

CITY OF LYNN

**Regular City Council Meeting, January 25, 2011
Council President Timothy Phelan Presiding**

**Eleven Councillors Present
Moment of Silence.
Pledge of Allegiance.**

**Motion made by Councillor Colucci and seconded by Councillor Trahan to accept the Meeting Minutes of January 11, 2011.
Motion carried.**

COMMUNICATIONS:

Communication from Her Honor the Mayor:

Dear Councilors:

I hereby appoint Theresa A. Hurley, 33 South Street, Lynn, Massachusetts, as Chief Librarian of the Lynn Public Library.

With the Lynn City Council's approval, I would request that an Emergency Preamble be approved in order to ensure that her appointment becomes effective on February 1, 2011. This date is critical for the library's certification.

Sincerely, Judith Flanagan Kennedy, Mayor

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 the appointment of Theresa A. Hurley, 33 South Street, Lynn, Massachusetts as Chief Librarian of the Lynn Public Library effective February 1, 2011.

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

Disclosures of Financial Interest:

Darren Cyr, whose brother is a snow plow contractor for the City of Lynn
Richard Colucci for snow plowing services for the City of Lynn.

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

Motion carried (Councillor Cyr and Councillor Colucci abstained).

PUBLIC HEARINGS TO BE SET DOWN FOR FEBRUARY 15, 2011:

Petition of National Grid, Craig Spinale, for permission to install a steel stub pole #26-84 in the public way on Hamilton Avenue, between #98 and #102 Hamilton Avenue.

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

Motion carried.

UNFINISHED BUSINESS:**Finance Committee Report of January 11, 2011:**

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

From the Account of Parking Meter Receipts:

To the Account of Parking Expenses: \$13,600.00

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

Motion carried by the following yea and nay vote:

11 YES 0 NO

From the Account of Reserve Fund:

To the Account of Abandoned Vehicles Expense: \$212.45

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

Motion carried by the following yea and nay vote:

11 YES 0 NO

From the Account of Reserve Fund:

To the Account of Parking Department Expense: \$27,200.00

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

Motion carried by the following yea and nay vote:

11 YES 0 NO

From the Account of Reserve Fund:
 To the Account of Personnel Payroll: \$3,882.00
Motion made by Councillor Crowley and seconded by Councillor Cyr to grant.
Motion carried by the following yea and nay vote:
11 YES 0 NO

From the Account of Reserve Fund:
 To the Account of Library Payroll: \$24,309.06
Motion made by Councillor Crowley and seconded by Councillor Cyr to grant.
Motion carried by the following yea and nay vote:
11 YES 0 NO

From the Account of Fire Department Expense:
 To the Account of Unpaid Bills of Prior Year: \$1,240.87
Motion made by Councillor Crowley and seconded by Councillor Cyr to grant.
Motion carried by the following yea and nay vote:
11 YES 0 NO

Ways & Means Committee Report of January 11, 2011:

Capano/Ordered that the City Solicitor's Office draft a License Agreement permitting Seacrest Foods International to park vehicles at the Ford School Annex on Bennett Street. Said License Agreement shall be revocable at the will of the Lynn School Committee. The terms of said License Agreement shall conform to all conditions mandated by the Lynn School Committee in a prior vote. It is further ordered that Her Honor the Mayor be authorized to execute said License Agreement on behalf of the City of Lynn.
Motion made by Councillor Lozzi and seconded by Councillor Capano to grant.
Motion carried by the following yea and nay vote:
11 YES 0 NO

COMMITTEE REPORTS:

Report of the January 25, 2011 Committee on Minor Licenses recommending the following to be accepted:

TAXI OPERATORS (NEW):

Duran, Miguel, 99 Loughton St. - **Granted**
 Hector, Aubrey, 20 Neptune Blvd - **Granted**
 Hill, Jr. Leslie, 23 King Street - **Granted**
 Nina, Rafael, 46 Hood St. -30 Day Review - **Tabled**

LIVERY OPERATORS-(NEW)Hector, Aubrey, 20 Neptune Blvd- **Granted****SECOND HAND ARTICLE LICENSE (NEW)**366 Broadway, Heart & Soul Boutique- **Granted****CLASS II AUTO DEALER-AUTO BODY- REPAIR, FLAMMABLE-RENEWAL**71-79 Bennett St. – Saugus Auto Craft, Inc. - **Granted****CLASS II AUTO DEALER – AUTO REPAIR, FLAMMABLE – RENEWAL**592-596 Lynnway – Island Auto Sales Corporation- **Granted**1147 Western Ave. – Chino’s Auto Sales and Repair- **Granted****CANNING:**Knights of Columbus Tootsie Roll Drive (Adults Only) – October 7, 8, 9, 10, 2011- **Granted**Item Santa’/ Salvation Army Santa’s Island (Adults Only) – December, 2011. - **Granted**West Lynn American Little League (Adults Only) – May 12,28,29,30, 2011 and June 5, 2011- **Granted****REPORT ACCEPTED.****Report of the January 25, 2011 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 Precinct Payroll:

To the Account of City Clerk Expense: \$14,000.00

(Lays over to February 15, 2011).

