

CITY OF SALEM

OCTOBER 27, 2016

REGULAR MEETING OF THE CITY COUNCIL

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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 Cheryl LaPointe at 978-619-5610 or clapointe@saalem.com.

A Regular Meeting of the City Council held in the Council Chamber on Thursday, October 27, 2016 at 7:00 P.M. for the purpose of transacting any and all business. Notice of this meeting was posted on October 25, 2016 at 8:58 A.M. This meeting is being taped and is live on S.A.T.V.

All Councillors were present.

Council President Turiel presided.

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

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

There was a moment of silence on the passing of Christine Sullivan.

PUBLIC TESTIMONY

1. Susan Yokeolson – Salem Sound Coast Watch – Plastic Bag Ordinance
2. Carole Hautau, 1 Linden St. #22 – Plastic Bag Ordinance
3. Tim Jenkins, 18 Broad St. – 289 Derby Street with CPA funds, 297 Bridge Street

(#507) – HEARING DOMINO’S FOR EXTENDED HOURS OF OPERATION

A hearing was continued on the request from Domino’s located at 4 Canal Street for extended hours of operation. The amended requested hours will be from 10:30 A.M. until 2 A.M. Saturday through Friday, 7 days per week.

CITY OF SALEM

OCTOBER 27, 2016

REGULAR MEETING OF THE CITY COUNCIL

IN FAVOR:

Gina Cashman and David Jenks representatives of Domino's

Councillor Dibble was concerned with the safety of the elevation they filled 2-5 feet and a propane Tank was added. No guard rail has been put in. The request for 7 days a week until 2:00 AM, this is a residential area. This is not right for this area. He is recorded as opposed.

Councillor Lovely stated that he received as calls from constituents, he is opposed.

Councillor Turiel stated he cannot support 7 days a week. It either needs to be amended to midnight or 1:00 AM on weekends or there should be a trial period.

Councillor Famico stated it could be midnight Sunday through Wednesday 1:00 AM on Thursdays Through Saturday as a trial period and bring it back the first meeting in January and have the Petitioners return and get police reports.

Councillor Milo asked what the current hours are.

David Jenks – stated there are deliveries at 2:00 AM and take out until 11:00 PM. As for the guard Rail Domino's has hired a new contractor to put it in. It was postponed until tomorrow or Saturday.

Councillor Dibble stated there should be no changes to take effect until the guard rail is in and the Building inspector and Engineer approve it.

Councillor McCarthy moved that the hearing be closed.

Councillor McCarthy moved granted by a roll call vote.

Councillor Famico stated it should be approved with the conditions.

It was adopted by a roll call vote of 6 yeas, 5 nays, 0 absent.

CITY OF SALEM

OCTOBER 27, 2016

REGULAR MEETING OF THE CITY COUNCIL

(#573) – HEARING TARGET REQUESTING ONE DAY EXTENDED HOURS FOR BLACK

FRIDAY

A hearing was held on the request from Target, located at 227 Highland Ave., to request a one-day extension of store hours on Friday, November 25, 2016, the day after Thanksgiving, to open sometime after 12:00 AM for this day only. Target normally opens on Fridays at 8:00 A.M.

IN FAVOR:

Mark Libarti Store Manager Target – wanted to request these hours for Black Friday. This is for the Season to better serve the public.

Councillor Eppley rejected this request a year ago for black Friday. I hope it is still rejected.

Councillor Lovely – received a call from Target. The employees tell us how they feel, they would Rather not work on black Friday.

OPPOSED:

No one from the public spoke in opposition.

Councillor Lovely moved that the hearing be closed. It was so voted.

Councillor Lovely moved that the request be denied. It was so voted.

(#562) – APPOINTMENT OF ATTORNEY TANYA STEPASIUK TO THE TRAFFIC AND PARKING COMMISSION

Held from the last meeting, the Mayor's appointment of Attorney Tanya Stepasiuk, 10 Burnside St., to serve as a member of the Traffic and Parking Commission with a term to expire on October 13, 2017. The appointment was confirmed by unanimous roll call vote of 11 yeas, 0 nays, 0 absent. Councillor Dibble, Eppley, Famico, Furey, Gerard, Lovely, McCarthy, Milo, Ryan, Sargent and Turiel.

