

**REGULAR MEETING OF THE PEABODY CITY COUNCIL**  
**MARCH 14, 2019**

PRESENT COUNCILLORS: MOUTSOULAS, MELVILLE, MCGINN, ROSSIGNOLL, MANNING-MARTIN, SASLAW, CHAREST, GOULD, GRAVEL, AND TURCO

ABSENT COUNCILLORS: O'NEILL

Meeting of the Peabody City Council opened with a moment of silent prayer after being called to order by City Council President Jon G. Turco.

Salute to the American Flag.

P165-19 COUNCILLOR GOULD – MOVE TO receive and approve the minutes from the regular meeting of February 28, 2019. (Unanimous)

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

**HEARINGS**

A public hearing was duly held on the application submitted by Susan Jacobson d/b/a The Mod Haus, 249 W 5<sup>th</sup> Street, Boston, MA. Ms. Susan Jacobson appeared to speak on behalf of the application. No one appeared to speak in favor. No one appeared to speak in opposition.

P166-19 COUNCILLOR MCGINN – MOVE TO receive, under suspension of the rules, late communication Item 1 from Health Department regarding Various Departmental responses. (Unanimous)

P167-19 COUNCILLOR MOUTSOULAS – MOVE TO approve the application submitted by Susan Jacobson d/b/a The Mod Haus, 249 W 5<sup>th</sup> Street, Boston, MA, for a Junk Dealers License at 58 Pulaski Street, Peabody, MA, subject to all papers being in order. (Carried 10-0; Councillor O'Neill absent)

A public hearing was duly held on the application submitted by J Cakes, LLC, 13 Bertoni Road, Gloucester, MA. Appearing to speak on behalf of the application was Atty. John Keilty and Ms. Jessie Mulling. No one appeared to speak in favor. No one appeared to speak in opposition.

P168-19 COUNCILLOR CHAREST – BE IT ORDERED by the City Council of the City of Peabody that the application from J Cakes, LLC, 13 Bertoni Road, Gloucester, MA, for a Special Permit to operate a retail bakery within the premises at 7A Bourbon 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 reason:

Reason: The City Council has determined that the application as submitted and approved meets the general requirements of Section 6.1 of the Peabody Zoning Ordinance, specifically 6.1.2 which 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.  
(Carried 10-0; Councillor O'Neill absent)

A public hearing was duly held on the application submitted by Essex County Brewing Company, 58 Pulaski Street, Peabody, MA. Appearing to speak on behalf of the application was Mr. Peter Doig. Mr. Michael Theriault, 45 Pulaski Street, Peabody, MA, appeared to speak in favor. Ms. Kathy Wells, 22 Westview Circle, Peabody, MA, appeared to speak in opposition.

P169-19 COUNCILLOR MOUTSOULAS – MOVE TO approve the application submitted by Essex County Brewing Company, 58 Pulaski Street, Peabody, MA, for an Entertainment License for the use of non-live entertainment, specifically television, radio and digital interest music; and live entertainment, specifically karaoke, DJ, and live entertainment in the form of live music and social entertainment to include one- or two-person acoustical or guitar music, with the following condition and subject to all papers being in order:

**CONDITION:**

1. The hours of entertainment shall be Thursday and Friday from 4:00 p.m. to 8:00 p.m., Saturday from 2:00 p.m. to 9:00 p.m., and Sunday from 12:00 p.m. to 4:00 p.m.

A public hearing was duly held on Zoning Amendment – Section 6.15 – Mill Overlay District, 58 Pulaski Street. Mr. Curt Bellavance, Dir., Community Development, appeared to speak on behalf of the City. Mr. Michael Theriault, 45 Pulaski Street, Peabody, MA, and Mr. Alex Martins, 49 Paleologos Street, Peabody, MA, appeared to speak in favor. No one appeared to speak in opposition.

P170-19 COUNCILLOR MOUTSOULAS – MOVE TO receive, under suspension of the rules, Item 8-G communication from Curt Bellavance, Dir., Community Development, regarding Proposed Zoning Amendment: Mill Overlay District; Planning Board recommendation. (Unanimous)

P171-19 COUNCILLOR MOUTSOULAS – BE IT ORDAINED by the City Council of the City of Peabody that the following Zoning Ordinance be adopted as advertised and read:

That the Zoning Ordinance of the City of Peabody entitled Zoning Ordinance - 2011, as amended through June 28, 2018, is hereby further amended as follows:

**SECTION ONE:** By amending Section 6 Entitled Special Regulations as follows:

By adding a new Section 6.15 entitled Mill Overlay District as follows:

- 6.15 Purpose
- 6.15.1 Establishment
- 6.15.2 Boundaries
- 6.15.3 Applicability and Relationship to Underlying Zoning
- 6.15.4 Permitted Uses
- 6.15.4.1 The following uses shall be permitted by right in the Mill Overlay District (MOD)
- 6.15.4.2 The following uses shall be permitted by Special Permit in the Mill Overlay District (MOD)
- 6.15.5 Parking, Landscaping, Façade, Signs and Pedestrian Accommodation
- 6.15.6 Noise
- 6.15.7 Relationship to Underlying Zoning
- 6.15.8 Waivers

**SECTION TWO:** That the Zoning Map of the City of Peabody entitled, City of Peabody Zoning Map Adopted April 28, 2011, as amended, is hereby further amended as follows:

To include within the Mill Overlay District the following locations:  
Assessors Map 053, Parcel 047 and numbered 58 Pulaski Street

**SECTION THREE:** All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

**SECTION FOUR:** This ordinance shall take effect as provided by law.  
(Carried 10-0; Councillor O'Neill absent)

A public hearing was duly held on Zoning Amendment – Section 2 Definitions: Studio, motion picture and television filming; Section 4: Table 4.2 Schedule of Use Regulations. Mr. Curt Bellavance, Dir., Community Development, appeared to speak on behalf of the City. No one appeared to speak in favor. No one appeared to speak in opposition.

P172-19 COUNCILLOR MCGINN – MOVE TO receive, under suspension of the rules, Item 8-H communication from Curt Bellavance, Dir., Community Development, regarding Proposed Zoning Amendment: Studio, motion picture and television filming; Planning Board recommendation. (Unanimous)

P173-19 COUNCILLOR MCGINN – BE IT ORDAINED by the City Council of the City of Peabody that the following Zoning Ordinance be adopted as advertised and read:

That the Zoning Ordinance of the City of Peabody entitled Zoning Ordinance - 2011, as amended through June 28, 2018, is hereby further amended as follows:

**SECTION ONE:** By adding to Section 2: Definitions to the Zoning Ordinance:  
**Studio, motion picture and television filming.** A building used for creating, editing, and producing film or video without spectators.

**SECTION TWO:** To amend Section 4: Table 4.2 Schedule of Use Regulations to allow studio, motion picture and television filming, by Special Permit in the following zoning districts: Light Industrial (IL), Industrial Park (IP), and Designated Development District (DDD).

**SECTION THREE:** All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

**SECTION FOUR:** This ordinance shall take effect as provided by law.  
(Carried 10-0; Councillor O'Neill absent)

A public hearing was duly held on Zoning Amendment – Section 4.2.5 “Uses” – Charitable Retail Facilities. Mr. Curt Bellavance, Dir., Community Development, appeared to speak on behalf of the City. Mr. Joel Brenner, 5 Alexander Street, Peabody, MA, and Mr. Alex Martins, 49 Paleologos Street, Peabody, MA, appeared to speak in favor. No one appeared to speak in opposition.

P174-19 COUNCILLOR MCGINN – MOVE TO receive, under suspension of the rules, Item 8-I communication from Curt Bellavance, Dir., Community Development, regarding Proposed Zoning Amendment: Charitable Retail Facilities; Planning Board recommendation. (Unanimous)

P175-19 COUNCILLOR MCGINN – BE IT ORDAINED by the City Council of the City of Peabody that the following Zoning Ordinance be adopted as advertised and read:

That the Zoning Ordinance of the City of Peabody entitled Zoning Ordinance - 1978, as amended, is hereby further amended as follows:

**SECTION ONE:** By amending Section 4.2.5 "Uses" by adding the use "charitable retail facilities of less than 12,000 square feet in size where such charitable entity is a nonprofit organization with an IRS 501(c)(3) designation and is engaged in the sale of general merchandise, furniture, household goods, dry goods, clothing, hardware, paint, household appliances, and/or books" and by adding the designation of " SP" in the I-L Zone in the column for charitable retail facilities of less than 12,000 square feet in size where such charitable entity is a nonprofit organization with an IRS 501(c)(3) designation and is engaged in the sale of general merchandise, furniture, household goods, dry goods, clothing, hardware, paint, household appliances, and/or books.

**SECTION TWO:** All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

**SECTION THREE:** This ordinance shall take effect as provided by law.  
(Carried 10-0; Councillor O'Neill absent)

### **REPORTS OF COMMITTEE**

#### **Committee of the Whole** **March 14, 2019**

P176-19 COUNCILLOR TURCO – Reporting for the Committee of the Whole – Tonight we had a Committee of the Whole meeting and all councillors were present with the exception of Councillor O'Neill.

