

Meeting Notice

Date Notice Posted: April 3, 2009

City of East Providence

City Council Meeting

Date of Meeting: Tuesday, April 7, 2009

Time of Meeting: 7:30 P.M.

Location of Meeting:

City Hall, Council Chambers

145 Taunton Avenue

East Providence, RI 02914

CITY OF EAST PROVIDENCE

RHODE ISLAND

DOCKET OF REGULAR COUNCIL MEETING

April 7, 2009

6:30pm Executive Session

7:30pm Open Session

I. EXECUTIVE SESSION

The City Council of the City of East Providence will meet in Executive Session to discuss Claims and Litigation pursuant to RI General Laws § 42-46-5 (a) (2)

A. Claims Committee

See concurrently posted Claims Committee Meeting Agenda.

II. CALL TO ORDER

III. INVOCATION

IV. SALUTE TO THE FLAG

V. TO APPROVE THE CONSENT CALENDAR

All items under “CONSENT CALENDAR” are considered to be of a routine and noncontroversial nature by the City Council and will be enacted by one motion. There will be no separate discussion on these items unless a Council member so requests, in which event, the item will be removed from the “CONSENT CALENDAR” and will be considered in its normal sequence on the docket.

Motion_____By____2nd_____

Coogan___Cusack___DiTraglia___Perry___Larisa_____

A. Approval of Council Journals

1. March 3, 2009 Executive Session (closed minutes)

2. March 17, 2009 Regular Council Meeting

B. Vict/Not Over 25 (Transfer)

Ayesha Corp., D.B.A. Gulf Express to ANBN Beamin Inc., D.B.A. Gulf Express, 2261 Pawtucket Avenue (02914)

C. Holiday Sales (Transfer)

Ayesha Corp., D.B.A. Gulf Express to ANBN Beamin Inc., D.B.A. Gulf

Express, 2261 Pawtucket Avenue (02914)

D. Peddler-Ice Cream

**Hoyos, Castor S., D.B.A. Palagi's Ice Cream, 55 Beacon Street,
Pawtucket, RI 02860**

E. Sec/Autos & Trucks (Transfer - Corporate Name Change Only)

**Paul Masse Chevrolet Geo Inc. to Pual Masse Chevrolet Inc., 1111
Taunton Avenue (02914)**

F. Alcoholic Beverage F-1

**St. Francis Xavier, 81 North Carpenter Street (02914) Fundraiser, April
18, 2009**

VI. PROCLAMATIONS AND PRESENTATIONS

**A.Presentation of Citations to Sergeant Thomas Rush and Patrolmen
Matthew Robinson and Michael Rose (By Councilman Coogan)**

**B.Presentation of Proclamation to Francis W. O'Hara (by Mayor
Larisa)**

VII. APPOINTMENTS

A. Affirmative Action Committee (by Mayor Larisa)

1. William Fontes, 95 Hazard Street (02914)

Motion_____By_____2nd_____

Coogan___Cusack___DiTraglia___Perry___Larisa___

2. Karen Franks, 105 Elder Avenue (02914)

Motion_____By_____2nd_____

Coogan___Cusack___DiTraglia___Perry___Larisa___

3. Barbara Fuller, 66 Swan Street (02914)

Motion_____By_____2nd_____

Coogan___Cusack___DiTraglia___Perry___Larisa___

4. Alice Martin, 1 Vineyard Avenue (02914)

Motion_____By_____2nd_____

Coogan___Cusack___DiTraglia___Perry___Larisa___

5. Monty Monteiro, 24 Holbrook Street (02914)

Motion_____By_____2nd_____

Coogan___Cusack___DiTraglia___Perry___Larisa___

6. Jerome Spinola, 200 East Shore Circle (02914)

Motion_____By_____2nd_____

Coogan__Cusack__DiTraglia__Perry__Larisa__

Mayor Larisa to present oath of office appointees.

