

**Date Posted: April 27, 2012**

**CITY OF EAST PROVIDENCE**

**RHODE ISLAND**

**DOCKET OF REGULAR COUNCIL MEETING**

**May 1, 2012**

**Council Chambers, City Hall, 145 Taunton Avenue, East Providence,  
RI 02914**

**7:30 P.M. Open Session**

**Claims Committee to Follow Council Meeting, Room 101**

**I. CALL TO ORDER**

**II. SALUTE TO THE FLAG**

**III. 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.**

**A. Letters**

**1. Resolution of the Town of Jamestown relating to the code of ethics.**

- 2. Resolution of the Town of East Greenwich supporting the Governor's legislative package.**
- 3. Resolution of the Town of East Greenwich opposing raising the meals tax.**
- 4. Resolution of the Town of East Greenwich supporting Senate Bill 2310 general powers and duties of School Committees.**
- 5. Resolutions of the Newport School Committee, in opposition to binding arbitration, in opposition to contract continuation and supporting layoff notification date.**
- 6. CRMC notice of rescheduling public meeting to Tuesday, June 12, 2012.**
- 7. CRMC notice of rescheduling public meeting to Tuesday, June 26, 2012.**
- 8. Resolution of the Town of Burrillville in support of OPEB S2036 and S038, H7144 and H7579.**
- 9. Resolution of the Town of Jamestown opposing an increase in meals tax, beverage tax and lodging tax and in support of allowing post office boxes for voter registration.**
- 10. Resolution of the Town of Burrillville in support of legislation to require that all foreclosure deed be recorded within 30 days.**
- 11. CRMC Semi-Monthly Meeting, Tuesday, April 24, 2012.**
- 12. Resolution from the Town of Narragansett in support of layoff notice date for school teachers to June 1.**

## **B. Council Journals**

- 1. Special Council Meeting June 23, 2011**
- 2. Show Cause Hearing May 3, 2011**
- 3. Regular Council Meeting April 17, 2012**
- 4. Council Work Session January 31, 2011**
- 5. Special Council Meeting April 18, 2012**

## **C. Liquor License Class F**

- 1. Lauren Zarembka Scholarship Fund Benefit, St. Brendan Hall, May 19, 2012 6PM-11PM, John E. Faria, 41 Lena Street (02914)**
- 2. Holy Ghost Beneficial Brotherhood, 51 North Phillips Street, May 27-27**
- 3. St. Francis Xavier, 81 North Carpenter Street, June 15-17**
- 4. St. Martha's Church, 2595 Pawtucket Avenue, June 22-24**
- 5. Teofilo Braga Club, 26 Teofilo Braga Way, July 13-15**
- 6. Holy Ghost Brotherhood of Charity, 59 Brightridge Avenue, July 20-23**
- 7. Holy Ghost Brotherhood Mariense, 846 Broadway, July 27-29**

**Motion\_\_\_By\_\_\_2nd\_\_\_**

**Conley\_\_\_DiGioia\_\_\_Kleyla\_\_\_Rose\_\_\_Rogers\_\_\_**

#### **IV. PUBLIC COMMENT**

#### **V. PROCLAMATIONS AND PRESENTATIONS**

**East Providence Townies 2011/12 Varsity Hockey R.I. Division 3  
Champions**

#### **VI. APPOINTMENTS**

##### **A. Traffic Control**

**Martin McShane, 40 Oxford Street (02914) by Mayor Rogers**

**Motion\_\_\_By\_\_\_2nd\_\_\_**

**Conley\_\_\_DiGioia\_\_\_Kleyla\_\_\_Rose\_\_\_Rogers\_\_\_**

#### **VII. LICENSES REQUIRING PUBLIC HEARING**

##### **A. Secondhand Antiques**

**Bridget McCabe DBA Collins Collectibles, 99A Taunton Avenue  
(02914), Bridget McCabe, 26 Alma Street, Providence (02908)**