Councillor Famico moved for suspension of the rules to allow Attorney Stepasiuk to speak. There was no objection.

CITY OF SALEM

OCTOBER 27, 2016

REGULAR MEETING OF THE CITY COUNCIL

#586 – APPOINTMENT OF MATTHEW O. SMITH AS THE TRAFFIC AND PARKING EXECUTIVE DIRECTOR

The Mayor's appointment of Matthew O. Smith, 12 Northey St., to serve as the City of Salem's Traffic and Parking Executive Director for a two-year term to commence on November 14, 2016 and to expire on January 31, 2019, was held under the rules until the next meeting.

#587 – APPROPRIATION TO FOR VACATION/SICK LEAVE BUYBACK FOR MICHEAL FECTEAU OF THE POLICE DEPARTMENT

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

ORDERED: That the sum of Thirty-Five Thousand and Fifty-Eight Dollars and Forty-Two cents (\$35,058.42) is hereby appropriated in the "Retirement Stabilization Fund – Vacation /Sick Leave Buyback" to be expended for the FY2017 contractual buyback listed below in accordance with the recommendation of Her Honor the Mayor.

Michael Fecteau

Police Department

\$35,058.42

#588 – AUTHORIZE MAY TO ENTER INTO A LEASE AGREEMENT FOR A PUMP TRUCK FOR THE FIRE DEPARTMENT

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

ORDERED: The Mayor is hereby authorized to execute, on behalf of the City of Salem, a lease-purchase agreement with Ferrara Fire Apparatus, Inc. for the lease-purchase of a custom fire pump truck. The principal cost of the pump truck shall be approximately \$554,736.00 and financed over a term of 7 years at an interest rate of 2.59%.

#589 – YEAR TO DATE BUDGET REPORT

Councillor Eppley introduced the following Order which was adopted.

ORDERED: that the Year to Date Budget Report dated July, August and September 2016 be referred to the Committee on Administration and Finance.

CITY OF SALEM

OCTOBER 27, 2016

REGULAR MEETING OF THE CITY COUNCIL

#590 – MONTHLY FINANCIAL REPORT

Councillor Eppley introduced the following Order which was adopted.

ORDERED: that the Monthly Financial Report dated September 30, 2016 be referred to the Committee on Administration and Finance.

#591 – COUNCIL MEETING DATES FOR THE MONTHS OF NOVEMBER AND DECEMBER

Councillor Furey introduced the following Order which was adopted.

ORDERED: That the regular meetings of the City Council for the months of November and December be held on Thursday, November 17, 2016 and Thursday, December 1, 2016

#592 - ORDINANCE TRAFFIC HANDICAP PARKING BROAD STREET

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

In the year two thousand and sixteen

An Ordinance to amend an Ordinance relative to Traffic:

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

Section 1. Chapter 42, Section 50B – “Handicap Parking, Limited Time’ is hereby amended by adding the following:

Broad Street, in front of #57 for a distance of twenty (20) feet. “Handicap Parking, Tow Zone’

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

#593 – ORDINANCE TRAFFIC HANDICAP PARKING REPEAL GENEVA STREET

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

In the year two thousand and sixteen

An Ordinance to amend an Ordinance relative to Traffic:

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

CITY OF SALEM

OCTOBER 27, 2016

REGULAR MEETING OF THE CITY COUNCIL

Section 1. Chapter 42, Section 50B – “Handicap Parking, Limited Time’ is hereby amended by repealing the following:

Repeal Geneva Street, in front of #1 for a distance of twenty (20) feet. “Handicap Parking Tow Zone” (5/28/13)

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

#594 – ORDINANCE TRAFFIC HANDICAP PARKING REPEAL WISTERIA STREET

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

In the year two thousand and sixteen

An Ordinance to amend an Ordinance relative to Traffic:

