



*City of Taunton
Municipal Council Meeting Minutes*

*Temporary City Hall, 141 Oak Street, Taunton, MA
Minutes, November 17, 2015 at 7:10 O'clock P.M.*

Regular Meeting

Mayor Thomas C. Hoye, Jr. presiding

Prayer was offered by the Mayor

A moment of silence was held for all of the people who senselessly lost their lives in France a couple of days ago.

Present at roll call were: Councilor's Borges, Carr, Quinn, McCaul, Pottier, Croteau, Costa-Hanson, Marshall, Cleary

Record of preceding meeting was read by Title and Approved. So Voted.

Continued hearing:

On the petition submitted by Joseph H. Rose and Melinda Castle, 377 Tremont St., Taunton for an Earth Removal Permit for the removal of non-native materials (trash) located on the parcel of land on School Street, Pit No. 87, Assessor's Reference Map 47, Lot 204, Taunton in order to construct a residential dwelling. **Motion was made to open the hearing and invite Mr. Rose, the City Engineer, and the Assistant City Solicitor into the enclosure. So Voted.** Mayor Hoye stated that this is a continued hearing and we are going to talk about the earth removal portion of it only. Councilor Marshall stated that he would like a presentation just on that portion. Mr. Rose stated that this is a small 5,000 sq. ft. lot located on School Street. It is a grandfathered, residential and buildable lot. There was trash that was deposited and buried on it a long time ago thus creating an unstable foundation on the lot. In order to put foundation on the lot the material has to be removed so that is why he applied for an Earth Removal Permit. He stated that this area is in a wetland area and he has gone through the conservation process and he has their order of conditions which he is going to follow. This is the last stop in the permitting process which is the approval of the City Council for the Earth Removal Permit that will allow him to remove the trash that is buried on the lot. He has had the lot tested and it came back as Municipal trash. Mr. Rose then explained how deep the trash is in various parts of the lot. He stated that it is estimated that there is about 400-600 cubic yards of material that has to be removed. Council President Borges asked if he indicated that this will be done in one week's time. Mr. Rose stated that he has a set of excavation guidelines published for the Conservation hearing which was accepted by the Conservation Commission. He confirmed that it should take about a week to complete. **Councilor Cleary made a motion to make the excavation guidelines part of the record and for copies to be given to the Councilors. So Voted.** Councilor Marshall stated at the last hearing, he had a couple of concerns. One was that he was requesting a

three year Earth Removal Permit for a job that the petitioner stated would only take a week. He asked Mr. Slusarz if all Earth Removal Permits have to be three years. Mr. Slusarz stated that they don't have to be, three years is the standard condition but it can be altered. Councilor Marshall stated that his other concern was that he is looking to work until 7pm. Mr. Rose stated that he believes that it is in the City's guidelines. Mr. Slusarz stated that it was an additional condition that came up at the Earth Removal meeting but it can be modified. Councilor Marshall stated that he has concerns about the 7pm time because it is a very small lot in a dense neighborhood. He asked Mr. Rose how he will do the excavation, will it be removed daily or will it be stockpiled and then removed? Mr. Rose stated that Harrington Avenue is a paper road on which the dump truck will be parked. The excavator will load into the dump truck and the dump truck will unload at the City landfill. He then explained the process in which the trash will be removed and the lot will be backfilled. Mr. Slusarz stated that one of the conditions is that the backfill occurs as soon as practical because it is an unsecure site. They do not want to have any open holes for a long period of time. Councilor Marshall stated that if they are digging down below the water table it will fill up and become a pool. Mr. Rose stated that they don't know where the water table is because it is a variable water table. Councilor Marshall asked if there is any call for temporary fencing from the street. Mr. Slusarz stated that there is not right now. Councilor Marshall asked if there will be a potential odor issue because they will be removing trash. Mr. Rose stated that in order to have an odor you have to have VOC's; which are volatile organic compounds, things that are biologically deteriorating. When they dug, they put three test kits around the lot and they did not encounter any odor issues whatsoever. The trash has been there since 1945-1947 and any organic material has long since dissipated and has been flushed out. Councilor Marshall asked if that was in the LSP report. Mr. Rose confirmed. He stated that when they start excavation it is their plan to have the LSP on site when they break ground. The LSP has basically been his guide, telling him what he can and can't do. Councilor Costa-Hanlon asked Mr. Slusarz to remind the Council on what he is recommending that the conditions should be for the Earth Removal Permit. Mr. Slusarz then read the list of standard conditions and additional conditions which was made part of the record at the October 19, 2015 Municipal Council meeting. Councilor Costa-Hanlon asked if there was a discussion between Mr. Rose and the Board about how the issue of odor or where anything that is removed would be going. She stated that she has never heard of going specifically down to the water table. She stated that it usually requires some kind of dewatering and if we are talking about what could be a contaminated site; it will not be clean water. She stated that she does not know if he or the Board has looked into where the water will go or if there is a condition that the water has to stay on that property. It should not be going into the City's water system. She thinks that it should be required as part of the permit. Mr. Rose stated that the issue with dewatering is predicated upon the fact that the water table was high and is in the trashy land. They believe that it is because when they dug down, they dug in March when the water table was fairly high. He stated that what happens is that the water flows through all the land anyway. This isn't the only lot that is contaminated; every lot around it is contaminated. The entire area was used as a dump. Since then, the water table has risen and fallen as precipitation goes on. Councilor Costa-Hanlon stated that he will be hitting the water table. Mr. Rose stated that he has to in order to remove the trash. Councilor Costa-Hanlon stated that there will be groundwater that will now become surface water. She asked what he will do about that. Mr. Rose stated that dewatering will be put into the

