

REGULAR MEETING OF THE PEABODY CITY COUNCIL
SEPTEMBER 11, 2014

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

ABSENT: COUNCILLORS: GRAVEL AND DRISCOLL

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

Salute to the American Flag.

P630-14 COUNCILLOR GOULD - MOVE TO receive and approve the minutes from the special meeting of August 28, 2014, and the last regular meeting of August 28, 2014. (Unanimous)

COUNCILLOR OSBORNE - OPEN MEETING LAW STATEMENT: THIS MEETING IS BEING TELEVISED LIVE ON CABLE CHANNEL 9 AND BEING TAPED BY PEABODY ACCESS TV, AND ALSO BEING RECORDED BY OUR CITY COUNCIL STENOGRAPHER.

(MAYOR EDWARD A. BETTENCOURT, JR. CONGRATULATED AND AWARDED THE CITY WIDE GIRL'S SOFTBALL ALL-STAR TEAM FOR THEIR INCREDIBLE ACCOMPLISHMENTS.)

HEARINGS

The City Council reconvened the recessed public hearing on the application from 120 Foster Street, LLC, 20C Delcarmine Street, Wakefield, MA. Appearing to speak on behalf of the application was Attorney James Burke. No one appeared to speak in favor. No one appeared to speak in opposition.

P631-14 COUNCILLOR MCGINN – MOVE TO receive, under suspension of the rules, late communication Item 1 from Attorney James Burke, One Essex Green Drive, Peabody, regarding 120 Foster Street, LLC. (Unanimous)

P632-14 COUNCILLOR MCGINN – BE IT ORDERED by the City Council of the City of Peabody that the application from 120 Foster Street, LLC, 20C Delcarmine Street, Wakefield, MA, for a Special Permit to convert the first floor vacant bar to 2 two-bedroom apartments on the premises located at 120 Foster Street, Peabody, MA, as filed in accordance with Sections 1.5, 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. That the applicant exhaust remaining efforts in which they are currently engaged, as described in the letter dated September 11, 2014, from the attorney representing the applicant, to locate five private parking spots; and should such efforts yield no results, condition 2 shall apply until such time as the applicant is able to provide a private parking solution;
2. That the applicant clearly indicate in all marketing and advertising to potential tenants of all apartments at 120 Foster Street that there is "no off-street parking available" and that "street parking is limited and banned during times of declared snow emergencies";
3. That fire alarm and sprinkler plans be submitted to the Fire Prevention Department in accordance with the Fire Department response to this Special Permit application;
4. That no sign or apparatus, including, but not limited to, antennas or satellite receiving devices, shall be placed on any roof or any façade of the structure where visible from the street;
5. That no window air-conditioners or similar apparatus shall be installed in the windows in front facade of the structure;

6. That all trash and recycling shall be contained in an area of the lot not visible from the street and such trash and recycling storage location shall be indicated on the final version of the site plan and shall either be approved by the Construction Review Committee and Planning Board as a function of site plan review or filed with the office of the Building Commissioner, if site plan review is not deemed applicable under Section 12.2 of the Zoning Ordinance; and
7. Alleged violations of Special Permit conditions may result in a show cause hearing at the City Council.

(Carried 9-0, Councillors Gravel and Driscoll absent)

P633-14 COUNCILLOR MANNING-MARTIN - MOVE TO continue the public hearing on the application from Laurie A. Nadeau, 8 Sutton Street, Peabody, MA, until the regular meeting on Thursday, October 2, 2014. (Unanimous)

P634-14 COUNCILLOR MANNING-MARTIN - MOVE TO continue the public hearing on Remand hearing – 47 Newbury World Realty Trust, 47 Newbury Street, Peabody, MA, until the regular meeting on Thursday, October 2, 2014. (Unanimous)

