

**City Councillor
Joseph A. DelGrosso
City Council Chambers
October 22, 2012**

Hearings were called to order at 6:00 P.M.

President Penta presiding.

Salute to the Flag by the members of the Revere City Council and those in attendance.

1. Roll Call: Councillors Arrigo, Correggio, Giannino, Guinasso, Haas, Novoselsky, Patch, Powers, Reardon, Zambuto and Penta voting “yes.”

12-251 2. Pursuant to Council Order 12-251, Certificates of Appreciation have been awarded to the 2-12 Revere Little League Champions, the White Sox.

Awards presented, Ordered received and filed.

Public Hearings

12-261 3. Hearing called, as ordered, upon the application presented by 338 Squire Road, LLC, for a permit to operate a retail gasoline business and convenience store with underground storage of 32,000 gallons of gasoline and underground storage of 8,000 gallons of diesel fuel for a total of 40,000.00 gallons of underground storage on Lots 817 – 829 at 338 Squire Road, Revere.

Proponents

**Atty. Larry Simeone
Diana Caccaviello
Ms. DiLuigi
Liz D’Amelio
Maria Romano**

Opponents

**Addie Rotondo
Kathy Ross Cecere
Paul DiLuigi
Pat Rotondo
Joe Carbone
Cecelia Borgatti
Mr. DiLuigi**

Hearing held, subject matter referred to the Economic Development Committee and the Zoning sub-committee.

C-12-12

12-260

4. Hearing called, as ordered, upon the special permit application presented by Metro PCS, LLC, 285 Billerica Road, Chelmsford, Ma., for a special permit to modify an existing telecommunications site by installing two additional foot dishes on Lot 445/446F at 1070 Broadway, Revere.

Proponents

Brian Wilson, Metro PCS

Opponents

None

Hearing held, subject matter referred to the Zoning Committee.

C-12-13

12-259

5. Hearing called, as ordered, upon the application of Metro PCS, LLC, for a special permit to modify an existing telecommunications site for the purpose of installing four additional and one foot dish on Lots 3, 4, D at 50 Walnut Avenue.

Proponents

Brian Wilson, Metro PCS

Opponents

None

Hearing held, subject matter referred to the Zoning Committee.

C-12-14

12-258

6. Hearing called, as ordered, upon the application presented by Metro PCS, Massachusetts, LLC 285 Billerica Road, Chelmsford, Ma., for a special permit to modify an existing telecommunications site for the purpose of installing one additional antenna at 250 Revere Street, Revere.

Proponents

Brian Wilson, Metro PCS

Opponents

None

Hearing held, subject matter referred to the Zoning Committee.

C-12-15

12-257

7. Hearing called, as ordered, upon the application

presented by Metro PCS, LLC, 285 Billerica Road, Chelmsford, Ma., for a special permit to modify an existing telecommunications site for the purpose of installing one additional and one foot dish at 400 Broadway, Revere.

Proponents

Brian Wilson, Metro PCS

Opponents

None

Hearing held, subject matter referred to the Zoning Committee.

C-12-16

12-256

8. Hearing called, as ordered, upon the application presented by Metro PCS, LLC, 285 Billerica Road, Chelmsford, Ma. for a special permit to modify an existing telecommunications site for the purpose of installing two additional and one foot dish at 474 Revere Beach Boulevard, Revere.

Proponents

Brian Wilson, Metro PCS

Opponents

None

Hearing held, subject matter referred to the Zoning Committee.

C-12-17

12-255

9. Hearing called, as ordered, upon the application presented by Metro PCS, LLC, 285 Billerica Road, Chelmsford, Ma., for a special permit to modify an existing telecommunications site for the purpose of installing two additional and one foot dish on 427 Squire Road.

Proponents

Brian Wilson, Metro PCS

Opponents

None

Hearing held, subject matter referred to the Zoning Committee.

C-12-18

12-254

10. Hearing called, as ordered, upon the application presented by Metro PCS, LLCV, 285 Billerica Road, Chelmsford, Ma., for a special permit to modify an existing telecommunications site for the purpose of installing one additional and one foot dish on Lot 1A at 204 Proctor Avenue, Revere.

Proponents

Brian Wilson, Metro PCS

Opponents

None

Hearing held, subject matter referred to the Zoning Committee.

Committee Reports

The Zoning Committee recommends adoption of the following special permits.

