

REGULAR MEETING OF THE PEABODY CITY COUNCIL
MAY 28, 2015

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

ABSENT: COUNCILLORS: GRAVEL, MCGINN, 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.

P359-15 COUNCILLOR GOULD - MOVE TO receive and approve the minutes from the last regular meeting of May 14, 2015. (Unanimous)

HEARINGS

A public hearing was duly held on the application from Louis Frank Motorcars, LLC, c/o Louis Frank Marinello, Jr., 134R Newbury Street, Peabody, MA. No one appeared to speak on behalf of the application. No one appeared to speak in favor. No one appeared to speak in opposition.

P360-15 COUNCILLOR SASLAW – MOVE TO recess the public hearing on the application from Louis Frank Motorcars, LLC, c/o Louis Frank Marinello, Jr., 134R Newbury Street, Peabody, MA, until the next regular City Council meeting on June 11, 2015. (Unanimous)

P361-15 COUNCILLOR GARABEDIAN – MOVE TO continue the public hearing on the Special Permit application from Anthony G. Alba, 288 Newbury Street, Peabody, MA, until the next regular City Council meeting on June 11, 2015. (Unanimous)

P362-15 COUNCILLOR SASLAW - MOVE TO continue the public hearing on the application from Prestige Motors of Malden, Inc., d/b/a A & G Auto Sales, 288 Newbury Street, Peabody, MA, until the next regular City Council meeting on June 11, 2015. (Unanimous)

P363-15 COUNCILLOR MOUTSOULAS – MOVE TO receive, under suspension of the rules, late communication Item 1 from Sharon Cameron, Director, Department of Human Services, regarding Courthouse Pub, 43 Central Street. (Unanimous)

P364-15 COUNCILLOR MOUTSOULAS – MOVE TO continue the public hearing on the application from Central Street Tavern, LLC, 43 Central Street, Peabody, MA, until the regular City Council meeting on June 25, 2015. (Unanimous)

P365-15 COUNCILLOR SASLAW - MOVE TO continue the public hearing on the application from Frances Tilley, 598A Lowell Street, until the next regular City Council meeting on June 11, 2015. (Unanimous)

A public hearing was duly held on the application from Peabody Tipico Corporation, 80 Walnut Street, Peabody, MA. Mr. Idanis Duran appeared to speak on behalf of the application. No one appeared to speak in favor. No one appeared to speak in opposition.

P366-15 COUNCILLOR MOUTSOULAS – MOVE TO approve the application from Peabody Tipico Corporation, 80 Walnut Street, Peabody, MA, for an Entertainment License for the use of televisions, CD player, radio, and karaoke at said 80 Walnut Street, pursuant to the following conditions and subject to all papers being in order.

CONDITIONS:

1. The hours of non-live entertainment will be from 9:00 a.m. to 10:30 p.m. Monday through Thursday, and 9:00 a.m. to 11:30 p.m. Friday and Saturday;
2. This permit is subject to a six-month review; and
3. The maximum occupancy shall be 52 people.

(Carried 7-1; Councillor Manning-Martin opposed; Councillor Gravel, Councillor McGinn, and Councillor Driscoll absent)

REPORTS OF COMMITTEE

FINANCE COMMITTEE

MAY 28, 2015

P367-15 COUNCILLOR WALSH – Reporting for the Finance Committee – There was a Finance Committee this evening and I sat in as chair for Councillor Gravel this evening along with Councillor Saslaw, Councillor Gould, Councillor Manning-Martin, Councillor Osborne and several items were adopted. First we transferred funds from the operating reserve fund to school health salaries in the amount of \$53,000 and that was for nurse overtime because they had a couple that had some health issues themselves so we had to fill in for that. (Report received)

P368-15 COUNCILLOR WALSH – Reporting for the Finance Committee - MOVE TO approve the following transfer, as submitted by His Honor the Mayor, under date of May 4, 2015:

<u>FROM:</u> Operating Reserve Fund - \$53,000.00	<u>TO:</u> School Health Salaries - \$53,000.00
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(Carried 8-0; Councillor Gravel, Councillor McGinn, and Councillor Driscoll absent)