P635-14 COUNCILLOR WALSH – MOVE TO go to Item 10-A Notice of Reconsideration filed by Councillor Thomas Walsh P587-14 – Transfer of Class 2 Motor Vehicle License; DC Trust, LLC, d/b/a Auto Sense, 134R Newbury Street to 222 Newbury Street. (Unanimous)

P636-14 RECONSIDERATION BY COUNCILLOR WALSH – Reconsideration of Motion P587-14 – Transfer of Class 2 Motor Vehicle License; DC Trust, LLC, d/b/a Auto Sense, 134R Newbury Street to 222 Newbury Street. (Carried 8-1; Councillor Manning-Martin opposed; Councillor Gravel and Councillor Driscoll absent)

P637-14 COUNCILLOR WALSH – MOVE TO receive, under suspension of the rules, late communication Item 2 from Attorney Peter J. Arvanites, 27 Lowell Street, Peabody, MA, regarding Four Star Services, Inc., Class 2 Motor Vehicle License. (Unanimous)

P638-14 COUNCILLOR SASLAW - MOVE TO approve the application from DC Trust, LLC, d/b/a Auto Sense, 134R Newbury Street, Peabody, MA, for the transfer of a Class 2 Motor Vehicle License to 222 Newbury Street, Peabody, MA, subject to all papers being in order, and with the following conditions:

1. DC Trust, LLC, d/b/a Auto Sense will not operate on the property until October 1, 2014, and Four Star Towing will have until October 1, 2014, to either find a new location or turn in the license;
2. The maximum number of cars allowed will be twenty-five (25);
3. Four Star Service, Inc. will on the date the transfer of DC Trust, LLC's license becomes effective, cease the use of its license and will deliver the same to the City Clerk, to be held in escrow pending approval of a transfer of Four Star's license to another location in the City of Peabody; and
4. Four Star Service, Inc. shall have until January 1, 2015, the expiration date of their current license, to find another location for the transfer of their Class 2 Motor Vehicle License.

(Carried 8-1, Councillor Manning-Martin opposed; Councillors Gravel and Driscoll absent)

REPORTS OF COMMITTEE

LEGAL AFFAIRS COMMITTEE SEPTEMBER 11, 2014

P639-14 COUNCILLOR MANNING-MARTIN – Reporting for the Legal Affairs Committee - Legal Affairs did meet this evening prior to this meeting. In attendance, joining myself as chair, were Councillor Walsh, Councillor Sinewitz, Councillor Saslaw, Councillor Garabedian, and several other councillors joined as the meeting went on. We had a couple of issues that were before us. The first issue was a proposed two-hour parking ordinance for Foster Street on the southwest side even numbers between Lowe Street and Birney Street, the northwest side the odd numbers from the driveway entrance of 119 Foster Street to the end of the property line on 111 Foster Street. Mr. Kevin Holden also spoke into the record regarding this issue, who's the co-owner of the business located there Champion's Pub. There was a lot of discussion and, as was aptly pointed out by Councillor Walsh that it's a good situation to have that we have so much activity down there in that area that we're lacking parking so it is a

positive that comes with some negatives that we needed to work out. There was a lot of discussion. The police have provided input in the area how enforcement will take place. We did have one motion by Councillor Walsh. (Report received)

P640-14 COUNCILLOR MANNING-MARTIN – Reporting for the Legal Affairs Committee - MOVE TO adopt and advertise a new Section 19-102.1 creating a two-hour parking zone on both sides of Foster Street from Lowe Street to Birney Street from 7:00 a.m. to 5:00 p.m. Monday through Friday. (Unanimous)

P641-14 COUNCILLOR MANNING-MARTIN – Reporting for the Legal Affairs Committee - We also had another item that was on our agenda. It was billboard applications to Outdoor Advertising Board for 108 and 258 Newbury Street. This item was referred to Legal Affairs by Councillor Barry Sinewitz. We did have two motions stemming from that meeting. (Report received)

