

REGULAR MEETING OF THE PEABODY CITY COUNCIL
JUNE 27, 2019

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

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 Jon G. Turco.

Salute to the American Flag.

P445-19 COUNCILLOR GOULD – MOVE TO receive and approve the minutes from the regular meeting of June 13, 2019. (Unanimous)

COUNCILLOR TURCO – 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.

(FINANCE DIRECTOR MICHAEL GINGRAS APPEARED TO SPEAK REGARDING ADOPTION OF G.L. CHAPTER 44, SECTION 53F ¾ PEG ACCESS AND CABLE RELATED FUND.)

P446-19 COUNCILLOR GRAVEL – MOVE TO refer the matter of the Adoption of G.L. Chapter 44, Section 53F ¾ PEG Access and Cable Related Fund to the Finance Committee meeting prior to the Regular Meeting on Thursday, July 11, 2019. (Unanimous)

HEARINGS

A public hearing was duly held on the Special Permit application from Sina's Kabob House, LLC, 10 Tanglewood Lane, Salem, MA. Attorney John Keilty appeared to speak on behalf of the application. No one appeared to speak in favor. No one appeared to speak in opposition.

P447-19 COUNCILLOR MCGINN – MOVE TO receive, under suspension of the rules, Item 8-B communication from Community Development and Planning Department regarding Special Permit application – 150 Main Street. (Unanimous)

P448-19 COUNCILLOR MCGINN – MOVE TO receive, under suspension of the rules, late communication Item 1 from Public Services Department re: Departmental Response; Sina's Kabob, LLC, 150 Main Street; Special Permit application. (Unanimous)

P449-19 COUNCILLOR MCGINN – BE IT ORDERED by the City Council of the City of Peabody that the application from Sina's Kabob House, LLC, 10 Tanglewood Lane, Salem, MA, for a Special Permit seeking use of the premises as a fast food restaurant in a Business Central District without alcohol at 150 Main, 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 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) All deliveries shall take place on the property;
- 2) A plan review application must be completed with the Health Department prior to the start of construction. Also, a food establishment permit from the Health Department will be required prior to operation;

- 3) Mechanical systems shall be in place to prevent the migration of noise, dust, odor or other nuisance impacts from the property;
- 4) The applicant shall pump their three-compartment sink a minimum of once a month for the first nine months of operation and provide proof of pumping to the Department c/o the Environmental Engineer. After the first nine months the applicant may request to modify the pumping schedule and is to work with both the Public Services Department and the Health Department to do so. The applicant shall provide proof of pumping to the Environmental Engineer until such time as the Public Services Department no longer requires it;
- 5) In accordance with the Special Permit application, the business hours of operation shall be 10:00 a.m. to 10:00 p.m. Monday through Sunday; and
- 6) Construction hours of operation shall be in accordance with the ordinances of the City of Peabody.

(Carried 11-0)

A public hearing was duly held on the application from Sina's Kabob House, 10 Tanglewood Lane, Salem, MA. Attorney John Keilty appeared to speak on behalf of the application. No one appeared to speak in favor. No one appeared to speak in opposition.

P450-19 COUNCILLOR MCGINN – MOVE TO receive, under suspension of the rules, late communication Item 2 from Public Services Department regarding Departmental Response; Sina's Kabob, LLC, 150 Main Street; Entertainment License. (Unanimous)

P451-19 COUNCILLOR MCGINN – MOVE TO approve the application from Sina's Kabob House, 10 Tanglewood Lane, Salem, MA, for an Entertainment License for the use of non-live entertainment, specifically television and radio, at 150 Main Street, Peabody, MA, subject to all papers being in order. (Carried 11-0)

A public hearing was duly held on the application from Nonna Cucina, LLC, Paolina Lepore, Manager, 535 Lowell Street, Peabody, MA. Attorney John Keilty appeared to speak on behalf of the application. No one appeared to speak in favor. No one appeared to speak in opposition.

