

**REGULAR MEETING OF THE PEABODY CITY COUNCIL**  
**APRIL 27, 2017**

PRESENT COUNCILLORS: MANNING-MARTIN, GARABEDIAN, GRAVEL, TURCO, GOULD, MCGINN, WALSH, MOUTSOULAS, CHAREST, SINEWITZ, AND SASLAW

ABSENT COUNCILLORS: None

Meeting of the Peabody City Council opened with a moment of silent prayer after being called to order by City Council President, Joel D. Saslaw.

Salute to the American Flag.

P254-17 COUNCILLOR GOULD – MOVE TO receive and approve the minutes from the regular meeting of April 6, 2017. (Unanimous)

COUNCILLOR SASLAW - 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.

**HEARINGS**

A public hearing was duly held on the application from Alchemy Collectibles, 40 Lowell Street, Suite 12, Peabody, MA. Appearing to speak on behalf of the application was Mr. Robert Conway. No one appeared to speak in favor. No one appeared to speak in opposition.

P255-17 COUNCILLOR MCGINN - MOVE TO receive, under suspension of the rules, Item 8-B communication from Anthony J. Tierno, Courthouse Holding, LLC, 40 Lowell Street, regarding In support of Junk Dealers License for 40 Lowell Street. (Unanimous)

P256-17 COUNCILLOR MCGINN – MOVE TO approve the application from Alchemy Collectibles, 40 Lowell Street, Suite 12, Peabody, MA, for a Junk Dealers License at said 40 Lowell Street, Suite 12, Peabody, MA, subject to all papers being in order. (Carried 11-0)

P257-17 COUNCILLOR MCGINN – MOVE TO receive, under suspension of the rules, Item 8-A communication from Karen Weeden, 27 Lynnfield Street, regarding Opposition letter to application from Wardhurst Restaurant/amend Entertainment License and to refer to the public hearing. (Unanimous)

P258-17 COUNCILLOR MCGINN – MOVE TO receive, under suspension of the rules, Item 8-G communication from Attorney Michael Smerczynski, City Solicitor, regarding Legal opinion; Wardhurst (Motion P217-17). (Unanimous)

P259-17 COUNCILLOR MCGINN - MOVE TO continue the public hearing on the application from Wardhurst Restaurant, 31 Lynnfield Street, regarding applicant's request to amend its Entertainment License to obtain an opinion from the Legal Department as to the necessity for the applicant to apply simultaneously for a Special Permit to alter or extend a pre-existing nonconforming use pursuant to Section 1.5.1 of the Zoning Ordinance. On the motion to be noted for the record, the applicant was contacted by the City Clerk and assents to the continuance. (Unanimous)

A public hearing was duly held on the application from Andrey Borzykin, 219 Harvard Avenue, Allston, MA. Appearing to speak on behalf of the application was Mr. Andrey Borzykin, Mr. Aliaksei Rudy, and Mr. Anthony Alba. No one appeared to speak in favor. No one appeared to speak in opposition.

P260-17 COUNCILLOR SASALW – MOVE TO receive, under suspension of the rules, late communication Item 1 from Police Department regarding Incident report; Prestige Motors, 288 Newbury Street. (Unanimous)

P261-17 COUNCILLOR SASLAW – MOVE TO recess the public hearing on the application for transfer of a Class 2 Motor Vehicle License from Andrey Borzykin, 219 Harvard Avenue, Allston, MA and Rudy Aliaksei, 156 Porter Street, Boston, MA for property at 288 Newbury Street until a site visit is conducted with the Ward Councillor, Building Commissioner, Fire & Police Department. (Unanimous)

A public hearing was duly held on the application from Bertucci's Restaurant Corp., 15 Newbury Street, Peabody, MA. Appearing to speak on behalf of the application was Mr. Shawn Gillis. No one appeared to speak in favor. No one appeared to speak in opposition.

