

**CITY OF SALEM**

**JANUARY 11, 2018**

**REGULAR MEETING OF THE CITY COUNCIL**

**“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.”**

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A Regular Meeting of the City Council held in the Council Chamber on Thursday, January 11, 2018 at 7:00 P.M. for the purpose of transacting any and all business. Notice of this meeting was posted on January 9, 2018, at 9:38 A.M. This meeting is being taped and is live on S.A.T.V.

All Councillors were present

Council President Gerard presided.

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

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

**Oath of office given to Councillor McCarthy by the City Clerk, Cheryl LaPointe.**

**PUBLIC TESTIMONY**

1. Jeffrey M. Cohen, 12 Hancock St. – Lorax, short term rentals
2. Sandra Power, 18 Loring Ave. – Lorax tree ordinance (did not speak)
3. Tyler Terry, 22 School St. - Marijuana Zoning

**(#689) – APPOINTMENT OF CARLY DWYER NAIK TO THE PUBLIC ART COMMISSION**

Held from the last meeting, Mayor's appointment of Carly Dwyer Naik to serve as a member of the Public Art Commission with the term to expire on September 22, 2018, was held until the next meeting.

**CITY OF SALEM****JANUARY 11, 2018****REGULAR MEETING OF THE CITY COUNCIL****(#690) – APPOINTMENT OF GARY BARRETT TO THE SALEM REDEVELOPMENT AUTHORITY**

Held from the last meeting, Mayor's appointment of Gary Barrett to serve as a member of the Salem Redevelopment Authority with the term to expire on December 8, 2021, was confirmed by unanimous roll call vote of 11 yeas, 0 nays, 0 absent. Councillors Dibble, Dominguez, Flynn, Furey, Madore, McCarthy, Milo, Peterson, Sargent, Turiel and Gerard were recorded as voting in the affirmative.

**#4 – APPOINTMENT OF THOMAS WATKINS AS PURCHASING AGENT**

The Mayor's appointment of Thomas Watkins to serve as the City of Salem's Purchasing Agent with a term to expire on January 31, 2019, was held until the next meeting under the rules.

**#5 – APPOINTMENT OF DANIEL J. NAPOLITANO TO THE PLANNING BOARD**

The Mayor's appointment of Daniel J. Napolitano to serve as a member of the Salem Planning Board with the term to expire on March 10, 2021, was held until the next meeting under the rules.

**#6 – APPOINTMENT OF EMILY LARSEN TO THE PUBLIC ART COMMISSION**

The Mayor's appointment of Emily Larsen to serve as a member of the Salem Public Art Commission with the term to expire on January 11, 2020, was held until the next meeting under the rules.

**#7 – APPOINTMENT OF KURT ANKEY-BEAUCHAMP TO THE PUBLIC ART COMMISSION**

The Mayor's appointment of Kurt Ankey-Beauchamp to serve as a member of the Salem Public Art Commission with the term to expire on January 11, 2020, was held until the next meeting under the rules.

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**#8 - REAPPOINTMENT OF NORENE GACHIGNARD & J. MICHAEL SULLIVAN TO THE PUBLIC ART COMMISSION**

The Mayor's reappointment of Norene Gachignard and J. Michael Sullivan to serve as members of the Salem Public Art Commission with their terms to expire on January 11, 2020, was confirmed unanimous roll call vote of 11 yeas, 0 nays, 0 absent. Councillors Dibble, Dominguez, Flynn, Furey, Madore, McCarthy, Milo, Peterson, Sargent, Turiel and Gerard were recorded as voting in the affirmative.

**#9 – APPROPRIATION TO DEPT. OF PUBLIC SERVICES – BURIAL ACCOUNT**

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

ORDERED: That the sum of Thirty Thousand Dollars (\$30,000.00) is hereby appropriated from the "Receipts Reserved – Sale of Lots" and "Receipts Reserved – Sale of Vaults" to "Dept. of Public Services – Burial" account in accordance with the recommendation of Her Honor the Mayor.

**#10 – APPROPRIATION FOR RENOVATIONS TO SALEM WILLOWS**

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

ORDERED: That the sum of Twenty-Five Thousand Dollars (\$25,000.00) is hereby appropriated within the "Capital Outlay – Renovation & Repair" account to be expended for renovations to Salem Willows parking, trees and landscape restoration by the Engineering Department in accordance with the recommendation of Her Honor the Mayor.

**#11 – APPROPRIATION FOR DEPARTMENTS OVERTIME ACCOUNTS**

The following Order recommended 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 – Free Cash" account to the accounts listed below in accordance with the recommendation of Her Honor the Mayor.

Planning – Overtime	Overtime for document handling	5,200.00
Building Insp. – Overtime	Overtime for document handling	1,200.00

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Human Resources – Overtime	Overtime for document handling	1,800.00
Health – Overtime	Overtime for document handling	1,800.00

In preparation for digitizing documents for the City Hall Annex

**#12 – ACCEPT DONATIONS FOR THE NORTH SHORE WORKFORCE INVESTMENT BOARD**

The following Order recommended by the Mayor was adopted.