P369-15 COUNCILLOR WALSH – Reporting for the Finance Committee - The next item was a transfer of funds from fire extra detail administration to fire vehicle replacement. As the chief described, there are a couple of vehicles that need to be replaced. Ms. Schaffer explained to us that it is common practice that some of the capital expenditures, if you will, come from administration and that's why the replacement amount of \$83,750 was adopted by the Committee. (Report received)

P370-15 COUNCILLOR WALSH – Reporting for the Finance Committee - MOVE TO approve the following transfer, as submitted by His Honor the Mayor, under date of May 4, 2015:

<u>FROM:</u> Fire – Extra Detail Admin - \$83,750.00	<u>TO:</u> Fire Vehicle Replacement - \$83,750.00
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(Carried 8-0; Councillor Gravel, Councillor McGinn, and Councillor Driscoll absent)

P371-15 COUNCILLOR WALSH – Reporting for the Finance Committee - The next item was Item C, which was the transfer of funds from cemetery perpetual care fund to the cemetery overtime earnings account and that was because of the preparations for Memorial Day. There may be a little bit of funding that was not used and so that will be expended in another way at the cemetery. (Report received)

P372-15 COUNCILLOR WALSH – Reporting for the Finance Committee - MOVE TO approve the following transfer, as submitted by His Honor the Mayor, under date of May 4, 2015:

<u>FROM:</u> Cemetery – Perpetual Care Fund - \$12,000.00	<u>TO:</u> Cemetery Overtime Earnings - \$12,000.00
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(Carried 8-0; Councillor Gravel, Councillor McGinn, and Councillor Driscoll absent)

P373-15 COUNCILLOR WALSH – Reporting for the Finance Committee - The last item in Finance was the request to adopt Chapter 390 An Act Relative to the Establishment of Tax Title Collection Revolving Fund and further amended Chapter 60, Section 15B. That was adopted unanimously. (Report received)

P374-15 COUNCILLOR WALSH – Reporting for the Finance Committee – MOVE TO adopt Chapter 390 An Act Relative to the Establishment of Tax Title Collection Revolving Fund and to further amend Chapter 60, Section 15B. (Carried 8-0; Councillor Gravel, Councillor McGinn, and Councillor Driscoll absent)

INDUSTRIAL & COMMUNITY DEVELOPMENT COMMITTEE

MAY 28, 2015

P375-15 COUNCILLOR GOULD – Reporting for the Industrial & Community Development Committee – The Industrial & Community Development Committee met this evening in regards to Beer & Wine Licenses/Cordials Licenses; present was Councillor Manning-Martin, Councillor Sinewitz, sitting in for Councillor Driscoll was Councillor Garabedian, and sitting in for Councillor McGinn was Councillor Walsh. We were very honored to have the chair of the Licensing Board Mr. Minas Dakos, along with board members Nancy Delaney and Fred Murtagh. The general discussion was in regards to whether it is correctly before us to be the licensing authority to allow cordials and, after much discussion, we decided we were. There was discussion about the definition of cordials. Councillor Manning-Martin gave the background of why we were discussing cordials before the council because of the full liquor license that was given to an establishment and one that wasn't. Councillor Sinewitz again gave an in-depth description of what the definition of a cordial was i.e., various alcoholic drinks and the proofs to each of those drinks. Much discussion ensued. A motion was made by Councillor Walsh not to accept the language of Chapter 138, Section 12 of the Massachusetts General Laws relevant to Cordials Licenses. (Report received)

P376-15 COUNCILLOR GOULD – Reporting for the Industrial & Community Development Committee – MOVE THAT the City Council not accept the provisions of Chapter 138, Section 12 of the Massachusetts General Laws relevant to Cordials Licenses. (Failed 5-2; Councillor Manning-Martin and Councillor Osborne in favor; Councillor Gravel, Councillor McGinn, Councillor Moutsoulas and Councillor Driscoll absent)