P262-17 COUNCILLOR SASLAW – MOVE TO approve the application from Bertucci's Restaurant Corp., 15 Newbury Street, Peabody, MA, to amend an Entertainment License to allow for live entertainment, specifically live music, at said 15 Newbury Street, Peabody, MA, subject to all papers being in order. (Carried 11-0)

P263-17 COUNCILLOR SASLAW – MOVE TO receive, under suspension of the rules, late communication Item 2 from Attorney John Keilty, 40 Lowell Street, Peabody, on behalf of Outdoor Ad Concepts, regarding Request for continuance; remand hearing, 41 Newbury Street. (Unanimous)

P264-17 COUNCILLOR SASLAW – MOVE TO continue the public hearing on the Remand Order from Superior Court regarding Outdoor Ad Concepts, 41 Newbury Street, Peabody, MA, until Thursday, May 25, 2017. (Unanimous)

## **REPORTS OF COMMITTEE**

### **LEGAL AFFAIRS COMMITTEE APRIL 20, 2017**

P265-17 COUNCILLOR GRAVEL – Reporting for the Legal Affairs Committee – There was a Legal Affairs Committee meeting. The Committee consisted of myself as chair, Councillor Garabedian, Councillor Gould, Councillor Turco; and also in attendance were Councillor Manning-Martin, Councillor Moutsoulas, Councillor Saslaw, Councillor Charest, Councillor Garabedian, and Councillor McGinn. The meeting was held on the evening of April 20th here in the Wiggin and it was to discuss proposed language for the amendment of the Zoning Ordinance regarding the moratorium on the retail sales of recreational marijuana. After some discussion there was a motion. (Report received)

P266-17 COUNCILLOR GRAVEL – Reporting for the Legal Affairs Committee – MOVE THAT the proposed zoning amendment creating a moratorium on the retail sale of recreational marijuana be forwarded to the Planning Board in conjunction with the zoning amendment process of Chapter 40A, Section 5, of the Massachusetts General Laws as follows: By adding under Section 6 "Special Regulation" as a new Section 6.1.4 entitled "Temporary moratorium on the sale and distribution of recreational marijuana. There shall be a temporary moratorium through December 31st, 2018, on the usage of land or structures for recreational marijuana establishment and marijuana retail, which use shall include, without limitation, the operation of any marijuana establishment as defined in General Law Chapter 94G, Section 1, including, without limitation, a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer, or any type of licensed marijuana related business. And that the prohibition shall not apply to the sale, distribution, or cultivation of marijuana for medical purposes, as licensed under Chapter 369 of the Acts of 2012. (Unanimous)

### **FINANCE COMMITTEE APRIL 20, 2017**

P267-17 COUNCILLOR GRAVEL – Reporting for the Finance Committee – On that same evening there was a meeting of the Finance Committee. I was acting as chair joined by Councillor Gould, Councillor Manning-Martin, Councillor McGinn, Councillor Turco; and also at that meeting were Councillor Garabedian, Councillor Moutsoulas, Councillor Charest, and Councillor Saslaw. There were several items on the agenda for transfers. There was a considerable amount of discussion. After discussion the following motions were made. (Report received)

P268-17 COUNCILLOR GRAVEL – MOVE TO approve the following transfer, as submitted by His Honor the Mayor, under date of March 28, 2017:

**FROM:**

Police Budget

100-2100-52111 Electricity	\$ 4,000.00
100-2100-52211 Water	500.00
100-2100-52321 Computer Maint.	5,000.00
100-2100-53010 Prof. Services	1,000.00
100-2100-53137 Training	15,000.00
100-2100-53145 Accreditation	2,750.00
100-2100-Postage	1,000.00
100-2100-Gasoline	20,000.00
100-2100-Forms/Printing	500.00
100-2100-Misc. Reimb.	500.00
Total	<u>\$ 50,250.00</u>