VIII. LICENSES REQUIRING PUBLIC HEARING

A. Alcoholic Beverage - B – Full Privilege Victualer (Transfer)

Jeffrey Rosenbaum, Two Jerks Pub & Grill, Inc. D.B.A. Two Jerks Pub & Grill to Yikes Entertainment Group, Inc. D.B.A. Two Jerks Pub & Grill 446 Waterman Avenue (02914)

Motion_____By_____2nd_____

Coogan__Cusack__DiTraglia__Perry__Larisa__

IX. LICENSES NOT REQUIRING PUBLIC HEARING

A. Vict/Over 50 (Transfer)

Two Jerks Pub & Grill, Inc. D.B.A. Two Jerks Pub & Grill to Yikes Entertainment Group, Inc. D.B.A. Two Jerks Pub & Grill (02914)

Motion_____By_____2nd_____

Coogan__Cusack__DiTraglia__Perry__Larisa__

B. Dance/Entertainment (Transfer)

Two Jerks Pub & Grill, Inc. D.B.A. Two Jerks Pub & Grill to Yikes Entertainment Group, Inc. D.B.A. Two Jerks Pub & Grill (02914)

Motion_____By_____2nd_____

Coogan___Cusack___DiTraglia___Perry___Larisa___

C. Pool Table (Transfer)

Two Jerks Pub & Grill, Inc. D.B.A. Two Jerks Pub & Grill to Yikes Entertainment Group, Inc. D.B.A. Two Jerks Pub & Grill (02914)

Motion_____By_____2nd_____

Coogan___Cusack___DiTraglia___Perry___Larisa___

D. Pool Table Sunday (Transfer)

Two Jerks Pub & Grill, Inc. D.B.A. Two Jerks Pub & Grill to Yikes Entertainment Group, Inc. D.B.A. Two Jerks Pub & Grill (02914)

Motion_____By_____2nd_____

Coogan___Cusack___DiTraglia___Perry___Larisa___

X. PUBLIC HEARINGS

A. Proposed Annual Budget for the Community Development Block Grant

XI. CONTINUED BUSINESS

A. Affirmation of February 21, 2006 unanimous Council vote to grant a six month license to Sax's Steak & Pizza, LLC d/b/a Sax's Steak & Pizza, 525 North Broadway. Following the six months license and a review with the Police Chief to confirm no citations occurred, the full privilege of the license will be granted thereby lifting the following stipulation; cannot serve alcohol after 12 midnight.

Motion_____By_____2nd_____

Coogan___Cusack___DiTraglia___Perry___Larisa___

XII. NEW BUSINESS

A.City Managers Report (by City Manager Richard Brown)

1. Turner Reservoir Raised Walkway

B. Reports From Other City Officials

1.Claims Committee Report (by City Solicitor James Briden)

C.Council Members

1. City/School Financial Update (by Mayor Larisa)

2. State Labor Relations Board Proceedings (by Mayor Larisa)

3. Reduce speed limit on Leroy Drive from 25 MPH to 15 MPH (by Councilman DiTraglia)

4. Asking for a traffic study for Legion Way at Beverly Road (by Councilman DiTraglia)

D.Resolutions

State of Rhode Island and Providence Plantations

City of East Providence

RESOLUTION REQUESTING INTRODUCTION OF LEGISLATION

REVISING THE STATE REFUSE DISPOSAL ACT

WHEREAS, the City of East Providence seeks to promote the public health, safety and welfare of its citizens by effective use of its land development resources;

WHEREAS, expansion of construction and demolition debris processing facilities is licensed by the RIDEM and local concerns are not effectively addressed under the current State licensing procedure; and

WHEREAS, construction and demolition debris processing facilities have the potential to cause significant negative impacts to a local community if not properly sited or if permitted to over-intensify; and

WHEREAS, the municipal governing body should be provided the opportunity at the outset of the RIDEM licensing process to indicate its approval or disapproval of a proposed siting or expansion of a construction and demolition debris processing facility;

NOW, THEREFORE, the City Council for the City of East Providence submits the following legislation revising the State Refuse Disposal Act (958389) and requests passage by the Rhode Island General Assembly .

BE IT FURTHER RESOLVED, that the City Clerk send a copy of this Resolution to the Senators and Representatives of the City of East Providence legislative delegation, the House of Representatives, the Rhode Island Senate, the President of the Rhode Island Senate, the Speaker of the House of Representatives, and the Governor of the State of Rhode Island.

