



CITY OF SOMERVILLE, MASSACHUSETTS
CLERK OF COMMITTEES

April 26, 2021
REPORT OF THE LICENSES AND PERMITS COMMITTEE

Attendee Name	Title	Status	Arrived
William A. White Jr.	Chair	Present	
Wilfred N. Mbah	Vice Chair	Present	
Jefferson Thomas ("J.T.") Scott	Ward Two City Councilor	Present	

The meeting was held via GoToWebinar and was called to order by Chair White at 6:03pm and adjourned at 8:22pm.

Others present: John Long - Clerk; Hannah Pappenheim - Law

Approval of the December 9, 2020 Minutes

RESULT:	ACCEPTED
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Public Hearing - Greentown Labs

211779: New Garage License, Greentown Labs Inc, 444 Somerville Avenue, 4 autos inside, 0 outside for maintaining or operating a tow vehicle only, operating Mon-Sun: 7am-8pm.

Chair White opened the Public Hearing at 6:05pm.

Mr. Greg Ralich shared that Greentown labs is a community of startup companies focused on climate change and energy, including the transportation sector. Some companies will work on cars as part of their work. Greentown Labs wants to take the responsibility of permitting and licensing for anyone working within their space. This would include allowance for four vehicles inside. He clarified that they are not open to the public for storage only.

Councilor Scott asked if there was a particular tenant that Greentown Labs envisioned would take advantage of this and Mr. Ralich noted that there is a client. He added that he has been working closely with the Fire Department and the City. Councilor Mbah noted that Greentown Labs has been a valuable community resource. Councilor Scott also asked for confirmation that this would not be for employee parking use, and asked if the permit was limited accordingly. Mr. Long clarified that this is not a limitation for any garage license. Mr. Ralich agreed that this would not be an issue, as the spaces are not intended for use in this manner.

Chair White closed the Public Hearing at 6:16pm

Councilor Scott moved to approve with the condition that the garaging is intended for the commercial activities of tenants of Greentown Labs and not to be used as amenity parking for guests, officers, and staff of Greentown Labs. The motion was approved on a roll call vote of 3 in favor (Scott, Mbah, White) and 0 opposed.

RESULT:	APPROVED WITH CONDITIONS. [UNANIMOUS]
AYES:	White Jr., Mbah, Scott

Show Cause Hearing - Tosh Enterprises

211524: Renewing Junk Dealer's License, Tosh Enterprises, 260 Elm St.

Chair White confirmed that the license would be renewed as of May 1 and extend to April 30, 2022.

The Chair asked the applicant, Michael Bayles to introduce himself. He also asked Stephen Rider, the attorney representing the petitioner, Matthew Shannon, to introduce himself as well. Chair White explained that the Committee's powers are limited, and it does not have the ability to take actions such as issuing restitution. He asked about the status of the current claims against the applicant and Mr. Rider elaborated that there are no judgments against the applicant yet, but there is a case filed in the Quincy District Court awaiting discovery. Chair White confirmed that there is a Chapter 93A claim, and that no criminal complaint was filed.

Mr. Bayles noted that he has been in Davis Square since 2008-2009. He commented that the pawn business is difficult, and he prides himself on an A+ Better Business Bureau rating. He added that he has deep roots in Somerville and would not do anything illegal. He described that the pawn process involves holding the item, providing notifications, allowing download of an application with the ability to make payments online and get alerts when payments are due. The business has a 78% pickup rate. Mr. Bayles elaborated that the Division of Banks has stated that it is the City's responsibility to set the interest rate limits. Most rates are 10% or higher, and his rates are currently set at 3%. He noted that if the City set a rate, it would help legitimize his operation. Mr. Bayles further noted that Mr. Shannon is also a pawnbroker and knew what he was signing when he signed an agreement with his business.

Chair White asked for confirmation that the criminal complaint that caused a previous hold on the license has been dismissed and there are no further criminal claims. The applicant confirmed that to be accurate and has also never been found guilty in a civil matter.

Attorney Rider commented that the usury statute applies since the rate is not set by the City, and his client has been charged 120%. Mr. Rider also emphasized that Mr. Shannon is not a pawnbroker, but a high-end jeweler. He elaborated that the law (Chapter 140 Section 71) does not allow property that is left behind to be confiscated; there is a lengthy procedure that involves registered mail notice and a public auction.

The Chair asked Mr. Bayles's attorney, William Hudak, to comment on the exhibit submitted to demonstrate failure to comply with MGL. Mr. Hudak noted that his client does comply, as demonstrated by the lack of other claims. He added that Mr. Bayles used template forms from the National Pawnbrokers Association and any confusing references are likely due to those not being applicable in Massachusetts. The Chair elaborated that the notice does not appear to comply with MGL - the language on the ticket states that it is good for 4 months only and pledges after expiration may be sold without notice. It further states that articles left in pawn may be sold after 4 months from the date of the pawn. Mr. Bayles noted that the software he has issues these tickets with this information, and some of the laws are archaic. There is no malicious intent, and it is difficult to keep track of the outdated requirements, but he is diligent about sending notifications.