corner. He then explained the excavation procedure on Item#3. Councilor Costa-Hanlon wanted to confirm that he has a dewatering plan and it is part of his order of conditions. Mr. Rose confirmed. Councilor Costa-Hanlon asked how long his order of conditions is from the Conservation Committee and how long he has to do the work. Mr. Rose stated that he is assuming it was for three years and if not he will have to go back and extend the timeframe. Councilor Costa-Hanlon stated that she doesn't understand why he would need an extension if all of the work is going to only take a week. Mr. Rose stated that he did the order of conditions in February of 2014 and he will check it before he does any work. Councilor Costa-Hanlon asked if all of the conditions will be in effect as soon as they do the work. Mr. Rose stated that they will have to be. Councilor Costa-Hanlon asked him if the order of conditions require him to keep the water on his own property. He confirmed. Councilor Costa-Hanlon asked if once oxygen is introduced to some of the things that have been underground for 50 years; it may cause decomposition and odor. She thinks that once the digging starts, the odor will start happening. There will be odors that will need to be dealt with and addressed. She would like to see the Earth Removal Permit talk about the LSP on site and she is sure the Conservation Commission orders address the wetlands and issues like that. She stated that the Council has never had an Earth Removal Permit that involves contaminated soil to start off with. It is usually a Brownfield which is held at much higher standards. She is not comfortable with doing that under the terms right now. Mr. Rose stated that contamination is probably not the right word, it is trash. He stated that when he spoke to the DEP about this whole thing, they have no records of this. There has never been a hazardous materials report of any of this stuff. He showed them the LSP report and they said it is just buried Municipal trash. There are a thousand sites in Massachusetts that have buried municipal trash. They agreed that there are no VOC's and when they dug six and a half feet into the land there was no odor from the holes. Councilor Costa-Hanlon asked what the circumference was of their test pits. He stated that they were 5 feet in diameter. It was done with a backhoe. Councilor Costa-Hanlon asked if they had done three of them on the site. Mr. Rose confirmed. Mr. Slusarz stated that one of the easiest ways to control the odor would be from the backfilling of clean fill. It is one of the benefits of having the backfill be placed as he is excavating. The odor control is built into the process of excavation. Councilor Costa-Hanlon asked what the orders say about how quickly the backfill has to be done. Mr. Slusarz stated that it doesn't give a specific time frame; it is just as soon as practical. It also says that they cannot leave any holes open overnight. Councilor Costa-Hanlon stated that it should be said in the order of conditions that they cannot leave any holes open overnight; that they must be backfilled and not just covered. Mr. Rose stated that it is his intention. She is concerned about the legal implications of allowing an Earth Removal Permit knowing that there is potential contamination. In 1940, what was considered Municipal waste would not be considered that today. Mr. Slusarz stated that the LSP was out there digging a couple of years ago and it is today's definition of Municipal trash. Mr. Rose stated that what was found on the site was basically glass bottles and insoluble household trash. They found things that weren't absorbed; most of the metals and cellulose were long gone. Councilor Costa-Hanlon has a problem with the three year permit; it is not needed and should be tightened up in her opinion. Mr. Rose then read another part of the excavation guidelines regarding the water tables. He stated that the reason that this was designed this way is because in August and September, the water tables are historically at their lowest. What has happened is that the permit process has dragged on and these guidelines have to be

moved to next year. He stated that he wrote the excavation guidelines on June 24, 2014. They are incorporated into the order of conditions that was issued by the Conservation Commission. Councilor Costa-Hanlon stated that they could move forward with excavation. Mr. Rose stated that they would have to dig another test pit to see how deep the water is and they could make judgements from there. He stated that he needs the time window to be flexible because the water table today could be different than a month from now. Councilor Cleary asked if the three years would be going back to 2014. Councilor Costa-Hanlon stated that it would be three years from now. Mr. Slusarz stated that there is most likely a three year term on the order of conditions issued by the Conservation Commission which was in February 2014. It will expire in 2017. Mr. Slusarz stated that we could make the Earth Removal Permit concurrent with the Conservation Commission's order of conditions. Mr. Rose stated that he is not sure if the orders of conditions are valid for one year or three years. Councilor Costa-Hanlon stated that if it is a one year then it would be expired. Mr. Rose stated that he would have to go back and get a re-approval. Councilor Pottier stated that he understands that three test pits were done; he was wondering if that was the industry standard. He asked if they start excavating and they happen to hit anything hazardous what the contingency plan is. Are they comfortable enough to say that whatever they had in the test pit will be on the whole site? Mr. Rose stated that one of the reasons for the LSP to be on site at the groundbreaking is in the event that they run into something that is unforeseen. In that case, they would have to stop excavation, identify what they discovered and then come up with a remedial plan to deal with it. They will follow whatever plan is decided on by the LSP and Collins Engineering with the approval of the City Engineer and Conservation. Mr. Rose then read Item#5 of the excavation guidelines. He is confident that what is on the lot is buried Municipal trash from 1949. Councilor Quinn asked Mr. Rose if the approval is granted tonight, what his game plan would be. Mr. Rose would go to the Conservation Commission to make sure that he is still falling within the guidelines and the time windows. She asked if he would go to the site periodically until the water table is where it needs to be to work there. Mr. Rose stated that he is really familiar with this site having grown up there. He is confident that he knows when the water table is at its lowest. Historically, it is in August and September. Councilor Quinn asked if he would wait until that time to start the week long project. Mr. Rose confirmed. Councilor Quinn stated that it seems like the Conservation Commission is satisfied with this subject to the Order of Conditions. She asked Mr. Slusarz if he is comfortable with this moving forward. Mr. Slusarz stated that he is comfortable with it and it seems like the Conservation Commission is anxious to clean up the site as well. There are no hazardous materials there but it's not what you would want to have on a site. Councilor Marshall asked Mr. Slusarz if he has seen the LSP report because the Council has not. Mr. Slusarz stated that he has seen it. Councilor Marshall asked if those reports expire. Mr. Slusarz said that he doesn't think so, the reports just states what is there. They come up with guidelines based on what is there. Councilor Marshall asked what the date of the LSP is. Mr. Rose stated that it was done in October of 2012. Councilor Marshall asked if the waste that is to be disposed of in our landfill requires a bill of lading. Mayor Hoye stated that in this particular case, there is no agreement to dispose of it anywhere. Councilor Marshall discussed how Mr. Rose stated that it will be disposed of in our landfill. Councilor Marshall asked if the waste requires any type of paperwork that says that it is not hazardous in order to be accepted wherever Mr. Rose will dump it. Mr. Slusarz does not know. Councilor Marshall asked if the LSP says that Mr. Rose will sign off saying