**Motion\_\_\_By\_\_\_2nd\_\_\_**

**Conley\_\_\_DiGioia\_\_\_Kleyla\_\_\_Rose\_\_\_Rogers\_\_\_**

##### **B. Secondhand Autos & Trucks**

**Auto Drive One Auto Sales, 2312 Pawtucket Avenue (02914), Joseph  
DiBiasio, 782 Ash Street, Brockton, MA 02301**

**Motion\_\_\_By\_\_\_2nd\_\_\_**

**Conley\_\_\_DiGioia\_\_\_Kleyla\_\_\_Rose\_\_\_Rogers\_\_\_**

## **VIII. LICENSES NOT REQUIRING PUBLIC HEARING**

### **A.Holiday Sales**

**Bridget McCabe DBA Collins Collectibles, 99A Taunton Avenue (02914), Bridget McCabe, 26 Alma Street, Providence (02908)**

**Motion\_\_\_By\_\_\_2nd\_\_\_**

**Conley\_\_\_DiGioia\_\_\_Kleyla\_\_\_Rose\_\_\_Rogers\_\_\_**

### **B.Carnival**

**The Gordon School, 45 Maxfield Avenue (02914), Pamela Shanni Cummings, 340 Olney Street, Providence (02906), Saturday, May 19, 2012.**

**Motion\_\_\_By\_\_\_2nd\_\_\_**

**Conley\_\_\_DiGioia\_\_\_Kleyla\_\_\_Rose\_\_\_Rogers\_\_\_**

## **IX. PUBLIC HEARING – ORDINANCES FINAL PASSAGE**

**1.An ordinance related to foreclosures.**

**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.”**

**SECTION I. 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:

## **Article IV. Foreclosure Requirements**

### **Sec. 4-431. Foreclosure Requirements for Owner Occupied Residential Properties.**

#### **(A) Definitions**

- 1. The City shall mean the City of East Providence, Rhode Island.**
- 2. Residential premises/property shall mean real property that is owner-occupied as an owner's principal resident, located within the City of East Providence, that is either a single-family or a structure containing not more than four residential units, and shall also include a residential condominium unit or a residential co-op unit occupied by an owner as an owner's principal resident.**
- 3. Loan/mortgage conciliation conference coordinator shall mean an individual employed by a HUD-approved independent counseling agency to facilitate the discussion between the homeowner/mortgagor and the lender/mortgagee.**
- 4. Loan/mortgage conciliation conference shall mean the formal discussion and negotiation taking place at the call of the loan/mortgage conciliation conference coordinator between the homeowner/mortgagor and the lender/mortgagee.**
- 5. Homeowner shall mean an individual who owns and resides in residential real property located in the City of East Providence, and for whom such residential real property is a principal resident.**
- 6. Lender shall mean an entity which has advanced funds secured by a mortgage on residential premises, and recorded in the Land Evidence Records of the City.**

**7. The Parties shall mean the homeowner/mortgagor and the lender/mortgagee**

**8. Rules and regulations shall mean any rules adopted by the City necessary for the proper enforcement of this ordinance to interpret and secure its intent.**

**(B) Statement of Policy.** It is hereby declared that residential mortgage foreclosure actions, caused in part by so-called sub-prime mortgage lending and predatory lending practices as well as unemployment and underemployment, have negatively impacted a substantial number of homeowners in the City. Increasing numbers of foreclosures leads to increases in unoccupied and unattended buildings in the City and cause the unnecessary and unwanted displacement of homeowners and tenants who desire to live in the City of East Providence.

**(C) Purpose.** The purpose of this ordinance is to protect the public by providing early, HUD-approved independent counseling agency supervised intervention in residential owner-occupied mortgage foreclosure cases which will assure timely determination of eligibility under various federal, state and local programs established to facilitate loan work-out and other solutions to permit residential homeowners, where possible, to retain their properties and permit lenders to move forward to auction/sale of the properties and recordation of a foreclosure deed upon conclusion of the process.

**(D) Notice of Foreclosure to the City.** From and after the effective date of this ordinance, a lender/mortgagee shall provide written notice to the City of its intent to foreclose on the subject residential

property at the same time it issues notice to the homeowner/mortgagor of the foreclosure action. Such notice must include plat and lot information, and said notice shall be filed by the lender/mortgagee with the City Clerk.