AMENDMENT BY COUNCILLOR OSBORNE – MOVE TO hold in Committee the discussion regarding Chapter 138, Section 12 of the Massachusetts General Laws relevant to Cordials Licenses. (Failed 4-3; Councillor Garabedian, Councillor Manning-Martin and Councillor Osborne in favor; Councillor Gravel, Councillor McGinn, Councillor Moutsoulas, and Councillor Driscoll absent)

RECONSIDERATION BY COUNCILLOR SINEWITZ – Immediate reconsideration hoping the same shall not prevail. (Failed 5-2; Councillor Manning-Martin and Councillor Osborne in favor; Councillor Gravel, Councillor McGinn, Councillor Moutsoulas, and Councillor Driscoll absent)

P377-15 COUNCILLOR GOULD – Reporting for the Industrial & Community Development Committee - Also on our agenda was the discussion of rental of rooms in homes and we left that in committee because of a lack of time. (Report received)

MOTIONS, ORDERS AND RESOLUTIONS

P378-15 COUNCILLOR GOULD (Co-motion with Councillor Walsh) - MOVE TO request that the Building Inspector notify any business displaying signs on public property to remove them at once and to further request that the Building Inspector remove them by the end of the week using his discretion. This would be signs offering full-time positions, for sale signs, etc. They are all over the city. (Unanimous)

P379-15 COUNCILLOR GOULD (Co-motion with Councillor Driscoll) - MOVE TO request that the Public Services Department install a "Dead End" sign at the corner of Palmer Avenue and Kendall Street. (Unanimous)

P380-15 COUNCILLOR GARABEDIAN - MOVE TO request that the Public Services Department repair the sidewalk at 19 Worcester Road where the sidewalk in front of that address is buckling. (Unanimous)

P381-15 COUNCILLOR SASLAW – MOVE TO receive, under suspension of the rules, Item 8-C communication from Patricia Davis Schaffer, Director of Finance, regarding List of properties exempt from property taxes/payment in lieu of tax agreements.

P382-15 COUNCILLOR SASLAW – MOVE TO receive, under suspension of the rules, Item 8-K communication from Attorney John R. Keilty, 40 Lowell Street, on behalf of Marco's Pizzeria, 47 Newbury Street, regarding Request to accept Chapter 138, Section 12 MGL relative to Cordial Licenses. (Unanimous)

P383-15 COUNCILLOR SASLAW – MOVE TO receive, under suspension of the rules, Item 8-M communication from Paul Kolodziej, Building Commissioner, regarding Special Permit transfer 8-2007 to Louis F. Marinello, Jr., 134R Newbury Street. (Unanimous)

(COUNCILLOR SASLAW INFORMED THE CITY COUNCIL THAT THE DOWNTOWN ASSOCIATION IS HOSTING A CAR SHOW ON SUNDAY FROM 8:00 TO 4:00)

(COUNCILLOR SASLAW REMINDED THE CITY COUNCIL THAT PEABODY VETERANS MEMORIAL HIGH SCHOOL SENIORS WILL BE GRADUATING FRIDAY JUNE 5TH AT 5:00 O'CLOCK.)

(COUNCILLOR SASLAW INFORMED THE CITY COUNCIL AND THE PUBLIC THAT TUESDAY, JUNE 23RD KINDER MORGAN WILL BE HERE IN THE WIGGIN AUDITORIUM AT 6:30 TO ADDRESS THE CITY COUNCIL AND ANSWER THEIR QUESTIONS REGARDING THE PROPOSED PIPELINE.)

