

**CITY OF PROVIDENCE  
RHODE ISLAND**



**CITY COUNCIL  
JOURNAL OF PROCEEDINGS**

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No. 7 City Council Regular Meeting, Thursday, March 7, 2013, 7:00 o'clock P.M. (E.S.T.)

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**PRESIDING**

**COUNCIL PRESIDENT  
MICHAEL A. SOLOMON**

**ROLL CALL**

**PRESENT: COUNCIL PRESIDENT SOLOMON,  
COUNCILMEN APONTE, CORREIA, HASSETT, IGLIOZZI,  
JENNINGS, COUNCILWOMAN MATOS, COUNCILMEN  
NARDUCCI, PRINCIPE, SALVATORE, SANCHEZ and  
YURDIN - 12.**

**ABSENT: COUNCILWOMAN CASTILLO, COUNCILMEN  
JACKSON and SANCHEZ - 3.**

**ALSO PRESENT: Anna M. Stetson, City Clerk, Lori L. Hagen,  
Second Deputy City Clerk, Sheri A. Petronio, Assistant Clerk and  
Jeffrey Padwa, City Solicitor.**

**IN CITY COUNCIL**  
**JUN 20 2013**  
**APPROVED:** \_\_\_\_\_  
**CLERK**

## INVOCATION

The Invocation is given by **COUNCILMAN TERRENCE M. HASSETT**.

"Dear Lord, we ask that you look upon this council to make the decisions for its people and that we have better times ahead for our country and our city. We ask this in your name. Amen."

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## PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

**COUNCILMAN JOHN J. IGLIOZZI** Leads the Members of the City Council and the Assemblage in the Pledge of Allegiance to the Flag of the United States of America.

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## APPOINTMENTS BY HIS HONOR THE MAYOR

Communication dated February 21, 2013, Informing the Honorable Members of the City Council that pursuant to Section 302(b) of the Providence Home Rule Charter of 1980, as amended, Section 502.1 of the Code of Ordinances of the City of Providence, and Public Law Chapter 45-50, Sections 1 through 31 passed in 1987, he is this day re-appointing Architect Kyle Bamrick of 33 Lois Avenue, Providence, Rhode Island 02908, as an alternate member architect, of the Downcity Design Review Committee for a term to end on January 31, 2016. (Mr. Bamrick will replace Barbara Macauley whose term has expired)

**COUNCIL PRESIDENT SOLOMON** Receives the foregoing Communication.

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Communication dated February 21, 2013, Informing the Honorable Members of the City Council that pursuant to Section 302(b) of the Providence Home Rule Charter of 1980, as amended, Section 502.1 of the Code of Ordinances of the City of Providence, and Public Law Chapter 45-50, Sections 1 through 31 passed in 1987, he is this day re-appointing John Rupp, Associate General Counsel at Textron, Inc., 400 Westminster Street, Providence, Rhode Island 02903, as an alternate member property owner representative, of the Downcity Design Review Committee for a term to end on January 31, 2016.

**COUNCIL PRESIDENT SOLOMON** Receives the foregoing Communication.

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Communication dated February 21, 2013, Informing the Honorable Members of the City Council that pursuant to Sections 302(b) and 701 (b) of the Providence Home Rule Charter of 1980, as amended, and Public Law Chapter 45-50, Sections 1 through 31 passed in 1987, he is this day re-appointing Jill Holloway of 600 Hope Street, Providence, Rhode Island 02906, as a member of the School Board Nominating Committee for a term to end on January 31, 2016.

**COUNCIL PRESIDENT SOLOMON** Receives the foregoing Communication.

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Communication dated February 21, 2013, Informing the Honorable Members of the City Council that pursuant to Sections 302(b) and 701 (b) of the Providence Home Rule Charter of 1980, as amended, and Public Law Chapter 45-50, Sections 1 through 31 passed in 1987, he is this day re-appointing Delia Rodriguez-Masjoan of 25 Devereux Avenue, Apt. 308, Providence, Rhode Island 02909, as a member of the School Board Nominating Committee for a term to end on January 31, 2016.

**COUNCIL PRESIDENT SOLOMON** Receives the foregoing Communication.

Communication dated February 21, 2013, Informing the Honorable Members of the City Council that pursuant to Sections 302(b) and 1011 of the Providence Home Rule Charter of 1980, as amended, and Public Law Chapter 45-50, Sections 1 through 31 passed in 1987, he is this day re-appointing Michael DeRita of 100 Isabella Avenue, Providence, Rhode Island 02908, as a member of the Building Board of Review and respectfully submits the same for your approval.

**COUNCIL PRESIDENT SOLOMON Refers the Communication to the Committee on Ways and Means.**

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## **ORDINANCES SECOND READING**

**The Following Ordinances were in City Council February 21, 2013, Read and Passed the First Time and are Severally Returned for Passage the Second Time:**

An Ordinance Amending Chapter 13, Entitled: "Housing", of the Code of Ordinances.

*Be it ordained by the City of Providence:*

The Code of Ordinances of the City of Providence, Chapter 13, is hereby amended as follows:

### **ARTICLE I, IN GENERAL**

#### **Sec. 13-1 . Title of chapter.**

This chapter shall be known as - Housing

#### **Sec. 13-2 . Statement of policy.**

It is hereby declared that there exists in the city numerous dwellings, and dwelling premises and structures which are substandard in one or more important features of structural safety, sanitary facilities and maintenance, and healthful occupancy and hot water facilities; and that these conditions together with the inadequate provision for light and air, insufficient protection against fire, insanitary conditions, lack of proper heating, overcrowding of dwellings and structures, deterioration and disrepair of dwellings and structures and dwelling premises and the occupancy of unfit dwellings and structures, endanger the health, safety, morals and general welfare of the community, and give impetus to the continuation, extension and aggravation of urban blight and decay. It is further declared that the establishment and enforcement of minimum standards for dwellings, dwelling premises and structures, and the rehabilitation of housing essential to the public health, safety, and general welfare.

#### **Sec. 13-3 . Purpose of chapter.**

The purpose of this chapter shall be to protect the public health, safety and welfare by establishing minimum standards governing the condition and maintenance of all dwellings, dwelling premises and structures; establishing minimum standards governing utilities and facilities and other physical things and conditions essential to make dwellings and structures safe, sanitary, and fit for human habitation; fixing certain responsibilities and duties of owners, operators, and occupants of dwellings, dwelling premises and structures; and fixing the conditions whereby certain dwellings and structures may be declared unfit for occupancy and condemned for human habitation; and fixing penalties for violations of the provisions of this chapter.

#### **Sec. 13-4 , Conflict of chapter with other ordinances.**

In any case where a provision of this chapter or of any regulation adopted pursuant thereto is found to be in conflict with a provision of any zoning, building, fire, safety or health ordinance or any regulation adopted pursuant thereto, or any other ordinance, code or regulation of the city, the provision which establishes the higher standard for the promotion of the health and safety of the people shall prevail.

## ARTICLE II, MINIMUM HOUSING STANDARDS

### Sec. 13-5 , Enforcement of Rhode Island Property Maintenance Code

The City of Providence shall follow and enforce the state of Rhode Island Property Maintenance Code codified by the Property Maintenance Code for the State of Rhode Island hereinafter referred to as SBC-6 and administered by R. I. Gen. Laws 23-27.3- 100 et seq.

### Sec. 13-6 , Minimum housing standards division—Created, designated.

There is hereby created within the executive department a division of minimum housing standards, hereinafter referred to as "the division," for the purposes of enforcing the provisions of this chapter and such other matters as may be appropriately assigned to it.

### Sec. 13-7 ,Same--Administration of divisions and delegation of powers.

The division of minimum housing standards shall be operated under the general direction of the urban renewal coordinator, and under the immediate supervision and control of a director appointed by the mayor, subject to the approval of the city council, and to serve at the pleasure of the mayor. The director may delegate any of his powers or duties under the provisions of this chapter to any properly qualified employee of the division.

### Sec. 13-8 , Enforcement of minimum housing standards.

The code enforcement division is hereby transferred to and under the jurisdiction and control of the department of building inspection; and all the powers and duties of the said code enforcement division, including, but not by way of limitation, those vested under the minimum standards housing ordinance, so-called, (and which were heretofore vested in the director of the department of planning and urban development) are hereby transferred and vested in the director of the department of building inspection.

### Sec. 13-9 , Appointment and duties of chief inspector and other personnel.

The chief inspector of the division of minimum housing standards shall be appointed by the director subject to the approval of the mayor. The chief inspector shall be the responsible head of the inspection staff and shall exercise such authority as shall be delegated to him by the director. All other personnel of the division shall be appointed by the director, subject to the prior approval of the personnel director.

### Sec. 13-10, Appointment and duties of hearing officer.

The director shall serve as the hearing officer of the division of minimum housing standards and as such shall be responsible for the scheduling, conduct and recording of hearings as provided for in sections 101.1 through 107.6 of the SBC - 6; except that the director may delegate these duties to the chief inspector or any other qualified employee of the division.

### Sec. 13-11 , - Personnel of division of minimum housing standards.

The personnel of the division of minimum housing standards shall consist of a director, a chief inspector and such other inspectors, clerks and other personnel as may be necessary for the proper organization of the division and for the proper enforcement of this chapter.

### Sec. 13- 12, Conflict of permits and licenses with chapter.

All departments, officials and employees of the city which have the duty or authority to issue permits or licenses in regard to the construction, installation, repair, use or occupancy of structures, dwellings, dwelling premises or dwelling equipment or facilities shall conform to the provisions of this chapter, and no permit or license for any construction, installation, repair, use or occupancy shall be issued if such would be in conflict with the provisions of this chapter except as provided in 13-4 of this chapter. Any permit or license issued in conflict with the provisions of this chapter, except as provided in section 13-4 of this chapter, shall be null and void.

**Sec. 13- 13, Application to zoning board of review for variance, exception.**

Whenever a compliance order issued pursuant to the provisions of this chapter requires an extension of a building or structure into a required rear yard or side yard, or the execution of any compliance order will result in any violation of the zoning ordinance, the director is authorized to apply to the zoning board of review for a variance or exception.