**(E) Conciliation Conference Between the Parties.** Following the filing of such notice, the parties shall participate in a mandatory loan/mortgage conciliation conference at a location mutually convenient to the parties, the following manner, and provided that telephone participation by the lender/mortgagee is acceptable.

a. Said conciliation conference shall be scheduled at a time and place to be determined by the conciliation conference coordinator, but not later than twenty-one (21) days following the mailing of the notice of intent to foreclose. The parties will be noticed by certified and first class mail.

b. Prior to the scheduled conciliation conference, the homeowner/mortgagor will be assigned a loan counselor to be provided by a HUD-approved independent counseling agency.

c. The homeowner/mortgagor shall cooperate in all respects with the housing counseling agency, providing all necessary financial and employment information. The homeowner/mortgagor shall complete any and all loan resolution proposals and applications as appropriate.

d. The conciliation conference will require the exchange of

information provided as required by subsection (f) to the representative of the lender/mortgagee.

e. If after two attempts by the conciliation conference coordinator to contact the homeowner/mortgagor, the homeowner/mortgagor fails to respond to the conference coordinator's request to appear for the conciliation conference, or the homeowners/mortgagor fails to cooperate in any respect with the requirements outlined in this ordinance, the requirements of the ordinance will be deemed to be satisfied upon verification by the HUD-approved independent counseling agency that the required notice was sent; and if so, a certificate will be issued immediately by the HUD-approved independent counseling agency authorizing the lender/mortgagee to proceed with the foreclosure action including recording the foreclosure deed.

f. If it is determined after a good faith effort made by the lender/mortgagee at the conciliation conference with the homeowner/mortgagor that the parties cannot come to an agreement to re-negotiate the terms of the loan in an effort to avoid foreclosure, such good faith effort on behalf of the lender/mortgagee shall be deemed to satisfy the requirements of this ordinance. A certificate certifying such good faith effort will be issued immediately by the HUD-approved independent counseling agency authorizing the lender/mortgagee to proceed with the foreclosure action to include recording the deed. Such a certification will be in the form of a

**document to be filed along with all other relevant documents with the City Clerk.**

**g. The parties shall complete the process required by this ordinance within a period of forty-five (45) days from the initial notice provided in (a).**

**h. Cases involving premises which are not owner-occupied or which are not residential are not subject to the mandatory loan/mortgagee conciliation conference and may proceed directly to foreclosure and recordation of the deed concerning such property, presuming compliance with Sec. 4-432.**

**i. Notwithstanding the foregoing, any lender/mortgagee which is headquartered within the State of Rhode Island and which services its own mortgages shall be deemed in compliance with the requirements of this section of:**

**(1) The lender/mortgagee provides homeowners forbearance relief requirements applicable to FHA-Insured Mortgages, as set forth in Chapter 8 of the HUD Handbook 4.330.1 Rev. 5, Administration of Insured Home Mortgages, as the same may be amended from time to time; and**

**(2) The deed offered by a lender/mortgagee to be filed with the City Clerk as a result of a mortgage foreclosure action contains a certification that the provisions of this sub-section have been satisfied.**

**(E) Penalties.** A deed offered by a lender/mortgagee to be filed with the City Clerk shall contain a statement that the requirements of this ordinance have been met by the lender/mortgagee.

**Sec. 4-432. Foreclosure Requirements for Rental Properties.**

**(A) Definitions**

**1. Bona Fide Tenant shall mean a person who has entered into a written or oral rental agreement with a homeowner or landlord (mortgage) with respect to a dwelling unit of a mortgaged residential premises no less than thirty (30) days prior to the foreclosure of the mortgagor's interest. Neither the mortgagor nor any member of his or her immediate family is a "bona fide tenant." The protections afforded a bona fide tenant exist regardless of whether the residential premises is or is not owner-occupied.**

**2. The City shall mean the City of East Providence, Rhode Island.**

**3. Rules and Regulations shall mean any rules adopted by the City necessary for the proper enforcement of this ordinance to interpret and secure its intent.**

**(B) Notice to Bona Fide Tenants.** Effective upon passage of this ordinance, no bona fide tenant legally occupying a rental residential property within the City shall be forced to vacate that property in the event of a mortgage foreclosure action upon that property unless and until the following series of actions are taken:

**a. Where any dwelling unit of a foreclosed mortgaged estate is occupied by a bona fide tenant, and where the foreclosed mortgagor had provided essential services including, without limitation, heat,**

running water, hot water, electric, sewer or gas to such tenant, any successor in interest to be foreclosed mortgagor shall continue to provide the same essential services under the same terms and conditions to the tenant.