that all of the material removed from the premises is non-hazardous and can be disposed of in a Municipal landfill. Mr. Slusarz stated that it could be certified by the LSP on site as the excavation is going on. Mr. Rose stated that the report states that the LSP will be on site and will test the material as it comes out to determine whether it has hazardous issues. Based on that, he is supposed to certify that it can go to the landfill. Mr. Rose stated that in the event that they find hazardous issues there, that process has to stop because the disposal of that kind of material has to be done on a totally different basis. Councilor Marshall asked if the Earth Removal Board require any type of certification that that's where that stuff is being dumped. Mr. Slusarz stated that they don't like to specify where the disposal takes place. Councilor Marshall stated that he is concerned and there should be some type of paper trail. This has to be disposed at a Municipal Waste accepting facility. Councilor Marshall asked if the Earth Removal Board requires any type of receipts from where it is dumped to make sure it is disposed of properly. Mr. Slusarz stated that they didn't, they wanted to make that his responsibility. It is something that can be added into his conditions. Councilor Marshall stated that it is his choice where he would like to dispose of it but the City should make sure that it has been disposed of properly because it is solid waste. His concerns are that a lot of the material is dated and is two to three years old. He would be more comfortable if there was more current information. He is also concerned about the time frames; he agrees that the best time to do the work is in August or September when historically all of the water tables are lower because of the summer season. He is not comfortable with the mining of this operation being given a three year window. He would like a narrower timeframe of when this can be done. He stated that if his Order of Conditions has expired, then he needs to get one again to get an Earth Removal Permit. Mr. Slusarz stated that if the Order of Conditions expires during the time frame of the Earth Removal Permit, he just has to get them renewed. Councilor Marshall asked if they have already expired, would he grant an Earth Removal Permit with an expired Order of Conditions. Mr. Slusarz stated that they have not expired and he couldn't because according to the City's ordinances, he can't come before the Council unless he has all of his permits in place. He stated that they may expire before next summer. Councilor Marshall asked when the Order of Conditions was issued. Mr. Rose stated that they were issued in February of 2014. Councilor Marshall stated that he couldn't remember if they are good for one year or three years. Mr. Slusarz stated that it would have to be three years because it was current when they met this summer. **Councilor Cleary stated that some of the conditions that the Council would like to see are; 1. Gravel to be filled in nightly; 2. The LSP needs to verify that the trash is not hazardous; 3. Mr. Rose needs to give the Council a two week notice as to when he will start the project; 4. A Board of Health representative be on site as necessary to coordinate with the landfill and see if things are going appropriately; 5. Some type of a specific timeframe as to when this is projected to be done.** Mr. Rose stated that he would like to address the condition about the Board of Health. He stated that in the permitting process he and the City Engineer met with a representative from the Board of Health. They thoroughly went through the project and explained everything to him. He didn't seem to think that his presence was necessary. He was the one that brought up that there were no VOC's. He stated that if the Council wants a Board of Health representative there, he can do that. Councilor Cleary is just concerned that in the past there have been horrendous sites where 55 gallon drums of contaminated oil and such have been dumped. Mr. Rose stated that there are no 55 gallon drums of anything on this property. **Council President Borges added the following conditions to be**

placed on this permit. **1. Excavation to go from 7am to 5pm instead of 7pm; 2. The timeframe on the Earth Removal Permit to go from 3 years to 18 months; 3. Temporary fencing around the site.** Mr. Rose stated that his intention is to wrap the lot with a florescent orange plastic fencing that they use on construction sites to prevent unauthorized access. Council President Borges asked who wrote the excavation plan. Mr. Rose stated that he wrote that along with his contract. Council President Borges asked if there are a lot of things in his plan. Mr. Rose stated that it is a one page document. Mr. Rose stated that this is not a large project; it is 600 yards of material. He stated that stopping at 5pm would not be a problem. **Councilor Marshall stated that he has a few conditions of his own that he would like to include along with those of Councilor Cleary and Council President Borges. 1. Mr. Rose is to provide a receipt for each load that is properly disposed of in a Municipal Solid Waste receiving facility; 2. The Earth Removal Permit should expire one month after the start of excavation; 3. A copy of the LSP Report to be on file along with this application; 4. Prior to the two week notice, the Council to receive the Order of Conditions from the Conservation Commission. Councilor Marshall made a motion to add the conditions to the conditions that the Earth Removal Permit already has.** Mr. Slusarz stated that some of the conditions supersede what has already been written and others add to it. He then read the list of conditions. Councilor Carr stated that at the previous meeting Councilor Cleary made a motion that the Council gets guidance from the Law Department and to this point the Council has not received that. She asked if the Assistant City Solicitor de Abreau had any thoughts about this. She stated that the Council has never granted an Earth Removal Permit that has removed Municipal Waste from a lot. She didn't know if there were similar cases in other towns that the Council should be aware of before they vote to allow him to remove Municipal Waste. Asst. City Solicitor de Abreau stated that he is not aware of any and has not reviewed the materials that have been discussed here tonight. He thinks that the Council has brought up some good points that will be incorporated. He would defer this to Mr. Slusarz and his expertise and if there is a particular question that the Council would like him to answer, he could do so at a later time. Mr. Slusarz believes that the issue that had to do with the Law Department was how this will be paid for rather than what needs to be done on the site. Councilor Carr stated that she agrees with all of the recommendations made tonight. Mayor Hoye asked if anyone was present to speak either in favor or opposition of the petition. There was nobody present to speak either way about the petition. **Councilor Marshall made a motion to move that the hearing be closed, the petition granted with the conditions of the Earth Removal Permit Board and the additional stipulations that Mr. Slusarz read this evening as well as the LSP report and Excavation report be submitted as part of the record. So Voted. Com. from City Engineer submitting recommendation and conditions**

Communications from the Mayor:

Mayor Hoye stated that he is pleased to announce that the Baker/Polito administration recently announced a series of grants through the Mass DEP's Sustainable Materials Recovery Program (SMRP). There was just over \$3.5M in grants to 80 cities and towns and regional entities as well as certain non-profit organizations that provide services to them for recycling, composting, reuse and source reduction activities that will increase diversion of Municipal solid waste and household hazardous waste from disposal. 27 communities in Mass DEP's Southeast Region received grants totaling over \$1.4M. In

Taunton's case, we were awarded \$24,000 for an Enforcement Coordinator and also a \$49,000 Mattress Recycling Initiative which we would be able to tap into as we use those. This isn't direct money coming to the City but the \$49,000 can be tapped into for mattress removal and recycling which has been talked about for quite some time. He stated that these grants have been referred to the DPW by his office along with the City's Grant Coordinator. He would like to get them back here within the next few weeks to a month at the Committee on Solid Waste meeting to talk about how it will impact the City of Taunton. It is great news for the City and he thanked the Baker/Polito administration for their work. He also thanked the City's Grant Coordinator, the DPW and all who participated in this endeavor.

