REGULAR MEETING OF THE PEABODY CITY COUNCIL
April 8, 2021

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

ABSENT COUNCILLORS:

An in-person (City Council only) and remotely held meeting of the Peabody City Council opened with a moment of silent prayer after being called to order by City Council President Mark J. O'Neill.

Salute to the American Flag.

COUNCILLOR O'NEILL – 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.

P163-21 COUNCILLOR GOULD – MOVE TO receive and approve Late 11 the minutes from the regular meeting of March 25, 2021.
(Unanimous)

HEARINGS

The City Council reconvened the recessed public hearing on the application filed by Paraskeve Noorigian, 60 Washington Street, Peabody, MA. Ms. Paraskeve Noorigian appeared to speak on behalf of the application. No one appeared to speak in favor. No one appeared to speak in opposition.

P164-21 COUNCILLOR MCGINN – BE IT ORDERED by the City Council of the City of Peabody that the application filed by Paraskeve Noorigian, 60 Washington Street, Peabody, MA, for a Special Permit to Amend Special Permit 13-2005, specifically condition #2 hours of operation to operate Monday through Friday 9:00 a.m. to 7:00 p.m.; Saturday 8:00 a.m. to 5:00 p.m. and Sunday 9:00 a.m. to 4:00 p.m. at 60 Washington 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:

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 11-0)

P165-21 COUNCILLOR ROSSIGNOLL – MOVE TO receive, under suspension of the rules, Late 4 communication from Councillor Thomas Rossignoll regarding Late communication; 535 Lowell Street.
(Unanimous)

The City Council reconvened the recessed public hearing on the application filed by 535 Lowell Street Peabody, LLC, 535 Lowell Street, Peabody, MA. Mr. Brian Dundon and Mr. Al Yebba appeared to speak on behalf of the application. No one appeared to speak in favor. No one appeared to speak in opposition.

P166-21 COUNCILLOR SASLAW – BE IT ORDERED by the City Council of the City of Peabody that the application filed by 535 Lowell Street Peabody, LLC, 535 Lowell Street, Peabody MA, for a Special Permit to construct a drive-through window for a restaurant to be operated by Crack'd Kitchen 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. The dumpster enclosure will be completed within 60 days;
2. An additional bollard will be installed in front of the gas meter referenced in Late Communication 4; and
3. The Special Permit will be approved contingent upon a written "No objection" from the Peabody Police Department and Peabody Fire Department.

(Carried 9-2; Councillor Rossignoll and Councillor O'Neill opposed)

P167-21 COUNCILLOR MOUTSOULAS – MOVE TO receive, under suspension of the rules, Late 7 communication from Cristina and Armindo Romano, 33 Newcastle Road, regarding Agenda and also receive and approve, under suspension of the rules, Late 8 communication from Brian Abcunas, Peabody Municipal Light Plant, 201 Warren Street Extension, regarding Request to withdraw pole petitions, without prejudice.
(Unanimous)

P168-21 COUNCILLOR MCGINN – MOVE TO receive, under suspension of the rules, the following communications and refer to the public hearing:

Item 8-E Arthur Athas, 26 Lynnfield Street, regarding Permanent outdoor dining at Wardhurst Restaurant
Item 8-G Andrew Levin, City Planner, regarding 29 Lynnfield Street – Spero J. Demakes Special Permit application
Late 3 Karen and David Weeden, 27 Lynnfield Street, regarding Wardhurst Addition
Late 5 Arthur Athas, 26 Lynnfield Street, regarding Special Permit for nonconforming use at 29-31 Lynnfield Street
Late 9 Arthur Athas, 26 Lynnfield Street, regarding Special Permit for nonconforming use at 29-31 Lynnfield Street
Late 12 Atty. John Keilty, on behalf of Spero J. Demakes, regarding Request to continue Special Permit public hearing
(Unanimous)

P169-21 COUNCILLOR MCGINN – MOVE TO refer, under suspension of the rules, Late 9 communication from Mr. Arthur Athas, 26 Lynnfield Street, regarding Special Permit for nonconforming use at 29-31 Lynnfield Street to the City Solicitor to provide an opinion on the applicability of Zoning Section 5.4.6.
(Unanimous)

