

REGULAR MEETING OF THE PEABODY CITY COUNCIL
FEBRUARY 12, 2015

PRESENT: COUNCILLORS: GOULD, GARABEDIAN, SASLAW, GRAVEL, MCGINN, MANNING-MARTIN, OSBORNE, SINEWITZ, AND WALSH

ABSENT: COUNCILLORS: MOUTSOULAS AND DRISCOLL

Meeting of the Peabody City Council opened with a moment of silent prayer after being called to order by City Council President, Thomas P. Walsh.

Salute to the American Flag.

P75-15 COUNCILLOR GOULD - MOVE TO receive and approve the minutes from the last regular meeting of January 22, 2015. (Unanimous)

P76-15 COUNCILLOR MCGINN – MOVE to receive, under suspension of the rules, Item 7-B communication from His Honor the Mayor regarding Downtown Economic Development Plan Update. (Unanimous)

(MAYOR EDWARD A. BETTENCOURT JR; MS. KAREN SAWYER CONARD, DIRECTOR OF COMMUNITY DEVELOPMENT DEPARTMENT; AND MS. DEANNE HEALEY, EXECUTIVE DIRECTOR, PEABODY CHAMBER OF COMMERCE, PRESENTED THE DOWNTOWN ECONOMIC DEVELOPMENT PLAN UPDATE TO THE CITY COUNCIL)

HEARINGS

P77-15 COUNCILLOR OSBORNE – MOVE TO continue the public hearing on the application from Wlodek Matczak, 84 Walnut Street, Peabody, MA, until the next regular meeting on Thursday, February 26, 2015. (Unanimous)

A Show Cause hearing was duly held on Special Permit 34-2014 as issued to Perfect Hit Vapors, 649 Lowell Street, Peabody, MA. Appearing to speak on behalf of the City was Assistant City Solicitor Adam Buckley and Police Captain Scott Wlasuk. Appearing to speak on behalf of the Special Permit holder was Mr. Patrick Murowski. No one appeared to speak in favor. No one appeared to speak in opposition.

P78-15 COUNCILLOR SINEWITZ – MOVE TO receive, under suspension of the rules, late communication Item 1 from Peabody Police Department regarding Incident report, Perfect Hit Vapors, 649 Lowell Street. (Unanimous)

P79-15 COUNCILLOR SINEWITZ – MOVE THAT in accordance with Section 15.5 “Penalty” of the Peabody Zoning Ordinance, the City Council imposes a fine of \$200.00 for violations as it relates to conditions #1 and #3 of Special Permit 34-2014, as issued to Perfect Hit Vapors, 649 Lowell Street, Peabody. (Carried 8-1; Councillor Manning-Martin opposed; Councillor Moutsoulas and Councillor Driscoll absent)

A public hearing was duly held on the application from Barbeque Integrated, Inc., 8427 Southpark Circle, Orlando, FL. Appearing to speak on behalf of the application was Attorney Thomas Demakis. No one appeared to speak in favor. No one appeared to speak in opposition.

P80-15 COUNCILOR GRAVEL – MOVE TO approve the application from Barbeque Integrated, Inc., 8427 Southpark Circle, Orlando, FL, for an Entertainment License to operate under the name of Smokey Bones Bar and Fire Grill at 210 Andover Street, for non-live entertainment: television and amplified music; and live entertainment, specifically, a DJ, subject to all papers being in order. (Carried 9-0; Councillor Moutsoulas and Councillor Driscoll absent)

A public hearing was duly held on the application from Florencia Berrian, 17 Pheasant Lane, Topsfield, MA. Appearing to speak on behalf of the application was Ms. Florencia Berrian. No one appeared to speak in favor. No one appeared to speak in opposition.

P81-15 COUNCILLOR OSBORNE – BE IT ORDERED by the City Council of the City of Peabody that the application from Florencia Berrian, 17 Pheasant Lane, Topsfield, MA, for a Special Permit to operate a convenience/grocery store at 139 Lynnfield Street, Peabody, MA, as filed in accordance with Sections 4.2.5, 6.1, and 15.7 of the Peabody Zoning Ordinance be approved based on the following reasons and subject to the following condition:

Reason: Owing to the fact that the use as approved satisfies a desirable local need, that its design and appearance will not be injurious to the established or future character of the vicinity and the neighborhood, and that said approval is in harmony with the general purpose and intent of the Zoning Ordinance of the City of Peabody.