P642-14 COUNCILLOR MANNING-MARTIN – Reporting for the Legal Affairs Committee – MOVE THAT the Building Inspector be requested that any future amendments to Special Permits regarding billboards need to be referred to the City Council, including 258 Newbury Street and 108 Newbury Street. (Unanimous)

P643-14 COUNCILLOR MANNING-MARTIN – Reporting for the Legal Affairs Committee – We also had one final motion coming out of Legal Affairs this evening. Joining us for the meeting was City Solicitor Mike Smerczynski and he had advised us that just today some pressing new information had come forward and he suggests that we schedule an Executive Session to discuss regarding billboards. (Report received)

P644-14 COUNCILLOR MANNING-MARTIN – Reporting for the Legal Affairs Committee – MOVE THAT the City Council schedule an Executive Session to discuss future litigation regarding billboards. (Unanimous)

MOTIONS, ORDERS & RESOLUTIONS

P645-14 COUNCILLOR MCGINN – MOVE TO receive, under suspension of the rules, Item 8-F communication from Karen Sawyer, Director, Community Development Department, regarding MassWorks Infrastructure Grant Application. (Unanimous)

P646-14 COUNCILLOR MCGINN – BE IT ORDERED that the Peabody City Council hereby authorize his Honor the Mayor Edward A. Bettencourt, Jr., to file an application to the 2014 MassWorks Grant program on behalf of the City of Peabody, in order to seek funding for the Main Street Corridor Realignment Project; furthermore should the City of Peabody be granted awards for this project, the City Council fully authorizes the funds to be received and used on implementation of the above-listed infrastructure project by the Mayor and the city staff conditioned upon final review and approval of the final design by the City Council. (Carried 9-0; Councillor Gravel and Councillor Driscoll absent)

P647-14 COUNCILLOR GOULD (Tri-motion with Councillor McGinn and Councillor Moutsoulas) - MOVE TO request that the Police Department monitor the ramp, for the lack of a better word, that goes by the Warren Street Cafe for vehicles speeding through the crosswalk. A number of resident have had close calls. (Unanimous)

P648-14 COUNCILLOR GOULD - MOVE TO request that the Health Department provide an opinion to the City Council regarding the creation of an ordinance prohibiting smoking in city parks and playgrounds. (Unanimous)

P649-14 COUNCILLOR GOULD - MOVE TO request that the Public Services Department look at the major dip in the road in front of 420 Lowell Street. It was a patch that has sunken in. (Unanimous)

P650-14 COUNCILLOR GOULD - MOVE TO request that the Park, Recreation and Forestry Department look at 167 Reynolds Road to see if we can trim the tree branches that are hitting the house. (Unanimous)

P651-14 COUNCILLOR GOULD - MOVE TO receive, under suspension of the rules, Item 8-D communication from Robert Langley, Director, Public Services Department, regarding Completed Council motions and to send a communication commending Mr. Langley for sending the City Council a summary of motions that have been completed and to request if that could happen on a regular basis. (Unanimous)

P652-14 COUNCILLOR WALSH (Co-motion with Councillor Osborne) - MOVE TO request the Public Services Department correct and repair all potholes on the southeasterly side of Lynnfield Street between Ralph Road and Bartholomew Street, with particular emphasis in front of 366, 368 and 370 Lynnfield Street. (Unanimous)

P653-14 COUNCILLOR WALSH - MOVE TO send to the Municipal Safety Committee the issue of Public Services and the status of all pothole repairs throughout the City of Peabody. (Unanimous)

P654-14 COUNCILLOR WALSH - MOVE TO congratulate Councillor Moutsoulas for his efforts as he ran for State Representative. He ran an impressive campaign that was classy and I think all residents of Peabody are proud of his efforts. (Unanimous)

P655-14 COUNCILLOR SINEWITZ - MOVE TO request that the Community Development Department provide the City Council with an update on the right-turn-on-red because the traffic around the downtown is starting to get unbearable and it's going to get worse once they start working on the Howley Street Bridge. (Unanimous)