C-12-10

12-239 11. Re Special Permit of the Lighthouse of Revere, Inc., 204 Proctor Ave., MA seeking permission from the Revere City Council to construct a two (2) story addition to a pre-existing nonconforming use as a nursing home within the RB district on Lots 1A, 1B, 2B, and C at 204 Proctor Ave., Revere, MA., subject to the site plan review recommendations as follows:

1. A 10-ft wide landscaping buffer shall be maintained along the side property line between the proposed addition and the abutting residential properties. The landscaped buffer shall include the planting of a continuous row of evergreens (minimum height of 8') along the full length of the property line. The final landscaping plan shall be approved by the Site Plan Review Committee.

2. Any roof top mechanical units shall be located at the furthest point from abutting residential structures and shall include noise baffles.

3. The final plans shall be subject to the approval of the Site Plan Review Committee and Fire Dept.

4. An as-built plan including the accurate location of all utilities and structures within the site shall be provided to the Building Inspector and City Engineer upon completion.

Motion to grant relief requested to the petitioner was declared Ordered on a Roll Call: Councillors Arrigo, Correggio, Giannino, Guinasso, Haas, Novoselsky, Patch, Powers, Reardon, Zambuto and Penta voting "yes."

C-12-11

12-240 12. Re: Special Permit of Johnny Saroufim, Trustee, 212 Everett Street, Nominee real Estate Trust, 212 Everett St., Revere, MA seeking permission from the Revere City Council to expand a nonconforming structure and nonconforming use (special garage) to construct a 40' x 40' addition and to operate a class 2 use within the same building as a special

garage within the TED District on Lot 9 and Pt. 22 at 212 Everett St., Revere, MA. subject to the site plan conditions set forth as follows as amended:

1. A 5-ft. wide landscaped buffer strip must be maintained along the full frontage of the property encompassing lots 9 and 10 along Everett Street with the exception of the driveway entrance to the proposed garage addition. This landscaped buffer shall include the planting of a minimum of six (2 1/2 minimum caliper) chanticleer pear trees and shall be maintained by the property owner.
2. There shall be no outdoor storage of vehicles along Everett Street.
3. The parking lot on the American Legion Highway frontage shall be marked out with white pavement markings, for 20 parking spaces and no more than 15 of these spaces shall be utilized for the Class II use.
4. One (1) space shall be marked for HP Parking, two (2) spaces shall be marked for visitors, and two (2) spaces shall be marked for employees.

Motion to grant relief requested to the petitioner was declared Ordered on a Roll Call: Councillors Arrigo, Correggio, Giannino, Guinasso, Haas, Novoselsky, Patch, Powers, Reardon, Zambuto and Penta voting “yes.”

12-198 13. Re: Appointment sub-committee recommends at this time the confirmation of Josephine Picardi to the Board of Elder Affairs.

Motion to confirm was declared Ordered on a Roll Call: Councillors Arrigo, Correggio, Giannino, Guinasso, Haas, Novoselsky, Patch, Powers, Reardon, Zambuto and Penta voting “yes.”

Communications

12-271 14. Communication from the Mayor:

I am writing to request that the City Council consider the following reappointment to the Emergency Management Board:

Captain James Guido as Deputy Director of
Emergency Management, 118 Warren Avenue,
Chelsea, MA 02150

Ordered received and filed.

12-272 15. Communication from Frank Stringi, DPCD Director:

Re: Sewer Use Ordinance Amendments

In an effort to bring the City of Revere’s Sewer Use Ordinance in line With current DEP and EPA regulations governing illicit discharges, the attached amendments are being provided for adoption by the City Council. In the most part, these amendments cover general housekeeping measures and strengthen the enforcement power of the city in dealing with illicit discharges

resulting from sump pumps discharging stormwater into the sanitary sewer system.

As you are aware, the City of Revere is currently under a consent decree that was finalized in the fall of 2010, with the EPA to comply with Federal Clean Water Act regulations. As required by the order, the City has contracted CDM Smith to perform Phase I II and III investigations to identify deficiencies within the existing sanitary sewer system that include excessive infiltration and extraneous sources of inflow. Additional requirements include the development and implementation of a sump pump removal program to reduce private inflow into the sanitary sewer system.

The adoption of these amendments to the current Sewer Use Ordinance will provide the City with the necessary enforcement power to regulate the illicit discharge of private pumps as well as other illicit stormwater connections to the sanitary sewer system in compliance with the EPA Consent Decree.

AN ORDINANCE FURTHER AMENDING THE PUBLIC SERVICE ORDINANCE OF THE CITY OF REVERE

SECTION A. Title 13, Chapter 13.08, Section 13.08.415 of the Sewer Use Ordinance is hereby amended by deleting the word “exterior” on the first line and inserting the words “sump pumps” after the words areaway drains on the first line.