**TO:**

Police Budget

100-2100-51130 Overtime \$ 50,250.00

**FROM:**

Budgeted Reserve

100-1320-57410 - \$337,050.00

**TO:**

Police Budget

100-2100-51110 Salaries \$225,000.00

100-2100-51130 Overtime \$112,050.00  
\$337,050.00**FROM:**

Unreserved Fund Balance

100-00000-35901 - \$361,500.00

**TO:**

Police Budget

100-2100-51130 Overtime \$153,700.00

100-2100-51136 Drug OT \$115,000.00

100-2100-51137 Dispatch OT \$ 92,800.00  
\$361,500.00

(Carried 10-0; Councillor Manning-Martin voting present)

P269-17 COUNCILLOR GRAVEL – MOVE TO approve the following transfer, as submitted by His Honor the Mayor, under date of March 28, 2017:

**FROM:**

Unreserved Fund Balance

100-00000-35901 - \$692,000.00

Carried 10-0: Councillor Garabedian absent)

**TO:**

Fire Budget

100-2200-51130 Overtime - \$692,000.00

P270-17 COUNCILLOR GRAVEL – Reporting for the Finance Committee - Finally there was a report by the Finance Director on the status of our bond rating and the status of our finances, as associated with our general obligation bonds. The report was positive and the motion was made by Councillor Gould to receive the report of progress updating the City Council on these bonds. (Report received)

**INDUSTRIAL & COMMUNITY DEVELOPMENT COMMITTEE****APRIL 27, 2017**

P271-17 COUNCILLOR MCGINN – Reporting for the Industrial & Community Development Committee – There was a meeting of the Industrial & Community Development Committee meeting as the Committee of the Whole this evening April 27th; all councillors were present. There was a presentation from the mayor regarding his parking proposal and the elements of the plan. It was debated extensively and there were four motions as follows. (Report received)

P272-17 COUNCILLOR MCGINN – Reporting for the Industrial & Community Development Committee – MOVE TO refer to the Planning Board the proposed amendment to the Zoning Ordinance adding a new Section 9.2.1 entitled Central Business Parking Requirements, as referenced in the Mayor’s language in the Mayor’s February 16, 2017, communication regarding changes to the Zoning Ordinance, as amended, during the April 27, 2017, meeting of the Industrial & Community Development Committee sitting as the Committee of the Whole.

(Carried 9-2; Councillor Manning-Martin and Councillor Sinewitz opposed)

P273-17 COUNCILLOR MCGINN – Reporting for the Industrial & Community Development Committee – MOVE TO amend the special permit application to include the Parking Management Plan details as described in the Mayor’s February 16, 2017, communication and such amendment to the special permit application shall be effective no sooner than the effective date of changes to the Zoning Ordinance related to parking requirements in the B-C zoning district. (Carried 8-3; Councillor Manning-Martin, Councillor Gravel, and Councillor Sinewitz opposed)

P274-17 COUNCILLOR MCGINN – Reporting for the Industrial & Community Development Committee – MOVE TO advertise the Section 19-108.1 ordinance change described in the Mayor’s February 16, 2017, communication and such ordinance change shall be effective no sooner than the effective date of changes to the Zoning Ordinance related to parking requirements in the B-C zoning district. (Carried 9-2; Councillor Manning-Martin and Councillor Sinewitz opposed)

P275-17 COUNCILLOR MCGINN - Reporting for the Industrial & Community Development Committee – MOVE THAT the Industrial & Community Development Committee further consider the Peabody Downtown Action Team communication dated May 19, 2016, received by the City Council on May 26, 2016, regarding various parking matters in the B-C zoning district, other than the residential parking requirement. (Unanimous)