Communications from City Officers:

Com. from City Solicitor which attached a proposed Memorandum of Understanding concerning the payment by the Tribe of certain future costs associated with acquiring the land necessary to widen and improve Hart's Four Corners. The project has been progressing significantly, and the Tribe has been paying all of the ongoing design and engineering costs. In the near future, the City will direct its chosen appraiser, Mr. Claude Giroux, to begin the appraisal process for the fifty four temporary and permanent land acquisitions that the City is obligated to acquire for this project to go forward. It is presently expected that, at some point in time, an Order of Taking will be presented to the Municipal Council for approval. This will involve providing compensation to landowners. Given that eminent domain powers will be exercised, this may also involve the possibility of legal action by landowners to challenge the amount of compensation awarded. The MOU sets forth mechanisms to clearly provide that the proponent of Project First Light shall be responsible for all of the aforementioned costs, including the costs associated with defending future litigation associated with land acquisitions. The agreement has already been accepted and signed by the Tribe, and he respectfully requests that the Council approves the agreement and authorizes the Mayor to sign on behalf of the City. **Councilor Cleary made a motion to approve. So Voted.**

Communications from Citizens:

Com. from Brian Gillis, Field Engineer, Columbia Gas of Massachusetts, 995 Belmont St., Brockton with a request for an extended construction season within public roadways until January 1, 2016 weather permitting. As of November 9, 2015, CMA has approximately 15 roadway permits to execute prior to January 1, 2016. Upon being granted permission, CMA agrees to work closely with and communicate on a weekly basis with the Taunton DPW on current jobs in progress and their respective locations. Also, CMA will closely monitor the weather for any forecasted snow or freezing conditions to ensure safe construction activities. Lastly, road plates, if used, will be done so with the prior notice to the Taunton DPW and will not be left in place if there is any chance of snow in the forecast. CMA respectfully requests approval to continue working the requested extended work season, and they are available to meet with the Council to discuss this requested work season and they are available to meet with the Council to discuss this request at its next scheduled meeting. Councilor Marshall read a communication from the DPW Commissioner. It stated that upon the DPW Committees consideration to allow Columbia Gas of Mass. To work beyond the November 1st deadline, the DPW wants daily communication with a representative from Columbia Gas on the location of work to be performed that day. Asphalt patching to be complete at the

end of each day with no steel plates, all work to cease pending inclement weather and closure of asphalt plants. Also included in the letter were 15 new service locations. **Councilor Marshall made a motion to allow the extension beyond the November 1, 2015 deadline with all of the conditions set forth in the DPW Commissioners letter that was just read. So Voted.**

Com. from Frank Fitzgerald, Resident stating that he has watched and waited for an extraordinary period of time for someone in authority to step forward and state that the listing of candidates for local positions is slanted towards the incumbent office holder. All candidates should be treated as equals and incumbents should not receive priority listing or any indication that one is an incumbent, when one files an application for candidacy they are in fact a candidate and not an incumbent. The positioning on the ballot for all candidates should in all fairness be conducted through a random selection process. He has been informed that the Taunton City Charter stipulates the order in which candidates are listed on the voting ballot. He stated that the charter, as in the case of all laws and regulations are subject to necessary amendments and/or deletions as time and circumstances warrant. He understands that all things in life are not fair but when the opportunity presents itself to enact a degree of fairness then we who pride ourselves on the fact that equality is one of our foundations should in the spirit of fairness amend the City Charter. **Councilor Pottier made a motion to refer to the City Solicitor's Office, the Charter Committee and this to be included in the packet which will eventually get to the Mayor and the future Council for consideration. So Voted.**

Com. from Michael O'Connell, Race Director, The Miracle Mile requesting to conduct the 2015 Miracle Mile in Taunton on the morning of December 6, 2015 in cooperation with the annual Silver City Christmas Parade. They would like to finalize the plan for this year's Miracle Mile, and reaffirm their commitment as an organization to raise money for the important mission of housing our nation's wounded veterans. They are eager to grow this year's Miracle Mile and strive to make this a part of the holiday tradition here in Taunton. **Councilor Costa-Hanlon made a motion to approve and refer to the Police Chief and the Christmas Committee. So Voted.**

Communications in the hands of Councilors:

Councilor Costa-Hanlon submitted a letter from the C.N.A.'s at the Taunton Nursing Home addressing their concerns. They stated that their job is to care for the elderly twenty four hours, seven days a week. They are aware of the responsibilities and policies at the nursing home. Their concerns are that they have been mandated for the many holes on the schedule due to the lack of staffing. The shifts as you know are 7am-3pm, 3pm-11pm, 11pm-7am and they are being mandated two to three times a week. They are not sick calls the mandated policies, procedures, practices and staffing patterns are necessary for the safety of the residents and CNA's. They do not understand why the hiring process is so difficult for CNA's; they recently were able to fill positions at the nursing level quickly. There have been applicants and they are currently using an agency which has provided some relief. They would prefer having staff on board to keep the continuity of care of their residents consistent. **Councilor Costa-Hanlon made a motion to refer this letter to the Council President for discussion during a Committee of the Whole meeting and invite the members of the Taunton Nursing Home Board to attend. She would like to forward this letter to the Board and Mr. Brennan. Councilor**

Cleary made a motion for Mr. Brennan to explain to the Council in two weeks how many vacancies there are and why they are having difficulty filling them. So Voted.

Councilor McCaul stated that he received an email from the Taunton Charitable Association stating that they are going to have their "Stuff the Bus" program this weekend. They will be collecting Thanksgiving products like turkeys and stuffing to fill baskets for the needy. It will be taking place at Market Basket and also at Trucchis Supermarket on County Street. The hours of collection will be 8am-5pm. It is the 11th anniversary of the Taunton Charitable Association putting this together. Last year, they gave out 627 baskets to needy families in the community.

Petitions:

Hours of Operation License (Black Friday)

1. Hat World, Inc. -dba- Lids located at 2 Galleria Mall Drive, Taunton
2. Jeremy's Pizza, located at 2 Galleria Mall Drive, Taunton

Motion was made to move list as read. So Voted.