Condition:

- 1) That the hours of operation shall be 10:00 a.m. to 8:30 p.m. Monday through Sunday.
(Carried 9-0, Councillor Moutsoulas and Councillor Driscoll absent)

A public hearing was duly held on the application from All Pro Landscaping Co., Inc., 8 Johnson Street, Peabody, MA. Appearing to speak on behalf of the application was Attorney Athan Vontzalides. Mr. John Karamas, 14 Sandra Road, Peabody, MA, appeared to speak in favor. No one appeared to speak in opposition.

P82-15 COUNCILLOR MCGINN – MOVE TO receive, under suspension of the rules, Item 8-B communication from Lucia DelNegro, Conservation Commission, regarding All Pro Landscaping, 8 Birney Street. (Unanimous)

P83-15 COUNCILLOR MCGINN – BE IT ORDERED by the City Council of the City of Peabody that the application from All Pro Landscaping Co., Inc., 8 Johnson Street, Peabody, MA, for a Special Permit to operate an office and shop for contractor/landscaping business with outdoor storage of vehicles and materials at 8 Birney Street, Peabody, MA, as filed in accordance with Sections 4.2.5, 6.1, and 15.7 of the Peabody Zoning Ordinance be approved based on the following reasons and subject to the following conditions:

Reason: Owing to the fact that the use as approved satisfies a desirable local need, that its design and appearance will not be injurious to the established or future character of the vicinity and the neighborhood, and that said approval is in harmony with the general purpose and intent of the Zoning Ordinance of the City of Peabody.

Conditions:

- 1) All flammable liquids shall require storage permits and there shall be no indoor storage of flammables and combustibles without a permit;
- 2) There shall be no storage of junk, scrap metal, rags, waste papers and/or other hazardous materials;
- 3) Mulch, sand, salt and other bulk materials stored on the site must be managed so as to prevent nuisance conditions, including the migration of odors and dust, to other properties or serving as an attractant or harborage for rodents. On-site mulch storage will not exceed 200 yards. Mulch, sand, salt and other bulk materials stored on the site must be contained so as to prevent spread of such materials under all weather and potential flood conditions;
- 4) Trash and refuse shall be maintained in a dumpster on site;
- 5) The site is to be surrounded by a six (6) foot high sight-impervious fence;
- 6) Hours of operation shall be 6:00 AM to 10:00 PM, except during snow storms at which time 24-hour access shall be allowed; and
- 7) There shall be no parking on the right of way that is owned by the industrial condominium located at the end of Birney Street and identified as Industrial A, Assessors Map 95, Parcels 800-808.
(Carried 9-0, Councillor Moutsoulas and Councillor Driscoll absent)

A public hearing was duly on the application from Norman Lee, 314 Clark Street, North Andover, MA. Appearing to speak on behalf of the application was Mr. Norman Lee. No one appeared to speak in favor. No one appeared to speak in opposition.

P84-15 COUNCILLOR MCGINN – MOVE TO approve the application from Norman Lee, 314 Clark Street, North Andover, MA, for the transfer of a Lodging House License from the David J. Gordon Trust d/b/a The Sheldon Hotel, 65 Main Street, Peabody, MA, subject to the following conditions:

- 1) That the applicant takes ownership of the property;
- 2) That the license is for 34 rooms with a maximum occupancy of 43 persons;
- 3) That a register be kept of all persons occupying the premises;
- 4) That approval is contingent on seller obtaining a certificate of compliance as per MGL 148, Section 26F upon sale or transfer of the property; and
- 5) That approval is contingent on a positive response from the Department of Health and/or the remedy of any deficiencies identified by the Department of Health.

(Carried 9-0, Councillor Moutsoulas and Councillor Driscoll absent)

A public hearing was duly on the application from Norman Lee, 314 Clark Street, North Andover, MA. Appearing to speak on behalf of the application was Mr. Norman Lee. No one appeared to speak in favor. No one appeared to speak in opposition.

P85-15 COUNCILLOR MCGINN – MOVE TO approve the application from Norman Lee, 314 Clark Street, North Andover, MA, for the transfer of a Lodging House License from the David J. Gordon Trust d/b/a The Sheldon Hotel, 18 Peabody Square, Peabody, MA, subject to the following conditions:

- 1) That the applicant takes ownership of the property;
- 2) That the license is for 29 rooms with a maximum occupancy of 33 persons;
- 3) That a register be kept of all persons occupying the premises;
- 4) That approval is contingent on seller obtaining a certificate of compliance as per MGL 148, Section 26F upon sale or transfer of the property; and
- 5) That approval is contingent on a positive response from the Department of Health and/or the remedy of any deficiencies identified by the Department of Health.