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

Section 1. Chapter 42, Section 50B – “Handicap Parking, Limited Time’ is hereby amended by repealing the following:

Repeal Wisteria Street, in front of #9A for a distance of twenty (20) feet. “Handicap Parking Tow Zone” (6/18/14)

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

#595 – ORDINANCE TRAFFIC METERED ZONE, MUNICIPAL LOT WASHINGTON STREET

Councillor Turiel introduced the following Ordinance. A motion to adopt for first passage was defeated. A motion to refer to the Committee on Ordinances, Licenses and Legal Affairs co-posted with Committee of the Whole was defeated by a roll call vote of 5 yeas, 6 nays, 0 absent. Councillors Dibble, Famico, Furey, Gerard and Lovely were recorded as voting in the affirmative. Councillors Eppley, McCarthy, Milo, Ryan, Sargent and Turiel were recorded as voting in the negative. An Order to make this a ninety (90) day trial was adopted. Councilloors Furey, Gerard and Famico were recorded as opposed.

In the year two thousand and sixteen

An Ordinance to amend an Ordinance relative to Traffic:

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

CITY OF SALEM

OCTOBER 27, 2016

REGULAR MEETING OF THE CITY COUNCIL

Section 1. Chapter 42, Section 56 "Parking Meters, Zones Established"

Washington Street Municipal lot in front of 203-209 Washington Street for meters 683, 682, 681, 680, 703 and 202, thirty (30) minute parking 8:00 AM – 6:00 PM, Monday through Saturday

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

#596 – ORDINANCE TRAFFIC RESIDENT STICKER PARKING LAFAYETTE STREET

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

In the year two thousand and sixteen

An Ordinance to amend an Ordinance relative to Traffic:

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

Section 1. Chapter 42, Section 75, "Parking Prohibited Tow Zone (Resident Sticker)"

Lafayette Street, Zone B, color red, from #339 to #441 Lafayette Street to be included to obtain resident sticker parking permits.

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

#597 – AMEND CITY COUNCIL RULES

Councillor Turiel introduced the following Order which was referred to an Ad-Hoc Committee on rules co-posted with the Committee of the Whole.

ORDER: That the following rules of the City Council be amended as follows:

Sec. 22. - Numbering members' seats; determining seat; changing seat.

The seats of the members of the council shall be numbered from one upwards, beginning at the left of the president's chair, and be determined the president at the beginning of each Council year, and no member shall change his seat but by permission of the president.

Sec. 26. - Appointment of chairperson when into committee of whole.

When the council shall determine to go into committee of the whole, the president shall take the chair or appoint a member to do so.

CITY OF SALEM

OCTOBER 27, 2016

REGULAR MEETING OF THE CITY COUNCIL

Sec. 27. - Rules when in committee of the whole.

The rules of proceeding in committees shall also be observed in committee of the whole, so far as they are applicable; but a motion to rise, report progress, and ask leave to sit again shall be first in order, and shall be decided without debate; and the previous question shall not be moved.

#598 – RULES TO GOVERN HOME RULE PETITIONS

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

Councillor Sargent introduced the following Order with was referred to the Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole.

ORDERED: That the Committee on Ordinances, Licenses and Legal Affairs co-posted with Committee of the Whole meet to form a committee which shall form rules to govern how Home Rule Petition Liquor Licenses are issued where they are an allowed according to the Principal Use Regulations of the City of Salem Zoning Ordinance.

#599 – FORM A NEIGHBORHOOD IMPACT – QUALITY OF LIFE COMMITTEE

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

Councillor Sargent introduced the following Order with was referred to the Committee on Ordinances, Licenses and Legal Affairs.

ORDERED: That the Committee on Ordinances, Licenses and Legal Affairs meet to form a Neighborhood Impact – Quality of Life Committee to discuss quality of life issues in Salem. This Committee will report back to the Committee on Ordinances, Licenses and Legal Affairs Committee with recommendations for improving the quality of life in the neighborhoods of Salem.

