

**CITY OF EAST PROVIDENCE
RHODE ISLAND
DOCKET OF REGULAR COUNCIL MEETING
TUESDAY, JANUARY 16, 2007
7:30 P.M.**

- I. CALL TO ORDER
- II. INVOCATION
- III. SALUTE

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 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_____
Cusack____DiTraglia____Perry____Silva____Ramos____

IV. CONSENT CALENDAR

A. APPROVAL OF COUNCIL JOURNALS

January 2, 2007 – Regular Meeting

B. CANCELLATION /ABATEMENTS (Requested by Tax Assessor)

<u>YEAR</u>	<u>AMOUNT</u>
2006	\$2,065.92
2006	\$5.57

C. RESOLUTIONS

V. PROCLAMATIONS, PRESENTATIONS, & INTRODUCTIONS

A presentation is made to former Mayor Joseph S. Larisa.

A presentation is made to former Councilman Patrick T. Caine.

A presentation is made to former Councilman Peter F. Midgley.

VI. APPOINTMENTS

Board of Assessment Review (Mayor Ramos)

Colonel Anthony DeCastro, retired Chief of Police (*to replace Frank Rego for a term expiring 12/2/12*)

54 Hilltop Road (02914)

Motion_____By_____2nd_____
Cusack____DiTraglia____Perry____Silva____Ramos____

Building Board Standards and Appeals (Mayor Ramos)

Gene Mancino, (*architect for a term expiring 1/2/11*)

83 South Rose Street (02914)

Motion_____By_____2nd_____
Cusack____DiTraglia____Perry____Silva____Ramos____

VII. LICENSES REQUIRING PUBLIC HEARING

1) B-Limited Victualer (*Subject to approvals from the Chief of Police, Building Inspector, Health Inspector, State Division of Taxation and Fire Marshall*)

Il Sun Jeon, d/b/a Sun & Moon Korean Restaurant, 95 Warren Avenue (02914)

Pubic Comments

Motion_____By____2nd_____

Cusack_____DiTraglia_____Perry_____Silva_____Ramos

VIII. LICENSES NOT REQUIRING PUBLIC HEARING

1. Holiday Sales (*Subject to approvals from the Chief of Police, Building Inspector and Fire Marshall*)

Li Jia d/b/a Oriental Novelty Shop, 505 Waterman Avenue (02914)

Motion_____By____2nd_____

2. Holiday Sales (*deferred from January 2, 2007*)

Aragao's Market LLC, d/b/a Brazil 2000 Sol E. Vento, 211 ½ Warren Avenue (02914)

Motion_____By____2nd_____

3. Vict/Not Over 25 (*deferred from January 2, 2007*)

Aragao's Market LLC, d/b/a Brazil 2000 Sol E. Vento, 211 ½ Warren Avenue (02914)

Motion_____By____2nd_____

LICENSING COMMISSIONERS RESUME SITTING AS CITY COUNCIL

IX. PUBLIC HEARINGS
ORDINANCES – FINAL PASSAGE

Requested by (*Planning Department*)

1) The following is an ordinance establishing a historic overlay district and the creation of a historic district commission. (Advertised Providence Journal December 27, 2006 & January 10, 2007)

**AN ORDINANCE IN AMENDMENT OF CHAPTER 19 OF THE REVISED
ORDINANCES OF THE CITY OF EAST PROVIDENCE, RHODE ISLAND
1998, AS AMENDED, ENTITLED “ZONING.”**

THE COUNCIL OF THE CITY OF EAST PROVIDENCE HEREBY ORDAINS:

SECTION I. Chapter 19 entitled “Zoning” of the Revised Ordinances of the City of East Providence, Rhode Island, 1998, is amended by adding thereto the following:

Article X. Historic Area Zoning

Sec. 19-486. Purpose of article

The regulations set forth in this article are adopted in accordance with R.I.G.L. 1956, § 45-24.1-1 et seq., entitled "Historic Area Zoning," to safeguard the heritage of the City of East Providence by preserving its cultural, social, economic and architectural history; foster neighborhood pride; maintain property values; strengthen the local economy through tourism; and promote the use of historic districts for the education, pleasure and welfare of the residents of East Providence.