The residential overlay was the primary discussion from Councillor Manning-Martin. The first question she had was in regard to why the city opted to go with just older structures, as opposed to new structures. and Mr. Bellavance fully addressed that issue and Councillor Manning was satisfied with that. Councillor Manning-Martin made the following motion. (Report received)

P177-19 COUNCILLOR TURCO – Reporting for the Committee of the Whole – MOVE TO increase the Inclusionary Zoning to 25 percent in Section 6.16.3(H). (Carried 10-0; Councillor O'Neill absent)

P178-19 COUNCILLOR TURCO – Reporting for the Committee of the Whole – Also discussed by Councillor Manning-Martin was Section 6.16.4.7, which is Landscaping & Lighting. The question was in regard to the current billboards as they exist and the affect they may have on residential properties in the area of the overlay district. Curt Bellavance reminded us that these are Special Permits and we can address those issues when they come before the council. Councillor Manning-Martin also asked questions regarding Section 6.16.4.9 and those were in regard to the duties of the ZBA and/or the engineering department and whether we as the council would be taking on some of those roles and I believe the general answer to that is, no, we would not be with the exception of a public project that caused the variance request. So with that I think Councillor Manning-Martin was very satisfied that all her questions were answered. Also brought up from Councillor Saslaw was the chart that defined the height restrictions of the buildings and Councillor Saslaw made the following motion. (Report received)

P179-19 COUNCILLOR TURCO – Reporting for the Committee of the Whole – MOVE TO increase the height restrictions in Section 6.16.3(F) District Regulations in Request (A) from 4/45-feet to 3/36-feet and Request (B) from 5/60-feet to 4/45-feet. (Carried 10-0; Councillor O'Neill absent)

P180-19 COUNCILLOR MCGINN – MOVE TO add the following sentence in Section 6.16.3 District Regulations, Section (H), "As described in Section 6.11.3(A)," which is the reference in Inclusionary Zoning, "projects under Section 6.16.0 Residential Overlay District will require an additional 10 percent of the total number of units to be affordable for a minimum of 25 percent." (Carried 10-0; Councillor O'Neill absent)

P181-19 COUNCILLOR MCGINN – MOVE TO advance to the Planning Board the proposed amendment to the Zoning Ordinance creating a new Section 6.16.0 Residential Overlay District with the addition of the three changes made and voted on this evening. (Carried 10-0; Councillor O'Neill absent)

### **MOTIONS, ORDERS AND RESOLUTIONS**

P182-19 COUNCILLOR MELVILLE – MOVE TO receive under, suspension of the rules, Item 8-C communication from Lisa Young, Regional Manager of Land and Environment, Aggregate Industries Northeast Region, regarding Aggregate Industries 2018 Annual Report and refer to the Committee of the Whole. (Unanimous)

P183-19 COUNCILLOR MELVILLE – MOVE TO receive, under suspension of the rules, late communication Item 2 from His Honor the Mayor regarding Open Meeting Law Training Workshop on Tuesday, April 9, 2019 at 5:30 p.m. in the Frank L. Wiggin Auditorium. (Unanimous)

P184-19 COUNCILLOR MCGINN – MOVE TO request a handicapped sign along the property line of 12 Carlton Street, and that an ordinance be drafted and advertised on the same. (Unanimous)

P185-19 COUNCILLOR SASLAW – MOVE TO receive and approve, under suspension of the rules, Item 8-B communication from Albert Talarico, Bldg. Commissioner, regarding Transfer of Special Permit 11-2002; Alycia Thorton, 484 Lowell Street, Suite 1B-3, subject to all papers being in order. (Unanimous)

P186-19 COUNCILLOR SASLAW – MOVE TO receive, under suspension of the rules, Item 9-B Entertainment License (New) Grecian Diner and Tavern, Inc., 136 Newbury Street, and set up a public hearing. (Unanimous)

P187-19 COUNCILLOR SASLAW – MOVE TO receive, under suspension of the rules, Item 9-C Class 2 Motor Vehicle License (Transfer) Improtex Auto, Inc., 288 Newbury Street, and set up a public hearing. (Unanimous)

P188-19 COUNCILLOR SASLAW – MOVE TO request that the Public Services Department repair the potholes at 27 Goodale Street. (Unanimous)

P189-19 COUNCILLOR SASLAW – MOVE TO request that the Public Services Department repair the “spidering” and sinking of the pavement in front of 55 Goodale Street. (Unanimous)

P190-19 COUNCILLOR SASLAW – MOVE TO request that the Public Services Department remove and replace the demolished curbing at 87 Goodale Street. (Unanimous)

P191-19 COUNCILLOR SASLAW – MOVE TO request that the Public Services Department remove and replace the demolished curbing at 47 and 49 Downing Road. (Unanimous)