Chair White emphasized that this is not a trial. He reiterated that despite the intent, the notice does not comply with state law. He also asked about the other complaint, which is that approximately \$7,100 of

usurious interest was charged by Mr. Bayles. Chair White further noted that much of the complaint is not related to the license. If there is a court finding, that will be considered. He asked Mr. Bayles to comment on the claim of using a false name and Mr. Bayles noted that the business includes his grandmother's name, as she was a partner before her passing, and he also has a "stage name" that he uses in the pawnbroker community for videos and podcasts.

Chair Scott asked about the rates charged on the ticket submitted, and Mr. Bayles noted that it is 3% but there are a number of fees. He negotiated a rate with Mr. Shannon based on his experience with him in the past. Councilor Mbah asked if there was a standard process and Mr. Bayles clarified that it is to be set by the City, and he is open to assistance from the City to establish standards. Councilor Mbah also asked if the same contract had been used since the business was established and Mr. Bayles clarified that it has been in place since he started using his new software system about 5 years ago.

Chair White emphasized that the law states what needs to be done to sell pawned items, which includes an auction and any surplus being sent to the person who pawned the item. In clarifying the process, Mr. Bayles is not following these steps, noting that it is not common practice and the usual steps include selling the item in the store and the business keeping the profit. He added that their goal is not to sell items; they are more interested in collecting the interest and returning the items to their respective owners. Mr. Hudak elaborated that the language states that the business owner may sell the item, but is not required to do so, and the charging of fees is allowed. He suggested that the license be approved with the condition of an interest rate set at a certain level and compliance with the legal provisions.

Chair White asked what happened with the item belonging to Mr. Shannon and Mr. Rider noted that Mr. Shannon was able to get the item back. Mr. Rider suggested that the lack of claims is because most pawn clients simply cannot afford an attorney to file a complaint. He also suggested that an appropriate remedy might include determining when the statute was violated in the past and to rebate any money accordingly.

Councilor Scott noted that based on the information shared this evening and in past appearances, he is not inclined to renew this license. He expanded on his concerns, noting that the allegations made by the petitioner and the overriding question about interest will be addressed elsewhere, but whether the applicant is engaging in this business by the terms of the license granted is at issue. Based on the statements made by the applicant, the process for conducting business is not in line with what is appropriate under state law. Councilor Scott agreed with the notion that the lack of a prior complaint or judgment is unlikely given the client base. Further, the details on the transaction receipts are misleading and the citation is at best outdated and at worst misrepresenting the client's rights. Councilor Scott shared reservations about the applicant's desire and ability to comply with the MGL.

Chair White suggested that the parties have the opportunity to respond to the stated concerns prior to the next meeting. Mr. Hudak noted that the request to renew the license is for a Junk Dealer, and Mr. Bayles would like to renew that regardless of the pawn business. Mr. Bayles shared that he also runs a retail boutique focusing on high-end fashion items and repairs. Councilor Scott confirmed that these are items purchased secondhand, from customers, not wholesale.

Mr. Long clarified that the licensee's ability to do business legally would end on April 30 if no action is taken. He elaborated that there is no precedent for City staff enforcing a shutdown, but there may be implications if anything were to happen in the business after that date. Chair White asked if the license could be extended until the next meeting and Mr. Long noted that the Committee has taken the action of a short-term approval in the past.

Chair White moved that based on the testimony of the applicant and the objector, it appears that the applicant has not been complying with the provisions of MGL Chapter 140 Section 71, and due to that, this Committee will impose stated conditions. The motion was approved on a roll call vote of 3 in favor (Scott, Mbah, White) and 0 opposed.

Chair White moved that the license is conditioned on the provision that no additional items are taken or loans issued on a pawnbroker basis, and no items are disposed of unless the applicant complies with all provisions of MGL Chapter 140 Section 71. The motion was approved on a roll call vote of 3 in favor (Scott, Mbah, White) and 0 opposed.

Chair White moved to extend the license for 30 days, as conditioned. The motion was approved on a roll call vote of 3 in favor (Scott, Mbah, White) and 0 opposed.

RESULT:	APPROVED WITH CONDITIONS
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211425: Matthew Shannon submitting a petition to revoke the Junk Dealer License held by Tosh Enterprises LLC.

Chair White noted that this would not be relevant since the license is slated for renewal as of May 1, so the item will be considered as part of the renewal - see item 211524.

RESULT:	KEPT IN COMMITTEE
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Other

211525: New Flammables License, Form Energy Inc, 30 Dane Street, storing 300 gallons.

Mr. Long noted that this application has been withdrawn.

RESULT:	WITHDRAWN
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Referenced Material:

- Recent pawn ticket-Redacted (with 211524, 211425)