P452-19 COUNCILLOR SASLAW – MOVE TO receive, under suspension of the rules, Item 8-C communication from Community Development and Planning regarding Special Permit application – 535 Lowell Street. (Unanimous)

P453-19 COUNCILLOR SASLAW – MOVE TO receive, under suspension of the rules, late communication Item 3 from Public Services Department regarding Departmental Response; Nonna Cucina, LLC, 535 Lowell Street; Special Permit application. (Unanimous)

P454-19 COUNCILLOR SASLAW – BE IT ORDERED by the City Council of the City of Peabody that the application from Nonna Cucina, LLC, Paolina Lepore, Manager, 535 Lowell Street, Peabody, MA, for a Special Permit seeking use of the premises as a fast food restaurant, including takeout, delivery, and beer & wine served by right on the premises at 535 Lowell 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 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) Per the Public Services Department, the proposed fast food restaurant's three-compartment sink shall discharge to the 1,500-grease separator shown on the 535 Lowell Street Site

Development Plan (Utility Plan sheet (C-4) dated 1/15/16, revised 3/13/19 by R.J. O'Connell & Associates, Inc.), that was submitted during the Planning Board permitting process; and

- 2) Per the Health Department, a plan review application must be completed with the Health Department prior to the start of construction. Also, a food establishment permit from the Health Department will be required prior to operation.

(Carried 11-0)

REPORTS OF COMMITTEE

CHARTER REVIEW COMMITTEE

JUNE 24, 2019

P455-19 COUNCILLOR GRAVEL – Reporting for the Charter Review Committee – The meeting of the Ad Hoc Committee on Charter Review sitting as a Committee of the Whole was conducted on Monday, June 24th with all members present, except for Councillor Moutsoulas. At this point in time it's a report of progress. We covered 14 of 58 pages. Further meetings to be established. I'm not going to report out any motions as I would rather do them all when we're done with the document. (Report received)

MUNICIPAL SAFETY COMMITTEE

JUNE 27, 2019

P456-19 COUNCILLOR SASLAW – Reporting for the Municipal Safety Committee – We had a meeting this evening at 6:00 p.m. that was attended by myself and the members of the subcommittee, including Councillor Gould, Councillor Manning-Martin, Councillor Melville and Charest Councillor. Also in attendance was Councillor Rossignoll and Councillor O'Neill. We had two items on the agenda. The first item was regarding the heavy commercial vehicle exclusion ordinance on Gardner Street. For the last few months the committee was being chaired by Councillor Gould and he met many times with the residents and Captain Richards. Captain Richards explained to us that based upon the older ordinance that the capacity of the trucks right now have gotten much heavier. Captain Richards explained that he was going to request a new ordinance to reflect the proper weight of a vehicle and that proper weight was 12,500 gross vehicle weight limit and he is going to submit an ordinance change. We also heard from Mr. Michaud who gave us a brief history and expressed some concerns regarding some additional signage that was also noted. Councillor Gould made the following motion. (Report received)

P457-19 COUNCILLOR SASLAW – Reporting for the Municipal Safety Committee – MOVE TO request that Captain Richards provide the City Council with an updated heavy commercial vehicle exclusion ordinance that reflects a 12,500 Gross Vehicle Weight limit.

(Carried 11-0)

MOTIONS, ORDERS AND RESOLUTIONS

P458-19 COUNCILLOR O'NEILL – MOVE TO receive, under suspension of the rules, Item 8-G communication from Adam Buckley, Asst. City Solicitor, regarding Response to Motion P308-19; 82R Birch Street, Map 4, parcel 51A and refer to the Legal Affairs Committee. (Unanimous)

P459-19 COUNCILLOR MCGINN – MOVE TO receive and approve, under suspension of the rules, Item 7-A communication from His Honor the Mayor regarding appointment of James DiGiulio, 7 Sparrow Lane Extension, Peabody, MA, to the Conservation Commission (Alternate Member) for a two-year term to expire 9/30/2020. (Carried 11-0)

P460-19 COUNCILLOR MCGINN – MOVE TO receive, under suspension of the rules, Item 8-F communication from Michael Smerczynski, City Solicitor, regarding Summons; Warren Innis, etc., et al vs. City of Peabody, et al. (Unanimous)