#### **COMMITTEE OF THE WHOLE**

##### **APRIL 27, 2017**

P276-17 COUNCILLOR SASLAW – Reporting for the Committee of the Whole – The Committee of the Whole met regarding a review of the 2016 Aggregate Industries Annual Report. Councillor Sinewitz brought us up-to-date on the 2016 report. There were nine blasts. There were three complaints. There were three fines that were continued without a finding. If they have another fine, I believe the three fines will be retroactive. There was public comment from one of the residents thanking Councillor Sinewitz and regarding some aspects of some water being used up at the property. There were two motions that came out the subcommittee. (Report received)

P277-17 COUNCILLOR SASLAW – Reporting for the Committee of the Whole – MOVE TO request that all Councillors receive an electronic copy of the Special Permit. (Unanimous)

P278-17 COUNCILLOR SASLAW – Reporting for the Committee of the Whole – MOVE TO approve the 2016 Aggregate Industries Annual Report. (Unanimous)

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

P279-17 COUNCILLOR MANNING-MARTIN – MOVE TO receive, under suspension of the rules, Item 8-E communication from Timothy Spanos, City Clerk, regarding List of special municipal employees and to refer to the Legal Affairs Committee. (Unanimous)

P280-17 COUNCILLOR MANNING-MARTIN – MOVE TO request that the City Clerk provide the City Council with information regarding the rationale for each of the positions being listed as a special municipal employee. (Unanimous)

P281-17 COUNCILLOR GRAVEL – MOVE TO receive, under suspension of the rules, Item 7-B communication from His Honor the Mayor regarding Transfer of funds for Brooksby Farm and to refer to the Finance Committee. (Unanimous)

P282-17 COUNCILLOR GRAVEL – MOVE TO receive, under suspension of the rules, Item 7-C communication from His Honor the Mayor regarding Transfer of funds; CPA South School Playground and to refer to the Finance Committee. (Unanimous)

P283-17 COUNCILLOR TURCO – MOVE TO receive, under suspension of the rules, Item 7-A communication from His Honor the Mayor regarding Update regarding the ACO for the L. Fine property, 143 Lynnfield Street. (Unanimous)

P284-17 COUNCILLOR TURCO – MOVE TO receive, under suspension of the rules, Item 8-C communication from Massachusetts State Lottery Commission regarding Keno License; Stonewood Tavern, 139 Lynnfield Street. (Unanimous)

P285-17 COUNCILLOR TURCO – MOVE TO receive, under suspension of the rules, Item 8-N communication from 91 Lynnfield Street Peabody, LLC, 91 Lynnfield Street, regarding Request to amend the Zoning Map and to refer to the Planning Board. (Unanimous)

P286-17 COUNCILLOR TURCO – MOVE TO receive and approve, under suspension of the rules, Item 9-A Block Party – Partial block at West Diane Road and Waselchuk Drive, Saturday, July 3, 2017, subject to all papers being in order. (Unanimous)

P287-17 COUNCILLOR TURCO – MOVE TO request that the Public Services Department pick up the asphalt berm, which is on the front lawn at 15 Will Sawyer Road. (Unanimous)

P288-17 COUNCILLOR GOULD (Co-motion with Councillor Moutsoulas) – MOVE TO request that the Public Services Department repair and reseed the front of 19 Buxton Lane that was damaged over the winter by plows. (Unanimous)

P289-17 COUNCILLOR MCGINN – MOVE TO request a handicapped sign for 16 Swampscott Avenue, and that an ordinance be drafted and advertised on the same. (Unanimous)

P290-17 COUNCILLOR MCGINN – MOVE TO receive, under suspension of the rules, Item 9-B Entertainment License (New) – Heaven's Taste Steakhouse, 150 Main Street, and to set up a public hearing. (Unanimous)

P291-17 COUNCILLOR WALSH – MOVE TO request that the City Clerk send a communication to the Verizon representative and any other carriers of telephone wires to remove or secure any hanging wires. Discontinued or unused wires are not being properly secured. (Unanimous)

P292-17 COUNCILLOR MOUTSOULAS – MOVE TO receive, under suspension of the rules, Item 8-J communication from Nascimento Santos, 36 Oak Street, regarding Special Permit application and to set up a public hearing. (Unanimous)

