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Melissa J. Lewandowski
Catherine P. Rogers
Shaun P. Toohey
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Katrina Hobbs Everett
Devan Ferreira
Ralph T. Basiliere



CITY HALL, ROOM 204

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CITY OF HAVERHILL

HAVERHILL, MASSACHUSETTS 01830-5843

Application of Kayrouz Petroleum, LLC for a storage petroleum license requesting to store 20,000 gallons of class ii diesel fuel in an underground storage tank and 2500 gallons of diesel exhaust fluid in an underground storage tank at 298 Amesbury Road, Haverhill, MA.

Present: President Sullivan, Councilors Jordan, McGonagle, Ferreira, Michitson, Toohey, LePage, and Lewandowski

Remote: Councilors Hobbs Everett and Rogers

Absent: Councilor Basiliere

DEC 30 PM3:14
HAVCITYCLERK

I. Hearing

Several speakers addressed the council regarding the project: Attorney Thomas Fallon-Asst. City Solicitor, Attorney Donald Borenstein, Attorney for the client, Luke Distefano with Boehler, Scott Thornton of Vanesse and Associates, Johnny Kayrouz, principal of Kayrouz Petroleum.

The City Council received an updated presentation on the Kayrouz Petroleum flammable-storage license application, originally denied in 2022 and subsequently appealed in both Land Court and Superior Court due to the vote being recorded on an incorrect zoning form. After mediation overseen by retired Judge Grossman, the applicant provided new engineering, traffic, and tank-safety studies, which were reviewed by city staff and outside peer reviewers. Attorney Fallon explained that the matter is now remanded with no court-imposed outcome; the council may approve, deny, or approve with conditions under M.G.L. c.148 §13. If approved with agreed-upon conditions, the lawsuit can be dismissed; if denied, the applicant may continue its appeal. The applicant's team—including engineers, traffic consultants, and environmental specialists—outlined the proposal for a diesel-only truck fueling station at 298 Amesbury Road, meeting zoning and site-plan requirements and incorporating a 20,000-gallon double-walled diesel tank and a 2,500-gallon DEF tank. Traffic impacts were described as minimal, primarily serving trucks exiting and re-entering I-495. The environmental peer reviewer concluded the tank design would not pose a threat if installed per regulations. Kayrouz representatives emphasized that the site is not a truck stop, will have limited hours, offers only basic convenience items, and is designed for quick highway-oriented fueling. Further approvals from MassDOT, city departments, and the Fire Department would still be required if the license is granted.

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Multiple abutters spoke (Donna Fitzgerald, Anita Toscano, Joyce Menna, David Giroux, Christine Kwitchoff, Steven Eddy (owner of property), Steven Crane) to the proposed diesel fueling facility, voicing concerns about truck traffic, neighborhood safety, environmental risks, and overall compatibility with the largely residential area. Residents from Kenoza Street, Corliss Hill Road, and Elliot Street described a significant existing increase in heavy-truck traffic on rural or weight-restricted roads due to GPS routing and questioned whether the new station would draw even more trucks off I-495 and through their neighborhoods. Speakers raised worries about hours of operation, noise, bright lighting, air pollution, and potential impacts on residents of Haverhill Crossing, located roughly 350 feet away and home to many elderly individuals with respiratory issues. Several residents warned of risks associated with underground diesel tanks, including leaks, spills, groundwater contamination, and potential effects on nearby wetlands and the Kenoza Reservoir. Others argued that traffic conditions near the 495 ramps and Elliot Street are already hazardous and would worsen, disputing the accuracy and timing of the traffic study. Questions were also raised about whether the projected customer volumes make the business viable and whether all diesel vehicles—including pickups and car carriers—would use the site. One resident emphasized prior heavy truck activity on the property without complaints, but most speakers urged the council to reject the proposal, calling it incompatible with the neighborhood and potentially harmful to health, safety, and the environment.