P384-15 COUNCILLOR MANNING-MARTIN – MOVE TO receive, under suspension of the rules, Item 7-A communication from His Honor the Mayor regarding Veto Message – Council Motion 292-15 and to refer to the Public Services Committee. (Unanimous)

P385-15 COUNCILLOR OSBORNE – MOVE TO receive and approve, under suspension of the rules, Item 8-E communication from Honorable Few Marine Corp League Det 1302, P.O. Box 3957, Peabody, regarding Banner, subject to all papers being in order. (Unanimous)

P386-15 COUNCILLOR OSBORNE – MOVE TO receive and approve, under suspension of the rules, Item 8-F communication from Progeria Research Foundation, 200 Lake Street, regarding Banner, subject to all papers being in order. (Unanimous)

P387-15 COUNCILLOR SINEWITZ - MOVE TO request that the Park, Recreation and Forestry Department remove a dead tree at 5 Clinton Road. (Unanimous)

P388-15 COUNCILLOR SINEWITZ - MOVE TO request that the Public Services Department find out what the traffic plan is for the Howley Street Bridge/Main Street projects because there could be considerable backups when both projects are in full swing. (Unanimous)

P389-15 COUNCILLOR SINEWITZ – MOVE TO request that the Community Development Department explain the status of the home-rule petition liquor licenses, which were added for the downtown. (Unanimous)

P390-15 COUNCILLOR SINEWITZ – MOVE TO refer Item 8-C to the Finance Committee and to refer the issue of nonprofits renting out space to for-profit businesses and to further request that the Assessor's Office provide a more accurate list of nonprofit group homes and whether and how much money they pay in taxes to the City. (Unanimous)

P391-15 COUNCILLOR SINEWITZ - MOVE TO thank the Public Services Department for cleaning the catch basins in the vicinity of Crystal Lake. (Unanimous)

P392-15 COUNCILLOR SINEWITZ – MOVE TO receive, under suspension of the rules, late communication Item 2 from Councillor Peter McGinn regarding May 28, 2015, I&CD Committee agenda Item B Continued discussion: Renting of rooms to not more than five persons in residential areas – review of legal opinions from the City Solicitor. (Unanimous)

P393-15 COUNCILLOR SINEWITZ – MOVE TO request that the City Solicitor comment upon: 1, The interrelationship between problems associated with room rental accessory use identified by the City Council and the options available to the Building Inspector under the current law (Code, Ordinance, and State Statutes) and; 2, Suggestions for the Council to further investigate and address those problems. (Unanimous)

COMMUNICATIONS FROM HIS HONOR THE MAYOR

Previously received.

COMMUNICATIONS FROM CITY OFFICERS AND OTHERS

P394-15 COUNCILLOR GOULD – MOVE TO receive a communication from Christina Fischer PK Motor Cars, 195 Washington Street, regarding Submission of parking plan at 195 Washington Street on file in the Office of the Building Inspector and to refer to the Legal Affairs Committee. (Unanimous)

P395-15 COUNCILLOR OSBORNE – MOVE TO receive a communication from Attorney David B. Summer, 100 State Street, Boston, MA, on behalf of PK Motor Cars, 195 Washington Street, regarding Request to formally address the City Council concerning allegations made against them by their landlord and to refer to the Legal Affairs Committee. (Unanimous)

P396-15 COUNCILLOR GOULD – MOVE TO receive and approve a communication from St. Vasilios Greek Orthodox Church, 5-7 Paleologos Street, regarding Banner, subject to all papers being in order. (Unanimous)

P397-15 COUNCILLOR OSBORNE – MOVE TO receive a communication from Cheryl LaPointe, Salem City Clerk, regarding Salem City Council public forum on June 17th regarding the opioid abuse crisis. (Unanimous)

P398-15 COUNCILLOR OSBORNE – MOVE TO receive a communication from Planning Board regarding May 21st agenda/May 7th minutes. (Unanimous)

P399-15 COUNCILLOR OSBORNE – MOVE TO receive a communication from Attorney Michael Smerczynski, City Solicitor, regarding Copy of the Entertainment License statute. (Unanimous)

P400-15 COUNCILLOR OSBORNE – MOVE TO receive a communication from Century Tire Co., Inc., of Peabody, 53 Walnut Street, regarding Special Permit application and to set up a public hearing. (Unanimous)

P401-15 COUNCILLOR GOULD – MOVE TO receive a communication from Jennifer Davis, Director, Park, Recreation & Forestry Department, regarding Completed motion 279-15 – 8 Lincoln Road. (Unanimous)