P461-19 COUNCILLOR MCGINN – MOVE TO receive, under suspension of the rules, Item 8-H communication from Pilot Freight Services, 13 Centennial Drive, regarding Special Permit application and set up a public hearing. (Unanimous)

P462-19 COUNCILLOR MCGINN – MOVE TO receive, under suspension of the rules, Item 8-K communication from Loyal Canines, 147 Summit Street, Unit 6, regarding Transfer of Special Permit 13-2016. (Unanimous)

P463-19 COUNCILLOR MCGINN – MOVE TO receive and approve, under suspension of the rules, late communication Item 4 from Albert Talarico, Building Commissioner, regarding Transfer of Special Permit 13-2016; 147 Summit Street, Unit 6, Peabody, subject to all papers being in order. (Unanimous)

(COUNCILLOR MCGINN REMINDED RESIDENTS OF THE WARD 2 FOURTH OF JULY CELEBRATION TO TAKE PLACE AT THE WELCH SCHOOL FROM 9:00 A.M. TO NOON.)

(COUNCILLOR O'NEILL REMINDED RESIDENTS OF THE WARD 6 FOURTH OF JULY CELEBRATION TO TAKE PLACE AT SYMPHONY PARK FROM 9:00 A.M. TO NOON.)

P464-19 COUNCILLOR ROSSIGNOLL – MOVE TO receive and approve, under suspension of the rules, Item 9-C Banner Request from St. Clare of Assisi Catholic Community, 32 Ellsworth Road, subject to all papers being in order. (Unanimous)

P465-19 COUNCILLOR MANNING-MARTIN – MOVE TO receive, under suspension of the rules, late communication Item 5 from Councillor Manning-Martin regarding Chapter 40, Section 57, Local Licenses and Permits; Denial, Revocation or Suspension for Failure to Pay Municipal Taxes or Charges and refer to the Legal Affairs Committee. (Unanimous)

P466-19 COUNCILLOR SASLAW – MOVE TO receive, under suspension of the rules, Item 8-D communication from Michael Smerczynski, City Solicitor, regarding Order on Joint Motion for Remand; AAA Northeast vs. The Peabody City Council, et al. (Unanimous)

P467-19 COUNCILLOR SASLAW – MOVE TO receive, under suspension of the rules, Item 8-E communication from Michael Smerczynski, City Solicitor, regarding Traffic Impact Assessment; AAA Dispatch Center – 7 Lakeland Park Drive. (Unanimous)

P468-19 COUNCILLOR SASLAW – MOVE TO receive, under suspension of the rules, Item 8-I communication from Cy Tenney Residence, LLC, 190R Newbury Street, regarding Special Permit application and to set up a public hearing. (Unanimous)

P469-19 COUNCILLOR SASLAW – MOVE TO receive, under suspension of the rules, late communication Item 6 from Atty. John Keilty on behalf of Cy Tenney Residence, LLC, 190R Newbury Street, regarding Revised Page 2 of Special Permit application. (Unanimous)

P470-19 COUNCILLOR SASLAW – MOVE TO receive, under suspension of the rules, late communication Item 7 Block Party – Birch Street to Terri Road – July 27, 2019. (Unanimous)

P471-19 COUNCILLOR O'NEILL – MOVE TO approve Block Party Request – Birch Street to Terri Road – July 27, 2019, subject to all papers being in order and with the following conditions:

CONDITIONS:

1. That the Block Party hours will be from 2:00 p.m. to 10:00 p.m.;
2. That all entertainment will run from 4:00 p.m. to 9:00 p.m.
3. That a Peabody Police Department detail is required from 7:00 p.m. to 11:00; and
4. That full payment for the Peabody Police Department detail for this year is to be paid by Friday, July 26, 2019.