Claim submitted by Polly Marshall, 754 Montello St., Brockton seeking reimbursement for medical bills incurred as a result of injuries from a fall on a sidewalk at the corner of Tremont Street and Wildwood Ave. **Motion was made to refer to the DPW and the Law Department. So Voted.**

Committee Reports:

Motion was made for Committee reports to be read by Title and Approved. So Voted. Recommendations adopted to reflect the votes as recorded in Committee Reports. So Voted.

Unfinished Business:

Councilor Cleary spoke about the renewal of the lease with Head Start which is on the property at Taunton High School. They rent it for \$1 a year. He stated that it is tied up in grants and it expires in November which will impact a couple of grants that they have. He would like to try to get this expedited for the next meeting. Mayor Hoyer stated that he believes that it has been bouncing back and forth between them and the City Solicitor's Office so we will get that done.

Council President Borges wanted to thank Mary Jane Benker for going out to the blighted property at 40 West Britannia Street. She stated that Mary Jane has put a lot of work into it and she appreciates her going out and taking care of that property.

Orders, Ordinances, and Resolutions

Ordinance for a first reading to be passed to a second reading

**AN ORDINANCE RELATIVE TO THE
LICENSING OF SECOND HAND MOTOR VEHICLE SALES ESTABLISHMENTS**

Chapter 12: Licenses and Miscellaneous Business Regulations

Article XI: Sale of Secondhand Motor Vehicles

Be it ordained by the Municipal Council of the City of Taunton and by authority of the same as follows:

SECTION 1. Article XI of Chapter 12 of the Revised Ordinances of the City of Taunton, as amended, is hereby further amended by striking out Section 12-215 and Section 12-216, and inserting in place thereof the following sections:--

Section 12-215. License required. Licensing Authority. Application. Forms.

- (a) No person, except one whose principal business is the manufacture and sale of new motor vehicles but who incidentally acquires and sells secondhand vehicles, or a person whose principal business is financing the purchase or of insuring motor vehicles but who incidentally acquires and sells secondhand motor vehicles, shall engage in the business of buying, selling, or exchanging of secondhand motor vehicles or allow any property under his control to be used as a place of sale or display of such motor vehicles without first securing and maintaining in full force and effect a Class 2 license as provided in G.L. c. 140, §§ 57 through 69, inclusive.
- (b) The Licensing Authority in the City of Taunton shall be the Municipal Council, which shall, in the issuance, regulation, and revocation of such licenses, follow the procedures set forth in G.L. c. 140, §§ 57 through 69, inclusive.
- (c) Application for a Class 2 license shall be made by submitting to the City Clerk the application forms and tendering to the City Clerk the fee set forth in Section 12-216.
- (d) The Chief of Police shall establish and maintain, and shall from time to time revise, such application forms as, in his reasonable judgment, shall be in conformity with law and which enable the Municipal Council and the Police Department to obtain the information necessary to adequately investigate applications for Class 2 licenses. The Chief of Police shall ensure that the City Clerk is provided with such application forms.

Section 12-216. Fee.

All applications for issuance, renewal, change of situation, or transfer of a Class 2 license shall be accompanied by a non-refundable fee of two hundred dollars (\$200.00).

SECTION 2. Said Article XI of said Chapter 12, as amended, is hereby further amended, by inserting after Section 12-216, the following new sections:--

Section 12-217. Application Criteria.

- (a) In addition to the information contained within the application forms, the Municipal Council may require any applicant for a Class 2 license to provide such additional information as it deems necessary in order to investigate the application. Any such application may be denied in the event the applicant fails to provide such additional information.
- (b) No such license shall be granted until the Municipal Council is satisfied from an investigation of the facts stated in the application and any other information which it may require of the applicant, that the applicant is a proper person to engage in such business, that said business is or will be the applicant's principal business, and that the applicant has an available place of business suitable for the purpose.
- (c) All applicants shall submit to the Municipal Council the names, dates of birth, and current residential addresses of all individuals (1) having an ownership or equity interest of ten percent or more in the proposed licensee, (2) serving as president, treasurer, clerk, director, manager, director, or any other principal officer of the proposed licensee, and (3) serving as the licensee's on-site manager, which all licensees shall so designate at least one individual to serve. All applicants for a Class 2 license, and all licensees, shall be under an affirmative obligation at all times to file with the City Clerk, on a form to be promulgated by the Chief of Police, notice of any change to any of the information required to be disclosed under this paragraph within thirty (30) days of the time any of such information changes. The purpose of this paragraph is to permit the licensing authority to have sufficient information to perform an investigation into whether the licensee is, and continues to be, a "proper person."
- (d) The Municipal Council shall cause an investigation to occur of the facts stated in the application and such other information provided by the applicant.
- (e) No such license shall issue unless the applicant demonstrates that the applicant is or will be actively involved in the sale of secondhand motor vehicles in the City of Taunton. No "pocket licenses" shall be issued.
- (f) The applicant shall submit to the Municipal Council a plot plan of the proposed licensed premises whether or not a plot plan is required by any other provision of law.
- (g) The applicant shall specify all portions of the premises to be occupied and used by the licensee for the purpose of carrying on the licensed business.

- (h) If the applicant has not held a Class 2 license in the year prior to the making of the application, the application shall be completed in duplicate, with one copy being filed with the City Clerk, and the other copy being filed with the Massachusetts Registry of Motor Vehicles.
- (i) No such license shall issue unless the licensee demonstrates that it will have and maintain access at all times to repair facilities on-site or nearby that are sufficient to enable the licensee to satisfy the warranty repair obligations imposed upon licensees pursuant to G.L. c. 90, § 7N¼.
- (j) The Municipal Council shall deny an application for a Class 2 license unless an applicant demonstrates compliance with all requirements of the City of Taunton zoning ordinances.
- (k) Any licensee, upon application therefor, and upon tendering to the City Clerk the fee set forth in Section 12-216, may seek a change of situation of the licensed premises or for additions thereto. Permits for the same may be granted at any time by the Municipal Council in writing, a copy of which shall be attached to the license.
- (l) Any license granted shall be revoked by the Municipal Council if it appears, after a hearing, that the licensee is not complying with G.L. c. 140, §§ 57 through 69, inclusive, or the rules and regulations thereunder.
- (m) Any license granted shall be revoked by the Municipal Council if it appears, after a hearing, that the licensee has not complied, or is not complying, with the provisions of this Article.

Section 12-218. Operations criteria. Conditions of license.