Requested by: Mayor Larisa

Motion_____By_____2nd_____

Coogan___Cusack___DiTraglia___Perry___Larisa___

E.INTRODUCTION OF ORDINANCES

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CITY OF EAST PROVIDENCE

CHAPTER

**AN ORDINANCE IN AMENDMENT OF CHAPTER 4 OF THE
REVISED ORDINANCES OF THE CITY OF EAST PROVIDENCE,
RHODE ISLAND, 1998, AS AMENDED, ENTITLED**

“BUILDINGS AND BUILDING REGULATIONS”

**THE COUNCIL OF THE CITY OF EAST PROVIDENCE HEREBY
ORDAINS:**

**SECTION I. Subdivision V. entitled “Heating and Refrigeration” of
Division 5 entitled “Minimum Residential Standards” of Article III
entitled “Minimum Property Standards” of Chapter 4 of the Revised
Ordinances of the City of East Providence, Rhode Island, 1998, as
amended, entitled “Buildings and Building Regulations” is hereby
amended by adding thereto the following:**

Sec. 4-201. Outdoor Hydronic Heaters/Outdoor Wood Boilers.

**The City Council recognizes and finds that although outdoor
hydronic heaters and outdoor wood boilers may represent an**

economical alternative to conventional heating systems, such systems should not be located or used in such a manner as to compromise the health, safety and welfare of the citizens of the City of East Providence. Such outdoor furnaces can cause harmful emissions, offensive odors, smoke, soot, fumes, ash and other conditions that may constitute a public nuisance. This ordinance seeks to regulate the location, use, construction and operation of outdoor furnaces so that they do not become a public nuisance.

Sec. 4-202. Definitions.

The following words, terms and phrases shall have the meanings ascribed to them by this section:

Allowable fuels means clean wood, wood pellets made from clean wood, manufacturer approved fuels, provided they are not prohibited fuels, and home heating oil that complies with the applicable sulfur content limit or natural gas may be used as starter fuels for dual-fired outdoor hydronic heaters.

Clean wood means wood that has no paint, stains, or other types of coatings, and wood that has not been treated with, including but not limited to, sealants, copper chromium arsenate, creosote, or pentachlorophenol.

Commercial-size heater means a heater with a rated thermal output greater than 350,000 Btu/hr.

Existing unit or existing OHH means an outdoor hydronic heater that has been installed prior to the effective date of this ordinance.

Heating season means a period beginning October 1 and ending May 1, inclusive.

New OHH means an outdoor hydronic heater that is installed after the effective date of this ordinance.

Nuisance means an activity which substantially interferes with the right to use and enjoy property.

Opacity means the degree to which emissions other than water reduce the transmission of light and obscure the view of an object in the background.

Outdoor hydronic heater or outdoor wood boiler (sometimes referred to herein as OHH) means a free standing accessory structure housing a wood-burning furnace, with a smoke stack, used to provide heat or hot water to a building, or accessory structure designed to:

- (a) burn wood or other approved solid fuels;**
- (b) that the manufacturer specifies for outdoor installation or installation in structures not normally occupied by humans (e.g., garages); and**
- (c) heat building space and/or water via the distribution, typically through pipes, of a fluid heated in the device, typically water or a water/antifreeze mixture. This includes without limitation any structure, equipment, device, or apparatus, or any part thereof, which is installed, affixed, constructed or located outdoors for the primary purpose of combustion of solid fuel, including but not limited to wood, to produce heat or energy used as a component of a heating system.**

Prohibited fuels means:

- 1. Any wood that does not meet the definition of clean wood;**
- 2. Rubbish or garbage, including but not limited to food wastes, food and beverage packaging, or food wraps;**
- 3. Tires;**
- 4. Lawn clippings, leaves, brush trimmings, or general yard waste;**
- 5. Materials containing plastic;**
- 6. Materials containing rubber;**
- 7. Waste petroleum products;**
- 8. Paints and paint thinners;**
- 9. Chemicals;**
- 10. Coal;**
- 11. Any type of paper/cardboard;**
- 12. Construction and demolition debris;**
- 13. Plywood or other composite wood products;**
- 14. Particleboard;**
- 15. Salt water driftwood;**
- 16. Manure;**
- 17. Asphalt products;**
- 18. Any material prohibited for combustion by state or federal law or regulation; and**
- 19. Lighter fluids, gasoline or chemicals to start the flames are prohibited.**

Residential size heater means a heater with a rated thermal output of 350,000 Btu/hr or less as rated by the test method identified in this ordinance.