P293-17 COUNCILLOR CHAREST – MOVE TO receive, under suspension of the rules, Item 8-O communication from Timothy Healy, Facilities Manager, regarding Update on Wiggin Auditorium improvements project. (Unanimous)

P294-17 COUNCILLOR CHAREST – MOVE TO request that the Peabody Municipal Light Plant attach streetlights to the existing poles on the entire length of Essex Center Drive from Lahey Medical Center to the post office. (Unanimous)

P295-17 COUNCILLOR CHAREST – MOVE TO request that the City Solicitor provide a legal opinion on how to solicit funds, i.e., the formation of a 501(c)(3), to replace the gazebo at Emerson Park. (Unanimous)

P296-17 COUNCILLOR SINEWITZ – MOVE TO request that the Public Services Department repair the sidewalk at 2 Upham Drive. The plows ripped up the grass, curb, and sprinkler system. (Unanimous)

P297-17 COUNCILLOR SINEWITZ – MOVE TO request that the Public Services Department add the intersection of Intervale Avenue and Gates Road to the paving list. (Unanimous)

P298-17 COUNCILLOR SINEWITZ – MOVE TO receive, under suspension of the rules, Item 8-L communication from Albert Talarico, Building Commissioner, regarding Transfer of Special Permit 24-2000; Nassib Adas, 649 Lowell Street, and to refer back to the Building Commissioner for a new Special Permit application. (Unanimous)

P299-17 COUNCILLOR CHAREST – MOVE TO receive and approve, under suspension of the rules, Item 8-K communication from Albert Talarico, Building Commissioner, regarding Transfer of Special Permit 4-1981; Malka Ahmed Photography, 484 Lowell Street, subject to all papers being in order. (Unanimous)

P300-17 COUNCILLOR SASLAW – MOVE TO request that the Public Services Department repair the berm and the grass in front of 12 Martin Circle. (Unanimous)

P301-17 COUNCILLOR SASLAW – MOVE TO request that the Public Services Department remove the broken asphalt from the sidewalk on the corner of Southwick Avenue and Crane Avenue. (Unanimous)

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

Previously received.

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

P302-17 COUNCILLOR WALSH – MOVE TO receive a communication from Attorney Michael Smerczynski, City Solicitor, regarding Legal opinion; Billboards and to refer to the Legal Affairs Committee. (Unanimous)

P303-17 COUNCILLOR WALSH – MOVE TO receive a communication from Planning Board regarding Agenda and minutes. (Unanimous)

P304-17 COUNCILLOR WALSH – MOVE TO receive a communication from David Terenzoni, Director, Public Services Department, regarding Completed Council motion; P639-17. (Unanimous)

P305-17 COUNCILLOR WALSH – MOVE TO receive a communication from Lisa Young, Aggregate Industries, 1715 Broadway, Lynnfield, regarding Addendum addition to 2016 annual report. (Unanimous)

P306-17 COUNCILLOR WALSH – MOVE TO receive a communication from Albert Talarico, Building Commissioner, regarding Transfer of Special Permit 19-2015; Rudy Aliaksei and Andrey Borzykin, 288 Newbury Street, and to refer to the public hearing. (Unanimous)

### **PRESENTATION OF PETITIONS, MEMORIALS AND REMONSTRANCES**

P307-17 COUNCILLOR MANNING-MARTIN – MOVE TO receive and approve the following Junk Dealers License (Renewal for 2017), subject to all papers being in order:

Kay Jewelers #1244, 210 Andover Street  
Golden Link, 515 Lowell Street  
(Unanimous)

P308-17 COUNCILLOR GRAVEL – MOVE TO receive and approve the following Taxi/Limousine Driver (Transfer), subject to all papers being in order:

Alan Marchesini – License 73  
Michelle Glen – License 74  
(Unanimous)

