

**MARCH 14, 2019**

**CITY COUNCIL**

**REGULAR MEETING**

**“Know Your Rights Under the Open Meeting Law, M.G.L. Chapter 30A ss. 18-25, and City Ordinance Sections 2-2028 through 2-2033.”**

**Assistive Listening System Now Available for City Council Meetings.**

**Those interested in utilizing these devices for meetings at 93 Washington Street may contact the City Clerk Ilene Simons at 978-619-5610 or [isimons@saalem.com](mailto:isimons@saalem.com).**

A Regular Meeting of the City Council held in the Council Chamber on Thursday, March 14, 2019 at 7:00 P.M. for the purpose of transacting any and all business. Notice of this meeting was posted on March 12, 2019, at 12:22 P.M. This meeting is being taped and is live on S.A.T.V.

All Councillors were present.

Council President Dibble presided.

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

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

**PUBLIC TESTIMONY**

1. Flora Tonthat, 30 Northey St., Zoning Overlay
2. John Lynch, 4 Scenic Ter., Zoning Overlay
3. David Friedberg, 57 Britannia Cir., Zoning Overlay
4. Jen Lynch, 38 Charles St., Zoning Overlay
5. Cheryl Rayfuse, 84 Barstow St., Zoning Overlay
6. Erica Feldmann, 26R Chestnut St., Zoning Overlay
7. Tim Jenkins, 18 Broad St., Zoning Overlay
8. Sarah Thomas, 51 Howard St., Zoning Overlay
9. Teasie Riley Goggin, 9 Wisteria St., Zoning Overlay
10. Cynthia Nina-Soto, 6 Laurent Rd., Zoning Overlay
11. Jeff Cohen, 12 Hancock St., Zoning Overlay
12. Kathryn Abarbanel, 21 Mason St., Zoning Overlay
13. Lori Hart, 114 Federal St., Zoning Overlay
14. Kristian Hoysradt, 9 Pickering Way, Zoning Overlay
15. Fawaz Abusharkh, 4 Harrison Rd., Zoning Overlay

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**(#128) – APPOINTMENT OF CHRISTIAN BEDNAR TO THE AFFORDABLE HOUSING TRUST FUND BOARD**

Held from the last meeting, Mayor's appointment of Christian Bednar 17 Beacon St. to the Affordable Housing Trust Fund Board with a term to expire on February 28, 2020 was confirmed by a roll call vote of 11 yeas, 0 nays and 0 absent. Councillors Turiel, Sargent, Peterson, Milo, McCarthy, Madore, Gerard, Furey, Flynn, Dominguez, Dibble were all recorded in the affirmative.

**#160 – APPOINTMENT OF CYNTHIA NINA-SOTA TO THE AFFORDABLE TRUST FUND BOARD**

Mayor's appointment of Cynthia Nina-Soto of 6 Laurent Rd to serve on the Affordable Trust Fund Board with a term to expire on March 14, 2020 was held under the rules until the next meeting.

**#161 – APPOINTMENT OF SUSAN DAMEGREENE TO THE CEMETERY COMMISSION**

Mayor's appointment of Susan DameGreene of 1 Broad St. to serve on the Cemetery Commission with a term to expire on February 28, 2022 was held under the rules until the next meeting.

**#162 – REAPPOINTMENT OF JOHN YOUNG TO THE DISABILITIES COMMISSION**

Mayor's reappointment of John Young of 126 Boston St. to the Disabilities Commission with a term to expire March 24, 2022 was confirmed by a roll call vote of 11 yeas, 0 nays and 0 absent. Councillors Turiel, Sargent, Peterson, Milo, McCarthy, Madore, Gerard, Furey, Flynn, Dominguez, Dibble were all recorded in the affirmative.

**#163 - REAPPOINTMENT OF FRED ATKINS TO THE SALEM HARBOR PORT AUTHORITY**

Mayor's reappointment of Fred Atkins, of 3 Neptune Rd, Marblehead to the Salem Harbor Port Authority with a term to expire March 23, 2022 was confirmed by a roll call vote of 11 yeas, 0 nays and 0 absent. Councillors Turiel, Sargent, Peterson, Milo, McCarthy, Madore, Gerard, Furey, Flynn, Dominguez, Dibble were all recorded in the affirmative.