SECTION B. Title 13, Chapter 13.08, Section 13.08.460 paragraph A of the Sewer Use Ordinance is hereby amended by inserting the words “(including from sump pumps)” on the second line after the words subsurface drainage.

SECTION C. Title 13, Chapter 13.08, Section 13.08.460 paragraph B of the Sewer Use Ordinance is hereby amended by inserting the words “(and/or another appropriate city department)” after the words department of public works on the second line; and inserting a new sentence “The city may take any and all enforcement measures specified in this chapter.” on the third line; and by deleting the word “shall” and replacing it with the word “may” on the fifth line.

SECTION D. Title 13, Chapter 13.08, Section 13.08.465 paragraph B of the Sewer Use Ordinance is hereby amended by replacing the words “notwithstanding any other” with the words “in conformance with” and replacing the word “or” with the word “and” and replacing the word “regulation” with the word “regulations” on the second line.

SECTION E. Title 13, Chapter 13.08, Section 13.08.620 of the Sewer Use Ordinance is hereby amended by replacing the words “department of public works” with the word “city” on the first line.

SECTION F. Title 13, Chapter 13.08, Section 13.08.625 of the Sewer Use Ordinance is hereby amended by deleting the language in this section in its entirety and replacing it with the following:

“While performing the necessary work on private properties referred to in Section 13.08.620, a representative of the Massachusetts Water Resources Authority or the city shall observe all safety rules applicable to the premises established by the owner of the private property. The owner of the private property shall be held harmless for injury or death to representatives of the Massachusetts Water Resources Authority and/or the city, to the extent permissible by law, shall indemnify the owner of the private property against loss or damage to his or her property by a representative of the city and against all claims and demands for personal injury or property damage asserted against the owner and to the

extent caused by the city, except as such may be caused by negligence or failure of the owner to maintain safe conditions as required in Section 13.08.545.”

SECTION G. Title 13, Chapter 13.08, Section 13.08.630 of the Sewer Use Ordinance is hereby amended by deleting the words “District, Massachusetts Water Resources Authority Sewerage System” in the first sentence and by deleting the words “department of public works” and replacing it with the word “city” in the first sentence.

SECTION H. Title 13, Chapter 13.08, Section 13.08.635 of the Sewer Use Ordinance is hereby amended by deleting the language in this section in its entirety and replacing it with the following:

“When the city and/or the Massachusetts Water Resources Authority finds that any person is, or threatens to be, in violation of this chapter or the provisions of a permit issued under this chapter, the following actions may be taken (not exclusive of other remedies):

- A. The city and/or the Massachusetts Water Resources Authority may issue an order to cease and desist any violation, or prevent any threatened violation, to any person not complying, or threatening not to comply, with this chapter, and direct such person as follows:
 - 1. To comply forthwith,
 - 2. To comply in accordance with a time schedule set forth by the department of public works and/or the Massachusetts Water Resources Authority, or
 - 3. To take appropriate remedial preventive action in the event of a threatened violation;
- B. The city and/or the Massachusetts Water Resources Authority may require a user to submit a detailed time schedule setting forth specific actions to be taken as the city and/or the Massachusetts Water Resources Authority deem necessary for the user to follow in order to prevent or correct a violation. The city and/or the Massachusetts Water Resources Authority may issue an implementation schedule to the user containing such specific actions and time schedule.
- C. Should a recipient of an order under this section fail to undertake the remedial action by the deadline ordered, the city may, at its option, undertake such work, and expenses thereof, including attorney’s fees, shall be recoverable by the city in an action of contract in a court of competent jurisdiction, up to the amount of the total penalty that could have been imposed for the violation.”

SECTION I. Title 13, Chapter 13.08, Section 13.08.640 of the Sewer Use Ordinance is hereby amended by deleting this section in its entirety and replacing it with the following new section:

13.08.640 – Fines and penalties.

Any person who violates this chapter or any permit, notice or order issued hereunder, or any user who knowingly makes any false statement, representation, record, report, plan or other document filed with the department of public works or the Massachusetts Water Resources Authority, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this chapter, may be punished by a fine of not more than fifty dollars for each day such violation continues, or may be subject to a civil penalty not to exceed five thousand dollars per day of such violation, each of which may be assessed in action brought on behalf of the city in any court of competent jurisdiction. As an alternative to criminal prosecution for imposition of a fine, the city may elect to utilize the non-criminal disposition procedure set forth in Chapter 1.12. The city officers authorized to utilize the non-criminal disposition procedure to enforce this chapter are employees of the department of public works, the health agent and code enforcement officers, the building inspector, the plumbing inspector, the city engineer, and any other city officers duly authorized by the superintendent of public works.