ORDERED: To accept donations listed below totaling Forty Thousand Dollars (\$40,000.00) by the North Shore Workforce Investment Board to provide employment retention services. These funds will be deposited into the account listed below in accordance with the recommendation of Her Honor the Mayor.

Susan Schiro & Peter Manus Foundation	\$20,000.00
The Boston Foundation	<u>\$20,000.00</u>
	\$40,000.00

**#13 – ACCEPT DONATION FOR THE PARK AND RECREATION DONATION FUND**

The following Order recommended by the Mayor was adopted.

ORDERED: To accept revised donation previously listed as \$3,000 for the corrected amount of \$3,700 from the Salem Harbor Station to the Park and Recreation Donation Fund.

**#14 – ADOPT MASS. GENERAL LAW TO SET UP REVOLVING ACCOUNT FOR ROAD RACE FEES**

The following Order recommended by the Mayor was adopted.

ORDERED: that the City of Salem adopt Chapter 44, Section 53E ½ for the purpose of setting up a revolving account for Road Race Fees.

**#15 – ACT FOR SHORT TERM RENTAL EXCISE TAX**

The following Order was referred to the Committee on Community and Economic Development co-posted with Committee of the Whole.

**CITY OF SALEM****JANUARY 11, 2018****REGULAR MEETING OF THE CITY COUNCIL****ORDERED:**

That a petition to the General Court, accompanied by a bill for an act authorizing a local short-term rental excise tax in the City of Salem as set forth below be filed with an attested copy of this Order be, and hereby is approved under Clause (1) of Section 8 of Article II, as amended of the Amendments to the Constitution of the Commonwealth of Massachusetts, to the end that the following legislation be adopted, except for amendments by the Senate of House of Representatives which conform to the intent of this home rule petition:

**AN ACT CONCERNING LOCAL SHORT-TERM RENTAL EXCISE TAX IN THE CITY OF SALEM.**

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the City of Salem may impose a room occupancy tax on any short-term residential rental for tourist or transient use, including, but not limited to apartments, single or multi-family housing, cottages, condominiums, and time share units, as well as any other short-term residential rental unit for tourist or transient use not expressly taxed pursuant to the provision of General Laws, Chapter 64G, at the rate of 6% of the total amount of the rate for each occupancy. A short-term residential rental for tourist or transient use is further defined to include only paid occupancy for any period of ninety consecutive days or less, regardless of whether such use and possession is as a lessee, tenant, guest or license, but excludes those accommodations specifically exempted from General Laws, Chapter 64G, in section 2 of that chapter.

**#16 – ORDINANCE – SMOKING PROHIBITED ON OFF-ROAD PAVED BICYCLE ROUTE**

The following Ordinance recommended by the Mayor was referred to the Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole.

In the year two thousand and eighteen

An Ordinance to amend an Ordinance relative to Smoking

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

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Chapter 24, Offenses and Miscellaneous Provisions, Section 24-16. Smoking in theaters is hereby amended by deleting this section in its entirety, as smoking in public theaters is prohibited by M.G.L. Ch. 270 Sec. 22, and replacing it with the following:

Section 24-16. Smoking Prohibited on Off-road, Paved Bicycle Route.

No person shall smoke on any designated, off-road, paved bicycle route in the city. A map of the bicycle route shall be on file in the office of the city clerk. Any person violating this section shall be subject to a fine not to exceed \$50.00. Signage posting the smoking prohibition and fine shall be placed along the designated non-smoking route. Enforcement of this section shall be by non-criminal disposition as set forth in M.G.L. Ch. 40 §21D and the City of Salem Code of Ordinances Ch. 1 §§1 through 10. Enforcing persons shall be police officers and the health agent or his/her designee.

**#17 – ORDINANCE NON-CRIMINAL DISPOSITION VIOLATION OF ORDINANCE**

The following Ordinance recommended by the Mayor was referred to the Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole.

In the year two thousand and eighteen

An Ordinance to amend an Ordinance relative to Non-Criminal Disposition of Ordinance Violations

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

**Section 1.** Chapter 1, Section 1-10(c) Non-criminal Disposition of Ordinance Violations is hereby amended by inserting the following new penalty:

Chapter 24. Section 16. Smoking prohibited on off-road, paved bicycle route

Penalty: \$50.00 per offense

Enforcing Person: Police Officers and health agent or his/her designee

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

**CITY OF SALEM****JANUARY 11, 2018****REGULAR MEETING OF THE CITY COUNCIL****#18 – ORDINANCE OFFENSES AND MISCELLANEOUS OFFENSES – MARIJUANA ESTABLISHMENTS; LIMITS**

The following Ordinance recommended by the Mayor was referred to the Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole.