#600 – (#563) AUTHORIZE THE MAYOR TO PURCHASE PROPERTY LOCATED AT 289 DERBY STREET FOR \$1.4 MILLION

Councillor Eppley offered the following report for the Committee on Administration and Finance co-posted with the Committee of the Whole. It was voted to accept the report.

It was referred back to the Committee of Administration and Finance co-posted with Committee of the Whole.

The Committee on Administration and Finance co-posted with Committee of the Whole to whom was referred the matter of an order to authorize the Mayor to purchase property located at 289 Derby Street, on behalf of the City of Salem, for \$1.4 Million. Said land shall be subject to an

CITY OF SALEM

OCTOBER 27, 2016

REGULAR MEETING OF THE CITY COUNCIL

open space preservation restriction has considered said matter and would recommend adoption by a roll call vote.

#601 – (#564) BOND ORDER IN THE AMOUNT OF \$1,400,000

Councillor Eppley offered the following report for the Committee on Administration and Finance co-posted with the Committee of the Whole. It was voted to accept the report and adopt the recommendation.

The Committee on Administration and Finance co-posted with Committee of the Whole to whom was referred the matter of a Bond Order in the amount of \$1,400,000 to be appropriated to pay costs for the Community Preservation Act Project - The acquisition of 289 Derby Street for recreation purposes and the payment of all costs incidental and related thereto has considered said matter and would recommend that the matter remain in Committee.

#602 – (#565) APPROPRIATION FROM CPA FUNDS

Councillor Eppley offered the following report for the Committee on Administration and Finance co-posted with the Committee of the Whole. It was voted to accept the report. A motion to refer the matter back to Committee was adopted.

The Committee on Administration and Finance co-posted with the Committee of the Whole to whom was referred the matter of an appropriation of \$100,000 from CPA Funds to CPA-289 Derby St. Design and Costs has considered said matter and would recommend adoption by roll call vote.

#603 – (#603A) ORDINANCE RELATIVE TO USE OF PLASTIC BAGS IN SALEM

Councillor Gerard offered the following report for the Committee on Public Health, Safety and Environment co-posted with the 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 the Committee of the Whole to whom was referred the matter of Creating an Ordinance relative to reducing the use of plastic bags in Salem has considered said matter and would recommend that the ordinance be adopted for first passage.

CITY OF SALEM

OCTOBER 27, 2016

REGULAR MEETING OF THE CITY COUNCIL

#603A – ORDINANCE RELATIVE TO USE OF PLASTIC BAGS IN SALEM

In the year Two Thousand and Sixteen

An Ordinance to restrict the use of disposable plastic bags in retail establishments.

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

Section 1. Chapter 14 - Business Licenses and Fees is hereby amended to by adding the following new Article:

“Article VII. Use of Disposable Plastic Bags at Retail Business Establishments

Sec. 14-500. Purpose.

The reduction in the use of disposable plastic shopping bags by retail establishments in the city is a public purpose that protects the marine environment, advances solid waste reduction, reduces greenhouse gas emissions, and protects waterways. This ordinance seeks to reduce the number of plastic bags that are being used, discarded and littered, and to promote the use of reusable checkout bags and recyclable paper bags by retail establishments located in the city.

Sec. 14-501. Definitions.

The following words shall, unless the context clearly requires otherwise, have the following meanings:

Disposable plastic shopping bag means any checkout bag made predominately of plastic derived from either petroleum, natural gas, or a biologically based source, such as corn or other plant sources, which is provided to a customer at the point of sale. The term, "disposable plastic shopping bag" includes:

- (1) Degradable plastic bags; and
- (2) Biodegradable plastic bags that are not commercially compostable as well as commercially compostable plastic bags.

The term "disposable plastic shopping bag" shall not include:

- (1) Reusable bags;
- (2) Produce bags; or
- (3) Product bags.

As used in this definition, the term "*produce bag*" or "*product bag*" means any bag without handles used exclusively to carry produce, meats or other food items to the point of sale inside a store or to prevent such food items from coming into direct contact with other purchased items.