**Sec. 13-14 ,Referral of housing violations not covered by chapter but by standards of other codes.**

Whenever the director determines that the condition of a structure, dwelling or dwelling premises or any part thereof is in violation of any zoning, building, fire or health ordinance or regulation adopted pursuant thereto, or any other ordinance, or code or regulation of the city governing the condition and improvement of housing, which is not provided for by this chapter, or which is provided for by a higher standard of such other ordinance, code or regulation, according to Section 13-4 of this chapter, he shall refer such violation to the appropriate authority.

**Sec. 13- 15. Prosecution of existing violations.**

This chapter shall not affect violations of any other existing ordinance, code or regulation of the city, and such violations shall be governed and shall continue to be punishable to the full extent of the law under the provisions of those ordinances, codes or regulations in effect at the time the violation was committed.

**Sec. 13- 16. Violations and penalties.**

- (a) Any person who violates any provision of this chapter, or any provision of any rule or regulation adopted pursuant to authority granted by this chapter will be punished pursuant to SBC-6, R. I. Gen. Laws 23-27.3- 100 et seq., and Chapter 1 Section 1-10 of the Providence Code of Ordinances
- (b) The city solicitor shall, upon complaint of the director, institute injunction, abatement or other appropriate actions or proceedings at law or in equity to restrain, prevent, enjoin, abate, correct or remove such violations.
- (c) The remedies provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.

**Sec. 13- 17, Recording notices and orders; liability of persons having notice of proceedings.**

Whenever a notice of violation or a compliance order has been issued for a violation of this chapter or any rule or regulation adopted pursuant thereto, the director may file in the office of the recorder of deeds a copy of the notice or order. Such notice or order shall be recorded in the same manner as "lis pendens" notices, and such recording shall be constructive notice to any purchaser or encumbrancer of the real property affected thereby. Notwithstanding any other provisions of this chapter, any person purchasing or otherwise acquiring any interest in any real property and having actual or constructive notice of any proceedings instituted under the provisions of this chapter shall be immediately subject to and bound by any such proceedings and to any compliance order entered with respect to the real property.

**ARTICLE III, Affordable housing trust fund**

**Sec. 13- 18. - Allocation system for the affordable housing trust fund.**

- (a) As used in this section, "affordable housing" means housing that costs no more than thirty (30) percent of a household's monthly income, including monthly rent, mortgage payments and utilities.
- (b) Monies designated for or allocated by the Providence Housing Trust shall be used solely for the purpose of funding construction, development or financing mechanisms of affordable housing for families earning less than one hundred twenty (120) percent of the median income, for the city, as determined actually or periodically estimated by the official federal census or the United States Department of Housing and Urban Development, for rental or home ownership, with the exclusion of funds under contract upon the date of passage of the ordinance from which this section derives.

(c) All payments made to the city redevelopment agency for payment to the Providence Housing Trust under tax stabilization agreements shall be deposited in the Providence Housing Trust without exception. These payments shall be used in strict conformance with the rules and regulations of the Providence Housing Trust.

(d) Affordable housing projects financed, in part or in whole, by the Providence Housing Trust must result in units which remain affordable, as defined in subsection (a), for at least thirty (30) years.

(e) The director of the department of planning, or assignee, shall make a quarterly report on the activities and status of the Providence Housing Trust to the city council.

#### ARTICLE IV, RESIDENTIAL OWNER-OCCUPIED MORTGAGE FORECLOSURE INTERVENTION

##### Sec. 13- 19. - Definitions.

*Homeowner* shall mean an individual who owns and resides in residential real property located in the City and County of Providence, and for whom such residential real property is a principal residence.

*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.

*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.

*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.

*Residential premises/property* shall mean real property that is owner-occupied as an owner's principal residence, located within the City and County of Providence, that is either a single-family dwelling or a structure containing not more than four (4) 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 residence. Property deemed abandoned or under order for demolition as a result of fire or other calamity by the city's department of inspection and standards is not considered owner-occupied for the purpose of this article.

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

*The city* shall mean the City of Providence.

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

##### Sec. 13- 20. - 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 rising interest rates, unemployment and underemployment, have negatively impacted a substantial number of homeowners in the city, creating a foreclosure crisis which endangers the economic stability of the city and the health and safety of its citizens, as the increasing numbers of foreclosures lead to increases in unoccupied and unattended buildings in the city and give impetus to the continuation, extension and aggravation of urban blight and decay. More importantly, foreclosures cause the unnecessary and unwanted displacement of a considerable number of homeowners and tenants who desire to live and work in the city.

##### Sec. 13-21 . - Purpose.

The city's purpose in sections 13-19 through 13-23, inclusive, is to protect the public health, safety and welfare 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.

Sec. 13- 22. - Filing/recording of foreclosure deed.

Except as may be provided in this division, from and after the effective date of this division, no deed offered by a lender/mortgagee to be filed with the recorder of deeds as a result of a mortgage foreclosure action shall be accepted and/or recorded in the land evidence records of the city until and unless the following events have occurred:

- (1) The 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.
- (2) Said notice shall be filed by the lender/mortgagee with the recorder of deeds.
- (3) 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. Telephone participation by the lender/mortgagee is acceptable.
- (4) Said conciliation conference shall be scheduled at a time and place to be determined by the conciliation conference coordinator, but not later than thirty (30) days following the mailing of the notice of intent to foreclose. The parties will be noticed by certified and first class mail.
- (5) 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.
- (6) 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.
- (7) The conciliation conference will require the exchange of information provided as required by subsection (6) to the representative of the lender/mortgagee.
- (8) If after two (2) 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 homeowner/mortgagor fails to cooperate in any respect with the requirements outlined in this division, 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.
- (9) 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 article. 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 including recording the deed. Such a certification will be the form of a document to be filed along with all other relevant documents with the recorder of deeds.
- (10) Upon the demand of the lender/mortgagee at any time following completion of the conciliation conference, if the lender/mortgagee is not invoking subsection (8), the HUD-approved independent counseling agency will immediately certify that the provisions of this division have been met.
- (11) The parties shall complete the process required by this division within a period of sixty (60) days from the initial notice provided in [subsection] (1).
- (12) Cases involving premises which are not owner-occupied or which are not residential are not subject to the mandatory loan/mortgage conciliation conference and may proceed directly to foreclosure and recordation of the deed concerning such property-presuming compliance with sections 13-24 through 13-26.

(13) Notwithstanding the foregoing, any lender/mortgagee which is headquartered within the State of Rhode Island and which services its own mortgages shall be deemed to be in compliance with the requirements of this section if:

a. The lender/mortgagee provides homeowners a forbearance relief program that is consistent with the forbearance relief requirements applicable to FHA-Insured Mortgages, as set forth in Chapter 8 of HUD Handbook 4330.1 Rev. 5, Administration of Insured Home Mortgages, as the same may be amended from time to time; and

b. The deed offered by a lender/mortgagee to be filed with the recorder of deeds as a result of a mortgage foreclosure action contains a certification that the provisions of this subsection have been satisfied.

#### Sec. 13- 23. - Penalties.

No deed offered by a lender/mortgagor to be filed with the recorder of deeds shall be accepted and/or recorded in the land evidence records of the city if it is determined that the lender/mortgagor has failed in any respect with the requirements and provisions of this division. In the event that a foreclosure has taken place without affording the homeowner of the relief afforded by this division, the recorder of deeds shall assess a penalty of two thousand dollars (\$2,000.00) in addition to any other penalties and fees that may be assessed prior to recording the foreclosure deed. The rights of the homeowner to any redress afforded under the law are not abridged by this section.

### ARTICLE V, NOTICE OF FORECLOSURE TO BONA FIDE TENANTS OF RENTAL RESIDENTIAL PROPERTY

#### Sec. 13- 24. - Definitions.

A *bona fide tenant* shall mean a person who has entered into a written or oral rental agreement with a homeowner or landlord (mortgagor) 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 bonafide tenant exist regardless whether the residential premises is or is not owner-occupied.

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

*The city* shall mean the City of Providence.

#### Sec. 13- 25. - Notice to bona fide tenants.

Effective upon passage of this division, 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:

(1) 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 the foreclosed mortgagor shall continue to provide the same essential services under the same terms and conditions to the tenant.

(2) A successor in interest to a mortgagor shall provide notice to each bona fide tenant, as defined in section 13-24, 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 both 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.

(3) Where any 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 R.I.G.L. tit. 43, ch. 18, 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.



(4) The lender/mortgagee shall provide notice to each bona fide tenant, as defined in section 13-19, 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 both 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) providing 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 (2), is provided.

#### Sec. 13- 26 . - Penalties.

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

### ARTICLE VI, HOUSING BOARD OF REVIEW

#### Sec. 13- 27, Established; general powers and duties.

There shall be a housing board of review which is authorized to hear and decide appeals from compliance orders.

The board shall have the power to reverse or affirm wholly or partly or to modify any order of the director; and in specific cases to authorize such variance in the application of the terms of this chapter, where owing to unusual conditions a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done.

#### Sec. 13- 28, Composition; appointment of members.

The housing board of review shall consist of five members appointed by the mayor of the city; subject to the approval of the city council.

#### Sec. 13- 29, Qualifications of members.

Each member of the housing board of review shall be a resident of the city, and one member shall be a qualified builder, or a licensed architect, or a licensed professional engineer; and another shall be a qualified doctor of medicine or of public health. No member of the board shall serve on any other appointive board of the city; provided however, that the chairman of the housing board of review shall be a member of the mayor's housing advisory council whenever such council shall be appointed.

#### Sec. 13- 30, Officers.

The mayor shall select one of the members of the housing board of review to serve as chairman, and the board shall select one of its members to serve as vice-chairman; and the mayor shall appoint subject to the approval of the city council a secretary of the board who shall keep a detailed record of its business and proceedings.

#### Sec. 13- 31, Terms of members; filling vacancies.

One member of the housing board of review first constituted shall be appointed for five (5) years, one for four (4) years, one for three (3) years, one for two (2) years and one to serve for one (1) year; each new member shall serve for five (5) years and until his successor has been appointed and qualified. The mayor with the approval of the council shall appoint a member of the board to fill any unexpired term if a vacancy occurs.

