

**REGULAR MEETING OF THE PEABODY CITY COUNCIL**  
**NOVEMBER 16, 2017**

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

ABSENT COUNCILLORS: MANNING-MARTIN

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.

P758-17 COUNCILLOR GOULD – MOVE TO receive and approve the minutes from the regular meeting of November 9, 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.

P759-17 COUNCILLOR GOULD – MOVE TO receive, under suspension of the rules, late communication Item 1 from His Honor the Mayor regarding Various appointments. (Unanimous)

(MAYOR BETTENCOURT APPEARED BEFORE THE CITY COUNCIL REGARDING VARIOUS APPOINTMENTS)

P760-17 COUNCILLOR GOULD – MOVE TO approve the appointment of Daniel F. Loring, 32 Linden Road, Peabody, MA, to the Cable Commission for a three-year term to expire 12/31/2020. (Carried 10-0; Councillor Manning-Martin absent)

P761-17 COUNCILLOR GOULD - MOVE TO approve a communication from His Honor the Mayor regarding the following various appointments:

<b>NAME:</b>	<b>POSITION:</b>	<b>TERM TO EXPIRE:</b>
David J. Cronin 20 Livingstone Drive Peabody, MA 01960	Historical Commission	12/31/2020 (3-Year Term)
Vincent A. Raponi 36 Linden Road Peabody, MA 01960	Historical Commission	12/31/2019 (3-Year Term)
Deborah A. Eskenazi One Sheffield Drive Peabody, MA 01960 (Carried 10-0; Councillor Manning-Martin absent)	Historical Commission (Alternate Position)	12/31/2018 (One-Year Term)

**HEARINGS**

A public hearing was duly held on the Zoning Ordinance Amendment regarding Section 6.14 Marijuana Establishments Forbidden. Michael Smerczynski, City Solicitor, appeared to speak on behalf of the City. Mayor Edward A. Bettencourt, Jr., appeared to speak in favor. Mr. Mike Crawford, 148 Lafayette Street, Marblehead, MA; Mr. Scott Winters, 146 ½ Market Street, Amesbury, MA; Mr. Jim Borghesani, 51 Clearwater Drive, Duxbury, MA; and Mr. Brian Riccio, 101 Sycamore Street, Belmont, MA, appeared to speak in opposition.

P762-17 COUNCILLOR GOULD – MOVE TO receive, under suspension of the rules, Item 8-A communication from Curt Bellavance, Community Development Dept., regarding Planning Board recommendation; Section 6.14 Marijuana Establishments Forbidden. (Unanimous)

P763-17 COUNCILLOR GARABEDIAN – MOVE TO receive, under suspension of the rules, late communication Item 1 from Jim Borghesani, 51 Clearwater Drive, Duxbury, MA, regarding Presentation; Section 6.14 Marijuana Establishments Forbidden. (Unanimous)

P764-17 COUNCILLOR GRAVEL – MOVE THE question. (Carried 8-2; Councillor Turco and Councillor Saslaw opposed; Councillor Manning-Martin absent)

P765-17 COUNCILLOR GRAVEL – BE IT ORDERED by the City Council of the City of Peabody that the following amendment to the Peabody Zoning Ordinance Adopted April 28, 2011, and amended through July 18, 2017, be adopted as amended and read, as follows:

**SECTION ONE:** That the Zoning Ordinance of the City of Peabody entitled, City of Peabody Zoning Ordinance adopted April 28, 2011, and amended through July 18, 2017, is hereby further amended as follows:

By repealing Section 6.14 entitled Temporary Moratorium on the Sale and Distribution of Recreational Marijuana:

And adding a new Section 6.14 as follows:

#### **6.14 Marijuana Establishments Forbidden**

The operation of any marijuana establishment, as defined in G.L. c. 94G, Section 1, including, without limitation, a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business, is prohibited in all zoning districts of the City. This prohibition shall not apply to the sale, distribution or cultivation of marijuana for medical purposes licensed under Chapter 369 of the Acts of 2012.

