

# Salem City Hall

93 Washington Street, Salem, MA 01970  
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## MINUTES- 05-10-2012

**“Know Your Rights Under the Open Meeting Law, M.G.L. Chapter 39 §23B, and  
City Ordinance Sections 2-2028 through 2-2033.”**

A Regular Meeting of the City Council held in the Council Chamber on Thursday, May 10, 2012 at 7:00 P.M., for the purpose of transacting any and all business. Notice of this meeting was posted on May 4, 2012 at 10:49 A.M. This meeting is being taped and is live on S.A.T.V.

All Councillors were recorded as present.

Council President Lovely presided.

Councillor Turiel moved to dispense with the reading of the record of the previous meeting. It was so voted.

President Lovely requested that everyone please rise to recite the Pledge of Allegiance.

### PUBLIC TESTIMONY

- **Andrea Rupert – 3 Eaton Pl. Salem, MA – Resolution Restoring Democracy**
- **Teasie Riley Goggin – 9 Wisteria St., Salem, MA – Zoning Amendment**
- **Gavin McAuliffe- 11 Prescott St. , Salem, MA – Resolution Restoring Democracy**

### (#275) – EXTENDED HOUR OF OPERATION, McDONALD’S DRIVE THROUGH 150 CANAL STREET

A hearing was held on the petition of Charles Lietz, owner/operator of McDonald’s at 150 Canal Street, to operate with extended hours the drive through from 11:00 P.M. to 2:00 A.M. seven days a week. Appearing in favor was Mr. Leitz. There was no one opposed. The hearing was closed. Councillor Turiel moved that there be granted on a 6 month trial basis and to be reviewed in six months.

### (#201) – APPOINTMENTS TO THE BIKE PATH COMMITTEE

Held from the last meeting Mayor’s appointment of the following to serve on the Bike Path Committee with their terms to expire on April 1, 2015.

David Bowie, 15 Beach St., Salem  
Dan Cooper, 7 Phelps St., Salem

Councillor McCarthy received unanimous consent to divide the question and take up the appointment of Dan Cooper and refer the appointment of David Bowie to the Committee on Ordinances, Licenses and Legal Affairs.

The appointment of Dan Cooper was confirmed by unanimous roll call vote of 11 yeas, 0 nays, 0 absent.

Councillor Siegel requested suspension of the rules to allow Mr. Cooper to speak. There were no objections.

**#245) – APPOINTMENT TO THE COMMISSION ON DISABILITIES**

Held from last meeting Mayor's appt. Jennifer Barz-Snell to serve on the Commission on Disabilities with a term to expire on February 1, 2013. Held until the next meeting of May 24, 2012.

**#283 – TRANSFER FROM CAPITAL OUTLAY – RENOVATIONS & REPAIRS TO REPLACE BOILER AT FIRE STATION 5**

The following Order recommended by the Mayor, was adopted.

ORDERED: That the sum of Fifteen Thousand Three Hundred and Ninety-Eight Dollars (\$15,398.00) is hereby appropriated within the "Capital Outlay Equipment" account to be expended for the replacement of the boiler at Fire Station 5 in accordance with the recommendation of Her Honor the Mayor.

**#284 – ACCEPT DONATION FROM GE GOOD NEIGHBOR FUND**

The following Order recommended by the Mayor, was adopted.

ORDERED: To accept the donation from GE Employees Good Neighbor Fund in the amount of Five Thousand Dollars (\$5,000.00) to help support the DARE Summer Camp program. These funds will be deposited into the Police Department Summer Camp Donation Fund in accordance with the recommendation of Her Honor the Mayor.

**#285 – ACCEPT DONATION FROM PEABODY POLICE DEPARTMENT**

The following Order recommended by the Mayor, was adopted.

ORDERED: To accept the donation from the City of Peabody in the amount of Three Thousand Five Hundred Dollars (\$3,500.00) to help support the DARE Summer Camp program. These funds will be deposited into the Police Department Summer Camp Donation Fund in accordance with the recommendation of Her Honor the Mayor.

**#286 – ESTABLISH REVOLVING ACCOUNTS PER MGL CHAPTER 44, SECTION 53E ½**

The following Order recommended by the Mayor, was adopted.