b. A successor in interest to a mortgagor shall provide notice to each bona fide tenant, as defined in Section (A) by mailing an envelope addressed to “Resident of Property Previously Subject to Foreclosure Sale” and by posting, in the same manner required for posting the notice of sale on the property to be sold, a written notice in English and Spanish stating the name and address of the successor in interest, and/or managing agent so that the tenant may know to whom the ongoing rental payments should be made.

c. Where a dwelling unit of a foreclosed mortgaged estate is occupied by a bona fide tenant of the foreclosed mortgagor, the bona fide tenant assumes a month to month periodic tenancy governed by the provisions of Chapter 18, Title 34 of the Rhode Island General Laws, except in those instances in which the bona fide tenant has entered into a written rental agreement with a homeowner or landlord (mortgagor) with respect to a dwelling unit of a mortgaged residential premises. In such instances tenancy is assumed for the duration specified in the written agreement.

d. The lender/mortgagee shall provide notice to each bona fide tenant, as defined in Section (A), by mailing an envelope addressed to “Resident of Property Subject to Foreclosure Sale” and by posting, in the same manner required for posting the notice of sale on the property to be sold, at the same time notice is provided to the

**mortgagor, a written notice in English and Spanish: (i) stating that the real estate is to be sold in foreclosure, which may affect the tenant's right to continue to live in the property; (ii) stating the date, time and place of sale; (iii) providing the address and telephone number of Rhode Island Legal Services, and (iv) provide the name, address and telephone number of HUD-approved counseling agencies in Rhode Island. Failure of the lender/mortgagor to provide notice as provided herein shall not affect the validity of the foreclosure; however, no successor in interest to the mortgagor shall be permitted to initiate an action for possession of the premises against such bona fide tenant until notice as required herein, in addition to the notice required in subsection (d), is provided.**

**(C) Registration with the City Clerk. From and after the effective date of this ordinance where any dwelling unit of a foreclosed mortgaged estate is occupied by a bona fide tenant, the successor in interest to be foreclosed mortgagor shall file with the City, through the City Clerk's Office a Certificate of Registration. Each Certificate of Registration shall state:**

- a. Name, address and telephone number of the lender/mortgagee.**
- b. Such description of each multiple dwelling/tenanted dwelling, by street number or otherwise, as will enable the easy location of same.**
- c. The name, address and telephone number of the agent appointed by the lender/mortgagee for the purpose of receiving service of process and other orders or notices.**
- d. The number of dwelling units in the building.**
- e. The names of all tenants and an identification of the type of lease**

said tenant is operating under.

f. The name and address, including the dwelling unit, apartment or room number of any person employed by the lender/mortgagor to provide regular maintenance service.

g. The name, address and telephone number of an individual representative of the lender/mortgagor who may be contacted at any time and who has the authority to make emergency decisions concerning the building and any repair thereto or expenditure in connection therewith.

h. The name and address of the fuel supplier, if any, and the grade of fuel oil used.

**(D) Penalties.** Any failure of a lender/mortgagee or successor in interest to a mortgagor to comply with the terms of this ordinance will be penalized by a fine of not less than \$1,000.00 per offense.

**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: Assistant Mayor Rose**

**Motion\_\_\_By\_\_\_2nd\_\_\_**

**Conley\_\_\_DiGioia\_\_\_Kleyla\_\_\_Rose\_\_\_Rogers\_\_\_**

## **X. NEW BUSINESS**

**A.City Managers Report (by City Manager Peter Graczykowski)**

**1. Departmental Activity Update**

**2. Finance and HR Consolidations Update**

### **3. Governor's Municipal Relief and Reform Legislation Package**

### **4. CDBG FY 2012-2013 Budget**

## **B.Reports of Other City Officials**

### **1. School Committee Update (by Council Liaison School Committee Member Chrissy Rossi)**

## **C.Council Members**

### **1. Food Pantries (by Mayor Rogers)**

### **2. Bi-Weekly Update (by Mayor Rogers)**

### **3. Objections Pursuant to R.I.G.L. Section 23-18.9-8 (by Councilman Conley)**

## **D. Resolutions**

### **1.RESOLUTION IN SUPPORT OF LEGISLATION H-7801 AUTHORIZING PUBLIC ENTITIES TO USE OR DISPOSE OF DERELICT OR ABANDONED VESSELS WITHOUT FURTHER NOTICE TO OWNERS**