In the year two thousand and eighteen

An Ordinance to amend an Ordinance relative to Chapter 24, Offenses and Miscellaneous Provisions to place a limitation on the number of marijuana retailers that may be located within the City pursuant to M.G.L. c.84G, §3.

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

**Section 1.** Chapter 24. Offenses and Miscellaneous Provisions.

A new section is hereby added at the end of Chapter 24 as follows:

“Section 24-30. – Retail Marijuana Establishments; limits.

The number of marijuana retailers within the city shall be limited to no more than twenty percent (20%) of the number of licenses issued within the city for the retail sale of alcoholic beverages not to be drunk on the premises where sold under section 15 of chapter 138 of the General Laws.

A marijuana retailer is defined as any entity licenses to purchase and deliver marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.”

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

**CITY OF SALEM****JANUARY 11, 2018****REGULAR MEETING OF THE CITY COUNCIL****#19 – ORDINANCE RELATIVE TO SALEM COMMON USE POLICY, PARKS AND RECREATION**

The following Ordinance recommended by the Mayor was referred to the Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole.

In the year two thousand and eighteen

An Ordinance to amend an Ordinance relative to use of Salem Common

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

Section 1. Article III – Common Use Policy of Chapter 26 Parks and Recreation is hereby amended by:

- a) Deleting the title of Article III, “Salem Common Use Policy”, and replacing it with “Salem Common”;
- b) Inserting a new division title, “Division 1. Use Policy”, immediately following the Article III title;
- c) Deleting Sec. 26-72 – Prohibited Activities in its entirety;
- d) Re-numbering Sec. 26-73 through Sec. 26-75 as Sec. 26-74;
- e) Inserting the following new division immediately following the new Sec. 26-74:  
“Division 2. Prohibited Activities; permitted and non-permitted events

Sec.26-75. – Prohibited activities.

The following activities are strictly prohibited on the Salem Common:

- (1) Destruction, defacement, removal, or disturbance of any sign, equipment, monument, marker, planting, bandstand or arch.
- (2) Distribution or display of commercial advertising, soliciting of business, or any other commercial transactions, except in connection with a permitted event.
- (3) Operation of devices in violation of Chapter 22, Noise Ordinance.
- (4) Disorderly conduct.
- (5) Use of metal-detecting devices.
- (6) Non-permitted vehicles.
- (7) The driving or parking of vehicles within the inside perimeter (track) of the common.
- (8) Mechanical rides or amusements, including carnivals and circuses



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- (9) Digging or disturbing the soil.
- (10) Drinking alcoholic beverages, except in connection with a permitted event.
- (11) Playing basketball between 10:00 P.M. and 8:00 A.M.
- (12) Climbing on trees and fences.
- (13) Using grills or making fires, except in connection with a permitted event.
- (14) Loitering, as defined in subsection 24-12(a), on the common grounds between 10:00 P.M. and 5:00 A.M.
- (15) Smoking tobacco or any other substance within fifty (50) feet of the perimeter of any play structure, basketball court and bandstand. "Smoking" means carrying or having in one's possession a lighted cigarette, cigar or pipe, or other object used for a similar purpose, giving off or containing any substance giving off smoke.

**Sec. 26-76. Penalties and Enforcement**

Whoever violates any provision of this article shall be subject to a fine of \$25.00 for the first offense and \$50.00 for any subsequent offense. The Police and Health Department officials shall enforce this Division. The Superintendent of Parks and Recreation may also revoke any permit issued by the Park and Recreation Commission following a violation of this Article.

**Sec. 26-77 – 26-99. – Reserved**

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

**#20 – ORDINANCE PICKUP OF LARGE ITEMS, DEMOLITION AND RENOVATION DEBRIS**

The following Ordinance recommended by the Mayor was referred to the Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole.

In the year two thousand and eighteen

An Ordinance to amend an Ordinance relative to Pickup of Large Items

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

Section 1. Chapter 36 is hereby amended by deleting Section 36-4 - Pickup of Large Items in its entirety and replacing with the following:

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Sec. 36-4. - Demolition and Renovation Debris.

Debris generated from demolishing or renovating properties such as ductwork, furnaces, radiators, bricks, concrete, asphalt, shingles, wood, windows, toilets or other such demolition and renovation debris, as may be determined by the director of public services, shall not be collected by the city or its solid waste contractor. Residents shall be responsible for the proper disposal of such debris.

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

**#21 – ORDINANCE RELATIVE TO PUBLIC GUIDES**

The following Ordinance recommended by the Mayor was referred to the Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole.