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

**SECTION THREE:** This ordinance shall take effect as provided by law.  
(Failed 7-3; Councillor Turco, Councillor Sinewitz, and Councillor Saslaw opposed; Councillor Manning-Martin absent)

RECONSIDERATION BY COUNCILLOR GRAVEL – Immediate reconsideration hoping same shall prevail. (Carried 7-3; Councillor Turco, Councillor Sinewitz, and Councillor Saslaw opposed; Councillor Manning-Martin absent)

P766-17 COUNCILLOR GRAVEL – BE IT ORDERED by the City Council of the City of Peabody that the following amendment to the Peabody Zoning Ordinance Adopted April 28, 2011, and amended through July 18, 2017, be adopted as amended and read, as follows:

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

**SECTION THREE:** This ordinance shall take effect as provided by law.

(Failed 7-3; Councillor Turco, Councillor Sinewitz, and Councillor Saslaw opposed; Councillor Manning-Martin absent)

P767-17 COUNCILLOR WALSH – MOVE TO continue the public hearing on the application from Guidance Group, LLC, d/b/a North Shore Lobster, 203 Newbury Street, Peabody, MA, until Thursday, December 14, 2017. (Unanimous)

A public hearing was duly held on the application submitted by One Main Peabody, LLC, 1 Main Street, Peabody, MA. Attorney Athan Vontzalides and Mr. Pat Todisco appeared to speak on behalf of the application. Mayor Edward A. Bettencourt, Jr., and Mr. Tim Brown on behalf of Northeast ARC, appeared to speak in favor. No one appeared to speak in opposition.

P768-17 COUNCILLOR MCGINN – MOVE TO receive, under suspension of the rules, late communication Item 2 from Attorney Athan Vontzalides regarding Proposed Floor Plans; One Main Peabody, LLC. (Unanimous)

P769-17 COUNCILLOR MCGINN – MOVE TO receive, under suspension of the rules, Item 8-E communication from Sharon Cameron, Health Department, regarding Departmental response; One Main Peabody, LLC, 1 Main Street. (Unanimous)

P770-17 COUNCILLOR MCGINN – BE IT ORDERED by the City Council of the City of Peabody that the application from One Main Peabody, LLC, 1 Main Street, Peabody, MA, for a Special Permit to allow the premises to be used as a multi-family/mixed use building containing a total of twenty residential units at 1 Main Street, Peabody, MA, as filed in accordance with Sections 4.2.1, 5, 6.1, 9.2.1, and 15.7 of the Peabody Zoning Ordinance be approved based on the following reasons and 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 a maximum total of twenty (20) dwelling units on the second and third floors in the existing structure on the lot. There shall be no dwelling units on the first level of the structure which shall be utilized for a restaurant use. There shall be no dwelling units on the basement level of the structure. The development shall be in accordance with the O’Shea Apartments, 1 Main Street Peabody drawing package dated October 5, 2017, as supplemented with the addition drawings received at the November 16, 2017, public hearing.
2. As indicated in the application, except as required by the provisions of the inclusionary zoning requirements of the zoning ordinance of the City of Peabody, the developer shall make reasonable commercial effort to maintain all remaining dwelling units as market rate condominiums or apartments.
3. Residential parking shall be in accordance with the parking management plan included with the application as “12 E. continuation sheet”.
4. All exterior renovations to the structure and any sign for the commercial use in the structure shall comply with the zoning ordinance of the City of Peabody and shall be carried out in a manner consistent with City of Peabody’s Downtown Design Standards for the Main Street Sub-district.