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**#164 – APPROPRIATION TO FIRE EDUCATIONAL TRAINING FROM FREE CASH**

The following Order introduced by the Mayor was adopted under suspension of the rules.

Councillor Flynn recused himself by leaving the Chamber and returning after the vote was taken.

ORDERED: That the sum of Nineteen Thousand Five Hundred and Eighty-Seven Dollars (\$19,587.00) is hereby appropriated from the “Fund Balance Reserved for Appropriation – Free Cash” account (1-3245) to the “Fire Educational Training” Account (12202-5317) in accordance with the recommendation of Her Honor the Mayor.

**#165 – APPROPRIATION TO INSPECTIONAL SERVICES ELECTRICITY FROM FREE CASH**

The following Order introduced by the Mayor was adopted under suspension of the rules.

ORDERED: That the sum of Fourteen Thousand Dollars (\$14,000.00) is hereby appropriated from the “Fund Balance Reserved for Appropriation – Free Cash” account (1-3245) to the “Inspectional Services Electricity” Account (11962-5211) in accordance with the recommendation of Her Honor the Mayor.

**#166 – APPROPRIATION FOR CITY COUNCIL ADVERTISING FROM FREE CASH**

The following Order introduced by the Mayor was adopted under suspension of the rules.

ORDERED: That the sum of Ten Thousand Dollars (\$10,000.00) is hereby appropriated from the “Fund Balance Reserved for Appropriation – Free Cash” account (1-3245) to the “City Council Advertising” Account (11112-5306) in accordance with the recommendation of Her Honor the Mayor.

**#167 – APPROPRIATION FOR RETIREMENT VACATION/SICK LEAVE BUYBACK FOR SHEILA BEDARD, SCHOOL DEPARTMENT**

ORDERED: That the sum of Three Thousand Eight Hundred and Seventy-Three Dollars and Ninety-Three Cents (\$3,873.93) be approved within the “Retirement Stabilization Fund-Vacation/Sick Leave Buyback” account (83113-5146) to be expended for the FY 2019 contractual buyback(s) listed below in accordance with the recommendation of Her Honor the Mayor.

| <b>Name</b>   | <b>Department</b> | <b>Amount</b>   |
|---------------|-------------------|-----------------|
| Sheila Bedard | School Dept       | 3,873.93        |
|               |                   | <b>3,873.93</b> |

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**#168 – CITY COUNCIL APPOINTEES TO THE AFFORDABLE HOUSING TRUST FUND BOARD OF TRUSTEES**

Councillor Flynn introduced the following Order that was tabled until the next meeting.

That the City Council Elect Councillor Dominguez and Councillor Sargent to the Affordable Housing Trust Fund Board of Trustees per ordinance Ch. 2, Sec. 1002: "The city council shall annually elect two members of the city council to serve for a term of one year. The city council president or his or her designee shall serve for a term of one year." And that their terms are from April 12, 2019 to April 12, 2020

**#169 – AMENDING SECTION 36 OF THE RULES AND ORDERS OF THE CITY COUNCIL**

Councillor Gerard introduced the following Order. No action can be taken until the next meeting on March 28, 2019 under the rules.

ORDERED: That Section 36 of the Rules and Orders of the City Council be amended by deleting the reference to "Cushing's Manual" and inserting in place thereof "Roberts Rules of Order"

**#170 – CITY COUNCIL APPOINTMENT TO THE TREE COMMISSION**

Councillor Flynn introduced the following Order that was adopted.

ORDERED: That any Salem Resident interested in applying to be a City Council Appointed member of the Tree Commission, submit an application (found on-line or at the City Clerk's office) along with a resume to the City Clerk by March 25, 2019 and that the Committee on Government Services co-posted with the Committee of the Whole, meet to review such applications and resumes and bring forward a recommendation to the full Council for this appointment.

**#171 – ORDINANCE AMENDING TRAFFIC PARKING PROHIBITED WHALERS LANE**

Councillor Peterson introduced the following ordinance which was adopted for first passage.