Untreated lumber means dry wood that has been milled and dried but that has not been treated or combined with any petroleum product, chemical, preservative, glue, adhesive, stain, paint or other substance.

Sec. 4-203. Permit requirements.

(a) No person or entity shall construct, install, use, operate, or permit to be operated on their property an outdoor hydronic heater or outdoor wood boiler without first obtaining a mechanical permit issued by the Mechanical Inspector following review and approval by the Fire Marshal. Installation of all new units requires an initial permit application following the effective date of this ordinance. Said application shall include a Class I survey showing all property lines, the locations and distances of all dwellings or occupied buildings on adjoining properties within three hundred (300) feet of the property line, and the proposed location of the OHH which must be one hundred (100) feet from any property line. All units, new or used, shall carry a tag certifying that the OHH complies with the EPA Phase II Emission standard, or higher as defined by the EPA, which standard is herein incorporated by reference.

(b) Any OHH in existence on the effective date of this ordinance which was installed with proper permits and inspections shall be permitted to remain, provided that the owner complies with all requirements of this ordinance except for the distance and setback and chimney height restrictions enumerated in Sec. 4-203(a).

(c) Any existing OHH that has been installed without the issuance of proper permits and/or inspections shall be removed.

(d) An application fee of \$200.00 shall be charged for the initial application for new units and for each annual operating permit thereafter. This fee shall be in addition to all other fees for inspections for compliance with all applicable building, plumbing, electrical, fire and other laws as deemed necessary by the Building/Zoning Official.

(e) The owner of the lot upon which an OHH is located shall apply for an annual operating permit. This permit is required each calendar year after the initial installation of the OHH. The permit shall be valid for the period from October 1 through May 1. The owner shall pay all fees imposed for the application for such operating permit as well as inspection fees to determine if the OHH complies with this ordinance and all other applicable codes and ordinances.

A permit issued pursuant to this ordinance may be suspended by the Mechanical Inspector to protect the public health, safety and welfare of the residents of the City of East Providence for the following reasons:

- 1. Malodorous air contaminants from the OHH are detectable outside the property of the person on whose land the OHH is located;**
- 2. The emissions from the OHH interfere with reasonable enjoyment of life on neighboring property;**
- 3. The emissions from the OHH cause damage to vegetation on neighboring property;**
- 4. The emissions from the OHH are or may be harmful to human or animal health;**
- 5. The burning of any prohibited fuels.**

Sec. 4-204. Restrictions. The OHH must be a minimum of three hundred(300) feet from any building not served by the OHH.

The OHH must be located a minimum of one hundred (100) feet from any lot line.

Residential properties shall only install residential size heaters.

The height of the chimney shall exceed the height of the roof peaks of buildings located within three hundred (300) feet of the OHH and are not served by the OHH, provided further, that in no event shall the height of the chimney for any single or multi-family residential properties be less than sixteen (16) feet or more than thirty-five (35) feet from ground level.

Thirty (30) feet from any structure that it services, or such greater distance as shall be advised by the manufacturer.

The location of any OHH in any front yard as defined in the East Providence zoning ordinance is expressly prohibited.

All OHHs may be in operation from October 1 to and including May 1 only.

The by-products of burning wood in the unit such as ash or wood remnants must be disposed of in a manner that does not create a nuisance or adversely impact ground water supplies or wetland resources and in compliance with all applicable laws.

No person or entity operating an OHH shall cause, suffer, allow or permit the use of a fuel other than allowable fuels as here defined. No person or entity operating an OHH shall cause, suffer, allow or permit

the burning of any prohibited fuels as herein defined.