ORDERED: That the Salem City Council vote, pursuant to the provisions of MGL Chapter 44, Section 53E ½ to authorize the establishment of the revolving funds for FY2013 as herein described. Expenditures from said funds shall not exceed the amount of funds received in the respective accounts or as authorized as stated, shall come from any funds received by the respective boards for performing services, shall be used solely for the purpose of implementing the programs delineated and shall be approved by a majority vote of any respective boards in accordance with the recommendation of Her Honor the Mayor.

(The list of accounts can be viewed in the City Clerks office during normal business hours.)

**#287 – BOND ORDER TO PAY COSTS OF CAPITAL EQUIPMENT ITEMS**

**RECEIVED AFTER THE DEADLINE OF TUESDAY NOON UNDER SUSPENSION OF THE RULES.**

The following Order recommended by the Mayor, was referred to the Committee on Administration and Finance co-posted with Committee of the Whole.

ORDERED: That the sum of One Million Seven Hundred Ninety Thousand Dollars (\$1,790,000.00) be and hereby is appropriated to pay costs of the following Capital Equipment items and Capital Improvement projects:

Police Department – equipment (radio replacement)	\$ 200,000
Fire Department – equipment (new ladder truck)	1,100,000
Electric Department – equipment (new bucket truck)	100,000
Parks & Recreation – infrastructure (common fence)	140,000
School Department – building repairs (flooring Bentley)	150,000
School Department – equipment/infrastructure (Bentley)	100,000

And for the payment of all costs incidental and related thereto, and that to meet said appropriation the Treasurer, with the approval of the Mayor, is authorized to borrow said sum under M.G.L. Chapter 44, Sections 7(3A) and 7(9), or pursuant to any other enabling authority, and to issue bonds or notes of the City therefore.

FURTHER ORDERED: that the Mayor and the Treasurer are each authorized to file an application to qualify under Chapter 44A of the Massachusetts General Laws any and all bonds of the City issued under and pursuant hereto, and to provide such information and execute such documents as may be required in connection therewith.

#### **#287A – PROPOSED CAPITAL OUTLAY PLAN 2012 – 2016**

The Capital Outlay Plan for 2012 – 2016 recommended by the Mayor, was referred to the Committee on Administration and Finance co-posted with Committee of the Whole.

(The Plan can be viewed in the City Clerks office during normal business hours)

#### **#288 – MONTHLY FINANCIAL REPORT**

Councillor McCathy introduced the following Order, which was adopted.

ORDERED: That the Monthly Financial Report dated March 31, 2012, be referred to the Committee on Administration and Finance. (Report can be viewed in the City Clerks office during normal working hours)

#### **#289 – YEAR TO DATE BUDGET REPORT**

Councillor McCathy introduced the following Order, which was adopted.

ORDERED: That the Year to Date Budget Report dated April 30, 2012, be referred to the Committee on Administration and Finance. (Report can be viewed in the City Clerks office during normal working hours)

#### **#290 – MEET WITH CITY COUNCIL BUDGET ANALYST**

Councillor McCathy introduced the following Order, which was adopted.

ORDERED: That the Committee on Administration and Finance co-posted with the Committee of the Whole meet with Michael Daley of Financial Advisory Associates, Inc. to discuss the renewing of a contract to provide Budget Analyst Services for the Salem City Council.

#### **#291 – ORDINANCE AMENDING TRAFFIC, HANDICAP PARKING REPEAL BOSTON STREET**

Councillor Ryan introduced the following Ordinance, which was adopted for first passage.

In the year two thousand and twelve

An Ordinance to amend an Ordinance relative to Traffic, Chapter 42, Section 50B, Handicap Parking Limited Time

Be it ordained by the City Council of the City of Salem, as follows:

Section 1. Repeal Boston Street easterly side across from #83, for a distance of twenty feet, "Handicap Parking, Limited Time, Tow Zone" (4/10/2008)

Section 2. This ordinance shall take effect as provided by City Charter.

**#292 WAS NOT USED IN ERROR****#293 – MEET TO DISCUSS DOUBLE POLES**

Councillor Turiel introduced the following Order which was adopted.

ORDERED: That the Committee on Public Health, Safety and Environment co-posted with the Committee of the Whole meet with a representative from Verizon to discuss the issue of double poles in the City including the installation of one at 22 Eden Street and to obtain a timeframe for the completion and removal of the old pole.

**#294 – (#5) PARKING BOARD RECOMMENDATIONS “PARKING LOT”**

Councillor Sosnowski offered the following report for the Committee on Ordinances, Licenses and Legal Affairs. It was voted to accept the report and adopt the recommendation.