SECTION J. Title 13, Chapter 13.08, Section 13.08.645 of the Sewer Use Ordinance is hereby amended by deleting the following words on lines two and four “District, Massachusetts Water Resources Authority Sewerage System”.

SECTION K. Title 13, Chapter 13.08, Section 13.08.650 of the Sewer Use Ordinance is hereby amended by deleting the words “District, Massachusetts Water Resources Authority Sewerage System” on line three.

SECTION L. Title 13, Chapter 13.08 of the Sewer Use Ordinance is hereby amended by adding the following new section:

13.08.651 – Injunctive relief.

If a person violates the provisions of this chapter of a permit, notice or order issued hereunder, the city may seek injunctive relief in superior court restraining the person from activities which would create further violations or compelling the person to abate or remedy the violation. Such remedy is not exclusive of other remedies that may be pursued by the city or the Massachusetts Water Resources Authority.

SECTION M. Title 13, Chapter 13.08, Section 13.08.655 of the Sewer Use Ordinance is hereby amended by deleting the language in this section in its entirety and replacing it with the following new language:

“In the implementation and enforcement of this chapter, the following provisions shall be observed:

- A. Whenever the department of public works issues, denies or modifies a permit; issues an order; or assesses charges under Section 13.08.635 or 13.08.645, the department of public works shall inform the person to whom such action is addressed of the person’s right to submit, within ten working days, a written request for reconsideration of that action. The request shall set forth in detail the facts supporting it. The department of public works shall attempt to schedule an informal interview with the person submitting the request, to be held within fifteen days of receiving it, and shall rule in writing on the request within ten working days of the completion of the interview. If the department of public works is, after reasonable attempts, unable to schedule an interview with the person submitting the request, or if that person fails to appear for the scheduled interview, the department of public works shall rule on the request within twenty-five days of receiving the request.
- B. When the department of public works proposes to revoke a permit, the department of public works shall notify the user in writing of such proposed ruling and of his or her right to submit, within ten days, a written request for reconsideration of that ruling. The request shall set forth in detail the facts supporting it. The department of public works shall schedule in informal conference with the user submitting the request, to be held within fifteen working days of receiving it, and shall rule in writing on the request within ten working days of the completion of the conference. If the department of public works is, after reasonable attempts, unable to schedule a conference with the user, or if the user or user’s representative fails to appear for the scheduled conference, the department of public works shall rule on the request within twenty-five days of receiving the request.
- C. A ruling by the department of public works under subsection A or B of this section is final. Appeal may be made to a court of competent jurisdiction.
- D. Notwithstanding any other provisions of these regulations, upon determination by the department of public works that a discharge or a violation of these regulations appears to present an imminent danger to health, public welfare or the environment or threatens to interfere with the operations of the city’s sewer system, the department may, after informal notice to the user or violator, issue an emergency order to immediately suspend the discharge or cease the violation. Any user receiving such an emergency order shall comply. Should the user fail to act, the city may take action to halt or prevent the discharge or violation, including, without

limitation, taking steps to disconnect the user or bringing a civil action for injunctive relief.

- E. Enforcement and permit revocation actions taken by the Massachusetts Water Resources Authority under this chapter shall be governed by the provisions of 360 CMR 2.00. The Massachusetts Water Resources Authority reserves the right to take direct enforcement action through the courts, pursuant to Section 8A, Chapter 92, General Laws, in any case of violation of this chapter.”**

Ordered referred to a public hearing.

Motions

12-272 16. Ordered on a Motion of Councillor Reardon: That the City Council President conduct a meeting of the Committee of the Whole on Monday evening, November 5th, at 5:00 P.M., for the purpose of discussing the latest meeting of the School Department and the MSBA relative to the most recent McKinley School proposal. Questions and comments from the City Council and the general public will be fielded at this time.

12-273 17. Ordered on a Motion of Councillor Powers: That the Mayor request the Department of Public Works to immediately paint the traffic lines on newly paved portions of Revere Street in the interest of public safety.

Ordered on a Motion of Councillor Zambuto: That the City Council now stands adjourned to meet on Monday November 5th, 2012, at 6:00 P.M.

Ordered adjourned at 8:00P.M.

Attest:

**Ashley E. Melnik
City Clerk**