- (a) In addition to the mandatory conditions set forth in subsection (c), below, and the conditions required by applicable zoning ordinances, the Municipal Council may place reasonable conditions and restrictions upon the grant of any Class 2 license including, but not limited to, the number of motor vehicles permitted to be displayed on the licensed premises at any one time. The Municipal Council may request the assistance and advice of the city planner, the planning board, the development impact review board, or any other city official or board, in determining what site-specific conditions, if any, shall be imposed upon the grant of any such license.

- (b) Appropriate fencing may be required if, in the judgment of the Municipal Council, such fencing is necessary to control access to the licensed premises or to maintain the aesthetic value of the immediate neighborhood.
- (c) All licenses shall be subject to the following conditions:
1. No dismantled, incomplete or damaged motor vehicles or parts thereof shall be visible from any public or private way or streets or from any abutting property.
 2. All repairs and maintenance of motor vehicles conducted upon the premises, if the same is otherwise permitted to be performed anywhere on the licensed premises, shall be performed only inside an enclosed building.
 3. The number and placement of motor vehicles on the licensed premises shall be in accordance with the plot plan and as approved by the Municipal Council, and shall be, at a minimum, in accordance with applicable zoning ordinances. For licensees operating on a pre-existing, non-conforming lot, the Municipal Council shall nonetheless have the authority to require the licensee to undergo the site plan review process, appear before the development impact review board, or otherwise grant a license subject to conditions restricting the number and placement of motor vehicles on the licensed premises.
 4. Licensees shall maintain a sufficient number of parking spaces on the licensed premises for customer parking. The number of customer spaces shall be, at a minimum, the number of spaces required by applicable zoning ordinances, and such number of additional customer spaces that the Municipal Council, for good cause shown, shall require.
 5. Unless other provisions of applicable law provide for more restrictive hours, no licensee shall operate or be open to the public earlier than 8:00 a.m. no later than 9:00 p.m.
 6. The licensed premises, and any other property in the immediate vicinity thereof, owned or under the control of the licensee or any individual whose identity is required to be disclosed pursuant to Section 12-217(c), shall be maintained in a clean and sanitary manner and shall at all times be kept clean and free of debris.
 7. No licensee shall engage in the business of buying, selling, or exchanging of secondhand motor vehicles on any portion of the licensed premises

other than those portions of the licensed premises specified under Section 12-217(g) and approved for such use by the Municipal Council.

8. All licensees shall comply with all rules and regulations promulgated by the Registrar of Motor Vehicles defining sufficient repair facilities for holders of Used Car Dealer's Licenses.
9. All licensees shall at all times comply with all requirements of applicable zoning statutes and ordinances.
10. All licensees shall permit any duly delegated agent of the Licensing Authority or any police officer of the City of Taunton to enter and inspect all areas of the licensed premises at all reasonable times in order to conduct an inspection of the licensed premises or to investigate the conditions thereon in order to ensure compliance with the terms of the license or this Article, to investigate complaints of alleged violations of this Article, or to take any other action relative thereto.

- (d) Any license granted shall be suspended or revoked by the Municipal Council if it appears, after a hearing, that the licensee has not complied, or is not complying, with the any of the conditions placed upon the grant of such license or any of the provisions of this Article.

Section 12-218. New License Application Criteria.

Any application for a Class 2 license which proposes to conduct operations on any premises which has not been the site upon which a Class 2 licensee has been in actual operation at any time in the past twelve months shall be considered a New License Application. A person who submits a New License Application shall, in addition to the provisions of Sections 12-215 through 12-217, inclusive, be subject to the following requirements:

- (a) The Municipal Council or a committee thereof shall hold a public hearing upon a New License Application. The City Clerk shall cause a legal advertisement of such public hearing to be published at least once in a newspaper of general circulation in the City of Taunton, said publication to be no less than fourteen days prior to the date of the public hearing. The applicant shall reimburse the City Clerk's office in full for the cost of said publication and shall provide evidence of payment and evidence of publication, at the beginning of the public hearing.
- (b) The applicant shall obtain from the Board of Assessors a certified abutters list of all persons owning property within three hundred feet of the proposed licensed premises. The applicant shall, at its cost, and no less than fourteen days prior to

the date of the public hearing, mail notice of the public hearing to each person appearing on the list. The applicant shall provide evidence of such notification at the beginning of the public hearing.

(c) No New License Application shall be granted unless the applicant demonstrates to the Municipal Council at the public hearing each of the following:

1. The proposed licensed site is an appropriate location for such use.
2. The use of the property for the sale of secondhand motor vehicles will not be detrimental to the established or future character of the surrounding neighborhood.
3. The proposed licensed activity on the premises will not create a nuisance or hazard to pedestrians or motorists traveling on public ways.
4. The public convenience and welfare will be substantially served by the granting of the application.
5. The application and the proposed licensed site and operations will otherwise comply with the General Laws of Massachusetts and the Revised Ordinances of the City of Taunton.

Section 12-219. Severability.

The provisions of this Article, to include Sections 12-215 through 12-218, inclusive, and all of their respective subsections, shall be deemed to be severable; and if any of said provisions shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, said finding shall not affect or impair the validity of any of the remaining provisions of this Article, which shall remain in full force and effect.

SECTION 3. All ordinances or parts thereof inconsistent herewith are hereby repealed. This Ordinance shall become effective immediately upon passage. Councilor Cleary made a motion to approve the first reading and move to a second reading. So Voted.

New Business:

Councilor Marshall discussed the area on Belmont Street between Ashland and Arlington Streets where there was either a water break or a water project which has been fixed for about a month but was never asphalted. **Councilor Marshall made a motion that the patch be fixed immediately. So Voted.** *(The City Clerk notified the DPW on November 18, 2015)*

Councilor Marshall made a motion to refer to the Council of the Whole the possibility of having a discussion about creating a new Council Committee which

would deal with the Sovereign Nation Partners within this City. So Voted. He stated that it would make sense to form a Committee where all of the communications and decisions could be sent to try to streamline the process. He is not saying that he is for or against it but thinks that there should be a discussion about it. He stated that if this project gets built, there will be ongoing neighbor relations and IGA concerns.