In the year two thousand and eighteen

An Ordinance to amend an Ordinance relative to Public Guides

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

Section 1. Chapter 40 – Tourism and Public Marketing, Article II, Division 1. Generally, is hereby amended by:

- 1) Inserting within the examination Section 40-27 (a) the phrase “and requirements of this Ordinance” at the end of the first sentence of this sub-section.
- 2) Inserting within the prohibition section 40.30 (3) the phrase “obstructs pedestrian access on a sidewalk, or leads a tour across or into a street open to vehicular traffic on a route other than a designated crosswalk”: at the end of this sub-section.
- 3) Insert the following new prohibited conduct immediately following Section 40.30 (6):
  - (7) Conduct at tour exceeding the tour participant limit and/or security/staff oversight requirements as such may be established for public safety purposes by the Chief of Police;
  - (8) Utilize a voice amplification device on Brown Street, Howard Street, Brown Street Court or Kimball Court

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- (9) Utilize candles or any other item with a flame on a tour; or
- (10) Conduct a tour on the grounds of 33 Proctor Street.

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

**#22 – APPROPRIATION TO RETIREMENT STABILIZATION FUND – VACATION SICK LEAVE BUYBACK FOR AMY CONNELLY AND DENNIS ROSS**

**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 per the “Open Meeting Law”

ORDERED: That the sum of Nineteen Thousand Three Hundred and Eighty-Three Dollars and Six Cents (\$19,383.06) in the “Retirement Stabilization Fund – Vacation Sick Leave Buyback” account to be expended for FY 2018 contractual buybacks listed below in accordance with the recommendation of Her Honor the Mayor.

Amy Connelly	Library	\$14,668.23
Dennis Ross	Building Inspector	<u>4,714.83</u>
		\$19,383.06

**#23 – EXEMPTION FROM CONFLICT OF INTEREST LAW FOR THE MAYOR**

**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 Ordinances, Licenses and Legal Affairs co-posted with Committee of the Whole per the “Open Meeting Law”

ORDERED: Pursuant to Massachusetts Conflict of Interest Law, General Law c. 268A, § 20(b), the City Council hereby approves a §20(b) exemption for Mayor Kimberley Driscoll to serve as the Commonwealth of Massachusetts Department of Housing and Community Development’s appointment to the Salem Housing Authority.

**CITY OF SALEM****JANUARY 11, 2018****REGULAR MEETING OF THE CITY COUNCIL****#24 – ORDINANCE – MANAGEMENT AND ELIMINATION OF NATURAL GAS LEAKS**

Councillor Dibble introduced the following Ordinance.

Councillor Milo moved that the matter be referred to the Committee on Ordinances, Licenses and Legal Affairs co-posted with Committee of the Whole and to invite SAFE to do a presentation. It was so voted.

In the year two thousand and eighteen

An Ordinance to amend an Ordinance relative to Management and Elimination of Natural Gas Leaks

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

**Section 1.** The Salem City Code Ordinances shall be amended by adding the following new Chapter, XIII, now reserved:

**“CHATER XIII. MANAGEMENT AND ELIMINATION OF NATURAL GAS LEAKS****13.1 PURPOSE**

The intent of this ordinance is:

- a) To improve the management of City infrastructure by coordinating maintenance, repair, upgrades, and replacement with gas companies;
- b) To minimize costs, traffic disruption, and blockage due to street openings;
- c) To protect the City's and its residents' investments in urban trees and green space;
- d) To enhance the public health, safety, and welfare of City residents, businesses, and visitors; and
- e) To facilitate closure of natural gas leaks as efficiently as possible.

**13.2 DEFINITIONS**

13.2.1 Unless otherwise specified, words used in and construction of this ordinance shall observe City of Salem Code, Ordinances, Chapter 1, General Provisions, 1-2, Definitions and Rules of Construction

132.2 The following terms shall have the following meanings:

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**“City”** means the City of Salem and its legal limits and all rights of access and easements in and licenses to use land areas outside of its legal limits to which it has the right or obligation to maintain.

**“Public Services”** means the Salem Public Services Department

**“Gas Company”** means a corporation organized for the purpose of making and selling, or distributing and selling, natural gas within the Commonwealth, even though subsequently authorized to make or sell electricity; provided, however, that gas company shall not mean a company that is exclusively an alternative energy producer.

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

**Councillor Furey recused himself and left the Council Chamber**

**#25 – RESOLUTION RELATIVE TO THE PEABODY ESSEX MUSEUM PROPOSAL TO MOVE SALEM’S HISTORICAL RECORDS TO ROWLEY**

Councillor Milo introduced the following Order which was adopted.

**RESOLUTION:**

**A resolution relative to the Peabody Essex Museum's proposal to move Salem's historical records to Rowley**

**WHEREAS:** Salem is a community of individuals who are deeply committed to their local heritage and is home to cultural and historical organizations that include the House of the Seven Gables, Pioneer Village, Salem Maritime National Historic Site and the Peabody Essex Museum.

**WHEREAS:** the Essex Institute served as the Salem Historical Society and housed materials entrusted to the institute by generations of Salem families; a place where anyone could walk in to conduct scholarly research or family genealogy.