The Committee on Ordinances, Licenses and Legal Affairs to whom was referred the matter of recommendations made by the Parking Board relative to the “Parking Lot”, has considered said matter and would recommend that the matter remain in Committee.

**#295 – (#217) AMENDING COMPREHENSIVE PARKING PLAN**

Councillor Sosnowski offered the following report for the Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole. It was voted to accept the report and adopt the recommendation.

The Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole, to whom was referred the matter of the Comprehensive Parking Plan, has considered said matter and would recommend that the appropriate Ordinance amendment be done for the removal of all posts and meters from in front of the U.S. Post Office, Steve’s Market and all of Gedney Street.

**#296 – (#296A) NOISE ORDINANCE RELATIVE TO LOUD PARTIES**

Councillor Sosnowski offered the following report for the Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole. It was voted to accept the report and adopt the recommendation.

The Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole, to whom was referred the matter of the Noise Ordinance relative to loud parties, has considered said matter and would recommend that the attached amended Ordinance for penalties to the Noise Ordinance for loud parties be adopted for first passage.

In the year two thousand and twelve

An Ordinance to amend an Ordinance pertaining to noise

Be it ordained by the City Council of the City of Salem, as follows:

Section 1. Article II. Radios, Boom Boxes, Tape Cassettes, Disc Players, etc. of Chapter 22 Noise is hereby amended by deleting sub-paragraph (c) of Section 22-34 Loud Parties/music on residential premises and replacing it with the following:

(c) the following penalties shall apply for violation of this section:

- First offense, a warning citation or a fine of \$100.00
- Second offense, a mandatory fine of up to \$200.00
- Third offense and thereafter, a mandatory fine of \$300.00

Section 2. This Ordinance shall take effect as provided by City Charter.

**#297 – (#297A) ORDINANCE FOR A KEEPER OF DISORDERLY HOUSE**

Councillor Sosnowski offered the following report for the Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole. It was voted to accept the report and adopt the recommendation.

The Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole, to whom was referred the matter of an Ordinance for Keeper of Disorderly House, has considered said matter and would recommend that the attached Ordinance be adopted for first passage.

In the year two thousand and twelve

An Ordinance to amend an Ordinance pertaining to amending Noise Control Disorderly House Designation; Penalties of Violation

Be it ordained by the City Council of the City of Salem, as follows:

Section 1. Chapter 22 Noise Control is hereby amended by adding the following new section:

“Section 22-36. Disorderly House Designation; Penalties for Violation.

- No property owner or tenant shall maintain a disorderly house as defined in sub-section (b) below.
- A “disorderly house” is any building, or part thereof, which the police department has identified as a disorderly house after having responded to multiple calls for service to the property in response to situations which are created by the owner, tenants, or owner’s or tenants co-habitants, guests or invitees and which would have a tendency to unreasonably disturb the community and affect the quality of life of the neighborhood or an ordinary individual in the vicinity of said building, including, but not limited to: loud music; boisterous parties; sounds emanating from within the structure which are audible outside the building; loud noise or fights within the building or in its vicinity involving tenants of the building or their invitees (excluding incidents involving domestic violence); tenants or invitees of tenants being intoxicated on public ways in the vicinity of the building; other similar activities in the building or outside the building itself.
- Prior to classifying a building, or part thereof, as a disorderly house, the police department shall notify by personal service or mail the property owner and the involved tenant(s), if any, of the ongoing issues at the property and that the property has been recommended for a classification as a “disorderly house.” The property owner and the involved tenants, if any, shall be given the opportunity to address the issues that gave rise to the complaints affecting the quality of life of the neighborhood. If the matter remains unresolved and additional calls for police service are directed to the subject building, the building, or part thereof, shall be classified as a “disorderly house” and the property owner and any tenants involved shall be notified by the police department of the designation by personal service or mail and may be subject to a penalty, as set forth below, for violating this section:

First offense after notice	-\$200.00
Second offense	-\$250.00
Third offense	-\$300.00

- Nothing in this section shall prevent the police department from, at any time after designating a property as a disorderly house, filing an application for criminal complaint against a party for keeping a noisy or disorderly house pursuant to Massachusetts General Law c.272, S.53 (b), however, the police department shall pursue such an application for criminal complaint following a third offense of this section.”