P170-21 COUNCILLOR MCGINN – MOVE TO approve Late 12 communication from Atty. John Keilty, on behalf of Spero J. Demakes, regarding Request to continue Special Permit public hearing until Thursday, April 22, 2021.
(Unanimous)

A public hearing was duly held on the application filed by Bosun's Assets and Operations, LLC, d/b/a Bosun's Marine, 203 Newbury Street, Peabody, MA. Attorney John Keilty and Mr. Stephen Chase appeared to speak on behalf of the application. No one appeared to speak in favor. No one appeared to speak in opposition.

P171-21 COUNCILLOR SASLAW – MOVE TO receive, under suspension of the rules, Item 8-F communication from Andrew Levin, City Planner, regarding 203 Newbury Street – Bosun's Marine Special Permit application.
(Unanimous)

P172-21 COUNCILLOR SASLAW – MOVE TO recess the public hearing on the application filed by Bosun's Assets and Operations, LLC, d/b/a Bosun's Marine, 203 Newbury Street, Peabody, MA, until Thursday, April 22, 2021.
(Unanimous)

A public hearing was duly held on the application filed by Florian Qoqi, 1 Newbury Street, Peabody, MA. Mr. Dan Hutchins and Mr. Bob Messier appeared to speak on behalf of the application. No one appeared to speak in favor. No one appeared to speak in opposition.

P173-21 COUNCILLOR SASLAW – MOVE TO recess the public hearing on the application filed by Florian Qoqi, 1 Newbury Street, Peabody, MA, until Thursday, April 22, 2021.
(Unanimous)

REPORTS OF COMMITTEE

Legal Affairs Committee
April 8, 2021

P174-21 COUNCILLOR MELVILLE – Reporting for the Legal Affairs Committee – We did have a Legal Affairs Committee meeting tonight. We had a discussion regarding a request for proposals for 2, 12, and 16 Washington Street. Present were all members of the committee and all city councillors, along with the Mayor, the City Solicitor Don Conn, and Dan Doucette was on the line, along with the RFP respondents. We received the following communications. (Report received)

P175-21 COUNCILLOR MELVILLE – Reporting for the Legal Affairs Committee – MOVE TO receive, under suspension of the rules, the following communications:

Late 1 Mayor Bettencourt, regarding 12 Washington Street Parking Lot Renderings
Late 2 Mayor Bettencourt, regarding 2 and 12 Washington Street RFP
Late 13 Olio Events, 43 Main Street, regarding Letter of Support
Late 14 Peabody Historical Commission, regarding Letter of Support
(Unanimous)

P176-21 COUNCILLOR MELVILLE – Reporting for the Legal Affairs Committee – The Mayor gave a description and background of the property, followed up by a brief discussion from the respondents, and then a number of questions from the council declaring their support and questions that also revolved around the price of the property and the actual RFP process. We then moved on to a discussion regarding the motion to authorize the approval and signature of the purchase and sale agreement. After that discussion we decided to continue this to the next Legal Affairs Committee meeting on April 20th. The following motion was made and approved. (Report received)

P177-21 COUNCILLOR MELVILLE – Reporting for the Legal Affairs Committee – MOVE TO request that Councillor McGinn submit the proposed language of the motion to be made authorizing His Honor the Mayor to enter into a Purchase & Sale Agreement for 2, 12 and 16 Washington Street to the City Clerk for distribution to His Honor the Mayor, the City Solicitor, and the City Council to ensure the language in said motion matches the language of the RFP.
(Unanimous)

Finance Committee
April 8, 2021

P178-21 COUNCILLOR MCGINN – Reporting for the Finance Committee – The Finance Committee met earlier this evening. Present for the Committee were Councillors: Gould, Manning-Martin, Rossignoll, Turco, and myself as chair. All other city councillors were present. There were three items on the agenda. The first item was a transfer of funds for Recreation Open Space Plan in an amount of $60,000. Mr. Gingras explained that this was a CPC request. Subsequently, a motion was made by Councillor Gould as follows. (Report received)