**WHEREAS:** the Essex Institute merged with the Peabody Museum of Salem in 1992 to create the Peabody Essex Museum and continued the tradition of accessibility through the Phillips Library, though recently the museum has stated its intention to move the majority of the Library collection, including much local history, to a facility in Rowley.

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**WHEREAS:** the City Council recognizes the PEM's important role in the community and its efforts to be good stewards of the collections entrusted to them, but also knows that there would be a significant loss to Salem residents if the local collections are moved to Rowley.

**NOW THEREFORE BE IT RESOLVED:** that the City Council asks that the PEM to continue to work with the community at large, local historical, cultural and academic organizations and institutions to explore every possibility to keep the Phillips Library open and Salem's historical documents in Salem. We request that PEM convene a working group including representatives from all stakeholders as soon as possible to begin the work of keeping Salem's most treasured history in Salem.

**Councillor Furey returned to the Council Chamber.**

**Councillor Dibble by recommendation of the City Solicitor read and email which pertained to the following Order.**

**#26 – ORDER THAT A PROPOSED ORDINANCE RELATIVE TO A TREE COMMISSION**

Councillor Turiel introduced the following Order which was adopted.

ORDERED: that a proposed Ordinance relative to a Tree Commission and Warden, Public Tree Preservation, Protected Tree Preservation and References for public and protected trees be referred to the Committee on Ordinances, Licenses and Legal Affairs co-posted with Committee of the Whole.

**#27 – MONTHLY FINANCIAL REPORT DATED NOVEMBER 30, 2017**

Councillor Turiel introduced the following Order which was adopted.

ORDERED: That the Monthly Financial Report dated November 30, 2017 be referred to the Committee on Administration and Finance.

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#### **#28 – IMPACTS IN THE CITY BY AIR B&B’S**

Received after the deadline of Tuesday noon under suspension of the rules.

Councillor Domingo introduced the following Order which was referred to the Committee on Community and Economic Development co-posted with the Committee of the Whole.

ORDERED: That the Committee on Community and Economic Development co-posted with the Committee of the Whole, hold a public meeting to discuss Air Bed and Breakfasts known as Air B & B and their impacts on the City of Salem and possibly creation of an Ordinance to oversee these rentals, and that Hotel, Inns be invited along with the City Solicitor, Building Inspector and Health Agent.

#### **#29 (#733 - #735) GRANTING LICENSES**

Councillor McCarthy 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 granting certain licenses has considered said matter and would recommend that the following be granted.

SEAWORMS:	Tomo Shiraishi, 104 Wharf St., Salem
SECOND HAND CLOTHING:	Re-Find, LLC, 72 Washington St., Salem Re-Find, LLC, 244 Essex St., Salem Boston Street Resale, 134 ½ Boston St., Salem
SECOND HAND VALUABLE:	Game Zone, 270 Essex St., Salem Moon Baby Hair & Wares, 302B Essex St., Salem RJ Coins & Jewelry, LLC, 68 Wharf St., Salem Pickering Wharf Antiques - Jacqueline A. Satin, 69 Wharf St., Salem

#### **#30 – TRANSFER ORDER FOR UNEXPENDED BONDS**

Councillor Turiel 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 Transfer Order of unexpended Bond proceeds totaling \$3,660,268.84 originally borrowed for the purposes

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and under the orders for projects now completed for which no liability remains are hereby re-appropriated for the purpose of provided funds for acquiring the 289 Derby Street property (\$1,400,000) and to reduce the amount previously authorized by City Council on January 19, 2017 for such purpose by a like amount and for Canal Street Sewer Upgrades (\$2,260,268.84) and to reduce the amount previously authorized by order of the City Council passed on June 27, 2016 for such purpose by like amount has considered said matter and would recommend approval by roll call vote.

The matter was adopted by unanimous roll call vote of 11 yeas, 0 nays, 0 absent. Councillors Dibble, Dominguez, Flynn, Furey, Madore, McCarthy, Milo, Peterson, Sargent, Turiel and Gerard were recorded as voting in the affirmative.

**#31 – (#564, #565, #566 of 2017) COMMUNICATIONS FROM PLANNING BOARD WITH THEIR RECOMMENDATION**

The following communication from Ben Anderson Chairman, of the Planning Board relative to the Planning Boards recommendation adopting a Zoning Ordinance relative to Marijuana Section 3.0 Table of Principal use & Accessory Uses, Section 6.0 Special Regulations of the Salem Zoning Ordinance and Section 10.0 Definitions, was referred to the Committee on Ordinances, Licenses and Legal Affairs co-posted with Committee of the Whole.