**Sec. 13-32, Compensation of board members.**

The compensation of the chairman of the housing board of review shall be sixty dollars (\$60.00) per meeting, but not to exceed twelve hundred dollars (\$1,200.00) per year, and the compensation for each of the other members shall be fifty dollars (\$50.00) per meeting, but not to exceed one thousand dollars (\$1,000.00) per year. Compensation for any meeting of the board shall be paid only for actual attendance.

**Sec. 13- 33, Disqualification of members from certain matters.**

No member of the housing board of review shall pass on any matter in which he has a business or a personal interest.

**Sec. 13- 34, Meetings.**

The housing board of review shall meet at least once a month and at other times upon the call of the chairman. Notice of the meeting to hear an appeal shall be given the appellant, the director, and the members of the board, at least ten (10) days before the holding of the meeting, except for a hearing on an appeal involving a restraining order at which time notice need not exceed forty-eight (48) hours. Upon receipt of notice of an appeal the director shall forward immediately to the secretary of the board all pertinent records.

**Sec. 13- 35, Right to appeal to board from compliance order.**

Any person upon whom a compliance order has been served may appeal from the compliance order to the housing board of review.

**Sec. 13- 36, Grounds for appeal from compliance order.**

Application for an appeal provided for in section 13-35 may be made whenever it is alleged that the compliance order does not conform with the true intent of this chapter or of the rules and regulations adopted pursuant thereto; that the compliance order is contrary to law; that the provision of this chapter do not fully apply; or that in unusual conditions, unnecessary hardship will result from the literal enforcement of the provisions of this chapter.

**Sec. 13- 37, Filing appeal from compliance order.**

Any eligible person desiring to take an appeal shall file in the office of the housing board of review, within ten (10) days after service of the compliance order, a written appeal including a brief statement of the reasons therefor, and a detailed statement of the facts supporting the appeal. A notice of the appeal shall be forwarded immediately to the director by the secretary of the board.

**Sec. 13- 38, Schedule of appeal fees.**

An appeal fee, in accordance with the following schedule, shall be paid upon the filing of any application for appeal before the housing board of review:

- (a) The appeal fee shall be five dollars (\$5.00) whenever an appeal is taken from a compliance order issued as a result of hearing before the director;
- (b) The appeal fee shall be ten dollars (\$10.00) whenever an appeal is taken from a compliance order issued after failure to request a hearing before the director, or after failure to appear at such hearing.

Upon receipt of the appeal fee by the board, said fee shall be paid to the city collector.

**Sec. 13- 39,1 Effect of filing appeal.**

An appeal to the housing board of review shall stay all proceedings under the compliance order from which such appeal has been taken, except that the director may certify to the board after receipt of the notice of the appeal, as provided in sections 13-36 and 13-37 of this chapter, that by reason of the facts stated in the certificate, any stay of proceedings would in his opinion cause a direct hazard or immediate peril to the health or safety of the occupants of a dwelling or structure or of the public, and in such event proceedings shall not be stayed except by restraining order granted by the chairman or the acting chairman of the board on application therefor by the appellant, upon notice to the director, and on due cause shown, or by a court of competent jurisdiction. Whenever a restraining order has been issued, the appeal shall be given priority over all other matters before the board, and shall be promptly heard and decided.

**Sec. 13- 40, Quorum for hearing appeal.**

In order for the housing board of review to hear an appeal a quorum of three (3) members of the board must be present. When a quorum is not present, the hearing of the appeal shall be postponed until such time as a quorum is present. The board shall provide for a new date for the hearing of the appeal in accordance with the provisions of section 13-34 of this chapter.

**Sec. 13- 41, Conduct of hearings on appeals.**

All hearings of appeals by the housing board of review shall be "de novo". All hearings shall be public, and the appellant, his representative, the director and any other person whose interests may be affected by the matter on appeal, and who files a written entry of appearance shall be given an opportunity to be heard. Written entry of appearance at such hearing shall fulfill the requirements for service of any notice or order by the director.

**Sec. 13- 42, Administering oaths and compelling attendance of witnesses.**

The chairman of the housing board of review or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses.

**Sec. 13- 43, Vote required to reverse, modify order, authorize variance.**

A concurring vote of a majority of the members of the housing board of review present at a hearing shall be necessary to reverse or modify any order or decision of the director, and to authorize a variance in the application of any of the provisions of this chapter as provided in section 13-27 of this chapter. In the event of a tie vote of the members of the board present at the hearing, the order or decision of the director shall be deemed to have been sustained.

**Sec. 13- 44, Minutes, records of proceedings, decisions.**

All decisions of the housing board of review shall be in writing. The board shall keep clear and detailed minutes of all its proceedings including its decisions and the reasons therefor and the vote of each member participating therein and the absence of a member or his failure to vote. Such record, immediately following the board's decision, shall be filed in the office of the board and shall be a public record. Notice of the board's decision shall be promptly furnished to the appellant, his representative, any person who has filed a written *entry* of appearance, and to the director, and the director shall take immediate action in accordance with the decision of the board.

**Sec. 13- 45, Review of proceedings of board.**

Proceedings of the housing board of review shall be conclusive with respect to questions of fact and may be reviewed only on questions of law by courts of competent jurisdiction as provided in section 13-46 of this chapter.

**Sec. 13- 46, Judicial review of decisions of board.**

(a) Any person including the director aggrieved by any decision of the housing board of review may present to the Supreme Court a petition duly verified setting forth that such decision is illegal in whole or in part and specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the board. Upon the presentation of such petition, the court may allow a writ of certiorari directed to the housing board of review to review such decision of the board and shall prescribe therein the time within which a return thereto must be made, which shall be not less than ten (10) days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may on application, upon notice to the board and on the due cause shown, grant a restraining order.

(b) The board shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show grounds of the decision appealed from and shall be verified.

(c) If upon the hearing it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a master to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made.

(d) The court may reverse or affirm wholly or partly or may modify the decision brought up for review.

**Read and Passed the Second Time, on Motion of COUNCILMAN YURDIN, seconded by COUNCILMAN NARDUCCI, by the Following Roll Call Vote:**

**AYES: COUNCIL PRESIDENT SOLOMON, COUNCILMEN APONTE, CORREIA, HASSETT, IGLIOZZI, JENNINGS, COUNCILWOMAN MATOS, COUNCILMEN NARDUCCI, PRINCIPE, SALVATORE, YURDIN and ZURIER – 12.**

**NAYES: NONE.**

**ABSENT: COUNCILWOMAN CASTILLO, COUNCILMEN JACKSON and SANCHEZ – 3.**

**The Motion for Passage the Second Time, is Sustained.**

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**An Ordinance in Amendment of Chapter 16, Article I of the Code of Ordinances, Entitled: "In General," As Amended. (Chronic Nuisance Properties)**

***Be it ordained by the City of Providence:***

**SECTION 1. Chapter 16, Article 1, Section 16-22 is hereby amended as follows:**

**Sec. 16-22. Chronic nuisance properties**

**(a) Definitions.**

. 1) "Abate" means to repair, replace, remove, destroy, or otherwise remedy a condition which constitutes a violation of this chapter by such means and in such a manner and to such an extent as the Chief of Police determines is necessary in the interest of the general health, safety and welfare of the community.

. 2) "Chief of Police" means the Chief of Police or his or her designees.

. 3) "Control" means the power or ability to direct or determine conditions, conduct, or events occurring on a property.

· 4) "Chronic nuisance property" means:

- i. a property on which two or more Nuisance Activities exist or have occurred during any six month period; or
- ii. a property on which a search warrant has been issued and/or executed two (2) or more times within a twenty-four (24) month period related to the illegal possession, manufacture or delivery of a controlled substance or related offenses as defined in R.I.G.L. 21-28.

· 5) "Nuisance activity" includes the following:

- i. Any homicide pursuant to R.I.G.L. 11-23; or
- ii. any illegal possession, manufacturing or delivery of a controlled substance or related offense pursuant to R.I.G.L. 21-28; or
- iii. any prostitution, permitting prostitution, or promoting, advancing or profiting from prostitution pursuant to R.I.G.L. 11-34.1; or
- iv. any weapons violations pursuant to R.I.G.L. 11-47; or
- v. any organized criminal gambling pursuant to R.I.G.L. 11-51
- vi. Criminal activity directly relating to domestic violence, dating violence or stalking, engaged in by a member of a person's household or any guest or other individual under the person's control, shall not be considered "nuisance activity" for the purpose of declaring a property a "chronic nuisance property," if the person or immediate member of the person's family is a victim of that domestic violence, dating violence, or stalking.

· 6) "Owner" means any person who, alone or with others, has title or interest in any property.

· 7) "Person" means an individual, group of individuals, corporation, partnership, association, club, company, business trust, joint venture, organization, or any other legal or commercial entity or the manager, lessee, agent officer or employee of any of them.

· 8) "Person in charge" of a property means the Owner and, if different than the owner, any other person in actual or constructive possession of a property, including but not limited to, a lessee, tenant, occupant, agent, or manager of a property under his or her control.

· 9) "Property" means any land and that which is affixed, incidental or appurtenant to land, including but not limited to any business or residence, parking area, loading area, landscaping, building or structure or any separate part, unit or portion thereof.

(b) Violation. Any property within the City of Providence that is a Chronic Nuisance property is in violation of this Chapter and subject to its remedies. Owners and other Persons in Charge who permit property to be a Chronic Nuisance property shall be in violation of this chapter and subject to its remedies. Any Owner who fails to comply with section (d) is in violation of this chapter and is subject to penalties pursuant to section (f).

(c) Declaration of Chronic Nuisance Property and Procedure.