In the year Two Thousand and Nineteen

An Ordinance to amend an Ordinance relative to Traffic, Chapter 42 Section 51 – "Parking Prohibited on Certain Streets"

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Be it Ordained by the City Council of the City of Salem, as follows

**SECTION 1.** Amending Ch. 42, Section 51, as follows:

Repealing:

Whaler's Lane, southbound, on the westerly side, starting one hundred and sixty-five (165) feet from First Street and extending to Fortune Way. "No Parking Anytime"

And Replacing With:

Whaler's Lane, southbound, on the westerly side, from First Street to Good Hope Lane. "No Parking Anytime"

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

### **#172 – ORDINANCE AMENDING TRAFFIC PARKING PROHIBITED, WHALERS LANE**

Councillor Peterson introduced the following ordinance which was adopted for first passage.

In the year Two Thousand and Nineteen

An Ordinance to amend an Ordinance relative to Traffic, Chapter 42 Section 51 –  
"Parking Prohibited on Certain Streets"

Be it Ordained by the City Council of the City of Salem, as follows

**SECTION 1.** Amending Ch. 42, Section 51, by adding the following:

Whaler's Lane, southbound, on the westerly side, from First Street to Majestic Way;  
westbound, on the northly side, from Majestic Way to Queensberry Drive;  
northbound, on the easterly side from Queensberry Drive to Captain's Lane;  
northbound, on the easterly side, from the driveway serving 162-168 Whaler's Lane to the driveway serving 170-176 Whaler's Lane. "No Parking Anytime"

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

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**#173 – ZONING ORDINANCE AMENDMENT SECTION 3.3 – NONCONFORMING USES AND STRUCTURES**

Councillor Dibble introduced the following Order. It was referred to the Committee on Ordinances, Licenses and Legal Affairs due to the late file.

ORDERED: That the attached Zoning Ordinance Amendment be sent to the Committee on Ordinances, Licenses and Legal Affairs and referred out at the next meeting to schedule a Joint Public Hearing with the Planning Board.

In the year Two Thousand and Nineteen

An Ordinance to amend an Ordinance relative to Zoning

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

Section 1. The following is an amendment to Section 3.3 – Nonconforming Uses and Structures by adding the following to Section 3.3. – Section 3.3.3

**3.3 – NONCONFORMING and Exempt USES AND STRUCTURES**

3.3.1 Applicability. This Zoning Ordinance shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by G.L. c. 40A, s. 5 at which this Zoning Ordinance, or any relevant part thereof, was adopted. Such prior, lawfully existing nonconforming and Exempt uses and structures may continue, provided that no modification of the use or structure is accomplished, unless authorized hereunder.

3.3.2 Nonconforming and Exempt Uses. The Board of Appeals may award a special permit to change a nonconforming and Exempt use in accordance with this section only if it determines that such change or extension shall not be substantially more detrimental than the existing nonconforming and Exempt use to the neighborhood. The following types of changes to nonconforming uses may be considered by the Board of Appeals:

1. Change or substantial extension of the use;
2. Change from one nonconforming and Exempt use to another, less detrimental, nonconforming and Exempt use.

3.3.3 Nonconforming and Exempt Structures. The Board of Appeals may award a special permit to reconstruct, extend, alter, or change a nonconforming and Exempt structure in accordance with this section only if it determines that such reconstruction, extension, alteration, or change shall not be

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substantially more detrimental than the existing nonconforming and Exempt structure to the neighborhood. The following types of changes to nonconforming and Exempt structures may be considered by the Board of Appeals:

1. Reconstructed, extended or structurally changed;
2. Altered to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent.

**#174 – MEET WITH IPSWICH RIVER WATERSHED ASSOCIATION TO DISCUSS THEIR NET ZERO WATER USE POLICY**

The following Order introduced by Councillor Sargent was referred to the Committee on Community and Economic Development co-posted with the Committee of the Whole due to the late file.

ORDERED: That the Committee on Community and Economic Development co-posted with the Committee of the Whole, meet with representatives of the Ipswich River Watershed Association to discuss their net zero water use policy and any other Water Use Policy that may affect the City of Salem. And that the following be invited: Ipswich River Watershed Representatives, the Conservation Commission, the Planning Board and the Mayor or Rep.