P192-19 COUNCILLOR CHAREST – MOVE TO receive, under suspension of the rules, Item 8-A communication from Albert Talarico, Bldg. Commissioner, regarding Carwash – Cease & Desist – No Special Permit – Dorjan Tozaj, 210 Andover Street. (Unanimous)

P193-19 COUNCILLOR CHAREST – MOVE TO receive, under suspension of the rules, Item 8-D communication from Dorjan Tozaj, 210 Andover Street, regarding Special Permit application and set up a public hearing. (Unanimous)

P194-19 COUNCILLOR CHAREST – MOVE TO receive, under suspension of the rules, Item 8-E communication from J.P. Morgan Chase Bank, N.A., c/o David L. Ankeles, Esq., 210 Andover Street, regarding Special Permit application and set up a public hearing. (Unanimous)

P195-19 COUNCILLOR CHAREST – MOVE TO request that the Public Services Department notify the contractor doing work on Lowell Street that all concrete sidewalks that are damaged must be replaced with concrete and not asphalt. (Unanimous)

P196-19 COUNCILLOR GOULD (Co-motion with Councillor Turco) – MOVE TO request that the Public Services Department repaint the crosswalk from Greenwood Road to MacArthur Road with red paint. (Unanimous)

P197-19 COUNCILLOR GOULD (Co-motion with Councillor McGinn) – MOVE TO request that the Public Services Department repair the guardrail in front of 20 Lynnfield Street. (Unanimous)

P198-19 COUNCILLOR GRAVEL – MOVE TO receive, under suspension of the rules, late communication Item 3 from His Honor the Mayor regarding SOI – Peabody Veterans Memorial High School and Center School and refer to the Finance Committee. (Unanimous)

P199-19 COUNCILLOR TURCO – MOVE TO request that the Police Department and Public Services Department conduct a traffic study of the Lynnfield Street area inclusive of Bartholomew Street. (Unanimous)

#### **COMMUNICATIONS FROM HIS HONOR THE MAYOR**

Previously received.

#### **COMMUNICATIONS FROM CITY OFFICERS AND OTHERS**

P200-19 COUNCILLOR MCGINN – MOVE TO receive a communication from Andrew Levin, City Planner, regarding Site Plan Review Application – 251 Andover Street. (Unanimous)

**PRESENTATION OF PETITIONS, MEMORIALS AND REMONSTRANCES**

P201-19 COUNCILLOR MCGINN – MOVE TO receive and approve Entertainment License (2019 Renewal)  
The Wardhurst, 31 Lynnfield Street, subject to all papers being in order. (Unanimous)

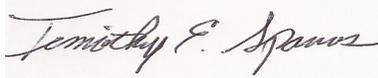
**UNFINISHED BUSINESS FROM THE PRECEDING MATTER**

None.

MOVED: MOVE TO adjourn. Regular meeting of the Peabody City Council adjourned at 9:25 p.m.

SUBMITTED TO HIS HONOR THE MAYOR, MARCH 19, 2019  
RETURNED BY HIS HONOR THE MAYOR, MARCH 19, 2019

ATTEST



(Timothy E. Spanos, City Clerk)

**COMMUNICATIONS:**

Albert Talarico, Bldg. Commissioner, re: Carwash – Cease & Desist – No Special Permit – Dorjan Tozaj, 210 Andover Street

Albert Talarico, Bldg. Commissioner, re: Transfer of Special Permit 11-2002; Alycia Thorton, 484 Lowell Street, Suite 1B-3

Lisa Young, Regional Manager of Land and Environment, Aggregate Industries Northeast Region, re: Aggregate Industries 2018 Annual Report

Dorjan Tozaj, 210 Andover Street, re: Special Permit application

J.P. Morgan Chase Bank, N.A. c/o David L. Ankeles, Esq., 210 Andover Street, re: Special Permit application

Andrew Levin, City Planner, re: Site Plan Review Application – 251 Andover Street

Curt Bellavance, Dir., Community Development, re: Proposed Zoning Amendment: Mill Overlay District; Planning Board recommendation

Curt Bellavance, Dir., Community Development, re: Proposed Zoning Amendment: Studio, motion picture and television filming; Planning Board recommendation

Curt Bellavance, Dir., Community Development, re: Proposed Zoning Amendment: Charitable Retail Facilities; Planning Board recommendation

**ENTERTAINMENT LICENSE:** (2019 Renewal)

The Wardhurst, 31 Lynnfield Street

**ENTERTAINMENT LICENSE:** (New)

Grecian Diner and Tavern, Inc., 136 Newbury Street

**CLASS 2 MOTOR VEHICLE LICENSE:** (Transfer)

Improtex Auto, Inc., 288 Newbury Street