Checkout bag means a carry-out bag provided by a retail establishment to a customer at the point of sale.

Checkout bags shall not include:

- (1) Bags, whether plastic or not, in which loose produce or bulk products are placed by the consumer to deliver such items to the point of sale or check out area of the retail establishment;
- (2) Laundry or dry cleaner bags;
- (3) Newspaper bags; or
- (4) Bags used to contain or wrap frozen foods, meat or fish, whether prepackaged or not, to prevent or contain moisture and/or prevent contamination.

Reusable bag means a bag that is specifically designed and manufactured for multiple reuse and is either polyester, polypropylene, cotton or other durable material, and meets the following requirements:

- (1) Has a minimum lifetime capability of 125 or more uses carrying 22 or more pounds; and

CITY OF SALEM

OCTOBER 27, 2016

REGULAR MEETING OF THE CITY COUNCIL

(2) Is machine washable or is made of a material that can be cleaned or disinfected 125 times.

Recyclable paper bag means a paper bag that is 100 percent recyclable and contains at least 40 percent post-consumer recycled content, and displays the words "Recyclable" and "made from 40% post-consumer recyclable content" in a visible manner on the outside of the bag.

Retail establishment means any commercial enterprise, defined as the following: whether for or not for profit, including, but not limited to, restaurants, pharmacies, convenience and grocery stores, liquor stores, seasonal and temporary businesses, jewelry stores, and household goods stores.

Sec. 14-502. Prohibition on disposable plastic shopping bags.

No retail establishment shall provide a disposable plastic shopping bag to any customer for the purpose of enabling the customer to carry away goods from the point of sale. Nothing in this section shall be read to preclude any establishment from making reusable bags available for sale to customers or utilizing recyclable paper bags at checkout.

Sec. 14-503. Penalties and enforcement.

The penalty for each violation that occurs after the issuance of the warning notice shall be in accordance with section 1-10 (b) of the Code of Ordinances. The warning notice issued for the first offense shall provide at least 14 days to correct the violation. No fine for the second offense shall be issued until at least 14 days after the warning is issued. This ordinance may be enforced by any police officer, enforcement officer or agent of the Board of Health or Licensing Department.

Sec. 14-504. Effective date.

This ordinance shall take effect on January 1, 2018.”

#604 – (#569) DISPOSITION AND DEED RESTRICTION FOR 297 BRIDGE STREET

Councillor Turiel 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 the Disposition and Deed Restriction of City Owned parcel located a #297 Bridge Street has considered said matter and would recommend that the matter remain in committee.

#605 – (#484) HOME RULE PETITION FOR ADDITIONAL LIQUOR LICENSES

Councillor Turiel offered the following report for the Committee of the Whole. It was voted to accept the report. And that the additional license for 148 Washington St. Merchant Hotel, 217 Essex St. Brew on the Grid Salem and convert a seasonal license 299 Essex St. Bonchon.

The Committee of the Whole to whom was referred the matter the Home Rule Petitions to convert seasonal liquor licenses to annual licensed and grant additional liquor licenses for the sale of all alcoholic beverages to be drunk on the premises has considered said matter and would recommend the following:

CITY OF SALEM

OCTOBER 27, 2016

REGULAR MEETING OF THE CITY COUNCIL

One (1) additional license for the sale of all alcoholic beverages to be drunk on the premises of Merchant Hotel located at 148 Washington St. be Granted;

One (1) additional license for the sale of wine and malt beverages to be drunk on the premises to Brew on the Grid Salem located at 217 Essex St. be Granted

To convert a currently issued seasonal license for the sale of all alcoholic beverages to be drunk on the premises currently issued to Bonchon located at 299 Essex St. be Granted

To convert a currently issued seasonal license for the sale of all alcoholic beverages to be drunk on the premises currently issued to Flatbread located at 311 Derby St. be withdrawn

Granting of 5 additional licenses for the sale of all alcoholic beverages to be drunk on the premises to establishments located within the B5 Central Business District, The Entrance Corridor Overlay Zoning Districts or Derby and Congress Street Remain in Committee

#606 – (#484) HOME RULE PETITION FOR 5 ADDITIONAL LIQUOR LICENSES

Councillor Turiel offered the following report for the Committee of the Whole. It was voted to accept the report.