Sec. 19-487. Power and authority

The City of East Providence shall have the authority, as provided for in the R.I.G.L § 45-24.1-2, to establish, change, layout and define districts which are deemed to be of historical or architectural value in the same manner as cities and towns are presently empowered to establish or change areas and classifications of zoning.

Sec. 19-488. Definitions

The following terms have the following respective meanings unless a different meaning clearly appears from the context:

"*Alteration*" means an act that changes one or more of the exterior architectural features of a structure or its appurtenances, including, but not limited to, the erection, construction, reconstruction, or removal of any structure or appurtenance.

"*Appurtenances*" means features other than primary or secondary structures which contribute to the exterior historic appearance of a property, including, but not limited to, paving, doors, windows, signs, materials, decorative accessories, fences, and historic landscape features.

"*Certificate of appropriateness*" means a certificate issued by a Historic District Commission established under this chapter indicating approval of plans for alteration, construction, repair, removal, or demolition of a structure or appurtenances of a structure within a historic district. Appropriate for the purposes of passing upon an application for a certificate of appropriateness means not incongruous with those aspects of the structure, appurtenances, or the district which the Commission has determined to be historically or architecturally significant.

"*Construction*" means the act of adding to an existing structure or erecting a new principal or accessory structure or appurtenances to a structure, including, but not limited to, buildings, extensions, outbuildings, fire escapes, and retaining walls.

"*Demolition*" means an act or process that destroys a structure or its appurtenances in part or in whole.

"*Historic district*" means a specific division of a city or town as designated by ordinance of the city or town pursuant to this chapter. A historic district may include one or more structures.

"*Rehabilitation*" means a process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property and structure which are significant to its historic, architectural, and cultural values.

"*Removal*" means a relocation of a structure on its site or to another site.

"*Repair*" means a change meant to remedy damage or deterioration of a structure or its appurtenances.

"*Structure*" means anything constructed or erected, the use of which requires permanent or temporary location on or in the ground, including, but not limited to, buildings, gazebos, billboards, outbuildings, decorative and retaining walls, and swimming pools.

Sec. 19-489. Designation of Historic Districts

For the purpose of this chapter, the historic district shall be map 505, block 1, parcel 1. Property owned by the City of East Providence within the boundaries of the designated historic district shall not be exempt from the provisions of this chapter.

Sec. 19-490. Historic District Commission

(1) The Commission shall consist of seven (7) members who are residents of the City. Three (3) members shall be members of the East Providence Historic Properties Designation and Study Commission, appointed by the City Council, provided that the initial members serve staggered terms. Four (4) members shall be appointed by the City Council and have a demonstrated interest in historic preservation, architectural history, planning, archaeology, historic construction, architecture, or local history. The City Council shall have the right to name an auxiliary member of the Commission, appointed by the City Council, to sit as an active, voting eighth member of the Commission.

(2) Appointed members shall serve a period of three (3) years and be eligible for reappointment. If a vacancy occurs on the Commission, interim appointments of appointed members shall be made by the City Council to complete the unexpired term of such position.

(3) The Commission shall organize annually by electing from its membership a chair, vice-chair, and secretary and may adopt rules of procedure deemed necessary in discharging its duties.

Sec. 19-491. Powers and Procedures of Historic District Commission

(1) Before a property owner may authorize or commence construction, alteration, repair, removal or demolition affecting the exterior appearance of a structure or its appurtenances within the historic district, the owner must apply for and receive a certificate of appropriateness from the Commission. The building inspector shall not issue a building permit until the Commission has granted a certificate of appropriateness. The owner of the property must obtain a certificate of appropriateness whether or not state law requires a permit from the building inspector.

(2) Applications for certificates of appropriateness shall be filed with the Commission at the Department of Planning, whose staff shall determine if such application is complete. Once the application has been determined to be complete, it shall be forwarded to the Commission along with all maps, plans, and other data provided by the applicant to the Commission for their review. The Department of Planning shall provide to the Commission a written opinion stating whether the application meets the standards of review stated in this chapter.

