granted
330 Lynnway – Garelick Farms Lynn- Granted
535 Lynnway – Nouria Energy- Granted
617 Lynnway – New Angle Glass, Co. - Granted
626 Lynnway – Garelick Farms Lynn- Granted
52 Oakville St. – Mennino Construction Co., Inc. - Granted
Raddin St. Ext. – Walsh’s Oil Co. - Granted
Report of the May 8, 2012 Committee on Ordinance recommending the following to be accepted:

PUBLIC HEARING:

1. City of Lynn – Zone Ordinance – Granted

DISCUSSION:

2. A Proposed Ordinance Amending the City of Lynn Zone Ordinance to Include FloodPlain Districts. – Set Down for Public Hearing in Council.

3. OTHER BUSINESS:

REPORT ACCEPTED.

Report of the May 8, 2012 Committee on Finance recommending the following to be accepted:

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

From the Account of ISD Payroll Expense:
To the Account of ISD Expense: $110,000.00

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 ISD Payroll Expense to the Account of ISD Expense in the amount of $110,000.00.
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
From the Account of ISD Payroll Expense:  
To the Account of Street Light Expense: $55,000.00

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 Excess Workers Compensation to the Account of Workers Compensation ISD Payroll Expense to the Account of Street Light Expense in the amount of $55,000.00.  
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

Ordered that the City of Lynn will transfer the amount of fifty-nine thousand dollars ($59,000) from its budget for the purpose of paying costs of a feasibility study for roof replacement on the Lynn Vocational Technical Institute, located at 80 Neptune Blvd. including the payment of all costs incidental or related thereto, and for which the City of Lynn, may be eligible for a grant from the MSBA, said amount to be expended under the direction of the School Building Committee. The City of Lynn, acknowledges that the MSBA’s grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any costs the City of Lynn incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the City of Lynn, and that the amount of borrowing authorized pursuant to this vote shall be reduced by any grant amount set forth in the Feasibility Study Agreement that may be executed between the City of Lynn and the MSBA.

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 of Lynn will transfer the amount of fifty-nine thousand dollars ($59,000) from its budget for the purpose of paying costs of a feasibility study for roof replacement on the Lynn Vocational Technical Institute, located at 80 Neptune Blvd. including the payment of all costs incidental or related thereto, and for which the City of Lynn, may be eligible for a grant from the MSBA, said amount to be expended under the direction of the School Building Committee. The City of Lynn, acknowledges that the MSBA’s grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any costs the City of Lynn incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the City of Lynn, and that the
amount of borrowing authorized pursuant to this vote shall be reduced by any
grant amount set forth in the Feasibility Study Agreement that may be executed
between the City of Lynn and the MSBA.
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

Ordered that the City of Lynn will transfer the amount of fifty-two thousand dollars
($52,000) from its budget for the purpose of paying costs of a feasibility study for the
replacement of windows for Breed Middle School, located at 90 O’Callaghan Way,
including the payment of all costs incidental or related thereto, and for which the City
of Lynn, may be eligible for a grant from the MSBA, said amount to be expended
under the direction of the School Building Committee. The City of Lynn,
acknowledges that the MSBA’s grant program is a non-entitlement, discretionary
program based on need, as determined by the MSBA, and any costs the City of Lynn
incurs in excess of any grant approved by and received from the MSBA shall be the
sole responsibility of the City of Lynn, and that the amount of borrowing authorized
pursuant to this vote shall be reduced by any grant amount set forth in the Feasibility
Study Agreement that may be executed between the City of Lynn and the MSBA.
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 of Lynn will transfer
the amount of fifty-two thousand dollars ($52,000) from its budget for the
purpose of paying costs of a feasibility study for the replacement
of windows for Breed Middle School, located at 90 O’Callaghan Way, including
the payment of all costs incidental or related thereto, and for which the City
of Lynn, may be eligible for a grant from the MSBA, said amount to be expended
under the direction of the School Building Committee. The City of Lynn,
acknowledges that the MSBA’s grant program is a non-entitlement,
discretionary program based on need, as determined by the MSBA, and any
costs the City of Lynn incurs in excess of any grant approved by and received
from the MSBA shall be the sole responsibility of the City of Lynn, and that the
amount of borrowing authorized pursuant to this vote shall be reduced by any
grant amount set forth in the Feasibility Study Agreement that may be executed
between the City of Lynn and the MSBA.
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

From the Account of Reserve Fund:
To the Account of DPW Payroll: $80,000.00
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 DPW Payroll in the amount of $80,000.00.
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

From the Account of Reserve Fund:
To the Account of Breed Middle School Repairs: $52,000.00
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 Breed Middle School Repairs in the amount of $52,000.00.
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

From the Account of Reserve Fund:
To the Account of LVTI School Repair: $59,000.00
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 LVTI School Repair in the amount of $59,000.00.
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

From the Account of Reserve Fund:
To the Account of DPW Expense: $20,000.00
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 DPW Expense in the amount of $20,000.00.
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

From the Account of Reserve Fund:
To the Account of Fire Department Payroll: $10,000.00
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 Fire Department Payroll in the amount of $10,000.00.
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

Ordered that the City Comptroller be and is hereby authorized to make the following Appropriation Transfers:
From the Account of Fire Department expense:
To the Account of Unpaid Bills Prior Year: $124.84
(Lays over to May 22, 2012)

From the Account of Reserve Fund:
To the Account of Police Department Expense: $45,000.00
(Lays over to May 22, 2012)
From the Account of Reserve Fund:
To the Account of Judgments and Awards: $45,000.00  
(Lays over to May 22, 2012)

From the Account of Reserve Fund:
To the Account of Veterans Benefits: $30,000.00  
(Lays over to May 22, 2012)

From the Account of Veterans Benefits expense:
To the Account of Unpaid Bills Prior Year: $6,416.97  
(Lays over to May 22, 2012)

From the Account of Reserve Fund:
To the Account of City Hall Capital Improvement: $50,000.00  
(Lays over to May 22, 2012)

REPORT ACCEPTED.

Motion made by Councillor Ford and seconded by Councillor Cahill 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