Councillor Sargent amended to include after Derby and Congress Streets the following: *“the location of which shall be subject to the City’s Zoning Ordinance and these licenses shall conform to the table of principles and Accessory Use Regulations of the City of Salem Zoning Ordinances”* adopted as amended.

The Committee of the Whole to whom was referred the matter the Home Rule Petitions to grant 5 additional liquor licenses for the sale of all alcoholic beverages to be drunk on the premises to establishments located within the B5 Central Business District, The Entrance Corridor Overlay Zoning Districts or Derby and Congress Street *the location of which shall be subject to the City’s Zoning Ordinance and these licenses shall conform to the table of principles and Accessory Use Regulations of the City of Salem Zoning Ordinances* has considered said matter and would recommend adoption.

#607 – BLOCK PARTY BEACH AVENUE

A request from the Residents of Beach Ave. (from Cheval Ave. to Juniper Ave.) to hold a block party on November 11, 2016 from 7:00 A.M. to 11:00 A.M. to rededicate the WWII memorial in that neighborhood, was granted.

CITY OF SALEM

OCTOBER 27, 2016

REGULAR MEETING OF THE CITY COUNCIL

#608 - #610 LICENSE APPLICATIONS

The following license applications were granted.

LIMOUSINE: Salem Taxi Company, 30 Church St., Salem

PUBLIC GUIDES: Amy Sheridan, 1 Manning St., Ipswich

TAXI OPERATORS: Luis Maldonado Sanchez, 5 Porter St. Ct., Salem
Khris Joel Lara, 159 Boston St., Salem
Lucia Planco, 14 Beacon St., Lawrence
Samuel Miring, 14 Beacon St., Lawrence
Frizgerald Hilaire, 14 Dow St., Salem
Joel Perez, 64 Harbor St., Salem
Eliazar Sosa-Garcia, 9 Salem St., Salem
Ramon Reyes, 42 Park St., Salem
Angel Castillo, 2 Prince St. Pl., Salem

#611 – LICENSE APPLICATIONS

The following license application was denied.

TAXI OPERATOR: Sigfredo Pena, 3 Harris St., Peabody

#612- HEARING REQUEST ON DENIED TAXI OPERATOR LICENSE

A hearing was requested from Sigfredo Pena on the denial of his taxi operator license. The matter was referred to the Committee on Ordinances, Licenses and Legal Affairs to hold an Executive Session.

#613 – BONDS

The following Bond was referred to the Committee on Ordinances, Licenses and Legal Affairs and returned approved.

CONSTABLE: Michael Panneton, 19 Greenlawn Ave., Salem

CITY OF SALEM

OCTOBER 27, 2016

REGULAR MEETING OF THE CITY COUNCIL

(#439) – SECOND PASSAGE ORDINANCE ZONING 297 BRIDGE STREET

The matter of second passage of an Ordinance amending the Zoning Map for the parcel located at 293 Bridge Street from NRCC to B-4 and 297 Bridge Street from R-2 to B-4, was then taken up. It was adopted for second and final passage by a roll call vote of 9 yeas, 2 nays, 0 absent. Councillors Dibble, Eppley, Famico, Furey, Gerard, McCarthy, Milo, Ryan and Turiel were recorded as voting in the affirmative. Councillors Lovely and Sargent were recorded as opposed.

A motion for immediate reconsideration in the hopes it would not prevail was denied.

(#568) – SECOND PASSAGE ORDINANCE AMENDING TRAFFIC HANDICAP PARKING

The matter of second passage of an ordinance amending Traffic Ch. 42, Sec. 50B Handicap Parking Repeal Cabot Street, was then taken up. It was adopted for second and final passage.

On the motion of Councillor Furey the meeting adjourned at 10:05 P.M.

ATTEST:

CHERYL A. LAPOINTE
CITY CLERK