(Carried 9-0, Councillor Moutsoulas and Councillor Driscoll absent)

REPORTS OF COMMITTEE

LEGAL AFFAIRS COMMITTEE FEBRUARY 12, 2015

P86-15 COUCILLOR OSBORNE – Reporting for the Legal Affairs Committee – The Legal Affairs Committee met this evening with myself as chair; present with Councillor Garabedian, Councillor Gravel, Councillor McGinn, Councillor Gould sat in for Councillor Moutsoulas, also present were Councillor Saslaw and Councillor Walsh. The first was a discussion on a complaint filed by Dana Roby, Trustee of DJR Realty Trust, who is the owner of 195 Washington Street regarding one of their tenants, P.K. Motor Cars, Incorporated. And the discussion determined what action the council should take on some allegations made by Mr. Roby that the Special Permit application made by P.K. Motors may have been issued fraudulently because alleged forgery of Mr. Roby's name on the application and the possibility of rearranging the lines of a stamped plan submitted with the Special Permit. The discussion was quite lengthy and it was determined that we would really have no way to know that. There was a motion from Councillor Gravel. (Report received)

P87-15 COUNCILLOR OSBORNE – Reporting for the Legal Affairs Committee - MOVE TO request the Police Department obtain a copy of the original plan of land as presented on July 18, 2012, from the land surveyor known as David Terenzoni with regards to property at 195 Washington Street, Prepared for Dana J. Roby, DJR Realty Trust and that be presented to them and compared to the plan of land that was submitted with the Special Permit application dated November 15, 2012 and present to us their findings. (Unanimous)

P87A-15 COUNCILLOR OSBORNE – Reporting for the Legal Affairs Committee – MOVE TO, under suspension of the rules, to receive a late communication from Christiane ?Fischer d/b/a PK Motor Cars, 195 Washington Street, Peabody, MA relative to allegations purported by Dana J. Roby, property owner. (Unanimous)

P88-15 COUNCILLOR OSBORNE – Reporting for the Legal Affairs Committee - Also on the agenda was proposed ordinance language submitted by His Honor the Mayor regarding Uber X ride-sharing activities. At the advice of the City Solicitor no action was taken on that due to the fact the City Solicitor has informed the Committee that the state was very close to passing legislation regarding ride-sharing. So that was a report of progress. Also discussed was the status of Class 2 Motor Vehicle License for Motor Mania at 94A Forest Street. The City Clerk had sent a letter to the representatives from Motor Mania and received no response. The following motion was made by Councillor McGinn. (Report received)

P89-15 COUNCILLOR OSBORNE – Reporting for the Legal Affairs Committee – MOVE TO notify Motor Mania, 94A Foster Street, that the Peabody City Council, in accordance with Section 16-29 (e) of the Peabody City Code, has exercised its authority and has reverted the Class 2 Motor Vehicle License back to the City of Peabody for failure to renew as of January 1, 2015. (Unanimous)

P90-15 COUNCILLOR OSBORNE – Reporting for the Legal Affairs Committee - Also on the agenda was the status of a Class 2 Motor Vehicle License for Newbury Street Auto Sales, 128 Newbury Street. This was similar to the previous one. The only difference was that the City Clerk had received application from Newbury Street Auto Sales to retain that Class 2 Motor Vehicle License. The following motion was made by Councillor Gould. (Report received)

P91-15 COUNCILLOR OSBORNE - Reporting for the Legal Affairs Committee - MOVE TO not accept the application for renewal for a Class 2 Motor Vehicle License for Newbury Street Auto Sales, 128 Newbury Street, and to notify Newbury Street Auto Sales that that the Peabody City Council, in accordance with Section 16-29 (e) of the Peabody City Code, has exercised its authority and has reverted the Class 2 Motor Vehicle License back to the City of Peabody for failure to renew as of January 1, 2015. (Unanimous)

MOTIONS, ORDERS AND RESOLUTIONS

P92-15 COUNCILLOR SASLAW – MOVE TO receive and approve, under suspension of the rules, Item 8-A communication from Paul Kolodziej, Building Inspector, regarding Special Permit transfer 4-1981; Group Up Construction, 484 Lowell Street. (Unanimous)

P93-15 COUNCILLOR SASLAW – MOVE TO receive, under suspension of the rules, Item 8-H communication from Brickpoint Properties, Inc., 2 Main Street, Stoneham, regarding Site plan regarding Terrace Estates Apartments/proposed new construction. (Unanimous)

P94-15 COUNCILLOR GRAVEL – MOVE TO instruct the City Solicitor to draft a new ordinance that would require that any organization who is seeking to conduct a major event within the City of Peabody apply for a Special Permit and pay a license fee to ensure that the interests of the Citizens of Peabody are adequately protected and that all impacts to the City are adequately compensated so as not to add any additional burden to our neighborhoods and taxpayers.