· 1) The Chief of Police may declare that a property is a Chronic Nuisance property, as defined in this section. The Chief of Police will provide written notice of this declaration to the Person in Charge of the property. The notice shall be sent by first class mail or personally served, and a copy shall be sent by certified mail. The notice will contain the following:

- i. the street address or a legal description sufficient for identification of the property; and
- ii. a declaration that the Chief of Police has determined the property has become a Chronic Nuisance property with a concise description of the nuisance activities that exist or that have occurred; and

- iii. a notice that the Persons in Charge of the property are subject to monetary penalties as set forth in section (f); and
  - iv. a demand that the Owner and other Persons in Charge respond to the Chief of Police within seven days of service of the notice to discuss a course of action to correct the nuisance; and
  - v. a notice that, if the Person in Charge does not respond to the Chief of Police as required in this section, or if the matter is not voluntarily corrected to the satisfaction of the Chief of Police, the City may file an action to abate the property as a chronic nuisance property pursuant to section (g) and/or take other action against the property or person in charge.
- . 2) When a notice is issued pursuant to this section to a Person in Charge, other than an Owner or an Owner's agent, who has permitted a property to become a chronic nuisance property, a copy of such notice shall also be sent by first class mail or personally served on the owner of the property and a copy shall be sent by certified mail.
- . 3) If the Owner or Person in Charge responds as required by the notice and agrees to a course of action to abate the nuisance activities, a written correction agreement conforming to the requirements of section (e) shall be executed.
- . 4) If the agreed course of action does not result in the abatement of nuisance activities to the satisfaction of the Chief of Police within thirty days of issuance of the notice, or within such longer period as permitted by the Chief of Police in writing or the person in charge fails to respond as required by the notice, the Chief of Police may refer the matter to the City Solicitor's office for initiation of proceedings pursuant to section (g).
- (d) Owner Cooperation. An owner who receives a copy of a notice pursuant to section (c) shall promptly take all reasonable steps requested in writing by the Chief of Police to assist in abatement of the nuisance property. Such reasonable steps may include the owner taking all acts and pursuing all remedies, including pursuing eviction of the person in charge, that are (1) available to the owner pursuant to any lease or other agreement, and (2) consistent with state and local laws.
- (e) Corrections Agreement. A correction agreement is a contract between the City of Providence and the Owner and/or Person in Charge of the Chronic Nuisance property in which the Owner and/or Person in Charge agree(s) to promptly take all lawful and reasonable actions, which shall be set forth in the agreement to abate the nuisance activities within a specified time and according to specified conditions. The agreement will be signed by the Person in Charge and, if different, the Owner. The agreement will include the following:
- . 1) the name and address of the Owner and/or Person in Charge of the property; . and
  - . 2) the street address or a description sufficient for identification of the property, building, structure, or land upon or within which the nuisance is occurring; and
  - . 3) a description of the nuisance activities; and
  - . 4) the necessary corrective action to be taken, and a date or time by which correction must be completed; and
  - . 5) an agreement by the Owner and/or Person in Charge that the City may inspect the property as may be necessary to determine compliance with the correction agreement; and
  - . 6) an agreement by the Owner and/or Person in Charge that the City may abate the nuisance and recover its costs and expenses and monetary penalties pursuant to this chapter from the person in charge for the nuisance if the terms of the correction agreement are not met; and
  - . 7) when a person in charge, other than an owner or an owner's agent, has permitted a property to be a chronic nuisance property, an agreement by the owner to promptly take all acts and pursue all remedies requested by the Chief of Police pursuant to section (d).

(f) Fines. Except as provided in this section, in addition to any other sanction or remedial procedure that may be available, from the time that notice is issued pursuant to section c(1), the Person in Charge will be subject to a penalty for the violation of this ordinance of up to \$500.00. Each and every day subsequent to the notice issued pursuant to section c(1) will constitute a new violation of this ordinance until the Chief of Police confirms that the property is no longer a chronic nuisance. If the agreed course of action results in the abatement of nuisance activities to the satisfaction of the Chief of Police within thirty days of the notice issued pursuant to section c(1), or such longer period allowed by the Chief of Police pursuant to section c(4), the matter will not be referred to the City Solicitor's office and the Person in Charge will not be subject to any penalty pursuant to this Chapter. An owner who fails to comply with section d. is subject to a civil penalty of up to \$25,000. All parties found to be in violation of this section shall be jointly and severally liable for all monetary penalties and/or fines. Proceeds from these fines shall be deposited in a restricted receipts account designated for nuisance abatement in the City.

(g) Enforcement. Upon referral pursuant to section (c), the City Solicitor may initiate an action in any court of competent jurisdiction to abate a Chronic Nuisance property, to impose penalties pursuant to this chapter, to seek alternative remedies under city or state laws and seek any other relief authorized by law.

(h) Burden of Proof. In an action against a Person in Charge to abate a chronic nuisance property or to recover penalties authorized by this chapter, the City will have the burden of proof to show by a preponderance of the evidence that the property is a Chronic Nuisance property pursuant to this chapter. In an action against an Owner or Person in Charge to recover penalties authorized by section f, the City will have the additional burden to prove by a preponderance of the evidence that the owner failed to comply with section d. Copies of police incident reports and reports of other city departments documenting nuisance activities shall be admissible in such actions. Additionally, evidence of a property's general reputation and the reputation of persons residing in or frequenting the property shall be admissible in such actions.

(i) Remedies. If the Court determines a Property is a Chronic Nuisance property pursuant to this chapter the court will order the Person in Charge to immediately abate nuisance activity from occurring on the property. The order may include damages as provided in this section and may include any of the following: Any order that will reasonably abate nuisance activities from occurring on the property, including authorizing the City to take action to abate nuisance activities from occurring upon the property if other court orders are not complied with or do not abate nuisance activity on the property and providing that the costs of such City action are to be paid for by the person in charge of the property; ordering the Owner to make reasonable expenditures upon the property, including the installation of secure locks, hiring private security personnel, increasing lighting in common areas, and using videotaped surveillance of the property and adjacent alleys, sidewalks, or parking lots; ordering all rental income from the property to be placed in an escrow account with the court for up to 90 days or until the Chronic Nuisance is abated; ordering the property transferred to a receiver, to be appointed by the court, who will be empowered to use the rental income to make reasonable expenditures related to the property in order to abate the Chronic Nuisance; ordering the property vacated, sealed, or demolished; ordering that the Chief of Police shall have the right to inspect the property to determine if the court's orders have been complied with; or any other appropriate remedy. The following damages may be included in order to effectuate the equitable remedy of abatement. A penalty for the violation of this ordinance of up to \$500.00 for each and every day subsequent to the notice issued pursuant to section c(1) until the Chief of Police confirms that the property is no longer a chronic nuisance. If the court finds that an owner failed to take all reasonable steps requested in writing pursuant to section (d), the court may impose a civil penalty up to \$25,000. Assessment of reasonable attorney fees and costs to the City of Providence.

(j) Additional Remedies. In addition to the remedies authorized by section (i), if, as part of its order abating a chronic nuisance property, the court orders a person in charge to cease renting or leasing a property, the court may order the person in charge to pay relocation assistance not to exceed \$3,300 to any tenant (1) who must relocate because of the order of abatement, and (2) the court finds not to have caused or participated in nuisance activities at the property.

(k) Suspension of business license. In addition to any other remedy that is authorized by this chapter or other laws, upon the finding by a court that a property is a Chronic Nuisance property pursuant to this chapter, the person in charge is subject to the suspension or revocation of a business license or other license at such property issued by the City of Providence.

**SECTION 2. Severability.** If any section or portion of this ordinance is determined invalid or unconstitutional, that section or portion shall be deemed severable and all remaining sections or portions of this ordinance shall remain in full force and effect.

**SECTION 3. Effective date.** This ordinance shall take effect upon passage.

Read and Passed the Second Time, on Motion of COUNCILMAN YURDIN, seconded by COUNCILMAN NARDUCCI, by the Following Roll Call Vote:

AYES: COUNCIL PRESIDENT SOLOMON, COUNCILMEN APONTE, CORREIA, HASSETT, JENNINGS, COUNCILWOMAN MATOS, COUNCILMEN NARDUCCI, PRINCIPE, SALVATORE, YURDIN and ZURIER – 11.

NAYES: COUNCILMAN IGLIOZZI – 1.

ABSENT: COUNCILWOMAN CASTILLO, COUNCILMEN JACKSON and SANCHEZ – 3.

The Motion for Passage the Second Time, is Sustained.

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## PRESENTATION OF ORDINANCES

COUNCIL PRESIDENT SOLOMON (By Request):

An Ordinance in Amendment of Chapter 17, Article VI of the Code of Ordinances, Entitled: "Retirement System." (Consent Judgment)

COUNCIL PRESIDENT SOLOMON Refers the Ordinance to the Special Committee on Ways and Means.

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COUNCILMAN ZURIER (By Request):

An Ordinance making an Appropriation of Three Hundred Twenty Nine Million Seventy Five Thousand Nine Hundred Fifty Six Dollars (\$329,075,956), for the support of the Providence School Department for the Fiscal Year Ending June 30, 2013, and Amending Ordinance Chapter 2012-34, No. 340, Approved June 12, 2012.

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An Ordinance Amending a Compensation Plan for the Providence School Department and Amending Ordinance Chapter 2012-35, No. 341, Approved June 12, 2012.

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An Ordinance Establishing the Classes of Positions, the Maximum Number of Employees and the Employees in certain Classes in the Providence School Department and Amending Ordinance Chapter 2012-36, No. 342, Approved June 12, 2012.

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COUNCILMAN YURDIN Moves to Dispense with the reading of the foregoing matters, seconded by COUNCILMAN NARDUCCI.

COUNCIL PRESIDENT SOLOMON Refers the Several Ordinances to the Special Committee on Education.

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## PRESENTATION OF RESOLUTIONS

COUNCIL PRESIDENT SOLOMON (By Request):

Resolution Requesting the Providence City Council to endorse and ratify those certain consent judgments dated December 11, 2012, December 21, 2012, and February 5, 2013, resolving certain pension issues related to both currently serving and retired police and fire personnel.



COUNCIL PRESIDENT SOLOMON Refers the Resolution to the Special Committee on Ways and Means.

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**COUNCIL PRESIDENT SOLOMON:**

Resolution Endorsing and Urging Passage by the General Assembly of House Bill 2013 H – 5550, An Act Relating to Libraries – State Aid to Libraries.

*WHEREAS*, For thousands of years, libraries have served as important cultural centers, improving education, spreading new ideas, and preserving our shared history; and

*WHEREAS*, Local libraries provide services that improve and enrich the lives of residents, especially children; and

*WHEREAS*, Libraries serve as centers of learning in our communities, offering after-school programs, homework assistance, and early childhood activities; and

*WHEREAS*, In a world of rapidly changing technology, libraries provide access to computers and internet, allowing them to obtain and utilize digital resources from around the world; and

*WHEREAS*, Offering English as a Second Language and adult literacy courses, a strong library system is especially important for recent immigrants; and

*WHEREAS*, Libraries act as a great economic equalizer by providing equal access to information to all citizens and offering many services for job seekers; and

*WHEREAS*, House Bill 5550 would alter the State's local library funding formula to provide more support for local libraries statewide through fiscal year 2016.