P179-21 COUNCILLOR MCGINN – Reporting for the Finance Committee – MOVE TO approve the following transfer, as submitted by His Honor the Mayor, under date of March 16, 2021:

FROM:		**TO:**	
CPC Open Space 270-0000-33021	$60,000.00	CPC – Recreation Open Space Plan 270-1811-58562-2021-00-0390	$60,000.00

(Carried 11-0)

P180-21 COUNCILLOR MCGINN – Reporting for the Finance Committee – The second item on the agenda dealt with a transfer of funds request for the cable fund expense. Mr. Gingras explained that this was money from RCN and that it was committed in an amount of 90 percent of those receipts to the Cable Fund Expense. Councillor Gould made the following motion. (Report received)

P181-21 COUNCILLOR MCGINN – Reporting for the Finance Committee – MOVE TO approve the following transfer, as submitted by His Honor the Mayor, under date of March 8, 2021:

FROM:		**TO:**	
Receipts Reserved Cable Fund 270-0000-33017	$27,658.01	Cable Fund Expense 270-0000-53007	$27,658.01

(Carried 11-0)

P182-21 COUNCILLOR MCGINN – Reporting for the Finance Committee – The third item on the agenda was a transfer of funds request for road improvement projects in an amount of $1,242,480. Director of Finance Mr. Gingras explained that this is our annual Chapter 90 receipt from the State. With that explanation, the following motion was made by Councillor Gould. (Report received)

P183-21 COUNCILLOR MCGINN – Reporting for the Finance Committee – MOVE TO approve the following transfer, as submitted by His Honor the Mayor, under date of March 17, 2021:

FROM:		**TO:**	
Chapter 90 Projects – FY 2021 250-34751	$1,242,480.00	Road Improvement Projects 250-4210-58134	$1,242,480.00

(Carried 11-0)

MOTIONS, ORDERS AND RESOLUTIONS

P184-21 COUNCILLOR GOULD – MOVE TO receive and approve, under suspension of the rules, Item 9-A Banner – Peabody High School – Class of 2021, 485 Lowell Street, subject to all papers being in order.
(Unanimous)

P185-21 COUNCILLOR MANNING-MARTIN – MOVE TO receive, under suspension of the rules, Item 7-A communication from His Honor the Mayor regarding Adoption of MGL Chapter 39, Section 23D "The Mullin Rule," and refer to the Legal Affairs Committee.
(Unanimous)

P186-21 COUNCILLOR MANNING-MARTIN – MOVE TO receive, under suspension of the rules, Item 7-C communication from His Honor the Mayor regarding Transfer of funds – Cable Fund Expense; $2,138.22 and refer to the Finance Committee.
(Unanimous)

P187-21 COUNCILLOR MANNING-MARTIN – MOVE TO receive, under suspension of the rules, Item 8-H communication from Councillor Anne Manning-Martin, regarding HB 1066 An Act Requiring the Fingerprinting of TNC Drivers and refer to the next regular meeting under Item 10-A "Unfinished Business from the Preceding Matter."
(Unanimous)

P188-21 COUNCILLOR SASLAW – MOVE TO receive, under suspension of the rules, Item 8-B communication from Donald L. Conn, City Solicitor, regarding AAA Northeast vs. The Peabody City Council, et al; Judgment; Decision on Motion for Summary Judgment and refer to the Committee of the Whole.
(Unanimous)

P189-21 COUNCILLOR SASLAW – MOVE TO request that the Public Services Department repair the dip in the street in front of 12 Forenza Road due to past work that was not completed properly.
(Unanimous)

P190-21 COUNCILLOR MCGINN – MOVE TO receive, under suspension of the rules, Item 7-B communication from His Honor the Mayor regarding Proposed Budget Narrative FY2022 – Essex North Shore Agricultural and Technical School.
(Unanimous)

P191-21 COUNCILLOR MCGINN – MOVE TO receive, under suspension of the rules, 7-D communication from His Honor the Mayor regarding Item 7-D Mayor Bettencourt, regarding Washington & Main Gateway Proposal and refer to the Legal Affairs Committee.
(Unanimous)