5. No 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 adjacent streets and/or properties.
6. As indicated in the application, no window air conditioners or similar apparatus shall be installed in the windows of the structure and all HVAC equipment will be installed such that it is not visible or screened from sight from adjacent streets and/or properties.
7. As indicated in the application, all trash and recycling materials shall be fully contained within the building and professional pest control services will be utilized on an ongoing basis.
8. As indicated in the application, trash and recycling materials shall be removed by a private trash removal service at a frequency adequate to prevent excessive accumulations of such material from residential and commercial uses and no municipal trash pickup shall be provided. For the avoidance of doubt, trash collection shall be in accordance with the ordinances of the City of Peabody and no trash or refuse or recycling collections shall occur between the hours of 7:00 p.m. and 7:00 a.m. of any day of the week.
9. In accordance with the special permit application and City ordinances, construction hours of operation shall be from 7:00 a.m. to 6:00 p.m. Monday through Friday and 9:00 a.m. to 6:00 p.m. Saturday.
10. Fire alarm and sprinkler systems shall meet all current requirements for new construction as per Massachusetts General Laws and the Massachusetts Building code.
11. The project shall be subject to construction review and subject to the recommendations of the Construction Review Committee.
12. Alleged violations of special permit conditions may result in a show cause hearing at the City Council.

(Carried 10-0; Councillor Manning-Martin absent)

P771-17 COUNCILLOR MOUTSOULAS – MOVE TO continue the public hearing on the application from Thomas J. Cassidy, Sr., 80-84 Wallis Street, until Thursday, December 14, 2017. (Unanimous)

### **REPORTS OF COMMITTEE**

#### **MUNICIPAL SAFETY COMMITTEE**

##### **NOVEMBER 16, 2017**

P772-17 COUNCILLOR GARABEDIAN – Reporting for the Municipal Safety Committee – The Municipal Safety Committee met to discuss a truck route for the Birch Hill housing development. Councillor Sinewitz had brought this to everybody's attention. Councillor Sinewitz made the following motion. (Report received)

P773-17 COUNCILLOR GARABEDIAN – Reporting for the Municipal Safety Committee – MOVE TO request that the Police Department conduct a feasibility study of Birch Street for possible two-way traffic from Russell Street to the entrance of the proposed Birch Hill subdivision.

(Carried 10-0; Councillor Manning-Martin absent)

#### **FINANCE COMMITTEE**

##### **NOVEMBER 16, 2017**

P774-17 COUNCILLOR GRAVEL – Reporting for the Finance Committee – This evening there was a meeting of the Finance Committee. Representing the Committee were myself, Councillor Gould, Councillor McGinn, Councillor Turco, and we also had Councillor Charest covering for Councillor Manning-Martin. Also in attendance were Councillor Moutsoulas, Councillor Sinewitz, Councillor Saslaw, and Councillor Garabedian. The first item on the agenda was settlement of a legal claim against the city

of Peabody. Basically this was a discussion on moving funds from the reserve to the legal budget to settle a legal claim. (Report received)

P775-17 COUNCILLOR GRAVEL – Reporting for the Finance Committee – MOVE TO approve the following transfer, as submitted by His Honor the Mayor, under date of November 8, 2017:

<b>FROM:</b>		<b>TO:</b>	
Budgeted Reserve	\$125,000.00	FY 2018 Legal Budget	\$125,000.00
100-1320-57410		100-1510-53114	
(Carried 10-0; Councillors Manning-Martin absent)			

P776-17 COUNCILLOR GRAVEL – Reporting for the Finance Committee - The second item on the agenda was a review of the golf course financing options, which was a proposal brought to the table by Councillor Sinewitz, in terms of refinancing the balance of the outstanding bond to improve the cash flow of the golf course. We were given some information by the city's finance director Mr. Gingras and he also told us that there was other information that might be forthcoming. He will appear again before the Finance Committee meeting on December 14<sup>th</sup> at the latest and he'll be presenting us with some additional options whether we go to a 3-year, 5-year, 10-year, or internally fund from the reserve; so it's a report of progress. The last issue was just a report of progress on revenues and expenses for the city. It was Mr. Gingras' opinion that at this time we're pretty much on course with our budget and that there were no extraordinary issues to be reported. (Report received)

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

P777-17 COUNCILLOR GRAVEL – MOVE TO request that Mr. Healy, Facilities Director, as well as Mr. Doucette, Purchasing Agent, update the City Council on the AV system and the completion of the Wiggin Auditorium improvement project. (Unanimous)

(COUNCILLOR GRAVEL RECOGNIZED COUNCILLOR GOULD WHO LAST NIGHT RECEIVED THE DISTINGUISHED LEADER AWARD FROM THE NORTH SHORE CHAMBER OF COMMERCE.)