*NOW, THEREFORE, BE IT RESOLVED*, That the City Council of the City of Providence does hereby urge the General Assembly to pass House Bill 5550.

*BE IT FURTHER RESOLVED*, That, upon passage, copies of this resolution be sent to the sponsors of House Bill 5550 and all members of the Providence General Assembly delegation.

Read and Passed, on Motion of COUNCILMAN YURDIN, seconded by COUNCILMAN NARDUCCI.

The Motion for Passage is Sustained.

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**COUNCILMAN CORREIA:**

Resolution Requesting the Forestry Division of the Parks Department to cause the removal of the dead tree located at 96 Dover Street on the Fairview Street side.

*RESOLVED*, That the Forestry Division of the Parks Department is requested to cause the removal of the dead tree located at 96 Dover Street on the Fairview Street side.

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Resolution Requesting the Traffic Engineer to prohibit parking on Beaufort Street from 34 Beaufort Street to Academy Avenue.

*RESOLVED*, That the Traffic Engineer is requested to prohibit parking on Beaufort Street from 34 Beaufort Street to Academy Avenue.

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**COUNCILMAN YURDIN Moves to Dispense with the Reading of the foregoing matters and Moves Passage of the Several Resolutions, seconded by COUNCILMAN NARDUCCI.**

**The Motion for Passage of the Several Resolutions is Sustained.**

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Resolution Requesting the Director of Operations and the Committee on Public Works to purchase or lease 6 Super Duty 4 Wheel Drive landscape trucks.

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Resolution Requesting the Director of Operations and the Committee on Public Works to purchase or lease 6 Super Duty F350 4X4 crew pickup trucks.

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Resolution Requesting the Director of Operations and the Committee on Public Works to purchase or lease 20 heavy duty 12' front plow/sander discharge trucks for the Department of Public Works.

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**COUNCILMAN YURDIN Moves to Dispense with the reading of the foregoing matters, seconded by COUNCILMAN NARDUCCI.**

**COUNCIL PRESIDENT SOLOMON Refers the Several Resolutions to the Special Committee on Ways and Means.**

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Resolution Requesting the Committee on Public Works to have the Director of Operations, Acting Director of Public Works and Highway Superintendent to appear before the committee to explain snow removal operations.

**COUNCIL PRESIDENT SOLOMON Refers the Resolution to the Committee on Public Works.**

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Resolution Authorizing the City of Providence to enter into a lease agreement with South Side Community Land Trust of 109 Somerset Street for an initial period not to exceed five years, for six city-owned lots located at 774, 786, 790, 792, 794 and 802 Manton Avenue.

**COUNCIL PRESIDENT SOLOMON Refers the Resolution to the Committee on City Property.**

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**COUNCILMAN JENNINGS:**

Resolution Requesting the Tax Assessor to apply the Homestead Exemption to the property located on Assessor's Plat 42, Lot 220 (120 Sorrento Street), for the year 2012 retroactively.

**COUNCIL PRESIDENT SOLOMON Refers the Resolution to the Special Committee on Ways and Means.**

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**COUNCILMAN YURDIN:**

Resolution Endorsing and Urging Passage by the General Assembly of House Bill 2013 H – 5264, An Act Relating to Health and Safety – Reduce Marine Debris and Preserve Landfill Space while increasing the Recycling of Post-Consumer Packaging Material.

*WHEREAS*, Marine debris is man-made, solid material that enters waterways directly through littering or indirectly via rivers, streams, and storm drains; and

*WHEREAS*, Nearly 80% of all marine debris is attributable to land-based sources; and

*WHEREAS*, About two-thirds of all marine debris originates as post-consumer packaging materials, such as cans, bottles, plastic bags, and styrofoam containers; and

*WHEREAS*, Municipal governments bear the entire cost associated with managing discarded packaging, including collection for recycling, beach clean-ups, and disposal; and

*WHEREAS*, Marine debris negatively affects the environment in many ways, including introducing toxins to the food chain, harming marine wildlife, altering ecosystems, and allowing invasive species to spread to new locations; and

*WHEREAS*, Floating and sunken debris create many problems for maritime businesses and recreational boaters, damaging equipment, disabling vessels, and killing catches; and

*WHEREAS*, Governments worldwide have begun dealing with the issue of marine debris by requiring producers of post-consumer packaging to pay for the collection, recovery, and recycling of the materials they produce; and

*WHEREAS*, Providence's coastal location, long nautical history, and many maritime businesses make protecting and preserving our waterways of the utmost importance; and

*WHEREAS*, House Bill 5264, the Rhode Island Marine Debris Reduction Act, would make producers of post-consumer packaging responsible for arranging and financing the collection and recycling such packaging.

*NOW, THEREFORE, BE IT RESOLVED*, That the Providence City Council does hereby urge the Rhode Island General Assembly to pass House Bill 5264.

*BE IT FURTHER RESOLVED*, That, upon passage, copies of this resolution be sent to the sponsors of House Bill 5264 and the entire Providence General Assembly delegation.

Read and Passed, on Motion of COUNCILMAN YURDIN, seconded by COUNCILMAN NARDUCCI.

The Motion for Passage is Sustained.

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**COUNCILMAN ZURIER:**

Resolution Endorsing and Urging Passage by the General Assembly House Bill 2013 H – 5759, An Act Relating to Education – District Charter School.

*WHEREAS*, The Rhode Island Department of Education has invited applications for current public schools to convert to "in-district" charter schools, and

*WHEREAS*, Some Providence Public Schools have declared an interest in applying for this conversion; and

*WHEREAS*, Providence currently supports the development of neighborhood schools through, among other things, a student assignment plan that reserves up to 80% of an elementary school's kindergarten seats, a middle school's sixth grade seats and a high school's ninth grade seats for children living in the neighborhood; and

*WHEREAS*, Neighborhood schools contribute greatly to a sense of community within the school, serve as a supporting pillar for the neighborhood in which the school is located, and strengthen ties between the school and the families and citizens who live nearby; and

*WHEREAS*, The Rhode Island Department of Education has interpreted State law to require district schools converting to "in-district" charter status to accept students from a Citywide lottery, even though the school may be a neighborhood school; and

**WHEREAS**, The Rhode Island Department of Education's policy forces an existing district school to lose its neighborhood identity if it wishes to convert to "in-district" charter status; and

**WHEREAS**, Other states, such as Georgia, permit district schools to convert to charter status while maintaining a neighborhood identity through a "student attendance zone", and

**WHEREAS**, The United States Department of Education has authorized Georgia's charter-school program, awarding it "Race to the Top" grants, and

**WHEREAS**, Bill H-5759 would allow existing district schools the option of defining a "student attendance zone" while also permitting the option of a City-wide lottery;

**NOW, THEREFORE BE IT RESOLVED**, That the City Council hereby urges the General Assembly to hold a hearing on Bill H-5759, and to pass the law so that "in-district" charter schools have the option of a neighborhood identity; and

**NOW, THEREFORE, BE IT FURTHER RESOLVED**, That the City Clerk forward copies of this Resolution to the Providence School Board, the Providence School Department, and the members of the Providence legislative delegation.

Read and Passed, on Motion of COUNCILMAN YURDIN, seconded by COUNCILMAN NARDUCCI.

COUNCILMAN IGLIOZZI Abstains from voting on the foregoing matter.

The Motion for Passage is Sustained.

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Resolution Requesting the Tax Assessor to apply the Homestead Exemption to the property located on Assessor's Plat 86, Lot 611 (7 Alton Road), for the year 2012 retroactively.

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Resolution Requesting the Tax Assessor to apply the Homestead Exemption to the property located on Assessor's Plat 39, Lot 58 (100 Elmgrove Avenue), for the year 2012 retroactively.

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Resolution Requesting the Tax Assessor to apply the Homestead Exemption to the property located on Assessor's Plat 39, Lot 586 (116 Elton Street), for the year 2012 retroactively.

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Resolution Requesting the Tax Assessor to apply the Homestead Exemption to the property located on Assessor's Plat 41, Lot 221 (19 Rhode Island Avenue), for the year 2012 retroactively.

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Resolution Requesting the Tax Assessor to apply the Homestead Exemption to the property located on Assessor's Plat 7, Lot 235 (383 Rochambeau Avenue), for the year 2012 retroactively.

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Resolution Requesting the Tax Assessor to apply the Homestead Exemption to the property located on Assessor's Plat 7, Lot 97 (77 Savoy Street), for the year 2012 retroactively.

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COUNCILMAN YURDIN Moves to Dispense with the reading of the foregoing matters, seconded by COUNCILMAN NARDUCCI.

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COUNCIL PRESIDENT SOLOMON Refers the Several Resolutions to the Special Committee on Ways and Means.

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## REPORTS FROM COMMITTEES

### COMMITTEE ON URBAN REDEVELOPMENT, RENEWAL AND PLANNING COUNCILMAN NICHOLAS J. NARDUCCI, JR., Chairman

Transmits the Following with Recommendation the Same Approved:

Resolution Requesting Terminal Road be re-named "Adoption Way."

**RESOVLED**, That Terminal Road be re-named "Adoption Way."

Read and Passed, on Motion of COUNCILMAN YURDIN, seconded by COUNCILMAN NARDUCCI.

The Motion for Passage is Sustained.

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### COMMITTEE ON WAYS AND MEANS COUNCILMAN DAVID SALVATORE, Chairman

Transmits the Following with Recommendation the Same Be Severally Approved:

Resolution Requesting the Board of Investment Commissioners to continue its review of the city's pension investments to determine whether or not its portfolio includes equity firms that have holdings in companies that manufacture assault weapons and divest from any such firms.