(3) In applying, the owner must comply with application procedures as established by the Commission pursuant to R.I.G.L. 1956, § 45-24.1-1 et seq., and this article. The owner shall submit information which is reasonably necessary to evaluate the proposed construction, alteration, repair, removal or demolition, including but not limited to plans, drawings, photographs or any other information set forth in the application procedures.

(4) All decisions of the Commission shall be in writing. The Commission shall articulate and explain the reasons and bases of each decision on a record, or if the decision is not to issue a certificate of appropriateness, the Commission shall include the bases for its conclusion that the proposed activity would be incongruous with those aspects of the structure, appurtenance or the district which the Commission has determined to be historically or architecturally significant. The Commission shall send a copy of all decisions to the applicant, Building Inspector, and Planning Department.

(5) The Commission's secretary shall record minutes of all meetings. The records of the Commission shall be available for public inspection in accordance with all applicable federal, state and local laws and regulations at the office of the City Clerk.

(6) Fish passage facilities, accessory structures, and related river modifications associated with the Ten Mile River Fish Restoration Project are exempt from a review by the Historic District Commission.

Sec. 19-492. Standards of Review

(1) The Commission shall pass only on exterior features of a structure and its appurtenances and shall not consider interior arrangements. In reviewing an application for certificate of appropriateness, the Historic District Commission shall give consideration to the following:

(a) The historic and architectural significance of the structure and its appurtenances;

(b) The historic character and historic ecological features of the surrounding landscape;

(c) The way in which the structure and its appurtenances contribute to the historical and architectural significance of the district; and

(d) The appropriateness of the general design, arrangement, texture, materials and siting proposed in the plans.

(2) The Commission shall use as their primary guide the standards contained in the publication "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings", Office of Archeology and Historic Preservation, Heritage Conservation and Recreation Service, U.S. Department of Interior, Washington, D.C., 20240.

Sec. 19-493. Special Criteria for Demolition and Removal

Demolition of historic structures and appurtenances within a designated historic district shall be discouraged. When reviewing an application for removal and demolition of an historic structure or appurtenance, the Commission shall consider the following criteria, in addition to adopted standards:

(1) In the case of an application for construction, alteration, repair, removal or demolition affecting the exterior appearance of a structure or its appurtenances, which the Commission deems so valuable to the City of East Providence, state or nation that the loss thereof will be a great loss to the city, state or nation, the Commission shall endeavor to work out with the owner an economically feasible plan for the preservation of such structure;

(2) The Commission shall approve an application for demolition when in the opinion of the Fire Chief or Building Inspector that the building constitutes a hazard to public safety;

(3) Unless the Commission votes to issue a certificate of appropriateness for such construction, alteration, repair, removal, and demolition, the Commission shall file with the Building Inspector and Director of Planning its rejection of such application;

(4) In the absence of change in such structure arising from casualty, no new application for the same or similar work shall be filed within one year after such rejection;

(5) In the case of an application for demolition of any structure, appurtenances, or a portion of a structure which the HDC has deemed to be valuable for the period of architecture it represents and important to the neighborhood within which it exists, the HDC may file with the Building Inspector and Director of Planning its certificate of appropriateness for demolition if the HDC finds that any of the following exists:

(a) Preservation of the structure is a deterrent to a major improvement program which will be of substantial benefit to the community;

(b) Preservation of the structure would cause undue or unreasonable financial hardship to the owner, taking into account the financial resources available to the owner, including the sale of the structure to any purchaser willing to preserve the structure;

(c) The preservation of the structure would not be in the interest of the majority of the community.

(6) When considering an application for demolition or removal of a historic structure, the Commission shall assist the owner in identifying and evaluating alternatives to demolition, including sale of the structure on its present site;

(7) In addition to any other criteria, the Commission shall consider whether there is a reasonable likelihood that some person or group other than the current owner is willing to purchase, move and preserve such structure, and whether the owner has made continuing and reasonable efforts to sell the structure to any such purchaser willing to move and preserve such structure.