Section 2. This ordinance shall take effect as provided by City Charter.

#### **#298 – (#247) APPROPRIATION TO ENGINEERING – WATER SYSTEM IMPROVEMENT**

Councillor McCarthy offered the following report for the Committee on Administration and Finance. It was voted to accept the report and adopt the recommendation.

The Committee on Administration and Finance to whom was referred the matter of an appropriation of \$50,000.00 to Engineering Water System Improvement, has considered said matter and would recommend approval.

#### **#299 – (#248) APPROPRIATION TO ENGINEERING – SEWER SYSTEM IMPROVEMENT**

Councillor McCarthy offered the following report for the Committee on Administration and Finance. It was voted to accept the report and adopt the recommendation.

The Committee on Administration and Finance to whom was referred the matter of an appropriation of \$50,000.00 to Engineering Sewer System Improvement, has considered said matter and would recommend approval.

#### **#300 – (#249) APPROPRIATION TO WATER CONSERVATION GRANT PROGRAM**

Councillor McCarthy offered the following report for the Committee on Administration and Finance. It was voted to accept the report and adopt the recommendation.

The Committee on Administration and Finance to whom was referred the matter of an appropriation of \$9,860.00 to Water Conservation Grant Program Mass. DEP, Special Revenue Account, has considered said matter and would recommend approval.

#### **#301 – (#252) RESOLUTION FOR INDUSTRIAL REVENUE BOND JACQUELINE'S WHOLESALE BAKERY**

Councillor McCarthy offered the following report for the Committee on Administration and Finance. It was voted to accept the report and adopt the recommendation.

The Committee on Administration and Finance to whom was referred the matter of a Resolution for an Industrial Revenue Bond for Jacqueline's Wholesale Bakery, has considered said matter and would recommend approval.

#### **#302 – (#109, 230, 232) B&S FITNESS ROAD RACES**

Councillor Prevey offered the following report for the Committee on Public Health Safety and Environment co-posted with Committee of the Whole. It was voted to accept the report and adopt the recommendation.

The Committee on Public Health, Safety and Environment co-posted with Committee of the Whole to whom was referred the matter of B&S Fitness Road Races, has considered said matter and would recommend approval.

#### **#303 – (#120) UPDATE ON 111 NORTH STREET GAS STATION**

Councillor Prevey offered the following report for the Committee on Public Health Safety and Environment co-posted with Committee of the Whole. It was voted to accept the report and adopt the recommendation.

The Committee on Public Health, Safety and Environment co-posted with Committee of the Whole to whom was referred the matter of an update on 111 North Street Gas Station, has considered said matter and would recommend that the matter remain in Committee.

**Councillor O'Keefe recused himself and left the Council Chambers.**

**#304 – (#228) PAUL LIMA AND CONCERNS REGARDING LORING TOWERS**

Councillor Prevey offered the following report for the Committee on Public Health Safety and Environment co-posted with Committee of the Whole. It was voted to accept the report and adopt the recommendation.

The Committee on Public Health, Safety and Environment co-posted with Committee of the Whole to whom was referred the matter of petition by Paul Lima over neglect concerns at Loring Towers, has considered said matter and would recommend that Mr. Lima contact the state and pursue whatever avenues are available to him through the state oversight and that the matter be discharged from Committee.

**Councillor O'Keefe returned to the Council Chambers.**

**#305 – (#187) AMEND COUNCIL RULES TO ALLOW THE MAYOR TO SPEAK**

Councillor Lovely offered the following report for the Committee of the Whole. It was voted to accept the report and adopt the recommendation.

The Committee of the Whole to whom was referred the matter of Amending Council Rules to allow the Mayor to speak has considered said matter and would recommend that the City Solicitor be asked whether sections 18, 19 & 20 of the Charter can be reviewed for it's legal content or intent or does that review require a Charter Commission review?

**#306 – (#233) RESOLUTION “RESTORING DEMOCRACY TO THE PEOPLE”**

Councillor Lovely offered the following report for the Committee of the Whole. It was voted to accept the report and adopt the recommendation.

The Committee of the Whole to whom was referred the matter of a Resolution submitted by Gavin McAuliffe for Restoring Democracy to the People, has considered said matter and would recommend the matter be referred to the full Council for Adoption.