Councilor Pottier stated that Locust Street was recently paved and there was dirt and debris left there. **Motion was made to refer to the DPW to take care of. So Voted.** *(The City Clerk notified the DPW on November 19, 2015)*

Councilor Carr stated that she was contacted by a citizen about a house in the Historic District which was demolished. She spoke to the Commissioner of the Historic Commission who knew nothing about it. She stated that she finds this very concerning because there are not many historical buildings left and they should be protected. She also stated that it is against City Ordinance. Mayor Hoye stated that he was informed today about it and it was a simple mistake made by the Building Department, someone was out and somebody else possibly didn't handle it the right way. He stated that he doesn't think that it was done maliciously and is sure that it would have been granted because the building was in disarray. He thinks there are a lot of those things that need to be looked at. He stated that there are two problems; one is that anything over 50 years old needs to be signed off on and the other is that there is no dedicated place that the phone rings for the Historical Commission. He is going to look into having a dedicated person at City Hall to answer those calls. Councilor Carr stated that she appreciates that but would still like to know how this happened. **Motion was made to refer to the Committee on Public Property because she wants to hear from the Building Department and the Building Inspector because he would have been the one to issue the demolition order. Motion was made to meet with the Building Inspector to get his take on exactly what happened and how that demolition took place without the Historic District Commission knowing about it and invite the members of the Historic District Commission if they wish to attend. So Voted.**

Councilor McCaul stated that it was brought to his attention that at Taunton Garden Apartments on County Street there are cross walk signs but the cross walks need to be striped. The children getting off the bus are dodging cars to try to cross the street. Mayor Hoye stated that this was brought up at one of his community meetings last week. There are two issues; the first is that it is a Mass Highway road but we can talk to the DPW about coordinating that with Mass Highway. The other problem is the crosswalk is not illuminated enough so it is hard to see. He stated that we have to do a better job to make drivers aware of what is going on there. **Motion was made to refer to the DPW to stripe the crosswalk. So Voted.** *(The City Clerk notified the DPW on November 19, 2015 and they will contact Mass Highway to stripe.)*

Councilor McCaul stated that he was asked last night at a meeting at Martin School when Middleboro Avenue will be striped. The residents are worried because at night it is hard to see at the turn near Old Colony Avenue and the airport. Motion was made to get that striped as soon as possible for the safety of the residents of Middleboro Avenue. So Voted. Councilor Marshall stated that the reason that it has not been striped is because they are waiting for all of the paving to be done so the

contractor can come in for one mobilization. He stated that when the paving is done they will do it in one night which should happen relatively quickly.

Meeting adjourned at 9:00 P.M.

A true copy:

Attest: 
City Clerk

RMB/SJS

CITY OF TAUNTON
MUNICIPAL COUNCIL
NOVEMBER 17, 2015

THE COMMITTEE ON FINANCE AND SALARIES

PRESENT WERE: COUNCILOR GERALD CROTEAU, CHAIRMAN AND COUNCILOR CARR

MEETING CALLED TO ORDER AT 5:40 P.M.

1. MEET TO REVIEW THE WEEKLY VOUCHERS & PAYROLLS FOR CITY DEPARTMENTS

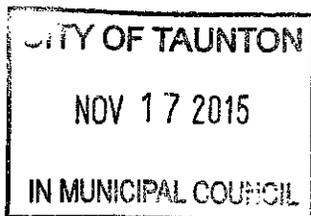
Motion: Move approval of the Vouchers & Payrolls for the week. So Voted.

MEETING ADJOURNED AT 5:41 P.M.

Respectfully submitted,



Colleen M. Ellis
Clerk of Council Committees



REPORTS ACCEPTED,
RECOMMENDATIONS ADOPTED.



CITY CLERK

Rec'd 11-24-15
12:52 PM
J. Regan
Clerk of Council Committees

CITY OF TAUNTON
MUNICIPAL COUNCIL
NOVEMBER 17, 2015

THE COMMITTEE ON POLICE AND LICENSE

PRESENT WERE: COUNCILOR SHERRY COSTA-HANLON, CHAIRMAN AND COUNCILORS CLEARY AND CROTEAU. ALSO PRESENT WAS POLICE CHIEF EDWARD WALSH

MEETING CALLED TO ORDER AT 5:45 P.M.

1. MEET TO REVIEW DOCUMENTS TO BE SUBMITTED TO CIVIL SERVICE CALLING FOR SPANISH SPEAKING OFFICER

The Chairman stated that everything has been forwarded to the City Clerk by the Chief but the Chief did not know if the City Clerk had sent it out as yet. The only real change that had been made was that it was added to the letter that the City had previously had a Hispanic/Spanish speaking Police Officer in the past and that position is now unfilled and that is part of the reason for the request.

The Chief said as part of this, after last week's meeting Councilor Cleary had asked that a request be put out for laterals so the Chief provided a document that he provided to the state to be posted on the internal police websites so that anyone who is interested could apply. This is a police only website and it is what they use to check registries and stuff like that.

The document was titled *City of Taunton, Full Time Police Officer – Lateral Transfer – Spanish speaking.*

Motion: Document to be part of the record. So Voted.

A letter sent by e-mail dated November 17, 2015 to Chairperson Costa-Hanlon and Members of the Committee from Jacobo "Jake" Negron, President/Founder of the Massachusetts Latino Police Officers Association was also read. The letter said that it was written on behalf of the community members of Taunton who identify as Latino/Hispanic. They ask that the Council for the City of Taunton seriously consider a vote to accept and submit for 2 lateral transfers to the Taunton Police Department. They ask that these 2 lateral transfers be minority and Spanish speaking officers and that the outreach efforts for successful, fit candidates be done in a manner in which communities of color, particularly the Latino community, have full knowledge and understanding of how the recruitment process is going. They ask the Council to consider and approve funding for these 2 lateral transfers from the City's Supplemental Budget.

Motion: Letter to be part of the record. So Voted.

It was noted that the Chief will reach out to Mr. Negron as maybe there are some avenues or some access areas that he would be more aware of and to also get the Lateral Transfer document out to his membership as well.

Councilor Croteau said that he understands there is enough money to hire 4 officers, that there was enough money to hire 5 and 1 has been hired so there are 4 spots remaining. He also said that he is concerned with some statements in the letter, and that he is in favor of hiring a minority as long as they are qualified. He also noted that the City of Taunton must abide by Civil Service rules and regulations.

It was also noted that the letter will be placed on file, and that the Chief is already doing what the letter requested.

