

**REGULAR MEETING OF THE PEABODY CITY COUNCIL**  
**MAY 11, 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.

P312-17 COUNCILLOR GOULD – MOVE TO receive and approve the minutes from the regular meeting of April 27, 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.

P313-17 COUNCILLOR GRAVEL – MOVE TO receive, under suspension of the rules, Item 7-A communication from His Honor the Mayor regarding Appointment of Curt T. Bellavance, 12 Mary Rose Way, Peabody, as Director of Community Development & Planning. (Unanimous)

(MAYOR BETTENCOURT APPEARED BEFORE THE CITY COUNCIL TO INTRODUCE MR. CURT BELLAVANCE)

P314-17 COUNCILLOR GRAVEL – MOVE TO approve the appointment of Curt T. Bellavance, 12 Mary Rose Way, Peabody, MA, to the position of Director of Community Development & Planning for a three-year term to expire 12/31/2018 filling the unexpired term of Karen Sawyer Conard. (Carried 11-0)

**HEARINGS**

A public hearing was duly held on the application from ALV Corp., 11 Green Street, Danvers, MA. Appearing to speak on behalf of the application was Attorney John Keilty. Mr. Richard Medina, 1B Laurel Street, Peabody, MA; and Mr. Paul Mogavero, 15 Quarry Terrace, Peabody, MA, appeared to speak in favor. No one appeared to speak in opposition.

P315-17 COUNCILLOR TURCO – BE IT ORDERED by the City Council of the City of Peabody that the application from ALV Corp., 11 Green Street, Danvers, MA, for a Special Permit seeking the issuance of a new Special Permit for continuation of a nonconforming use, specifically the operation of a restaurant, the entire use to be for eat-in and also for takeout, in addition to the sale of dairy products, at 117 Lynnfield Street, Peabody, MA, as filed in accordance with Sections 1.5.1, 6.1, and 15.7 of the Peabody Zoning Ordinance be approved based on the following reasons and subject to the following conditions:

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.

**CONDITIONS:**

1. There shall be no expansion of the existing footprint.
2. The seating capacity shall not be more than 50 seats.
3. There shall not be a separate room for birthday parties, weddings, sports teams celebrations, i.e. Little League, Pop Warner football, etc., or other similar type functions or activities. Furthermore in order to

discourage the premises from being a so-called hangout for adolescents, there shall be no video games and/or jukeboxes.

4. There shall be no deliveries at the premises between 7:00 p.m. and 6:00 a.m.
5. Kitchen and food service activities for customers of the restaurant shall commence at 6:00 a.m. and cease at 4:00 p.m. Monday through Saturday and on Sunday it shall commence at 9:00 a.m. and cease at 4:00 p.m. For the purpose of this paragraph kitchen and food service activity shall mean the taking of customer orders. Nothing contained herein shall prohibit the preparation during other hours of food to be served later in the day or for the next day. The dairy bar service activities (which include ice cream, yogurt, and other similar type products and drinks) for customers shall continue daily until 10:00 p.m. All of the foregoing to be seven days per week as in the past. The premises shall not be open during Christmas Day.
6. No alcoholic beverages are to be sold or consumed upon the premises, nor carried in by patrons to be consumed.
7. The within Special Permit is issued to the applicant ALV Corporation and if any other person shall, in the future, seek to operate a restaurant, as aforesaid, then he/she or it, as the case may be, must petition the City Council or other appropriate permit-granting authority for a new Special Permit. Furthermore in accordance with the Zoning Ordinance, any amendments or changes in use will have to be approved by the City Council or other appropriate permit-granting authority and the plaintiff reserves all of his rights to contest and appeal same.
8. The dumpster shall be located either at the rear of the building or on the westerly side of the building. Furthermore the dumpster shall not be emptied between 7:00 p.m. and 7:00 a.m.
9. The exhaust fans shall be located toward the westerly side of the building. The kitchen shall be no closer to the easterly side of the building than the previous food preparation area.
10. The 6 foot high fence (except for the initial approximate feet of fence beginning at the front property line, shall be similar in nature to the fence on the westerly boundary of the property) shall be at the sole cost and expense of ALV Corporation, Inc., and be erected and continue to be maintained in good condition along the easterly boundary to a depth of 140 feet from the property line.
11. The easterly side of the building shall be maintained with the windows to be repaired or boarded up or sealed in a neat manner at the option of ALV Corporation.
12. Applicant shall work with Community Development Department regarding vehicular egress and access concerning the property.
13. Employees shall be encouraged to park toward the rear of the property and furthermore all plantings shall be maintained by ALV Corporation, Inc., next to the fence from the property line a distance of 50 feet in length and 5 feet in width from the foregoing fence.
14. Any trash receptacles shall be placed in visible areas, i.e., the front yard and parking lot, and shall be policed at all times with regard to litter control. Applicant can work with the Community Development Department for placement of said trash receptacles.
15. No removal of trees at the perimeter of the property on the northerly and westerly sides. In the event of an accidental or need for the removal of a tree, it shall be replaced with a tree of equal size and caliber, as was removed.
16. The dumpster/grease trap to be placed on a pad and in an enclosure.
17. Payment of real estate taxes shall be made in the amount of \$77,972.31, accruing interest, and whatever else may be owed at the time of closing to City of Peabody.
18. No expansion of the existing pavement beyond the currently paved area.  
(Carried 11-0)