Ordinance shall contain the following provisions:

1. Who is covered under this requirement;
2. Exemption for the City of Peabody government;
3. Definition of Major Event; and
4. Special Permitting requirements to include and not be limited to:
 - a. Description of event;
 - b. How Safety and Security is going to be addressed;
 - c. Projected cost of Safety and Security;
 - d. Impact of physical infrastructure;
 - e. Additional burden on our City services;

- i. Police;
- ii. Fire;
- iii. Public Works;
- iv. City Hall; and
- v. Parks & Recreation

- f. Traffic;
- g. Parking;
- h. Terrorism Controls;
- i. Lodging/Accommodations; and
- j. Neighborhood Engagement.

Our goal is to protect the interests and safety of our Citizens and the ordinance should be constructed in a manner that places the burden of that goal on the organization that is conducting the event working in close cooperation with the City. (Unanimous)

P95-15 COUNCILLOR GRAVEL (Co-motion with Councillor Osborne) - MOVE TO send to the Legal Affairs Committee a review of our Special Permit procedures to ensure that we adequately protect our interests as a governing board that all things such as signatures, etc., are properly verified. (Unanimous)

P96-15 COUNCILLOR GRAVEL - MOVE TO refer to the Community Development Department a request that a petition be sent to the MBTA to move the "bus stop" signs from 133 Washington Street and from in front of the old Bresnahan Building across the street to locations in front of hydrants up the road. (Unanimous)

P97-15 COUNCILLOR MCGINN – MOVE TO remove from the Committee of the Whole Motion P437-14 made on June 12, 2014 relative to the Downtown Economic Development Plan. (Unanimous)

(COUNCILLOR MANNING-MARTIN COMMENDED THE PUBLIC SERVICES DEPARTMENT FOR THEIR SNOW REMOVAL EFFORTS)

P98-15 COUNCILLOR MANNING-MARTIN - MOVE TO send to the Public Services Committee the agenda items of plowing and potholes and to request that the Public Services Department attend. (Unanimous)

P99-15 COUNCILLOR OSBORNE – MOVE TO receive, under suspension of the rules, Item 7-A communication from His Honor the Mayor regarding Transfer of funds; Historic Preservation Fund Balance to Historic Preservation; Lexington Revolutionary War Memorial - \$11,000 and to refer to the Finance Committee. (Unanimous)

P100-15 COUNCILLOR OSBORNE – MOVE TO receive, under suspension of the rules, Item 8-D communication from Harry, Inc., 44 Margin Street, regarding Special Permit application and to set up a public hearing. (Unanimous)

P101-15 COUNCILLOR OSBORNE – MOVE TO receive, under suspension of the rules, Item 8-E communication from Russell Donovan, 12 Quail Road, regarding Lodging House Licenses and to refer to the Industrial & Community Development Committee. (Unanimous)

P102-15 COUNCILLOR OSBORNE – MOVE TO receive, under suspension of the rules, Item 8-I communication from Dr. Paul Flashner Skin, MD of Mass, LLC, 2 First Avenue, regarding Special Permit application and to set up a public hearing. (Unanimous)

P103-15 COUNCILLOR SINEWITZ – MOVE TO receive, under suspension of the rules, late communication Item 2 from Aggregate Industries, regarding Sound testing report and to refer to the Ad Hoc Committee on Aggregate Industries. (Unanimous)

P104-15 COUNCILLOR SINEWITZ – MOVE TO receive, under suspension of the rules, Item 8-C communication from John Dunn, Troop 59 Scoutmaster, regarding Eagle Scout award. (Unanimous)

COMMUNICATIONS FROM HIS HONOR THE MAYOR

Previously received.