Sec. 19-494. Meetings and Actions of Historic District Commission

(1) All meetings of the Historic District Commission shall be open to the public, and any person or such person's duly constituted representative shall be entitled to appear and be heard on any matter before the Commission before its decision is reached.

(2) The Commission shall keep a record, which shall be open to public view in the city clerk's office of its resolutions, proceedings, findings, decisions and actions. The Commission shall provide notice of its meetings and shall comply in all respects with the requirements of the open meeting law.

(3) The Commission shall file with the Building Inspector its certificate of appropriateness or rejection of all plans submitted to it for review. No work shall begin until such certificate has been filed, but in case of rejection, such certificate shall be binding upon the building inspector, and no permit shall be issued in such case.

(4) The failure of the Commission to act within 45 days from the date of an application deemed to be complete by the Department of Planning shall constitute an approval, unless an extension is agreed upon mutually by the applicant and the Commission.

(5) If the Historic District Commission makes a finding of fact that the circumstances of a particular application requires further time and information than can be obtained within the period of 45 days, the Commission shall have a period of up to 90 days which to act upon such application.

Sec. 19-495. Coordinated Review Process

(1) The purpose of a coordinated review between the East Providence Historic Properties Designation and Study Commission and the Historic District Commission shall be to minimize the potential for conflicting opinions on matters related to historic preservation. The Historic District Commission may request from the East Providence Historic Properties Designation and Study Commission:

(a) Written reports recommending structures, places, areas, and neighborhoods of a particular historic, aesthetic, architectural, archeological, or cultural significance or value to be designated by the City Council as historic districts; and

(b) Requests from the Rhode Island Historical Preservation and Heritage Commission regarding the nomination of historic landmarks to the National Register.

Sec. 19-496. Exceptions from Article

Nothing in this article shall be construed to prevent ordinary maintenance or repair of any structure within the historic districts, provided that such maintenance or repair does not result in any change of design, type of material or appearance of the structure or its appurtenances, nor shall anything in this article be construed to prevent the construction, alteration, repair, moving or demolition of any structure under a permit issued by the building inspector prior to the effective date of the ordinance from which this article derives.

Sec. 19-497. Enforcement

Any authorized local official or any local building official may bring an action against any property owner who fails to comply with the requirements of *insert section number* of “Powers and procedures of Historic District Commission”. Actions shall be brought in the superior court having jurisdiction where the violation occurred or is likely to occur. Plaintiffs may seek restraining orders and injunctive relief to restrain and enjoin violations or threatened violations of this chapter.

Sec. 19-498. Appeals

A person jointly or severally aggrieved by a decision of the Historic District Commission shall have the right to appeal the decision to the Zoning Board of Review. When appealing a Commission decision, the zoning board of review shall not substitute its own judgment for that of the Commission, but must consider the issue upon the findings and record of the Commission. The Zoning Board of Review shall not reverse a Commission decision except on a finding of prejudicial procedural error, clear error or lack of support by the weight of the evidence in the record. The Zoning Board of Review shall put all decisions of appeal in writing. The Zoning Board of Review shall articulate and explain the reasons and bases of each decision on the record, and the zoning board of review shall send a copy of the decision to the applicant and to the Historic District Commission. Any person jointly or severally aggrieved by a decision of the zoning board of review on a matter of appeal under this article may appeal to the state superior court in the same manner provided in R.I.G.L. 1956, § 45-24-20 and from the superior court to the supreme court by writ of certiorari.

SECTION II. This ordinance shall take effect upon passage.

Public Comments
Motion_____By_____2nd_____
Cusack_____DiTraglia_____Perry_____Silva_____Ramos_____

2) *The following is an ordinance changing zoning designation of the Hunt's Mill property.*

ZONING MAP AMENDMENT (by Planning Dept.)

Advertised Providence Journal – December 27, 2006, January 3 and January 10, 2007

Notices sent by certified mail – December 21, 2006

REZONING – Recommendation for requested zoning map amendment rezoning.