(COUNCILLOR GRAVEL REMINDED THE CITY COUNCIL AND THE PUBLIC THAT THE GEORGE PEABODY LEGACY AWARDS WILL BE HELD IN THE WIGGIN AUDITORIUM NEXT THURSDAY, MAY 18TH, COMMENCING AT 6:00 P.M. TICKETS CAN BE PURCHASED ON-LINE AT A COST OF \$35.)

P323-17 COUNCILLOR TURCO – MOVE TO receive, under suspension of the rules, Item 8-H communication from Albert Talarico, Building Commissioner, regarding Proposed construction hours and to refer to the Industrial & Community Development Committee. (Unanimous)

P324-17 COUNCILLOR TURCO – MOVE TO request that the Public Services Department, through JRM, research the cost of covered recycle bins. (Unanimous)

P325-17 COUNCILLOR TURCO – MOVE TO request that the City Solicitor provide a legal opinion regarding the MLS listing for 143 Lynnfield Street as to whether the City could prevent that property from being advertised for housing since it is in an IL Zoning District. (Unanimous)

P326-17 COUNCILLOR GOULD – MOVE TO request that the Public Services Department repair the damaged berm in front of 24 Davis Terrace. (Unanimous)

P327-17 COUNCILLOR GOULD – MOVE to request that the Assessor's Office appear before the Finance Committee to explain how they derive the assessed value of a property. (Unanimous)

P328-17 COUNCILLOR MCGINN – MOVE TO receive, under suspension of the rules, Item 8-G communication from Big Pig Barbecue & Catering, 108 Newbury Street, regarding Special Permit application and to set up a public hearing. (Unanimous)

P329-17 COUNCILLOR WALSH – MOVE TO refer to the Human Services Committee, for the purpose of discussion, the possibility of equipping our first responders with EpiPens and request that the Police Department, Fire Department, and Health Director attend said meeting. (Unanimous)

P330-17 COUNCILLOR SINEWITZ – MOVE TO receive and approve, under suspension of the rules, Item 8-E communication from Albert Talarico, Building Commissioner, regarding Special Permit transfer; 2000-24; Nassib Adas, 649 Lowell Street, subject to all papers being in order. (Unanimous)

P331-17 COUNCILLOR SINEWITZ – MOVE TO receive, under suspension of the rules, Item 8-F communication from Kaitlin Hanson, 649 Lowell Street, Organic spray tan business and to set up a public hearing. (Unanimous)

P332-17 COUNCILLOR SASLAW – MOVE TO request that the Public Services Department place a "Slow, Dangerous Curve" sign between 21 and 23 Goodale Street that was knocked over. (Unanimous)

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

Previously received.