**Report to City Council****December 18, 2017**

At its meeting on December 7, 2017 the Planning Board discussed the proposed Zoning Ordinance amendments regarding adding new uses, allowed only by special permit, to Section 3.0, Table of Principal and Accessory Uses for a retail marijuana cultivator within zones B2, B4, Industrial (I) and Business Park Development (BPD), a marijuana product manufacturer within zones I and BPD, a marijuana testing facility within the I zone, and a marijuana retailer within zones B2, B4, I and BPD, and a new use for a marijuana testing facility allowed by right in the B2 and BPD zones; adding new definitions to Section 10.0 for marijuana establishment, marijuana cultivator, marijuana product manufacturer, marijuana testing facility, marijuana retailer, marijuana processing, marijuana manufacturing, marijuana, marijuana accessories and marijuana products; and adding a new Section 6.10 – Special Regulations to provide for the special permit process for marijuana establishments listed in Section 3.0. The Planning Board unanimously voted in favor of recommending that the City Council approve the amendments as modified below:



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Sections that are recommended to be approved as proposed are not included in this report. The recommended *modifications* are shown in italics and deletions are shown as strikethrough below. Commentary from the Planning Board is noted in bullets below each modification. The full ordinance with the recommended changes is attached for reference.

## Section 3.0 Table of Principal and Accessory Uses

	RC	R1	R2	R3	B1	B2	B4	B5	I	BPD
Retail Marijuana Cultivator	N	N	N	N	<del>N</del> <i>BA</i>	BA	BA	<del>N</del> <i>BA</i>	BA	BA
Marijuana Product Manufacturer	N	N	N	N	N	N	N	N	BA	BA
Marijuana Testing Facility	N	N	N	N	N	<del>Y</del> <i>BA</i>	N	N	BA	<del>Y</del> <i>BA</i>
Marijuana Retailer	N	N	N	N	<del>N</del> <i>BA</i>	BA	BA	<del>N</del> <i>BA</i>	BA	BA

- The Planning Board recommends all marijuana related uses be by special permit and thus recommends changing the testing facility in B1 and BPD to require a special permit by the Board of Appeals. The Board considered cultivator and retail marijuana uses appropriate in the B1 and B5 zoning districts, and does not have any recommended changes for the manufacturing use.

## Section 6.0 Special Regulations of the Salem Zoning Ordinance

Section 6.10.6 subsection 5 to be revised: Pursuant to M.G.L. c. 94G, §5(b)(3), a marijuana establishment shall not be located within 500 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12. ~~A marijuana establishment which is proposing a location within 500 feet of any church, library, institution of higher education, licensed daycare, nursery school, or playground must provide written notice of its intention to these entities prior to or in conjunction with any request for a letter of support or non-opposition and/or the application for a special permit.~~

- Rather than limiting the noticing to specific uses/protecting categories under Section 6.10.6, the Planning Board recommends adding a requirement to Section 6.10.7 that requires a notice to be sent by mail to all abutters within 500-feet. This takes away from the ambiguity of what a park is, and removes the administrative task of keeping an updated list of the uses such as licensed daycares and nursery schools.

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Section 6.10.6 subsection 12 to be removed: ~~No marijuana shall be smoked, eaten, or otherwise consumed or ingested within any type of licensed marijuana establishment.~~

- The Planning Board discussed onsite consumption and ultimately determined that onsite consumption should be allowed, thus recommends striking this section. Additionally, if State Law prohibits onsite consumption this section is moot, thus does not need to be included in this ordinance.

Section 6.10.7 to be revised: If a Special Permit is required by Section 3.0 Table of Principle and Accessory Uses of the Zoning Ordinance, the petitioner (Applicant) shall submit a standard petition form and materials of the Zoning Board of Appeals application in addition to the following required materials:

1. *Notice from the City shall be sent by mail, postage prepaid to "parties in interest" as used in MGL Chp. 40A within five hundred (500) feet of the property line of the petitioner as they appear on the most recent applicable tax list.*
  - Massachusetts General Law Chp. 40A Section 11 requires a 300-foot notice to all parties of interest. Adding this section will increase the noticing requirement to 500 feet, and will capture all the uses that were identified under the proposed section 6.10.6 subsection 5. The Planning Board recommends that this notice should be sent by the City, not the petitioner.

Section 6.10.9 subsection 1 to be removed: ~~All marijuana cultivation facilities shall off-set 100% of their electricity consumption through at least 50% of on-site generation facilities, New England based renewable energy credits, and/or an equivalent that is subject to approval of the city.~~

- The Planning Board was concerned that this section would be cost prohibitive. Additionally, given that Salem is a small, dense city the Board is not concerned with the electricity consumption that this use would generate.

Section 6.10.10 subsection 1 to be removed: ~~All marijuana manufacturing facilities shall off-set 100% of their electricity consumption through at least 50% of on-site generation facilities, New England based renewable energy credits, and/or an equivalent that is subject to approval of the city.~~

- The Planning Board was concerned that this section would be cost prohibitive. Additionally, given that Salem is a small, dense city the Board is not concerned with the electricity consumption that this use would generate.