**WHEREAS**, On December 14, 2012, a shooter armed with assault weapons entered Sandy Hook Elementary School in Newtown, Connecticut, killing 26 people, including 20 children; and

**WHEREAS**, There have been more than 60 school shootings in the United States since the assault weapons ban ended in 2004; and

**WHEREAS**, Assault weapons are defined by their combat features, including high capacity ammunition magazines, pistol grips, folding stocks, and bayonets; and

**WHEREAS**, Such combat features are designed specifically to facilitate the killing of human beings in battle; and

**WHEREAS**, According to the Brady Campaign to Prevent Gun Violence, "Police across America report that semi-automatic assault weapons [have] become the weapon of choice for drug traffickers, gangs and paramilitary extremist groups"; and

**WHEREAS**, Assault weapons are a clear and present danger to the public safety of the Providence; and

**WHEREAS**, Divestment is a proven and effective strategy for creating positive policy and social changes; and

**WHEREAS**, In the wake of the recent wave of gun violence, many governments around the nation, including the State of California, the State of Rhode Island, and the City of Providence, have begun reviewing their investments and are considering divestment from assault weapons manufacturers; and

**WHEREAS**, The City Council has a moral responsibility to ensure that no public money is being used to support the manufacture of weapons that are endangering public safety.

**NOW, THEREFORE, BE IT RESOLVED**, That the Providence City Council does hereby urge the Providence Board of Investment Commissioners to continue its review of the City's pension investments to determine whether or not its portfolio includes equity firms that have holdings in companies that manufacture assault weapons and divest from any such firms.

**BE IT FURTHER RESOLVED**, That, upon passage, copies of this resolution be sent to the members of the Board of Investment Commissioners.

Read and Passed, on Motion of COUNCILMAN YURDIN, seconded by COUNCILMAN NARDUCCI.

COUNCILMEN APONTE and PRINCIPE Request to be recorded as voting "NO".

COUNCILMAN IGLIOZZI Abstains from voting on the foregoing matter.

The Motion for Passage is Sustained.

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Resolution Requesting the Tax Assessor to apply the Homestead Exemption to the property located on Assessor's Plat 53, Lot 392 (64 Atlantic Avenue), for the year 2012.

**RESOLVED**, That the Tax Assessor is requested to apply the Homestead Exemption to the property located on Assessor's Plat 53, Lot 392 (64 Atlantic Avenue), for the year 2012.

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Resolution Requesting the Tax Assessor to apply the Homestead Exemption to the property located on Assessor's Plat 93, Lot 12 (98 Lorimer Avenue), for the year 2012.

**RESOLVED**, That the Tax Assessor is requested to apply the Homestead Exemption to the property located on Assessor's Plat 93, Lot 12 (98 Lorimer Avenue), for the year 2012.

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COUNCILMAN YURDIN Moves to Dispense with the Reading of the foregoing matters and Moves Passage of the Several Resolutions, seconded by COUNCILMAN NARDUCCI.

The Motion for Passage of the Several Resolutions is Sustained.

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Communication from His Honor the Mayor, dated January 17, 2013, Informing the Honorable Members of the City Council that pursuant to Sections 302(b) and 1013 of the Providence Home Rule Charter of 1980, as amended and Public Law, Chapter 45-50, Sections 1 through 31 passed in 1987, he is this day appointing Victor Capellan of 125 Carr Street, Providence, Rhode Island 02905, as a General Citizenry category member of the City Plan Commission for a term to end January 31, 2018, and respectfully submits the same for your approval. (Mr. Capellan will fill the vacancy left by Andrew Cortes who has resigned)

COUNCILMAN YURDIN Moves to Receive and Approve the foregoing Communication, seconded by COUNCILMAN NARDUCCI.

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Communication dated January 16, 2013, Informing the Honorable Members of the City Council that pursuant to Sections 302(b) and 1102 of the Providence Home Rule Charter of 1980, as amended and Public Law, Chapter 45-50, Sections 1 through 31 passed in 1987, he is this day appointing Juan M. Pichardo of 229 Atlantic Avenue, Providence, Rhode Island 02907, as a member of the Board of Licenses for a term ending on January 31, 2016, and respectfully submits the same for your approval. (Mr. Pichardo will replace Arys Batista who has resigned)

COUNCILMAN YURDIN Moves to Receive and Approve the foregoing Communication, seconded by COUNCILMAN NARDUCCI.

Communication dated January 16, 2013, Informing the Honorable Members of the City Council that pursuant to Sections 302(b) and 1103 of the Providence Home Rule Charter of 1980, as amended and Public Law, Chapter 45-50, Sections 1 through 31 passed in 1987, he is this day re-appointing Cesar A. Teo of 44 Parnell Street, Providence, Rhode Island 02909, as a member of the Human Relations Commission for a term to end January 31, 2016, and respectfully submits the same for your approval.

**COUNCILMAN YURDIN Moves to Receive and Approve the foregoing Communication, seconded by COUNCILMAN NARDUCCI.**

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Communication dated February 4, 2013, Informing the Honorable Members of the City Council that pursuant to Sections 302(b) and 1001 of the Providence Home Rule Charter of 1980, as amended and Public Law, Chapter 45-50, Sections 1 through 31 passed in 1987, he is this day appointing Ruben Flores-Marzan of 255 Promenade Street, Apartment 517, Providence, Rhode Island 02908, as Director of Planning and Development for the City of Providence, and respectfully submits the same for your approval.

**COUNCILMAN YURDIN Moves to Receive and Approve the foregoing Communication, seconded by COUNCILMAN NARDUCCI.**

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**COMMITTEE ON ORDINANCES  
COUNCILMAN SETH YURDIN, Chairman**

**Transmits the Following with Recommendation the Same Be Adopted:**

An Ordinance in Amendment of Chapter 27 of the Code of Ordinances of the City of Providence Entitled: "The City of Providence Zoning Ordinance", Approved June 27, 1994, As Amended, to add the overlay zoning designation I-3 to Plat 24, Lot 626.

**Read and Passed the First Time, on Motion of COUNCILMAN YURDIN, seconded by COUNCILMAN NARDUCCI, by the Following Roll Call Vote:**

**AYES: COUNCIL PRESIDENT SOLOMON, COUNCILMEN APONTE, CORRELA, HASSETT, IGLIOZZI, JENNINGS, COUNCILWOMAN MATOS, COUNCILMEN NARDUCCI, PRINCIPE, SALVATORE, YURDIN and ZURIER – 12.**

**NAYES: NONE.**

**ABSENT: COUNCILWOMAN CASTILLO, COUNCILMEN JACKSON and SANCHEZ – 3.**

**The Motion for Passage the First Time, is Sustained.**

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**Transmits the Following with Recommendation the Same Be Severally Approved:**

Resolution Requesting the Board of Licenses to Overhaul Recordkeeping Practices and to work with the Information Technology Division to develop Comprehensive Electronic Records.

**WHEREAS**, The Providence City Council approved Resolution No. 258 on April 19, 2012, calling for an inquiry into nightclub licensing and safety in response to violent incidents that occurred in 2012 at late-night entertainment venues; and

**WHEREAS**, The primary goals of the review were to identify tools to maintain and expand a dynamic and robust nightlife in Providence, and to ensure the safe enjoyment of the city's nighttime arts, entertainment, and cultural offerings; and

**WHEREAS**, The City Council Committee on Ordinances held five public meetings, May through June 2012, to discuss nightclub licensing and safety issues, and heard testimony from City officials, nightclub owners, residents, and representatives from business improvement and civic organizations; and

**WHEREAS**, In addition to suggestions from stakeholders on how to improve Providence nightlife policies and regulations, the committee reviewed other cities' laws and policies; and

**WHEREAS**, The Committee on Ordinances submitted the Entertainment Licensing and Nightclub Safety Report and Recommendations to the City Council on January 3, 2013; and

**WHEREAS**, The City Council recognizes that ensuring a safe and vibrant nightlife in Providence contributes to the local economy, and promotes positive cultural and recreational experiences for residents and visitors; and

**WHEREAS**, The report recommended policies and legislation to achieve a safe and vibrant nightlife in Providence; and

**WHEREAS**, A key recommendation included an overhaul of recordkeeping practices, and creation of synchronized electronic records among departments involved in licensing matters.

**NOW, THEREFORE, BE IT RESOLVED**, That the City Council of the City of Providence does hereby request that, within one (1) week of the passage of this resolution, the Board of Licenses consult with the Division of Information Technology to develop comprehensive electronic records of licensees, violations, dispositions of violations, and penalties that will be searchable by date, entity type, entity name, offense, penalty, and any other pertinent data necessary and/or desirable for reporting purposes.

**BE IT FURTHER RESOLVED**, That the City Council requests that the Director of Information Technology guide the development of a synchronized database of records pertaining to all licensees, to be jointly accessible by the Board of Licenses, the Law Department and the Police Department, and that such database be created and in use no later than one hundred and twenty (120) days from the date of passage of this resolution.

**BE IT FURTHER RESOLVED**, That upon passage, copies of this resolution shall be sent to the Director of Information Technology, the Chairman of the Board of Licenses, the Licensing Administrator, the City Solicitor, the Chief of Police, and the Commissioner of Public Safety.

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Resolution Requesting the Board of Licenses to adopt Written Policies and Procedures.

**WHEREAS**, The Providence City Council approved Resolution No. 258 on April 19, 2012, calling for an inquiry into nightclub licensing and safety in response to violent incidents that occurred in 2012 at late-night entertainment venues; and

**WHEREAS**, The primary goals of the review were to identify tools to maintain and expand a dynamic and robust nightlife in Providence, and to ensure the safe enjoyment of the city's nighttime arts, entertainment, and cultural offerings; and

**WHEREAS**, The City Council Committee on Ordinances held five public meetings, May through June 2012, to discuss nightclub licensing and safety issues, and heard testimony from City officials, nightclub owners, residents, and representatives from business improvement and civic organizations; and

**WHEREAS**, In addition to suggestions from stakeholders on how to improve Providence nightlife policies and regulations, the committee reviewed other cities' laws and policies; and

**WHEREAS**, The Committee on Ordinances submitted the Entertainment Licensing and Nightclub Safety Report and Recommendations to the City Council on January 3, 2013; and



*WHEREAS*, The City Council recognizes that ensuring a safe and vibrant nightlife in Providence contributes to the local economy, and promotes positive cultural and recreational experiences for residents and visitors; and

*WHEREAS*, The report recommended policies and legislation to achieve a safe and vibrant nightlife in Providence; and

*WHEREAS*, The report recommended significant clarification of the policies and procedures of the Board of Licenses.