**UNFINISHED BUSINESS FROM THE PRECEDING MATTER**

{Item 10-A Bartholomew Street}

P309-17 COUNCILLOR TURCO – BE IT ORDERED by the City Council of the City of Peabody that An Ordinance Amending Chapter 19, Article II, Operation of Vehicles of the Code of the City of Peabody; Section 19-27 Exclusion of Heavy and Commercial Vehicles on Certain Streets (Bartholomew Street) be adopted as advertised and read. (Unanimous)

{Item 10-B Public Consumption of Marijuana Prohibited}

P310-17 COUNCILLOR MCGINN – BE IT ORDERED by the City Council of the City of Peabody that An Ordinance Amending Chapter 20 Offenses of the Code of the City of Peabody (Public Consumption of Marijuana Products) be adopted as advertised and read. (Unanimous)

{Item 10-C Minimum wage rates}

P311-17 COUNCILLOR WALSH – BE IT ORDERED by the City Council of the City of Peabody that An Ordinance Amending the Classification and Compensation Plan of the Code of the City of Peabody (Minimum wage rates) be adopted as advertised and read. (Unanimous)

MOVED: MOVE TO adjourn. Regular meeting of the Peabody City Council adjourned at 10:00 p.m.

SUBMITTED TO HIS HONOR THE MAYOR, MAY 4, 2017

RETURNED BY HIS HONOR THE MAYOR, MAY 4, 2017

ATTEST



(Timothy E. Spanos, City Clerk)

**COMMUNICATIONS:**

His Honor the Mayor re: Update regarding the ACO for the L. Fine property, 143 Lynnfield Street

His Honor the Mayor re: Transfer of funds for Brooksby Farm

His Honor the Mayor re: Transfer of funds; CPA South School Playground

Karen Weeden, 27 Lynnfield Street re: Opposition letter to application from Wardhurst Restaurant/amend Entertainment License

Anthony J. Tierno, Courthouse Holding, LLC, 40 Lowell Street re: In suppose of Junk Dealer License for 40 Lowell Street

Massachusetts State Lottery Commission re: Keno License; Stonewood Tavern, 139 Lynnfield Street

David Terenzoni, Director, Public Services Department re: Completed Council motion; P639-17

Timothy Spanos, City Clerk re: List of special municipal employees (Motion P238-17)

Attorney Michael Smerczynski, City Solicitor re: Legal opinion; Billboards (Motion P226 and 227-17)

Attorney Michael Smerczynski, City Solicitor re: Legal opinion; Wardhurst (Motion P217-17)

Lisa Young, Aggregate Industries, 1715 Broadway, Lynnfield re: Addendum addition to 2016 annual report

Planning Board re: Agenda and minutes

Nascimento Santos, 36 Oak Street re: Special Permit application

Albert Talarico, Building Commissioner re: Transfer of special permit 4-1981; Malka Ahmed Photography, 484 Lowell Street

Albert Talarico, Building Commissioner re: Transfer of special permit 24-2000; Nassib Adas, 649 Lowell Street

Albert Talarico, Building Commissioner re: Transfer of special permit 19-2105; Rudy Aliaksei and Andrey Borzykin, 288 Newbury Street

91 Lynnfield Street Peabody, LLC, 91 Lynnfield Street re: Request to amend the zoning map

Timothy Healy, Facilities Manager re: Update on Wiggin Auditorium improvements project

**BLOCK PARTY:**

Partial block at West Diane Road and Waselchuk Drive – Saturday, July 3, 2017

**ENTERTAINMENT LICENSE:** (New)

Heaven” Taste Steakhouse, 150 Main Street

**JUNK DEALER LICENSE:** (Renewal for 2017)

Kay Jewelers #1244, 210 Andover Street

Golden Link, 515 Lowell Street

**TAXI/LIMOUSINE DRIVER LICENSE:**

Alan Marchesini – License 73

Michelle Glen – License 74