**#175 - (#74 & #159 of 2018) – TRIAL PERIOD FOR VALET PARKING**

Councillor McCarthy offered the following report for the Committee on Ordinances, Licenses & Legal Affairs co-posted with the Committee of the Whole to whom was referred the matter of discussing a trial period for use of four (4) parking spaces on Washington St. and two (2) southernmost rows of parking in Riley Plaza for a pilot program for valet parking has considered said matter and would recommend that the trial period be adopted for four (4) months – from April to August on Friday and Saturday nights. It was voted to accept the report and adopt the recommendation.

**#176 - (#24) – LOCAL ENTERTAINMENT TAX (TICKET TAX)**

Councillor Peterson offered the following report for the Committee on Administration & Finance co-posted with the Committee of the Whole to whom was referred the matter of petitioning the General Court for a local sales tax for entertainment ticket tax has considered said matter and would recommend a negative recommendation. It was voted to accept the report and adopt the recommendation.

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**#177 – REVOCATION OF KHRIS LARA’S TAXI OPERATOR LICENSE**

A communication from Police Traffic revoking Khris Lara’s Taxi Operator License, 59 Boston St., due to police action was adopted and received and placed on file.

**#178 - #179 – LICENSE APPLICATIONS**

The Following License Applications were granted.

|                |  |
|----------------|--|
| PUBLIC GUIDES  | Michael Vitka 384 Essex St., Salem<br>Tyler Carlton 34 Perk St., Salem<br>Samuel Baltrusis 445 Artisan Way #225, Somerville<br>Sarah-Frankie Carter 394 Essex St. Unit 2, Salem<br>William Page 65 ½ Essex St. Apt 2, Salem<br>Marcela Mayorga 270 Lafayette St. #3, Salem<br>John Flanagan 38 Bayview Ter., Danvers<br>Maria McQuaid 51 Lafayette St. #210, Salem |
| TAXI OPERATORS | Amabel Gomez 10 First St Apt 104, Salem<br>Andrew Smith 6 Monroe St. Apt 103, Salem  |

**#180 – TAG DAY APPLICATION**

The Following License Application was referred to the Committee on Ordinances, Licenses & Legal Affairs.

TAG DAY:                S.H.S Softball – 4/14/2019, 4/28/2019, 5/5/2019

**#181 - #184 – CLAIMS**

The Following Claims were referred to the Committee on Ordinances, Licenses & Legal Affairs.

Francesca Lubbock 9 Goldthwait Rd., Marblehead  
Michael Gallotta 149 Derby St. Unit J, Salem  
Linda Rosenfield 10 Weatherly Dr., Salem  
Alberto Buruca 8 Jackson St., Lynn



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**#185 – SIGN BOND**

The Following Bond was referred to the Committee on Ordinances, Licenses & Legal Affairs and Returned Approved

SIGN: Red Garden LLC d/b/a The Boutique 6 Front St., Salem

**#186 - (#618 OF 2018) – NOTICE OF RECONSIDERATION FOR FIRST PASSAGE OF ZONING ORDINANCE RELATIVE TO THE MUNICIPAL AND RELIGIOUS REUSE OVERLAY DISTRICT**

Councillor Gerard's notice of reconsideration of First Passage of the Zoning Ordinance relative to the Municipal and Religious Overlay District as amended.

Council President Dibble ruled Councillor Gerard's reconsideration out of order based on the rule that not more than one motion of reconsideration of any vote shall be entertained. Councillor Sargent's motion for reconsideration at the February 28, 2019, Council meeting which passed, but the vote not taken is the only motion to be taken up at this meeting.

On the motion by Councillor Sargent to reconsider the First Passage of the Zoning Ordinance relative to the Municipal and Religious Reuse Overlay District was denied by a roll call vote of 6 yeas, 5 nays and 0 absent. Councillors Turiel, Peterson, McCarthy, Madore, Gerard and Furey were recorded as voting in the affirmative. Councillors Sargent, Milo, Flynn, Dominguez and Dibble were all recorded as voting in the negative. The matter does not carry. (Zoning requires a 2/3 vote)

On the motion of Councillor Sargent the meeting adjourned at 8:35 P.M.

ATTEST:

ILENE SIMONS  
CITY CLERK