*NOW, THEREFORE, BE IT RESOLVED*, That the City Council of the City of Providence does hereby request the Board of Licenses adopt written policies and procedures for all functions of the Board, including, but not limited to:

- 1) Procedures for all hearings including administrative, pre-conference and show cause hearings;
- 2) Overview of decision-making process, including the range of criteria which may be used to make determinations regarding penalties for violations;
- 3) A schedule of minimum penalties for license violations; and
- 4) Guidelines for Board members, including conflicts of interest and rules for recusal.

*BE IT FURTHER RESOLVED*, That the written policies and procedures should be submitted to the City Council within 60 (sixty) days of passage of this resolution.

*BE IT FURTHER RESOLVED*, That upon passage, copies of this resolution shall be sent to the chairman of the Board of Licenses, the Licensing Administrator, and the City Solicitor.

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Resolution Urging the General Assembly to approve legislation to improve regulation on sales of alcohol by the bottle for consumption on the premises.

*WHEREAS*, The Providence City Council undertook an inquiry into nightclub licensing and safety in response to violent incidents that occurred in 2012 at late-night entertainment venues in the capital city; and

*WHEREAS*, The City Council Committee on Ordinances issued a report in December 2012 which detailed the deficiencies in licensing, enforcement, and public safety, and outlined specific administrative and legislative actions necessary to address the concerns; and

*WHEREAS*, The report's recommendations were based on testimony from nightclub owners, residents, and representatives from business improvement and civic organizations; and

*WHEREAS*, In response to the recommendations, the City Council has introduced several ordinances and resolutions to improve safety, clarify and expand licensing procedures and requirements, and implement best practices for nightlife establishments, based on the report's recommendations; and

*WHEREAS*, The report recommended several changes to Rhode Island General Laws, in the interest of public health and safety; and

*WHEREAS*, The penalty structure for violations of the conditions of a liquor license was cited as too restrictive, limiting the extent to which penalties are effective as a deterrent and/or punishment.

*NOW, THEREFORE, BE IT RESOLVED*, That the City Council of the City of Providence does hereby urge the Rhode Island General Assembly to adopt amendments to Rhode Island General Law Title 3 to increase the minimum and maximum dollar amount of fines to be imposed per violation of a liquor license.

**BE IT FURTHER RESOLVED**, That the Council urges the General Assembly to amend Title 3 to allow a fee for police and fire rescue (a "public safety fee") to be assessed to establishments holding liquor licenses that require assistance due to repeated incidents of disorderly conditions.

**BE IT FURTHER RESOLVED**, That a certified copy of this resolution be delivered to Speaker of the House Gordon D. Fox; House Majority Leader Nicholas Mattiello; Senate President M. Teresa Paiva-Weed; Senate Majority Leader Dominick Ruggerio, and all Providence representatives and senators.

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Resolution Urging the General Assembly to approve legislation to broaden penalties for liquor license violations.

**WHEREAS**, The Providence City Council undertook an inquiry into nightclub licensing and safety in response to violent incidents that occurred in 2012 at late-night entertainment venues in the capital city; and

**WHEREAS**, The City Council Committee on Ordinances issued a report in December 2012 which detailed the deficiencies in licensing, enforcement, and public safety and outlined specific administrative and legislative actions necessary to address the concerns; and

**WHEREAS**, The report's recommendations were based on testimony from City officials, nightclub owners, residents, and representatives from business improvement and civic organizations; and

**WHEREAS**, In response to the recommendations, the City Council has introduced several ordinances and resolutions to improve safety, clarify and expand licensing procedures and requirements, and implement best practices for nightlife establishments, based on the report's recommendations; and

**WHEREAS**, The report recommended several changes to Rhode Island General Laws, in the interest of public health and safety; and

**WHEREAS**, The sale of bottles of liquor, often served in so-called "VIP" areas in nightclubs, was cited in the report as a major public safety concern, based on testimony from the Providence Police Department.

**NOW, THEREFORE, BE IT RESOLVED**, That the City Council of the City of Providence does hereby urge the Rhode Island General Assembly to adopt a state law that clearly defines the restrictions on license holders regarding the sale of bottles of liquor for on-site consumption.

**BE IT FURTHER RESOLVED**, That the Council urges the General Assembly to adopt a state law that allows local licensing authorities to place restrictions on exclusive sections ("VIP" areas) establishments that are licensed to sell alcohol.

**BE IT FURTHER RESOLVED**, That a certified copy of this resolution be delivered to Speaker of the House Gordon D. Fox; House Majority Leader Nicholas Mattiello; Senate President M. Teresa Paiva-Weed; Senate Majority Leader Dominick Ruggerio and all Providence representatives and senators.

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**COUNCILMAN YURDIN** Moves to Dispense with the Reading of the foregoing matters and Moves Passage of the Several Resolutions, seconded by **COUNCILMAN NARDUCCI**.

The Motion for Passage of the Several Resolutions is Sustained.

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Resolution Urging the General Assembly to approve an amendment to state law to prohibit admittance of patrons under 21 at Class N Licensed Establishments.

**WHEREAS**, The Providence City Council undertook an inquiry into nightclub licensing and safety in response to violent incidents that occurred in 2012 at late-night entertainment venues in the capital city; and

**WHEREAS**, The City Council Committee on Ordinances issued a report in December 2012 which detailed the deficiencies in licensing, enforcement, and public safety, and outlined specific administrative and legislative actions necessary to address the concerns; and

**WHEREAS**, The report's recommendations were based on testimony from City officials, nightclub owners, residents, and representatives from business improvement and civic organizations; and

**WHEREAS**, In response to the recommendations, the City Council has introduced several ordinances and resolutions to improve safety, clarify and expand licensing procedures requirements, and implement best practices for nightlife establishments, based on the report's recommendations; and

**WHEREAS**, The report recommended several changes to Rhode Island General Laws, in the interest of public health and safety, including protecting minors under the age of 21, as well as residents and visitors to Providence; and

**WHEREAS**, Boston, Massachusetts restricts patrons under 21 years old from entering venues where alcohol is served and entertainment is offered.

**NOW, THEREFORE, BE IT RESOLVED**, That the City Council of the City of Providence does hereby urge the Generally Assembly to adopt an amendment to Rhode Island General Law § 3-7-16.6 to permit regulation of the admittance of individuals under the age of 21 from establishments holding Class N nightclub licenses including permitting live-music shows; and

**BE IT FURTHER RESOLVED**, That a certified copy of this resolution be delivered to Speaker of the House Gordon D. Fox; House Majority Leader Nicholas Mattiello; Senate President M. Teresa Paiva-Weed; Senate Majority Leader Dominick Ruggerio, and all Providence representatives and senators.

Read and Passed, on Motion of COUNCILMAN YURDIN, seconded by COUNCILMAN NARDUCCI.

COUNCILMAN YURDIN Moves to Withdraw his motion for Passage of the foregoing resolution and COUNCILMAN NARDUCCI Withdraws his second of the motion.

COUNCILMAN YURDIN Moves to Amend the resolution to strike the word "prohibit" and add "permit regulation of" and at the end insert "including, permitting live music shows", seconded by COUNCILMAN NARDUCCI.

COUNCILMAN YURDIN Moves Passage of the Resolution, As Amended, seconded by COUNCILMAN NARDUCCI.

The Motion for Passage, As Amended is Sustained.

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## COMMUNICATIONS AND REPORTS

Communication from Peter Gaynor, Director, Providence Emergency Management Agency & Office of Homeland Security, dated February 20, 2013, submitting the Providence Emergency Management Agency's 2013 Multi-Hazard Mitigation Plan.

COUNCIL PRESIDENT SOLOMON Refers the Communication to the Committee on Ordinances.

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Communication from Mayor Angel Taveras, dated February 28, 2013, submitting the Tentative Amendment of the July 1, 2010 to June 30, 2012 Collective Bargaining Agreement by and between the City of Providence and Providence Lodge No. 3, Fraternal Order of Police.

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Communication from Mayor Angel Taveras, dated February 28, 2013, submitting the Tentative Amendment of the July 1, 2012 to June 30, 2015 Collective Bargaining Agreement by and between the City of Providence and Providence Lodge No. 3, Fraternal Order of Police.

Communication from Mayor Angel Taveras, dated February 28, 2013, submitting the Tentative Collective Bargaining Agreement by and between the City of Providence and Providence Lodge No. 3, Fraternal Order of Police for the period of July 1, 2015 to June 30, 2016.

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Communication from Mayor Angel Taveras, dated February 28, 2013, submitting the Tentative Amendment of the July 1, 2011 to June 30, 2013 Collective Bargaining Agreement between the City of Providence and Local 799 International Association of Firefighters, AFL-CIO.

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Communication from Mayor Angel Taveras, dated February 28, 2013, submitting the Tentative Amendment of the July 1, 2013 to June 30, 2016 Collective Bargaining Agreement between the City of Providence and Local 799 International Association of Firefighters, AFL-CIO.

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Communication from Mayor Angel Taveras, dated February 28, 2013, submitting the Tentative Collective Bargaining Agreement between the City of Providence and Local 799 International Association of Firefighters, AFL-CIO, for the period of July 1, 2016 to June 30, 2017.

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**COUNCILMAN YURDIN** Moves to Dispense with the reading of the foregoing matters, seconded by **COUNCILMAN NARDUCCI**.

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**COUNCIL PRESIDENT SOLOMON** Refers the Several Communications to the Special Committee on Ways and Means.