P656-14 COUNCILLOR SINEWITZ - MOVE TO request that the Board of Health provide the City Council with the rules and regulations regarding electronic cigarette shops. (Unanimous)

P657-14 COUNCILLOR SINEWITZ - MOVE TO request that the City Clerk send a communication to the owner of Hannaford Plaza, whose land juts out into the bike path on Russell Street, requesting that they clean up their area of the property, which needs to be mowed and trash removed. (Unanimous)

P658-14 COUNCILLOR GARABEDIAN (Co-motion with Councillor Osborne) - MOVE TO request that the Public Services Department clear the brush on the right side of Bay State Road. (Unanimous)

P659-14 COUNCILLOR GARABEDIAN - MOVE TO request that the Public Services Department repair the buckling sidewalk at 4 Lisa Road. (Unanimous)

P660-14 COUNCILLOR GARABEDIAN (Co-motion with Councillor Osborne) - MOVE TO request that the Public Services Department add more trash barrels at Fairview and Lake Shore Drive. (Unanimous)

P661-14 COUNCILLOR GARABEDIAN – MOVE TO petition Mass DOT, District 4, requesting a special speed survey to lower the speed limit on Murray Street, Felton Street, and Mount Vernon Street from 30 m.p.h. to 25 m.p.h. (Unanimous)

P662-14 COUNCILLOR OSBORNE – MOVE TO request that the Peabody Municipal Light Plant install a streetlight in the vicinity of 10 Outlook Avenue. (Unanimous)

P663-14 COUNCILLOR OSBORNE - MOVE TO request that the Public Services Department add Hillcrest Avenue to the list of streets to be paved. (Unanimous)

P664-14 COUNCILLOR OSBORNE - MOVE TO request that the Building Inspector investigate the properties on both sides of 19 Dexter Street for being in disrepair and report back to the City Council. (Unanimous)

COMMUNICATIONS FROM HIS HONOR THE MAYOR

None.

COMMUNICATIONS FROM CITY OFFICERS AND OTHERS

P665-14 COUNCILLOR WALSH – MOVE TO receive a communication from Chief Thomas Griffin, Police Department, regarding Letter of thanks. (Unanimous)

P666-14 COUNCILLOR GOULD – MOVE TO receive a communication from Mass Outdoor Advertising Board regarding 0 Jubilee Drive. (Unanimous)

P667-14 COUNCILLOR GOULD – MOVE TO receive a communication from Conservation Commission regarding September 10th agenda. (Unanimous)

P668-14 COUNCILLOR GOULD – MOVE TO receive and approve a communication from Care Dimensions, 75 Sylvan Street, regarding Banner, subject to all papers being in order. (Unanimous)

P669-14 COUNCILLOR OSBORNE – MOVE TO receive a communication from Ralph & Lisa Visconti, 4 First Avenue, regarding Special Permit application and set up a public hearing. (Unanimous)

P670-14 COUNCILLOR WALSH – MOVE TO receive a communication from Paul Kolodziej, Building Commissioner, regarding Status of properties at 58 Rear Pulaski Street. (Unanimous)

P671-14 COUNCILLOR GOULD – MOVE TO receive a communication from Timothy Spanos, City Clerk, regarding Letter to Outdoor Advertising Board regarding 258 Newbury Street. (Unanimous)

PRESENTATION OF PETITIONS, MEMORIALS AND REMONSTRANCES

P672-14 COUNCILLOR GOULD – MOVE TO receive and approve Block party – 17 Margin Terrace to end of Adams Avenue – September 20th, subject to all papers being in order. (Unanimous)

P673-14 COUNCILLOR GOULD – MOVE TO receive and approve Taxicab License (Transfer) Tri City Services, 55R Walnut Street – License 46, subject to all papers being in order. (Unanimous)

P674-14 COUNCILLOR GOULD – MOVE TO receive and approve the following Taxi/Limousine Driver Licenses, subject to all papers being in order:

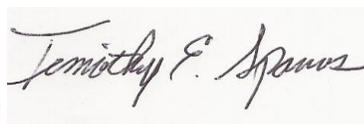
- | | |
|----------------------------------|---------------------------------|
| Betsy McNaughton – License 59 | Daniel Sirois – License 60 |
| John A. Leone, Jr. – License 61 | Alfred Grenier – License 62 |
| Glenn Michelle – License 63 | David Noyes III – License 64 |
| Kirk Carson – License 65 | Alfred Porter - License 66 |
| James Carter - License 67 | James Brandley – License 68 |
| Michael Neely – License 69 | David Benson - License 70 |
| Louis Anasoulis - License 71 | Tigran Martirosyan – License 73 |
| Sean R. Howell – License 74 | Aubrey Logan – License 75 |
| Richard Lohnes – License 76 | James Kozik - License 77 |
| Michael Orlando – License 78 | Ayoub Kaha – License 79 |
| Lawrence J. Carrick – License 80 | Armen Martirosyan – License 81 |
| Robert Haggety, Jr. – License 82 | Alan Marchesini – License 83 |
| Lamonte Chisholm – License 84 | Wayne Hitchings – License 85 |
- (Unanimous)

UNFINISHED BUSINESS FROM THE PRECEDING MATTER

P675-14 COUNCILLOR SASLAW – MOVE TO approve the transfer of Special Permits 39-2001 and 10-2006 from Four Star Service, Inc., 222 Newbury Street, Peabody, MA to Dean Collins c/o DC Trust, LLC d/b/a Auto Sense, 134R Newbury Street, Peabody, MA who will utilize the premises for the outdoor sales of motor vehicles and automobile service at said 222 Newbury Street, Peabody, MA. (Carried 9-0, 2 absent)

MOVED: MOVE TO adjourn. Regular meeting of the Peabody City Council adjourned at 8:35 p.m.

SUBMITTED TO HIS HONOR THE MAYOR, SEPTEMBER 19, 2014
RETURNED BY HIS HONOR THE MAYOR, SEPTEMBER 19, 2014



ATTEST
(Timothy E. Spanos, City Clerk)

COMMUNICATIONS:

Chief Thomas Griffin, Police Department re: Letter of thanks

Mass Outdoor Advertising Board re: 0 Jubilee Drive

Conservation Commission re: September 10th agenda

Robert Langley, Director, Public Services Department re: Completed Council motions

Care Dimensions, 75 Sylvan Street, Danvers re: Banner

Karen Sawyer, Director, Community Development Department re: MassWorks Infrastructure Grant Application

Ralph & Lisa Visconti, 4 First Avenue re: Special permit application

Paul Kolodziej, Building Commissioner re: Status of properties at 58 Rear Pulaski

Timothy Spanos, City Clerk re: Letter to Outdoor Advertising Board regarding 258 Newbury Street

BLOCK PARTY:

17 Margin Terrace to end at Adams Avenue – September 20th

TAXICAB LICENSE: (Transfer)

Tri City Services, 55R Walnut Street – License 46

TAXI/LIMOUSINE DRIVERS LICENSE:

Betsy McNaughton – License 59

John A. Leone, Jr. – License 61

Glenn Michelle – License 63

Kirk Carson – License 65

James Carter - License 67

Michael Neely – License 69

Louis Anasoulis - License 71

Sean R. Howell – License 74

Richard Lohnes – License 76

Michael Orando – License 78

Lawrence J. Carrick – License 80

Robert Haggerty, Jr. – License 82

Lamonte Chisholm – License 84

Daniel Sirois – License 60

Alfred Grenier – License 62

David Noyes III – License 64

Alfred Porter - License 66

James Brandley – License 68

David Benson - License 70

Tigran Martirosyan – License 73

Aubrey Logan – License 75

James Kozik - License 77

Ayoub Kaha – License 79

Armen Martirosyan – License 81

Alan Marchesini – License 83

Wayne Hitchings – License 85