P402-15 COUNCILLOR OSBORNE – MOVE TO receive a communication from Peabody Fire Relief Association regarding Memorial Sunday, June 14, 2015. (Unanimous)

PRESENTATION OF PETITIONS, MEMORIALS AND REMONSTRANCES

P403-15 COUNCILLOR OSBORNE - MOVE TO receive Entertainment License – Top’s Churrascaria, Inc., d/b/a Oliveira’s Steak House, 72-74 Walnut Street, and to set up a public hearing. (Unanimous)

P404-15 COUNCILLOR OSBORNE – MOVE TO receive and approve the following Junk Dealer License (Renewal for 2015), subject to all papers being in order:

Peabody Estate Buyers, Inc., 43 Main Street
 Golden Link, 515 Lowell Street
 Elite Design & Consign, 101 Lynn Street
 Sempre Fine Jewelry, 41 Cross Street
 Charland Appliance Center, Inc., 15 Spring Street
 Ginger’s Closet, 101 Lynn Street
 (Unanimous)

P405-15 COUNCILLOR OSBORNE – MOVE TO receive Class 2 Motor Vehicle License (New) – Century Tire Co., Inc., of Peabody, 53 Walnut Street, and set up a public hearing. (Unanimous)

UNFINISHED BUSINESS FROM THE PRECEDING MATTER

MOVED: MOVE TO adjourn. Regular meeting of the Peabody City Council adjourned at 8:45 p.m.

SUBMITTED TO HIS HONOR THE MAYOR, JUNE 4, 2015

RETURNED BY HIS HONOR THE MAYOR, JUNE 4, 2015



ATTEST

(Timothy E. Spanos, City Clerk)

COMMUNICATIONS:

His Honor the Mayor re: Veto Message – Council Motion 292-15

Christina Fischer, PK Motor Cars, 195 Washington Street re: Submission of parking plan at 195 Washington Street on file in the Office of the Building Inspector

Attorney David B. Summer, 100 State Street, Boston, MA on behalf of PK Motor Cars, 195 Washington Street re: Request to formally address the City Council concerning allegations made against them by their landlord

Patricia Davis Schaffer, Director of Finance re: List of properties exempt from property taxes/payment in lieu of tax agreements

St. Vasilios Greek Orthodox Church, 5-7 Paleologos Street re: Banner

Honorable Few Marine Corp League Det 1302, P. O. Box 3957, Peabody re: Banner

Progeria Research Foundation, 200 Lake Street re: Banner

Cheryl Lapointe, Salem City Clerk re: Salem City Council public forum on June 17th regarding the opioid abuse crisis

Planning Board re: May 21st agenda/May 7th minutes

Attorney Michael Smerczynski, City Solicitor re: Copy of the Entertainment License statute

Century Tire Co. Inc. of Peabody, 53 Walnut Street re: Special Permit application

Attorney John R. Keilty, 40 Lowell Street on behalf of Marco's Pizzeria, 47 Newbury Street re: Request to accept Chapter 138, Section 12 MGL relative to Cordial Licenses

Jennifer Davis, Director, Park, Recreation & Forestry Department re: Completed motion 279-15 – 8 Lincoln Road

Paul Kolodziej, Building Commissioner re: Special permit transfer 8-2007 to Louis f. Marinello, Jr., 134R Newbury Street

Peabody Fire Relief Association re: Memorial Sunday, June 14, 2015

Community Credit Union, 32 Central Street re: Banner

ENTERTAINMENT LICENSE: (New)

Top's Churrascaria, Inc., d/b/a Oliveira's Steak House, 72-74 Walnut Street

JUNK DEALER LICENSE: (Renewal for 2015)

Peabody Estate Buyers, Inc., 43 Main Street

Golden Link, 515 Lowell Street

Elite Design & Consign, 101 Lynn Street

Sempre Fine Jewelry, 41 Cross Street

Charland Appliance Center, Inc., 15 Spring Street

Ginger's Closet, 101 Lynn Street

CLASS 2 MOTOR VEHICLE LICENSE: (New)

Century Tire Co., Inc. of Peabody, 53 Walnut Street