(Unanimous)

P472-19 COUNCILLOR SASLAW – MOVE TO receive, under suspension of the rules, late communication Item 8 from Curt Bellavance, Community Development Director, regarding Residential Overlay – recommended change and refer to the Industrial & Community Development Committee. (Unanimous)

P473-19 COUNCILLOR SASLAW (Co-motion with Councillor McGinn) – MOVE TO amend Section 6.16.3 (H) of the Zoning Ordinance to change the minimum number of affordable units to twenty percent (20%) and to request that the City Solicitor provide an opinion to confirm that the Inclusionary Zoning percentages are firm and non-negotiable and that the language of the ordinance is positioned to withstand future legal challenge and to refer to the Industrial & Community Development Committee. (Unanimous)

(COUNCILLOR SASLAW REMINDED RESIDENTS OF THE WARD 5 FOURTH OF JULY CELEBRATION TO TAKE PLACE AT CY TENNEY PARK FROM 9:00 A.M. TO NOON.)

P474-19 COUNCILLOR CHAREST – MOVE TO receive, under suspension of the rules, Item 8-J communication from Peter Pantazelos, Trustee, Prospect Hill Realty Trust, 41 Cross Street, Unit 2, regarding Special Permit application and to set up a public hearing. (Unanimous)

P475-19 COUNCILLOR CHAREST – MOVE TO receive, under suspension of the rules, late communication Item 9 from Atty. Jason Panos on behalf of Peter Pantazelos, Trustee, Prospect Hill Realty Trust, 41 Cross Street, Unit 2, regarding Withdrawal of Waiver and Modification of Inclusionary Provisions of Special Permit Application. (Unanimous)

P476-19 COUNCILLOR CHAREST – MOVE TO request that Captain Richards meet with Councillor Charest at the Center School on Irving Street to discuss adding a "No Parking," zone during school hours;" and to further request that Robert Labossiere, Dir., Public Services Department meet with Councillor Charest at the Center School on Irving Street to discuss changes to the curbing and painting of lines. (Unanimous)

(COUNCILLOR CHAREST: I'd like to recognize the Peabody Garden Club for receiving an award from the Garden Club Federation of Massachusetts for Beautification Award Memorial Garden.)

P477-19 COUNCILLOR GOULD – MOVE TO request that the Public Services Department repair the sidewalk at 13 Melody Lane. There's a young lady that is visually impaired that tripped and fell on the sidewalk.

(Emergency Preamble - Carried 11-0)

(Motion to adopt - Carried 11-0)

P478-19 COUNCILLOR GOULD (Co-motion with Councillor Saslaw) – MOVE TO request that the Public Services Department and Park, Recreation & Forestry Department look at the tree and sidewalk at 6 Sasha Circle. (Unanimous)

P479-19 COUNCILLOR GOULD – MOVE TO receive, under suspension of the rules, late communication Item 10 from Robert Labossiere, Dir., Public Services Department, regarding Redevelopment of 1-5 Andover Street and refer to the Industrial & Community Development meeting on Thursday, August 22, 2019. (Unanimous)

(COUNCILLOR GOULD: I'd like to invite everyone to come to the Pride Event in Peabody on Saturday, June 29th, which is a family-friendly event, from 3:00 p.m. to 5:00 p.m. and then a pop-up pub from 6:00 p.m. to 9:00 p.m. with the theme being Pride and Acceptance of All People.)

P480-19 COUNCILLOR GRAVEL – MOVE TO request that the Finance Director provide to the City Council effective for the Regular Meeting on Thursday, August 22, 2019, and then every second meeting monthly thereafter, a status of appropriations for the City of Peabody for all departments, including the Peabody Public Schools, and that that be referred to Finance Committee each month for review. (Unanimous)

P481-19 COUNCILLOR O'NEILL – MOVE TO approve the following Block Party under Item 9-D, subject to all papers being in order:

- 5-8 Glen Drive – July 13, 2019
- 5-8 Glen Drive – September 22, 2019
- 11 Margin Terrace through 4 Adams Avenue – August 17, 2019

(Unanimous)

P482-19 COUNCILLOR GRAVEL – MOVE TO request an update from Community Development Department regarding the following motion for the Regular Meeting on Thursday, August 22, 2019:

“P274-19 COUNCILLOR GRAVEL – MOVE TO request that the Community Development Department, through its director Curt Bellavance, provide the City Council with a list of city-owned properties for disposition. I would like to know the property location, the time that it was acquired, and its current status, in terms of disposition. (Unanimous)”

(Unanimous)

COMMUNICATIONS FROM HIS HONOR THE MAYOR

Previously received.