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NOVEMBER 17, 2015

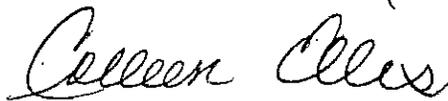
THE COMMITTEE ON POLICE AND LICENSE – CONTINUED

2. MEET TO REVIEW MATTERS IN FILE

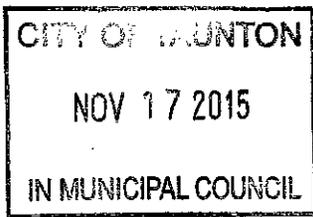
The Chief and Lieutenant Nichols were thanked for addressing some ATV issues in the City.

MEETING AJDOURNED AT 5:58 P.M.

Respectfully submitted,



Colleen M. Ellis
Clerk of Council Committees



**REPORTS ACCEPTED,
RECOMMENDATIONS ADOPTED.**



CITY CLERK

CITY OF TAUNTON
MUNICIPAL COUNCIL
NOVEMBER 17, 2015

THE COMMITTEE OF THE COUNCIL AS A WHOLE

PRESENT WERE: COUNCIL PRESIDENT ESTELE BORGES AND COUNCILORS CLEARY, MARSHALL, COSTA-HANLON, CROTEAU, POTTIER, MCCAUL, QUINN AND CARR. ALSO PRESENT WAS ATTORNEY MATTHEW COSTA OF LAW OFFICES OF GAY & GAY, 73 WASHINGTON STREET, TAUNTON AND STEPHEN KOSS OF 44 DEAN STREET, TAUNTON

MEETING CALLED TO ORDER AT 6:05 P.M.

1. MEET FOR A PRE-REVIEW HEARING FOR A SPECIAL PERMIT FOR A 36 UNIT MULTI FAMILY RESIDENTIAL DEVELOPMENT ON DEAN STREET (PARCELS 55-756 AND 55-757)

Attorney Costa said this is a Special Permit Application under Section 5.2 of the Taunton Zoning Ordinance for a 36 unit residential apartment building on a 2 acre site on Dean Street. It is number 44 Dean Street. It is near the railroad crossing off of Arlington Street. This parcel of land was the subject of a rezoning petition a couple of years ago when they came forward with a petition to rezone this parcel of land in the Transit Oriented Development District. The goal at that time was to take advantage of some of the density bonuses that are allowed under that part of the Taunton Zoning Ordinance. This Council did approve that zoning change. In 2013, there was another change in zoning that kind of was at the same time as this where the urban residential district was changed. There was a time when it only allowed 12 units per acre, then presently the urban residential district allows 18 units per acre. That is where the 36 units for this comes from, the 18 units per acre.

The petitioner has gone before the Zoning Board for an approval under the Transit Oriented Development guidelines and when that was filed they were looking for 60 or 61 units. There was a lot of push back from that density, and under the TOD there is also dimensional requirements that do not fit this parcel as it has an unusual shape. Under the TOD they have requirements that the parking has to go behind the building and the building has to be parallel or perpendicular to the street. So even though they obtained the zoning change they still needed variances because of the shape of the lot. Ultimately the Zoning Board decided they would not approve of the project under the TOD guidelines. When they went back and looked at the Zoning Ordinance it had changed to allow more density as a regular urban residential project, so that is what this is.

This is a straight Special Permit request under the regular urban residential guidelines. They meet all the density requirements, they do not need any variances for set backs or parking. The plan shows 80 parking spaces and they only need 72, so there are a few extra spaces for visitors or whatever reason.

Attorney Costa said next week when they come back they will have a full presentation. They will go through the plan in more detail and hopefully address any questions or concerns of the Council.

Attorney Costa also mentioned that they did meet with the Planning Board and they provided a recommendation to the Council and that was that even though this is for a special permit, if it is granted they need to come back to a full site plan review with the Planning Board. That requires

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NOVEMBER 17, 2015

THE COMMITTEE OF THE COUNCIL AS A WHOLE – CONTINUED

a higher level of engineering, drainage calculations, utility connections etc. all those small details that are required by a Site Plan Review. The Planning Board wanted that detail for this application even though under the ordinance they are allowed to come back separately for a site plan review. They voted 6-1 because of that issue of detail.

Councilor Cleary asked if the Special Permit itself is strictly on the density.

Attorney Costa said it is basically for the density.

Councilor Cleary said what he does not understand is that it was going to be 61 units now it is going to be 36 units, so it has been cut in half.

It was noted that in an urban residential district once you go beyond 2 units you need a special permit. It was also stated that they will be 2 and 3 bedroom units. Councilor Cleary did say there will be an impact with traffic leaving the proposed site.

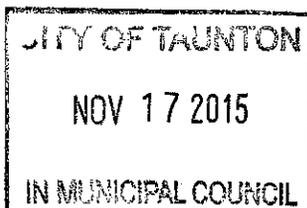
Councilor Quinn said that it is her understanding that the Planning Board gave the Council a negative recommendation in a 6 – 1 vote, but she did not see that in the packet. It was said that this will be provided next week during the hearing. Councilor Quinn said that her concern is having enough room on the lot to accommodate 36 families with enough outside area, so she would be looking to see, to make this a livable space, she would like to see some set up for quality of life, outside amenities. It was also noted that these will be rental units. She also has some concerns with traffic and she would like to have the traffic issues addressed at the hearing.

Councilor Costa-Hanlon said she would like to see the traffic issues addressed for the hearing, also a general layout for the area. She also noted that when they were thinking about 61 units, it had been mentioned that they were thinking about some units for Veterans, so she asked if they were still thinking about that. They answered yes, and Councilor Costa-Hanlon would like to know what percentage they are reserving for Veterans and their families. She wants a copy of the minutes of the Planning Board meeting. She also asked if they had looked at an exit on Arlington Street to which they answered that it is not possible.

Councilor Croteau said that he had received some concerns on the part of some residents in the area. The project was scaled down and the major concern for the Planning Board was the traffic so with the scaling down it is showing there is not going to be an impact.

Councilor Carr noted that where the old house is located may be in the Historic District and that they should get in touch with the Historic District Commission.

MEETING ADJOURNED AT 6:39 P.M.



Respectfully submitted,

Colleen M. Ellis
Clerk of Council Committees

~~REPORTS ACCEPTED, RECOMMENDATIONS ADOPTED.~~

CITY CLERK