**WHEREAS, legislation was introduced on February 28, 2012 by Representatives Jan P. Malik, Raymond E. Gallison and Richard P. Morrison as bill 2012-H-7801 which would aid the City of East Providence with the disposal of abandoned or derelict vessels that sink or wash up along the shoreline; and**

**WHEREAS, this bill has the support of the R.I. Department of**

**Environmental Management, the Coastal Resources Management Council, Save the Bay, Clean the Bay, and the R.I. Harbormasters Association.**

**NOW, THEREFORE, BE IT RESOLVED that the East Providence City Council hereby supports the above-mentioned legislation allowing the disposal of abandoned or derelict vessels that sink or wash up along the shoreline.**

**NOW, THEREFORE, BE IT FURTHER RESOLVED that the East Providence City Council hereby requests that the City Clerk send a copy of this Resolution to the Governor of the State of Rhode Island, the Lieutenant Governor of the State of Rhode Island, the President of the Rhode Island Senate, the Speaker of the Rhode Island House of Representatives, Representative Jan P. Malik, Representative Raymond E. Gallison, and Representative Richard P. Morrison.**

**This resolution shall become effective upon its passage.**

**Requested by: Mayor Bruce Rogers**

**Motion\_\_\_By\_\_\_2nd\_\_\_**

**Conley\_\_\_DiGioia\_\_\_Kleyla\_\_\_Rose\_\_\_Rogers\_\_\_**

## **2.RESOLUTION MEMORIALIZING THE GENERAL ASSEMBLY TO ENACT LEGISLATION ESTABLISHING THE EAST BAY ENERGY CONSORTIUM**

**WHEREAS, the City Council of the City of East Providence endorses and supports the use of alternative sources of energy for the production of electricity for use in the City; and**

**WHEREAS, the generation of electricity from local alternative energy**

**sources will mitigate the impact of electricity supply and price disruptions originating outside the state; and**

**WHEREAS, the towns of Barrington, Bristol, Little Compton, Middletown, Portsmouth, Tiverton, and Warren and the cities of East Providence and Newport have proposed to develop facilities for the local generation of electricity through the use of alternative energy sources other than fossil fuels through the establishment of the East Bay Energy Consortium (EBEC); and**

**WHEREAS, this effort is considered to be a Statewide model of municipal collaboration and may result in significant fiscal benefits for the participating municipalities; and**

**WHEREAS, the Council of each City and Town that is member of EBEC must pass a resolution of support for the EBEC legislation in order to establish the East Bay Energy Consortium;**

**NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of East Providence hereby memorializes the Rhode Island General Assembly to enact legislation authorizing the City to join with other towns and cities as listed above to establish the East Bay Energy Consortium.**

**This resolution shall become effective upon its passage.**

**Requested by: Director of Planning**

**Motion\_\_\_By\_\_\_2nd\_\_\_**

**Conley\_\_\_DiGioia\_\_\_Kleyla\_\_\_Rose\_\_\_Rogers\_\_\_**

**E. Communications**

- 1. Anthony Ferreira, 44 Brightridge Avenue (02914) requesting to**

address the Council regarding contracts and agreements.

2. Freddie Rybka, 9 Cozzens Avenue (02915) requesting to address the Council regarding boat ramp.

3. Chrissy Rossi, 29 Woodbine Street (02915) requesting to address the Council regarding free City services.

## **XI. ADJOURN TO EXECUTIVE SESSION**

Motion\_\_\_By\_\_\_2nd\_\_\_

Conley\_\_\_DiGioia\_\_\_Kleyla\_\_\_Rose\_\_\_Rogers\_\_\_

## **XII. EXECUTIVE SESSION**

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

### **A. Claims Committee**

1.Allstate Fire & Casualty Ins. Co.

2.Joanne O'Brien

3.Veronica Reis

4.Kathleen Rodrigues

\* Any items listed on the Council Docket may be subject to a vote.

\*If communications assistance is needed or any other accommodations to ensure equal participation please contact the City Clerk's Office at 435-7590.