### Section 10.0. Definitions

Section 10.0 to be revised: "Marijuana retailer", an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver *or sell or*

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~~otherwise transfer~~ marijuana and marijuana products to marijuana establishments and to consumers.

- The Board determined this is unnecessarily wordy, thus recommended removing “otherwise transfer.”

If you have any questions regarding this matter, please feel free to contact Tom Daniel, AICP, Director of Planning & Community Development, at 978-619-5685.

Yours truly,  
Ben Anderson, Chair

#### **#32 – PETITION FROM MOBILITIE TO ATTACH A SMALL CELL BACKHAUL EQUIPMENT TO EXISTING UTILITY POLE ON HIGHLAND AVENUE**

A hearing was Ordered for January 25, 2018 on the petition from Mobilitie to attach a small cell Backhaul Equipment to Existing Utility Pole (non-city owned) on Highland Avenue (Directly in front of Salem Hospital Property)

#### **#33 – NORTH SHORE PRIDE PARADE**

A request from North Shore Pride for use of city of streets on June 23, 2018 for their 7<sup>th</sup> annual North Shore Pride Parade, was granted.

#### **#34 - #35 GRANTING LICENSES**

The following license applications were granted.

PUBLIC GUIDES:	Allan Dorrington, 1000 Lexington St Apt 17, Waltham Thomas Vallor, 394 Essex St, Salem David Harris, 3 Buford Rd, Peabody Linda Harris, 3 Buford Rd, Peabody Samantha Martin, 32 Gilboa St, Douglas Brigitta Amsler, 286 Ocean Ave, Marblehead Leo Ward, 31 Crescent Ave, Beverly Melissa Nierman, 26R Chestnut St, Salem Robert Kieran, 14 Tremont St, Salem Kathryn Rutkowski, 2 Essex St, Salem David Pszenny, 21 Thomas Cir, Salem
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**CITY OF SALEM****JANUARY 11, 2018****REGULAR MEETING OF THE CITY COUNCIL****PUBLIC GUIDES  
CONTINUED**

Nancy Sweetser, 60 Burley St, Danvers  
John J. Feeley Jr., 26 South Shore Rd, Holbrook  
John Higgins, 71 Governors Rd, Milton  
Carole Hartling, 37 Peach Highlands, Marblehead  
Robert Sant Fournier, 5 Crescent Court, Beverly  
Lori Sinatra, 14 Dunlap St., Salem

**TAXI OPERATORS:**

Ramon Espinal, 73 ½ Summer St, Salem  
Christian Tejada Nunez, 11 Mason St, Salem  
Ramon Espinal Jr., 15 Heritage Dr #25, Salem  
Vladimir Inoa Frias, 414 Essex St, Salem  
Rafael Moya, 5-A Ropes St #2, Salem  
Roberto Pacheco, 26 Mill St, Danvers  
Hipolito Ozoria, 10 Porter St #4, Salem  
Andrew Smith, 6 Monroe St, Salem  
Guillermo Javier, 32 Rainbow Ter, Salem  
Jeiffry King, 127 Hamilton Ave, Lynn  
Andres Espinal, 58 Clark St, Lynn

**#36 – TAXI OPERATOR LICENSE APPLICATIONS**

The following license applications were Denied.

**TAXI OPERATORS:**

Victor Pimentel, 10 Peabody St, Salem  
Kerwyn Medrano, 469 Walnut St, Lynn

**#37 – TAXI OPERATOR HEARING REQUEST**

The following Taxi Operator hearing requests were referred to the Committee on Ordinances, Licenses and Legal Affairs to hold an Executive Session.

Victor Pimentel, 10 Peabody St, Salem  
Kerwyn Medrano, 469 Walnut St, Lynn

**CITY OF SALEM****JANUARY 11, 2018****REGULAR MEETING OF THE CITY COUNCIL****#38 - #40 LICENSE APPLICATIONS**

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

JUNK YARD: 15 Robinson Road, LLC, 15 Robinson Rd, Salem

SECOND HAND  
VALUABLE: The Record Exchange, 256 Washington St, Salem  
Witch City Consignment, 301 Essex St, Salem

TAG DAYS: S.H.S. Girls LaCrosse, 3/31/18 & 4/14/18

**#41 – DRAINLAYER / CONTRACT OPERATOR LICENSES**

The Following Drainlayer/Contract Operator Licenses were granted.