From the Account of Reserve Fund:

To the Account of Veteran’s Payroll: \$13,845.48

(Lays over to February 15, 2011).

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

From the Account of the Reserve Fund:

To the Account of GAR Expense: \$ 4,000.00

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 the Reserve Fund to the Account of GAR Expense in the amount of \$4,000.00.****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

REPORT ACCEPTED.

NEW BUSINESS:

PHELAN/Ordered that the Superintendent of Schools be authorized to submit to the Massachusetts School Building Authority a Statement of Interest dated January 26, 2011, for the Pickering Middle School located at 70 Conomo Avenue which describes and explains the following deficiencies and the priority category for which the City of Lynn may be invited to apply to the Massachusetts School Building Authority in the future, for the complete refurbishment both interior and exterior of Pickering. Repairs and updates pertaining to structure, HVAC, electrical, lighting, plumbing, grounds, statutory and handicap accessibility, and hereby further specifically acknowledges that by submitting this Statement of Interest, the Massachusetts School Building Authority in no way guarantees the acceptance or the approval of an application, the awarding of a grant or any other funding commitment from the Massachusetts School Building Authority, or commits the city of Lynn to filing an application for funding with the Massachusetts School Building Authority.

Councillor Crowley 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 Superintendent of Schools be authorized to submit to the Massachusetts School Building Authority a Statement of Interest dated January 26, 2011, for the Pickering Middle School located at 70 Conomo Avenue which describes and explains the following deficiencies and the priority category for which the City of Lynn may be invited to apply to the Massachusetts School Building Authority in the future, for the complete refurbishment both interior and exterior of Pickering. Repairs and updates pertaining to structure, HVAC, electrical, lighting, plumbing, grounds, statutory and handicap accessibility, and hereby further specifically acknowledges that by submitting this Statement of Interest, the Massachusetts School Building Authority in no way guarantees the acceptance or the approval of an application, the awarding of a grant or any other funding commitment from the Massachusetts School Building Authority, or commits the city of Lynn to filing an application for funding with the Massachusetts School Building Authority.

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

TRAHANT/ORDERED that the City Solicitor's Office file any and all legally cognizable claims on behalf of the City of Lynn against the City of Salem and/or the City of Salem Planning Board relative to the approval of the Lowes/Wal-Mart Project on Highland Avenue.

The City Clerk read the following two (2) letters into the record:

Timothy Phelan, Council President

Lynn City Council

Re: Lowes/Walmart – Salem Planning Board

Dear Council President Phelan:

It is the understanding of this office that the Lynn City Council may vote this evening to authorize the Law Department to initiate a legal challenge to the approval by the Salem Planning Board for a project to permit the construction of a Lowes and a Super Walmart on the Lynn/Salem line. This office has spoken with the Massachusetts State Ethics Commission relative to potential ethical concerns relating to such a vote. Massachusetts General Laws Chapter 268A prohibits any elected official from participating in any matter which may foreseeably financially effect the elected official or his/her immediate family. This office has obtained a copy of an opinion dated January 25, 2011 from City assessor Peter Caron. Mr. Caron has opined that the property values of persons residing near the Lynn/Salem border may be diminished as a result of this project. It is further the understanding of this office that you have an immediate family member who resides in close proximity of the project. Given the opinion rendered by Assessor Caron, after consultation with the State Ethic's Commission, it is the recommendation of this office that you not participate in deliberations or a vote relative to a possible legal challenge of the decision of the Salem Planning Board. Should you have any further questions regarding this matter, please do not hesitate to contact this office. Very truly yours, Michael J. Barry, City Solicitor

Daniel Cahill, Councilor

Lynn City Council

Re: Lowes/Walmart – Salem Planning Board

Dear Councilor Cahill:

It is the understanding of this office that the Lynn City Council may vote this evening to authorize the Law Department to initiate a legal challenge to the approval by the Salem Planning Board for a project to permit the construction of a Lowes and a Super Walmart on the Lynn/Salem line. This office has spoken with the Massachusetts State Ethics Commission relative to potential ethical concerns relating to such a vote. Massachusetts General Laws

Chapter 268A prohibits any elected official from participating in any matter which may foreseeably financially effect the elected official or his/her immediate family. This office has obtained a copy of an opinion dated January 25, 2011 from City Assessor Peter Caron. Mr. Caron has opined that the property values of persons residing near the Lynn/Salem border may be diminished as a result of this project. It is further the understanding of this office that you reside in close proximity of the project. Given the opinion rendered by Assessor Caron, after consultation with the State Ethic's Commission, it is the recommendation of this office that you not participate in deliberations or a vote relative to a possible legal challenge of the decision of the Salem Planning Board. Should you have any further questions regarding this matter, please do not hesitate to contact this office. Very truly yours, Michael J. Barry, City Solicitor

Councillor Capano 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's Office file any and all legally cognizable claims on behalf of the City of Lynn against the City of Salem and/or the City of Salem Planning Board relative to the approval of the Lowes/Wal-Mart Project on Highland Avenue.

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 (Council President Phelan and Councillor Cahill abstained).

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

9 YES 0 NO (Council President Phelan and Councillor Cahill abstained).

Motion made by Councillor Colucci and seconded by Councillor Lozzi 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