P192-21 COUNCILLOR MCGINN – MOVE TO receive, under suspension of the rules, Item 8-D communication from Darren Kelly, Chairman, Community Preservation Committee, regarding 2020 Annual Report for the City of Peabody Community Preservation Committee.
(Unanimous)

P193-21 COUNCILLOR TURCO – MOVE TO receive, under suspension of the rules, Item 8-A communication from Albert Talarico, Building Commissioner, regarding Motion P98-21/New Residential Units.
(Unanimous)

P194-21 COUNCILLOR TURCO – MOVE TO receive, under suspension of the rules, Item Late 6 communication from Councillor Jon Turco regarding Peabody Resolution Draft and refer to the next regular City Council agenda under “Unfinished Business from the Preceding Matter.”
(Unanimous)

P195-21 COUNCILLOR ROSSIGNOLL (Co-motion with Councillor Saslaw) – MOVE TO request that the Public Services Department start a database or spreadsheet that would identify the location of all the storm drains throughout the City with the date that they were last cleaned and refer the matter to the Public Services Committee.
(Unanimous)

P196-21 COUNCILLOR MELVILLE – MOVE TO receive, under suspension of the rules, Item 8-C communication from Nicholas J. Scobbo, Jr., Ferriter, Scobbo & Rodophele, 125 High Street, Suite 2611, Boston, regarding Notice of filing and request for comments: Massachusetts Municipal Wholesale Electric Company – DPU 21-29 and refer to Mayor Bettencourt and the Peabody Municipal Light Plant for an opinion.
(Unanimous)

COMMUNICATIONS FROM HIS HONOR THE MAYOR

Previously received.

COMMUNICATIONS FROM CITY OFFICERS AND OTHERS

Previously received.

PRESENTATION OF PETITIONS, MEMORIALS AND REMONSTRANCES

Previously received.

UNFINISHED BUSINESS FROM THE PRECEDING MATTER

P197-21 COUNCILLOR MANNING-MARTIN – MOVE TO send a letter in support of HB 1066 An Act Requiring the Fingerprinting of TNC Drivers to the Joint Committee on Financial Services.
(Unanimous)

MOVED: MOVE TO adjourn. Regular meeting of the Peabody City Council adjourned at 10:20 p.m.

SUBMITTED TO HIS HONOR THE MAYOR, APRIL 14, 2021
RETURNED BY HIS HONOR THE MAYOR, APRIL 14, 2021

ATTEST: Allyson M. Danforth
(Allyson M. Danforth, City Clerk)

COMMUNICATIONS:

His Honor the Mayor re: Adoption of MGL Chapter 39, Section 23D "The Mullin Rule"
His Honor the Mayor re: Proposed Budget Narrative FY2022 – Essex North Shore Agricultural and Technical School
His Honor the Mayor re: Transfer of funds – Cable Fund Expense; $2,138.22
His Honor the Mayor re: Washington & Main Gateway Proposal
Albert Talarico, Building Commissioner, re: Motion P98-21/New Residential Units
Donald L. Conn, City Solicitor, re: AAA Northeast vs. The Peabody City Council, et al; Judgment; Decision on Motion for Summary Judgment
Nicholas J. Scobbo, Jr., Ferriter, Scobbo & Rodophele, 125 High Street, Suite 2611, Boston, re: Notice of filing and request for comments: Massachusetts Municipal Wholesale Electric Company – DPU 21-29
Darren Kelly, Chairman, Community Preservation Committee, re: 2020 Annual Report for the City of Peabody Community Preservation Committee
Arthur Athas, 26 Lynnfield Street, re: Permanent outdoor dining at Wardhurst Restaurant
Andrew Levin, City Planner, re: 203 Newbury Street – Bosuns Marine Special Permit application
Andrew Levin, City Planner, re: 29 Lynnfield Street – Spero J. Demakes Special Permit application
Councillor Anne Manning-Martin, re: HB 1066 An Act Requiring the Fingerprinting of TNC Drivers

Banner:

Peabody High School – Class of 2021, 485 Lowell Street