COMMUNICATIONS FROM CITY OFFICERS AND OTHERS

P483-19 COUNCILLOR MOUTSOULAS – MOVE TO receive a communication from Robert Labossiere, Dir., Public Services, regarding Council Motion P252-19. (Unanimous)

PRESENTATION OF PETITIONS, MEMORIALS AND REMONSTRANCES

P484-19 COUNCILLOR MELVILLE – MOVE TO receive and approve Junk Dealers License (Renewal for 2019) Golden Link, 515 Lowell, subject to all papers being in order. (Unanimous)

P485-19 COUNCILLOR MELVILLE – MOVE TO receive and approve Taxi/Limousine Driver License – Mark Adams – License 12, subject to all papers being in order. (Unanimous)

P486-19 COUNCILLOR MELVILLE – MOVE TO receive and approve Taxicab License (Transfer) Tri City, 55R Walnut Street, subject to all papers being in order. (Unanimous)

P487-19 COUNCILLOR MELVILLE – MOVE TO receive Entertainment License (New), Alto Forno, 41 Cross Street, and set up a public hearing. (Unanimous)

UNFINISHED BUSINESS FROM THE PRECEDING MATTER

P488-19 COUNCILLOR MCGINN – MOVE TO receive Entertainment License – Azorean Brotherhood of the Devine Holy Ghost, 20-22 Howley Street and set up a public hearing. (Unanimous)

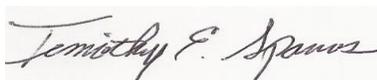
(COUNCILLOR TURCO REMINDED RESIDENTS OF THE WARD 1 FOURTH OF JULY CELEBRATION TO TAKE PLACE AT RADDIN PARK FROM 9:00 A.M. TO NOON.)

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

SUBMITTED TO HIS HONOR THE MAYOR, JULY 2, 2019

RETURNED BY HIS HONOR THE MAYOR, JULY 2, 2019

ATTEST



(Timothy E. Spanos, City Clerk)

COMMUNICATIONS:

His Honor the Mayor re: Appointment under date of June 20, 2019
 Robert Labossiere, Dir., Public Services, re: Council Motion P252-19
 Community Development and Planning Department re: Special Permit application – 150 Main Street
 Community Development and Planning Department re: Special Permit application – 535 Lowell Street
 Michael Smerczynski, City Solicitor, re: Order on Joint Motion for Remand; AAA Northeast vs. The Peabody City Council, et al
 Michael Smerczynski, City Solicitor, re: Traffic Impact Assessment; AAA Dispatch Center – 7 Lakeland Park Drive
 Michael Smerczynski, City Solicitor, re: Summons; Warren Innis, etc., et al vs. City of Peabody, et al
 Adam Buckley, Asst. City Solicitor, re: Response to Motion P308-19; 82R Birch Street, Map 4, Parcel 51A
 Pilot Freight Services, 13 Centennial Drive, re: Special Permit application
 Cy Tenney Residence, LLC, 190R Newbury Street, re: Special Permit application
 Peter Pantazelos, Trustee, Prospect Hill Realty Trust, 41 Cross Street, Unit 2, re: Special Permit application
 Loyal Canines, 147 Summit Street, Unit 6, re: Transfer of Special Permit 13-2016

JUNK DEALERS LICENSE: (2019 Renewal)

Golden Link, 515 Lowell Street

TAXI/LIMOUSINE DRIVER LICENSE:

Mark Adams – License 12

BANNER REQUEST:

St. Clare of Assisi Catholic Community, 32 Ellsworth Road

BLOCK PARTY:

5-8 Glen Drive – July 13, 2019

5-8 Glen Drive – September 22, 2019

11 Margin Terrace through 4 Adams Avenue – August 17, 2019

TAXICAB LICENSE: (Transfer)

Tri City, 55R Walnut Street

ENTERTAINMENT LICENSE: (New)

Alto Forno, 41 Cross Street