Bartlett & Steadman Co., Inc, 67 R Village St, Marblehead  
D&M Civil, Inc., 30 Log Bridge Rd, Bld 100 – Suite 102, Middleton  
The Dow Company, Inc., 1112 Broadway, Dracut  
Geologic-Earth Exploration, 7 Sherwood Drive, Norfolk  
JJ O'Brian & Sons, Inc., 5 Fern St, Waltham  
McGrath Enterprises, 28 Oakville St, Lynn  
Peterson Construction, 210 Broadway, Lynn  
Mirra Co., Inc., 6 Norino Way, Georgetown  
TDS, Inc., 2 Peter Drive, Sterling  
Thomas Mackey & Sons, 58 Broadway, Salem  
WES Construction Corp., 650 Industrial Drive, Halifax

**#42 - #46 CLAIMS**

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

CLAIMS Nicholas Finestone, 70 Essex St, Salem  
Marybeth Nicole Marcey, 377 Essex St, Salem  
Debra Day, 23 Goodell St, Salem  
Desiree Dudonnet-Olson, 11 Cypress St, Salem  
David Carney, 6 Bentley St., Salem

**CITY OF SALEM****JANUARY 11, 2018****REGULAR MEETING OF THE CITY COUNCIL****(#500) – SECOND PASSAGE ORDINANCE AMENDING ZONING – ENTRANCE CORRIDOR OVERLAY DISTRICT DESIGN REVIEW BOARD OVERSITE**

The matter of second passage of an Ordinance amending Zoning, relative to Section 8 – Entrance Corridor Overlay District by adding Section 8.2.8 Design Review Board Recommendation Design oversite was then taken up. It was adopted for second and final passage by unanimous roll call vote of 11 yeas, 0 nays, 0 absent. Councillors Dibble, Dominguez, Flynn, Furey, Madore, McCarthy, Milo, Peterson, Sargent, Turiel and Gerard were recorded as voting in the affirmative.

**(#605A) – SECOND PASSAGE ORDINANCE AMENDING ZONING – ACCESSORY LIVING AREAS**

The matter of second passage of an Ordinance amending Zoning, Section 3.2 by adding a new section 3.2.8 Accessory Living Areas was then taken up. It was adopted for second and final passage by unanimous roll call vote of 11 yeas, 0 nays, 0 absent. Councillors Dibble, Dominguez, Flynn, Furey, Madore, McCarthy, Milo, Peterson, Sargent, Turiel and Gerard were recorded as voting in the affirmative.

**(#709) – SECOND PASSAGE ORDINANCE AMENDING TRAFFIC HANDICAP PARKING REPEAL NURSERY STREET**

The matter of second passage of an Ordinance amending Traffic, Chapter 42, Section 50B, “Handicap Parking Limited Time” Repeal Nursery Street, in front of #11, for a distance of twenty (20) feet, Handicap Parking Tow Zone was then taken up. It was adopted for second and final passage.

**(#710) – SECOND PASSAGE ORDINANCE AMENDING TRAFFIC HANDICAP PARKING FORRESTER STREET**

The matter of second passage of an Ordinance amending Traffic, Chapter 42, Section 50B, “Handicap Parking Limited Time” Forrester Street, in front of #2, for a distance of twenty (20) feet, Handicap Parking Tow Zone was then taken up. It was adopted for second and final passage.

**(#711) – SECOND PASSAGE ORDINANCE AMENDING TRAFFIC HANDICAP PARKING BARTON STREET**

The matter of second passage of an Ordinance amending Traffic, Chapter 42, Section 50B, “Handicap Parking Limited Time” Barton Street, in front of #13 ½, for a distance of twenty (20) feet, Handicap Parking Tow Zone was then taken up. It was adopted for second and final passage.

**CITY OF SALEM****JANUARY 11, 2018****REGULAR MEETING OF THE CITY COUNCIL****(#712) - SECOND PASSAGE ORDINANCE AMENDING TRAFFIC HANDICAP PARKING  
LAUREL STREET**

The matter of second passage of an Ordinance amending Traffic, Chapter 42, Section 50B, "Handicap Parking Limited Time" Laurel Street, northerly side starting at a point of twenty (20) feet west of Hazel Street, and continuing in a westerly direction for a distance of twenty (20) feet, Handicap Parking Tow Zone was then taken up. It was adopted for second and final passage.

**(#713) – SECOND PASSAGE ORDINANCE AMENDING TRAFFIC HANDICAP PARKING  
LAUREL STREET**

The matter of second passage of an Ordinance amending Traffic, Chapter 42, Section 50B, "Handicap Parking Limited Time" Laurel Street, in front of #19 ½, for a distance of twenty (20) feet, Handicap Parking Tow Zone was then taken up. It was adopted for second and final passage.

**(#714) – SECOND PASSAGE ORDINANCE AMENDING TRAFFIC SERVICE ZONES,  
LAFAYETTE STREET**

The matter of second passage amending Traffic, Chapter 42, Section 13, "Service Zones" Lafayette Street, in front of #163 Lafayette Street, Levesque Funeral Home, No Parking Service Zone, 8:00 A.M. to 8:00 P.M. Funeral service vehicles only was then taken up. It was adopted for second and final passage.

On the motion of Councillor Furey the meeting adjourned at 8:20 P.M.

ATTEST:

CHERYL A. LAPOINTE  
CITY CLERK