COMMUNICATIONS FROM CITY OFFICERS AND OTHERS

P105-15 COUNCILLOR OSBORNE – MOVE TO receive and approve a communication from Timothy Spanos, City Clerk, regarding 2015 Election Warrant. (Unanimous)

P106-15 COUNCILLOR OSBORNE – MOVE TO receive a communication from Chief Thomas Griffin, Police Department, regarding Letter of thanks. (Unanimous)

PRESENTATION OF PETITIONS, MEMORIALS AND REMONSTRANCES

P107-15 COUNCILLOR OSBORNE - MOVE TO receive and approve the following Taxi/Limousine Driver Licenses (Renewal for 2015), subject to all papers being in order:

- | | |
|---------------------------------|----------------------------|
| David Ramos – License 144 | Doug Marram – License 146 |
| Robert Moser, Jr. – License 147 | Israel Lopez – License 148 |
| Shawn Whenal – License 149 | |
- (Unanimous)

P108-15 COUNCILLOR OSBORNE – MOVE TO receive and approve the following Use of the Wiggin Auditorium, subject to all papers being in order:

- Peabody Education Foundation, Inc. – May 19, 2015
 - Peabody Institute Library – April 29, 2015
- (Unanimous)

P109-15 COUNCILLOR OSBORNE - MOVE TO receive and approve Entertainment License (Renewal for 2015) Buddha’s Tavern, 144-146 Washington Street, subject to all papers being in order. (Unanimous)

P110-15 COUNCILLOR OSBORNE – MOVE TO receive and approve the following Class 2 Motor Vehicle License (Renewal for 2015), subject to all papers being in order:

- Elite Motor Cars, 93 Lynn Street
 - Tri State Auto Sales, 248 Newbury Street
 - USA Speedy Auto, 108 Newbury Street
- (Unanimous)

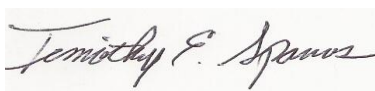
P111-15 COUNCILLOR OSBORNE – MOVE TO receive and approve Taxicab License Transfer – Tri City Services, Inc., 55R Walnut Street – License #46, subject to all papers being in order. (Unanimous)

UNFINISHED BUSINESS FROM THE PRECEDING MATTER

None.

MOVED: MOVE TO adjourn. Regular meeting of the Peabody City Council adjourned at 9:45 p.m.

SUBMITTED TO HIS HONOR THE MAYOR, FEBRUARY 18, 2015
RETURNED BY HIS HONOR THE MAYOR, FEBRUARY 18, 2015

ATTEST 
 (Timothy E. Spanos, City Clerk)

COMMUNICATIONS:

His Honor the Mayor re: Transfer of funds; Historic Preservation Fund Balance to Historic Preservation; Lexington Revolutionary War Memorial - \$11,000.00

His Honor the Mayor re: Downtown Economic Development Plan update

Paul Kolodziej, Building Inspector re: Special Permit transfer 4-1981; Ground Up Construction, 484 Lowell Street

Lucia DelNegro, Conservation Commission re: All Pro Landscaping, 8 Birney Street

John Dunn, Troop 59 Scoutmaster re: Eagle Scout award

Harry, Inc., 44 Margin Street re: Special permit application

Russell Donovan, 12 Quail Road re: Lodging House Licenses

Timothy Spanos, City Clerk re: 2015 Election Calendar

Chief Thomas Griffin, Police Department re: Letter of thanks

Brickpoint Properties, Inc., 2 Main St., Stoneham re: Site plan regarding Terrace Estates

Apartments/proposed new construction

Dr. Paul Flashner Skin MD of Mass, LLC, 2 First Avenue re: Special Permit application

TAXI/LIMOUSINE DRIVER LICENSE:

David Ramos – License 144 Doug Marram – License 146

Robert Moser, Jr. – License 147 Israel Lopez – License 148

Shawn Whenal – License 149

USE OF THE WIGGIN AUDITORIUM:

Peabody Education Foundation, Inc. – May 19, 2015

Peabody Institute Library – April 29, 2015

ENTERTAINMENT LICENSE: (Renewal for 2015)

Buddha's Tavern, 144-146 Washington Street

CLASS 2 MOTOR VEHICLE LICENSE: (Renewal for 2015)

Elite Motor Cars, 93 Lynn Street

Tri State Auto Sales, 248 Newbury Street

USA Speedy Auto, 108 Newbury Street

TAXICAB LICENSE: (Transfer)

Tri City Services, Inc., 55R Walnut Street – License #46