**#307 – (#176) PLANNING BOARD RECOMMENDATION RELATIVE TO PROPOSED ZONING AMENDMENT TO SECTION 8.1 FOR DESIGNATION OF SPECIAL FLOOD HAZARD AREAS IN THE CITY OF SALEM**

A report to the City Council relative to the Planning Board recommendation for the Zoning Ordinance to comply with the requirements of F.E.M.A. for designation of special flood hazard areas within the City of Salem, was accepted and the recommendation and adoption of the Ordinance for first passage.

**#308 – REQUEST REGARDING THE LEASE OF CITY PROPERTY ON RICHARDS ROAD**

A request from Arthur King of 7 Wall Street to meet with the City Council regarding the lease of City property on Richards Road to 5 Wall Street, was referred to the Committee on Community and Economic Development.

**#309 – REQUEST FOR BICKE RACE FROM WITCHES CUP RACE**

A request from Witches Cup Race for use of city streets around the Salem Common to hold a bike race on August 8, 2012 and to have and sell beer on Common, was granted.

### **#310 – #313 TAG DAYS**

The following tag day applications were referred to the Committee on Ordinances, Licenses and Legal Affairs.

TAG DAYS                    S.H.S. Cheerleading, June 17, 2012, July 15, 2012 & August 12, 2012  
                                  Salem Post 23 American Legion, June 23 & 24, 2012  
                                  S.H.S. Football, August 19, 2012, October 14, 2012 & October 28, 2012  
                                  Knights of Columbus, October 7 & 8, 2012

### **#314 - #316 LICENSE APPLICATIONS**

The following license applications were granted.

PUBLIC GUIDES            Colleen M. O'Toole, 7 Union St. #1, Salem  
                                  Jeffrey Horton, 27 Bar Link Way #81, Swampscott  
                                  Mary Buntin, 80 Maple St., Wenham  
                                  Henry Clarke, 361 Essex St., Salem  
                                  Timothy Shea, 199B Derby St., Salem  
                                  Steven Burstein, 76 Allen St., Arlington  
                                  Michael McIntyre, 77 Summer St., Salem

TAXI OPERATORS        Vincent Ercolano, Sr., 45 Federal St., Salem  
                                  Juan Lopez, 24 Tracy St., Peabody  
                                  Camilo Divanne, 113 Loring Ave., Salem

VEHICLE FOR HIRE       Douglas Pilkington, 167 Haverhill St., Rowley  
 OPERATORS ONLY    Edward Murphy, 4 Paradise Rd., Ipswich  
                                  Howard Land, 69 Plymouth St., Swampscott  
                                  Ronald Olson, 154 Lafayette St., Marblehead  
                                  Anthony Meneades, 40 Allerton St., Lynn  
                                  Jeffrey Howard, 14 Proctor St., Gloucester  
                                  Will Pasquina, 211 River Rd., West Newbury

### **#317 – #318 LICENSE APPLICATIONS**

The following license applications was denied.

PUBLIC GUIDE            Peter White, 28 High St., Salem

VEHICLE FOR HIRE       Richard Cole, Jr., 12 Normandy St., Dorchester  
 OPERATORS ONLY

### **#319 – HEARING REQUEST**

The hearing request from Richard Cole Jr. on the denial of his vehicle for hire operator's license (trolley), was referred to the Committee on Ordinances, Licenses and Legal Affairs to hold an Executive Session.



**#320 - #321 CLAIMS**

The following claims were referred to the Committee on Ordinances, Licenses and Legal Affairs.

Matthew Sposato, 9 Hathorne St., Salem  
Ellen Barnett, 23 May St., Salem

**(#259) – SECOND PASSAGE ORDINANCE AMENDING TRAFFIC, HANDICAP PARKING WINTHROP STREET**

The matter of second and final passage of an Ordinance amending Traffic, Chapter 42, Section 50B, "Handicap Parking Limited Time" Winthrop Street, was then taken up. The Ordinance was adopted for second and final passage.

**(#258) – SECOND PASSAGE ORDINANCE AMENDING TRAFFIC, HANDICAP PARKING CONANT STREET**

The matter of second and final passage of an Ordinance amending Traffic, Chapter 42, Section 50B, "Handicap Parking Limited Time" Conant Street, was then taken up. The Ordinance was adopted for second and final passage.

On the motion of Councillor Sargent the meeting adjourned at 8:50 P.M.

ATTEST:

CHERYL A. LAPOINTE  
CITY CLERK