Manufacturers Standards — All OHHs shall, as a minimum standard, operate in compliance with the operating manual and standards of the manufacturer of the unit, including, but not limited to, the manufacturer recommended loading times and amounts.

Particulate Emission Standards for New Units:

1. All new units, as defined in this ordinance, shall comply, as of the effective date of this ordinance, with the EPA Phase II Emission standard, as defined by the EPA, which standard is incorporated herein by reference.

2. No person or entity shall purchase, operate, install or allow installation of an OHH for use in the City of East Providence unless it has been certified to meet a particulate matter emission limit of 0.32 lb/MMBtu heat output and satisfies the 2010 USEPA standard for same (the commonly called Phase II Emission standard).

Sec. 4-205. Existing units.

(a). All provisions of this ordinance shall become effective upon passage with respect to all existing units in use and operation before the effective passage of this ordinance.

(b). Any existing unit as defined herein that is to be replaced shall meet all provisions set forth in this ordinance except as specified herein.

(c). Compliance with this ordinance shall not exonerate or insulate the owner of an OHH from the provisions of Sec. 4-206 below.

Sec. 4-206. Applicability of other regulations and laws.

A. Compliance with Law

All OHHs shall be manufactured, constructed, installed, operated and located in conformance with any other applicable state or federal laws or regulations, including but not limited to those of the US EPA and RIDEM. In the event of any conflict among state, federal and local ordinances, the more restrictive law or regulation shall apply. All other provisions of the building code, electrical code or any other applicable codes shall also apply, as well as applicable subdivision and zoning regulations.

B. Nuisance or Other Condition

One is prohibited to use, maintain or operate any OHH, or use its ash or residue, so that it creates a nuisance or an interference with the health, safety and welfare of the City of East Providence or of any person. Compliance with this ordinance shall not otherwise exonerate or insulate the owner of an OHH from liability for the creation of a nuisance or other interference with the public health, safety and welfare, and it is intended that the City of East Providence and its citizens shall have preserved any public or private right of action in nuisance or otherwise resulting from the operation of such OHH, either under this ordinance, or under any state or federal law or regulation, or the common law.

Sec. 4-207. Suspension of operation.

(a) The Building Official, or his designee, may issue an order requiring the immediate suspension of operation of an OHH should he determine that a nuisance is or has been caused by the use and

operation of the OHH, as a result of any condition, including, without limitation, malodorous air contaminants detectable on land other than that of the OHH owner; emissions that interfere with the reasonable enjoyment of the life or property of any person; emissions that cause damage to the environment, vegetation or property of another; or for any other violation of the terms of this ordinance.

(b) The use of an OHH may be reinstated by the Building Official, or his designee, once he determines that compliance has been established and the offending condition has been remedied.

Sec. 4-208. Penalties.

Failure to comply with any provision of this ordinance shall be a violation, and a first offense shall be punishable by a written warning. Each offense thereafter shall be punishable by a fine of \$100.00 per day. Each day of each offense shall constitute a separate violation.

The Building Official, or his designee, shall be responsible for the enforcement of this ordinance. The Building Official shall have the discretion to forego a warning for a first violation, if, in his reasonable discretion, he is of the belief that the violation is unintentional and can be corrected in less than ten (10) days. Should the owner abate the violation within the time established by the Building Official, it shall not constitute a first offense.

Any person or entity in violation of the terms of this ordinance shall, in addition to the above sanctions, be liable to the City of East Providence for all costs of remediation actions necessitated by the actions of the violator, and for the costs (including reasonable attorney fees) of any action brought for equitable or legal relief

against the violator, which costs and fees shall constitute a lien against the property on which the OHH is located.

SECTION II. This ordinance shall take effect upon its second passage and all ordinances or parts of ordinances inconsistent herewith are hereby repealed.

Requested by: Mayor Joseph Larisa

Motion_____By____2nd_____

Coogan___Cusack___DiTraglia___Perry___Larisa___

F.ADJOURNMENT

Motion_____By____2nd_____

Coogan___Cusack___DiTraglia___Perry___Larisa___