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

P333-17 COUNCILLOR MCGINN – MOVE TO receive and approve a communication from International Festival Committee, regarding Banner, subject to all papers being in order. (Unanimous)

P334-17 COUNCILLOR MANNING-MARTIN – MOVE TO receive a communication from Public Services Department regarding Completed Council motion P114-17. (Unanimous)

P335-17 COUNCILLOR MCGINN – MOVE TO receive the communication from Timothy E. Spanos, City Clerk, Submitting the appointment of Allyson Danforth to the position of Assistant Clerk of Committees/Council Stenographer. (Unanimous)

P336-17 COUNCILLOR MCGINN – MOVE TO approve the appointment of Allyson M. Danforth, 16 Wentworth Drive, Beverly, MA, to the position of Assistant Clerk of Committees/Council Stenographer for a term to expire 12/31/2017. (Carried 11-0)

P337-17 COUNCILLOR MANNING-MARTIN – MOVE TO receive a communication from Councillor Anne Manning-Martin regarding Copy of the letter from the Attorney General relative to the Lincoln Town Meeting; recreational marijuana and to refer to the Legal Affairs Committee. (Unanimous)

P338-17 COUNCILLOR GARABEDIAN – MOVE TO receive a communication from Attorney Philip Lombardo, 41 North Road, Bedford, MA, regarding Discontinuance permit; Park Place Mobile Home Park, 266 Newbury Street, and to forward to the Legal Affairs Committee and Rent Control Board. (Unanimous)

**PRESENTATION OF PETITIONS, MEMORIALS AND REMONSTRANCES**

P339-17 COUNCILLOR GRAVEL – MOVE TO receive and approve Utility Contractors License – MJ Remodeling, Inc./MJR Custom House, P.O. Box 238, Lynnfield, MA, subject to all papers being in order. (Unanimous)

P340-17 COUNCILLOR GRAVEL– MOVE TO receive and approve Junk Dealers License (Renewal for 2017) ecoATM, LLC, 210 Andover Street, subject to all papers being in order. (Unanimous)

P341-17 COUNCILLOR GRAVEL – MOVE TO receive and approve the following Taxicab/Limousine Driver, subject to all papers being in order:

- Daniel Sirois – License 75
  - David Claffey – License 76
  - Maria Maciver – License 1
- (Unanimous)

**UNFINISHED BUSINESS FROM THE PRECEDING MATTER**

None.

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

SUBMITTED TO HIS HONOR THE MAYOR, MAY 16, 2017  
RETURNED BY HIS HONOR THE MAYOR, MAY 16, 2017



ATTEST \_\_\_\_\_  
(Timothy E. Spanos, City Clerk)

**COMMUNICATIONS:**

- His Honor the Mayor re: Appointment of Curt T. Bellavance, 12 Mary Rose Way, Peabody, as Director of Community Development & Planning
- His Honor the Mayor re: Transfer of funds from City Clerk PT wages to City Council Salaries and City Council Stipend; \$7,175.00
- His Honor the Mayor re: Transfer of funds from CPA Open Space Fund to CPA Open Space Expense; \$205,000.00
- International Festival Committee re: Banner
- Public Services Department re: Completed Council motion P114-17
- Timothy E. Spanos, City Clerk re: Submitting the appointment of Allyson Danforth to the position of Assistant Clerk of Committees/Council Stenographer
- Councillor Anne Manning-Martin re: Copy of the letter from the Attorney General relative to the Lincoln Town Meeting; recreational marijuana
- Albert Talarico, Building Commissioner re: Special Permit transfer; 2000-24; Nassib Adas, 649 Lowell Street

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Kaitlin Hanson, 649 Lowell Street re: Organic spray tan business  
Big Pig Barbecue & Catering, 108 Newbury Street re: Special Permit application

Albert Talarico, Building Commissioner re: Proposed construction hours  
Attorney Philip Lombardo, 41 North Road, Bedford, MA re: Discontinuance permit; Park Place Mobile Home Park, 266 Newbury Street

**UTILITY CONTRACTORS LICENSE:**

Utility Contractors License – MJ Remodeling, Inc./MJR Custom House, P.O. Box 238, Lynnfield, MA

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

ecoATM, LLC, 210 Andover Street

**TAXICAB/LIMOUSINE DRIVER LICENSE:**

Daniel Sirois – License 75

David Claffey – License 76

Maria Maciver – License 1