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### **PERSONAL EXPRESSION**

**COUNCILMAN IGLIOZZI** Requests the privilege of the floor to speak on a Point of Personal Expression and states:

"A couple of council meetings ago as you all know we had a couple of request for waivers for disability applications and the majority of the council agreed to allow two people in particular Ms. Day and Mr. DeConte to have their due process rights and basically to go down to the Retirement Board and fill out these simple applications which just allows them to exercise their due process rights and to be heard before the Retirement Board. As you know some council people disagreed and it looks as now the Mayor is surgically deciding to VETO one versus another and the Mayor has VETOED per the urgency of some council colleagues to VETO Mr. DeConte's request that was passed by the majority of the council. What's concerning about the Mayor's VETO is that they took the extraordinary steps of stating personal information of Mr. DeConte in the VETO message which has nothing to do with someone's due process rights asking to simply file an application. What's concerning is the lack of legal scrutiny, the lack of upholding that legal process and allowing the Mayor to submit a VETO with personal information of an employee which has nothing to do with the issue. That's called sharking. Now, this becomes a public record and just so you folks understand a person's record as to whether or not they're disciplined or not doesn't have any merit when you go before the Retirement Board. Do you want to know why? Because the Retirement Board looks towards the person if they have a valid application for a retirement. They don't look to see if a person was disciplined or not disciplined, but the last time the Retirement Board did that they lost in court and it was Chief Prignano. The Retirement Board did that, they said Chief Prignano did not do it correctly and guess what? The Retirement Board and the city lost. The court said you can't look at that stuff and he didn't rise to the merit of being a good employee. My concern is that as you know last year one of my colleagues in particular co-conspired to ambush me dealing with the Finance Committee. Councilmen Zurier, Salvatore, Yurdin and Council President Solomon and the interesting thing about what's going on here is that what I'm concerned about is that if their grudge is continuing on. That they are so angry that they would take it out on an innocent civilian who's just simply trying to apply to get their due process rights. So, my concern is that whether you support this or not Mr. DeConte's personnel file is not relevant and should have never been part of this. So, I ask my council colleagues, the four of them if you would consider to uphold the philosophies of due process of what you swore to do, to consider to uphold the constitution of the city, state and county just to give Mr. DeConte an opportunity. Now, I don't know why you petitioned and asked this to occur, but this is a

precedent setting event. It's remarkable. It's never happened before and the interesting this about it is the other individual who the majority of the council approved they didn't say anything about. They let that go. The Mayor was okay with it and that's the interesting thing. So, I'm hoping that your position is based on the merits of in this particular case whether it was excusable neglect or not because that's the standard, not whether or not if a person was disciplined or not, not whether a person had sick days or not, but you know what Mr. DeConte just for the record because there seems to be a lot of miss information. I don't want to get to specific because there is a lot of private information. Mr. DeConte was a Water Supply Board worker, received his CDL and worked for the city for many years and was injured on the job and when he was injured on the job he went to workers compensation court and that's where the settlement was. What happens is when you get injured on the job you go to workers compensation and what happened there is there is an insurance policy the Water Supply Board has and the Water Supply Board insurance company defended the workers compensation case in workers compensation court. There was a settlement and part of the settlement was that he was injured and they would compensate him so much money and in return the insurance company offered all future medical liability. He didn't waive his rights to file for application for a pension. He didn't waive his rights to try to get a pension based on by the way the years he put it. Workers compensation and Retirement is two separate venues. So, Mr. DeConte just heard the misinformation floating around. His money is still in the account. He's not receiving a city pension nor is he receiving any city healthcare, but here is an individual who was injured on the job, got hit by 200 pounds worth of equipment and was seriously injured. In this particular case the insurance company's doctors who put him out and I'm not going to get into specifics because that's private, but my concern is City Solicitor when you look at these kinds of VETO'S it's extremely inappropriate if not a violation at least the Open Meetings law potentially that you allowed such private information to be submitted to the public. It has nothing to do with the issue. You should stick with the issue. If you disagree with Mr. DeConte's right to have inexcusable neglect to file an application, that's what you should have put, but here is an interesting thing. When I was in law school my criminal law professor always used to say this. It looks the City Solicitor took it to heart when he okayed this. One, if the law is with you and the facts are against you argue the law. If the law is against you and the facts are with you argue the facts. If both are against you just argue. This particular video and these facts they're just arguing. They're trying to create what they call the Red Herring and to avoid what the real issue is. Mr. DeConte is right in the audience and you know what his due process rights are being violated. We're not granting a pension, we're not giving him any money, we're not giving him healthcare. All he is asking and by the way per a law of the council that Councilmen Hassett and Aponte sponsored many years ago was to give them the due process rights to fill out this application form. Now, he files it, he goes before the doctors and the Retirement Board reviews what the doctors say. Whether he gets it or not any kind of pension at all, but by holding this gentleman up and by the way why do I say holding the gentleman up is because when I was trying for many months last year and the committee wouldn't show up for a quorum except for Councilman Hassett and I want to thank you. He kept on violating his due process rights. You know what the problem is, give the guy his fair share. Now it's going to come before the next Council Meeting and all I'm saying to all of you and I know some of you may think it's a flip flop, but this is not about being flip flopped and if you're still holding a grudge against me or whatever well I get it. You've done everything you can. You've hurt me, you've hurt my family and you've hurt my neighborhood and you did a good job. If you want to put a little notch in your belt that you got to hurt me and my family kudos to you guys did it, but don't hurt Mr. DeConte, don't hurt his due process rights and finally stand up for what's right. This city and this council needs to defend the oath that we took and City Solicitor since you okayed this VETO you should double check the rules. It's inappropriate and by the way I voted for you too as well as every other councilperson. Your work for the City of Providence and protecting its rights. You don't work for the Mayor. The idea that your position was created in the City Charter was for you to be above the political fray. Please, you have two more years left try to get above it. Stop this kind of stuff. If you wanted to VETO it then say why, but base it on the merits not someone's personnel file and try to besmirch the individual so the person has all this bad information going out. That's stuff is inappropriate. So, I would just ask my colleagues, I know the four of you are in the position that you are in, but I would ask my other colleagues to consider doing it for yourself. Do it for the idea that you uphold due process and the idea of just giving someone their due process rights and their fair share. That's all. Thank you."

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## FROM THE CLERK'S DESK

Petitions for Compensation for Injuries and Damages, viz:

*Raquel Hernandez*  
*(Frank L. Orabona, Jr., Esquire)*  
*Anthony Vasquez*  
*Lynn Coughlin*  
*Bethany Beauregard*  
*Ynsfrain Pena*  
*Joanne Pella*  
*Lucille Lonardo*  
*Lynda L. Agresti Maurer*  
*Vincent F. Rossi*  
*Stacey Eliades*  
*Valeska Martin*  
*Jessica L. O'Brien*  
*Bonnie L. Viani*  
*Kevin J. Beeley*  
*Dennis A. Cunha*  
*Amanda Soave-Curi*  
*Melody A. Forrest*  
*(Steven A. Minicucci, Esquire)*

*Frank A. Tortolani*  
*Nathan Lilli*  
*Amanda DaSilva*  
*Lori J. Fortier*  
*Paula DiFranco*  
*Jessica Leach*  
*Joseph Salvatore*  
*Brandon Rose*  
*Derek Carl Budde*  
*Suzanne J. Bouley*  
*Joanne R. Maceroni*  
*Cathy Engel Oresman*  
*Taj Quinnie*  
*Joseph Gelfuso*  
*Jihero Royster*  
*Travis Jones*  
*Maria Hammond*  
*Tiffany Boddie*

**COUNCIL PRESIDENT SOLOMON Refers the Several Petitions to the Committee on Claims and Pending Suits.**

## PRESENTATION OF RESOLUTIONS "IN CONGRATULATIONS"

**COUNCIL PRESIDENT SOLOMON and MEMBERS OF THE CITY COUNCIL:**

Resolution Extending Congratulations.

**RESOLVED**, That the Members of the City Council hereby extend their Sincere Congratulations to the following:

**Tony Arias**, in recognition of his outstanding contribution to the preservation of Dominican history.

**Honorable Adriano Espaillat**, State of New York Senator and National Leader, in recognition of his outstanding contribution to the empowerment of the Latino Community with emphasis on Dominican-Americans in the United States.

**Honorable Aida Corsson**, Silver Bowl Excellence Leadership Award Recipient, State of Rhode Island Deputy Secretary, and Founder and Chair of the "Runway for a Cure" Benefit of the Lupis Foundation, in recognition of her outstanding contribution to the

empowerment of the Latino Community with emphasis on Dominican-Americans in the United States.

**Troy Keough and Holly Whalen Keough**, in recognition of the celebration of the birth of their son, Keegan James, on February 16, 2013 at 5:19 o'clock A.M.

**Evanna Maria Cortez**, in recognition of the celebration of her 6<sup>th</sup> Birthday.

**The 54<sup>th</sup> Reserve Military Police Company**, in recognition of their visit from Ireland to the City of Providence to participate in the 2013 St. Patrick's Day Parade on March 9, 2013.

**Severally Read and Collectively Passed**, on Motion of COUNCILMAN YURDIN, seconded by COUNCILMAN NARDUCCI.

The Motion for Passage is Sustained.

**PRESENTATION OF RESOLUTIONS  
"IN MEMORIAM"**

**COUNCIL PRESIDENT SOLOMON and MEMBERS OF THE CITY COUNCIL:**  
Resolution Extending Sympathy.

*RESOLVED*, That the Members of the City Council hereby extend their Sincere Sympathy to the families of the following:

*Tara M. Higgins  
Mary A. Jaskiewicz  
William J. Nash, Sr.  
Joyce Elizabeth Zanni  
Angelina "Ann" Lane*

Severally Read and Collectively Passed, by a Unanimous Rising Vote, on Motion of COUNCILMAN YURDIN, seconded by COUNCILMAN NARDUCCI.

The Motion for Passage is Sustained.

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**MATTER NOT APPEARING  
ON THE PRINTED DOCKET**

On motion of COUNCILMAN YURDIN seconded by COUNCILMAN NARDUCCI, it is voted to Suspend Rule 16(b) of the Rules of the City Council in order to allow the introduction of the following Matter Not Appearing on the Printed Docket.

**COMMUNICATIONS AND REPORTS**

Lease Agreement between the City of Providence and Multi-Service Center For All, Inc.

COUNCIL PRESIDENT SOLOMON Refers the Lease Agreement to the Committee on City Property.

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**ADJOURNMENT**

There being no further business, on Motion of COUNCILMAN YURDIN, seconded by COUNCILMAN NARDUCCI, it is voted to adjourn at 8:15 o'clock P.M. (E.S.T.), to meet again UPON THE RISE OF THE 7:00 O'CLOCK REGULAR CITY COUNCIL MEETING.

  
\_\_\_\_\_  
Anna M. Stetson  
City Clerk