P778-17 COUNCILLOR GRAVEL – MOVE TO receive, under suspension of the rules, Item 7-A communication from His Honor the Mayor regarding Request for Finance Committee Meeting to discuss Purchase & Sales Agreement for 10 Lowell Street and to refer to the Finance Committee. (Unanimous)

P779-17 COUNCILLOR TURCO - MOVE TO send to the Industrial & Community Development Committee the subject of covered recycled bins. (Unanimous)

P780-17 COUNCILLOR TURCO – MOVE TO request that the Public Services Department replace the "Dead End" sign at Elmwood Circle with a "Not a throughway," sign. (Unanimous)

P781-17 COUNCILLOR MCGINN – MOVE TO receive, under suspension of the rules, Item 8-B communication from Attorney Athan Vontzalides on behalf of Korvachei Hernandez and Daniel Melo, 79 Foster Street, regarding Special Permit application and to set up a public hearing. (Unanimous)

P782-17 COUNCILLOR MOUTSOULAS – MOVE TO receive, under suspension of the rules, late communication Item 3 from Top's Churrascaria, Inc., d/b/a Oliveira's Steak House, 72-74 Walnut Street, regarding Entertainment License Amendment and to set up a public hearing. (Unanimous)

P783-17 COUNCILLOR CHAREST – MOVE TO request that the Police Department provide a recommendation regarding installing a flashing pedestrian light at the Baldwin Street/Lowell Street intersection with a crosswalk going across the street to get to the bike path. (Unanimous)

P784-17 COUNCILLOR CHAREST – MOVE TO receive, under suspension of the rules, Item 8-D communication from Attorney John Keilty on behalf of Patrick Coburn, Sr., Trustee of Mount Pleasant Realty Trust, 3 Mount Pleasant Drive, regarding Special Permit application and to set up a public hearing. (Unanimous)

P785-17 COUNCILLOR SINEWITZ – MOVE TO request that the Health Department, Building Department, and Public Services Department provide any last-minute comments regarding the Birch Hill subdivision to Councillor Sinewitz for the Planning Board meeting on November 30th. (Unanimous)

**COMMUNICATIONS FROM HIS HONOR THE MAYOR**

Previously received.

**COMMUNICATIONS FROM CITY OFFICERS AND OTHERS**

P786-17 COUNCILLOR CHAREST – MOVE TO receive a communication from Curt Bellavance, Director, Community Development Dept., regarding Site Plan Review for 795 Jubilee Drive, LLC. (Unanimous)

**PRESENTATION OF PETITIONS, MEMORIALS AND REMONSTRANCES**

Previously received.

**UNFINISHED BUSINESS FROM THE PRECEDING MATTER**

MOVED: MOVE TO adjourn. Regular meeting of the Peabody City Council adjourned at 9:50 p.m.

SUBMITTED TO HIS HONOR THE MAYOR, NOVEMBER 20, 2017  
RETURNED BY HIS HONOR THE MAYOR, NOVEMBER 20, 2017



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

**COMMUNICATIONS:**

His Honor the Mayor re: Request for Finance Committee Meeting to discuss Purchase & Sales Agreement for 10 Lowell Street  
Curt Bellavance, Director, Community Development Dept., re: Planning Board recommendation; Section 6.14 Marijuana Establishments Forbidden  
Attorney Athan Vontzalides on behalf of Korvachei Hernandez and Daniel Melo, 79 Foster Street, re: Special Permit application  
Curt Bellavance, Director, Community Development Dept., re: Site Plan Review for 795 Jubilee Drive, LLC  
Attorney John Keilty on behalf of Patrick Coburn, Sr., Trustee of Mount Pleasant Realty Trust, 3 Mount Pleasant Drive, re: Special Permit application  
Sharon Cameron, Health Department, re: Departmental response; One Main Peabody, LLC, 1 Main Street

**ENTERTAINMENT LICENSE:** (Amendment)

Top's Churrascaria, Inc., d/b/a Oliveira's Steak House, 72-74 Walnut Street