AN ORDINANCE IN AMENDMENT OF CHAPTER 19 OF THE REVISED ORDINANCES OF THE CITY OF EAST PROVIDENCE, RHODE ISLAND 1998, AS AMENDED, ENTITLED “ZONING”

THE COUNCIL OF THE CITY OF EAST PROVIDENCE HEREBY ORDAINS:

SECTION I. Section 19-95 entitled “Districts Designated” of Article III. Entitled “District Regulations” is hereby amended as follows:

Parcel 1 on Assessors Map 505, Block 1 presently located in an Open Space District is hereby changed to be included in an Open Space/Historic District.

The Zoning Map of the City of East Providence shall be amended accordingly.

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

Public Comments
Motion_____By_____2nd_____
Cusack_____DiTraglia_____Perry_____Silva_____Ramos_____

X. CONTINUED BUSINESS

XI. NEW BUSINESS

A. CITY MANAGER’S REPORT

1. “Waterfront Commission Annual Report to the City Council” – (by Chairman Patrick Rogers)

Motion_____By_____2nd_____
Cusack_____DiTraglia_____Perry_____Silva_____Ramos_____

2. Discussion of Wampanoag Trail traffic issues (by Richard M. Brown – City Manager)

Motion_____By_____2nd_____
Cusack_____DiTraglia_____Perry_____Silva_____Ramos_____

B. REPORTS OF OTHER CITY OFFICIALS
CLAIMS COMMITTEE (by William J. Conley, Jr. – Solicitor)

Motion_____By_____2nd_____
Cusack____DiTraglia____Perry____Silva____Ramos_____

C. INTRODUCTION OF ORDINANCES (If given First Passage, can be referred to the next regular Council Meeting to be held February 6, 2007 for a public hearing and consideration of final passage).

Requested by – (Director of public works).

1) The following is an ordinance regarding stop sign for Legion Way (Westbound traffic) at Beverly Road.

SECTION I. Sec. 18-269 entitled “Stop and yield intersections designated; when stops required.” is amended by adding thereto the following:

LEGION WAY (westbound traffic) at Beverly Road.

Motion_____By_____2nd_____

Requested by (Director of Finance)

2) The following is an ordinance regarding sewer use rate.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CITY OF EAST PROVIDENCE

CHAPTER

AN ORDINANCE IN AMENDMENT OF CHAPTER 17 OF THE REVISED ORDINANCES OF THE CITY OF EAST PROVIDENCE, RHODE ISLAND, 1998, AS AMENDED, ENTITLED “UTILITIES.”

THE COUNCIL OF THE CITY OF EAST PROVIDENCE HEREBY ORDAINS:

SECTION I. Subsection (c) of Sec. 17-183 entitled “Charges to be based upon water consumption; rate” of Chapter 17 of the ordinances of the City of East Providence, Rhode Island, 1998, as amended, entitled “Utilities” is amended to read as follows:

(c) The water consumption portion of the sewer charge shall be at a rate of ~~\$3.05~~ **4.00** per hundred cubic feet of water used based upon the actual quarterly or monthly meter reading of water consumption less an annual exemption of 3,500 cubic feet. Such exemption shall be prorated quarterly or monthly for users of city water who are billed on a quarterly or monthly basis.

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

Motion_____By_____2nd_____

D. COMMUNICATIONS

John J. Rossi, IBPO – Communications, 29 Woodbine Street, East Providence. Requesting to address the Council regarding response to Lisa Pinto’s allegations.

Charles Mello, Jr., 596 Willett Avenue, Riverside. Requesting to address the Council regarding infrastructure of the City and how it will reflect upon future development of East Providence.

John F. Conley, Chairman East Providence Democratic City Committee submitted names for consideration for appointment to the East Providence Canvassing Authority.

Joseph S. Larisa, 44 Don Avenue, Rumford. Requesting to address the Council regarding Appeal of Arbitrator’s Buyback Decision to Superior Court.

XIII. ADJOURNMENT