Motion by Councilor LePage to approve, Second by Councilor Toohey

Councilors engaged in an extended review of the proposal, with Councilor Lewandowski citing key case law (the *Johnson* decision) to emphasize the council's broad discretion under M.G.L. c.148 §13 to deny or condition a flammable-storage license based on public-interest considerations beyond fire safety. She raised significant concerns about the project's hours of operation, proximity to an assisted-living facility, lack of buffering, idling, overnight parking, traffic impacts, environmental safeguards, and wildlife habitat issues, and she introduced a series of detailed conditions addressing reduced hours, light and sound buffers, strict no-idling limits, a gate or mechanism to prevent overnight truck parking, a secondary access road, environmental maintenance reporting, soil and air-quality testing, Natural Heritage review, and an independent health-risk analysis. Councilor Michitson sharply criticized the traffic study as unrealistic based on his daily experience with congestion and dangerous intersections in the project area, questioning the model sites used and calling the assumptions "insulting." Applicant representatives responded that while the council has discretion, denials cannot rest on

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generalized concerns; they urged approval with conditions and commented on which conditions were feasible, noting that some matters (e.g., traffic lights) are controlled by MassDOT and that several concerns are already addressed through site-plan review and environmental regulations. The council proceeded to vote on each condition individually, approving nearly all—including reduced hours (6 AM–9 PM), buffering requirements, a five-minute idling limit, overnight-parking prevention, a secondary access road option, incorporation of departmental conditions, environmental testing and reporting, Natural Heritage review, an inhalation-risk study, and a provision allowing license revocation if later reviews show problems.

Motion by Councilor Lewandowski for the hours of operations to be 6AM-9PM, Second by Councilor LePage

City Clerk Wright: Vice President Jordan-yes, Councilor Hobbs Everett-yes, Councilor Michitson-yes, Councilor Ferreira-yes, Councilor Lewandowski-yes, Councilor Toohey-yes, Councilor McGonagle-abstain, Councilor LePage-yes, Councilor Rogers-yes, President Sullivan-yes.

PASSED YEAS 9, NAYS 0, ABSTENTATION 1 (McGonagle), ABSENT 1 (Basiliere)

Motion by Councilor Lewandowski to build buffers for both light and sound on both sides of the facility that adequately protect people on both sides, Benchmark and the other residences. Details to be determined during the site plan review process. Second by Councilor LePage.

City Clerk Wright: Vice President Jordan-yes, Councilor Hobbs Everett-yes, Councilor Michitson-yes, Councilor Ferreira-yes, Councilor Lewandowski-yes, Councilor Toohey-yes, Councilor McGonagle-abstain, Councilor LePage-yes, Councilor Rogers-yes, President Sullivan-yes.

PASSED YEAS 9, NAYS 0, ABSTENTATION 1 (McGonagle), ABSENT 1 (Basiliere)

Motion by Councilor Lewandowski that there is no idling-time limited to 5 minutes. Second by Councilor LePage.

City Clerk Wright: Vice President Jordan-yes, Councilor Hobbs Everett-yes, Councilor Michitson-yes, Councilor Ferreira-yes, Councilor Lewandowski-yes, Councilor Toohey-yes, Councilor McGonagle-abstain, Councilor LePage-yes, Councilor Rogers-yes, President Sullivan-yes.

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PASSED YEAS 9, NAYS 0, ABSTENTATION 1 (McGonagle), ABSENT 1 (Basiliere)

Motion by Councilor Lewandowski that a gate be installed to avoid overnight parking subject to the approval of Police and Fire Department. Second by Councilor LePage.

City Clerk Wright: Vice President Jordan-yes, Councilor Hobbs Everett-yes, Councilor Michitson-yes, Councilor Ferreira-yes, Councilor Lewandowski-yes, Councilor Toohey-yes, Councilor McGonagle-abstain, Councilor LePage-yes, Councilor Rogers-yes, President Sullivan-yes.

PASSED YEAS 9, NAYS 0, ABSTENTATION 1 (McGonagle), ABSENT 1 (Basiliere)

Motion by Councilor Lewandowski fueling only and no convenience store. Second by Councilor LePage.

City Clerk Wright: Vice President Jordan-no, Councilor Hobbs Everett-yes, Councilor Michitson-no, Councilor Ferreira-no, Councilor Lewandowski-yes, Councilor Toohey-no, Councilor McGonagle-abstain, Councilor LePage-no, Councilor Rogers-no, President Sullivan-yes.

DID NOT PASS YEAS 3, NAYS 6, ABSTENTATION 1 (McGonagle), ABSENT 1 (Basiliere)

Motion by Councilor Lewandowski for a separate access road on Elliot Street with light. Second by Councilor LePage.

Attorney Borenstein stated the traffic study and site plan review that we have been doing have provided an option for access if a new access road ran along side of the site the thing we were asked to look at and was cited. That thing we have done, can do and will do. The light we have no control over and we basically can't.

Motion by Councilor Lewandowski to amend the motion that there be a separate access road in conjunction with what Attorney Borenstein just said. Second by Councilor LePage.

City Clerk Wright: Vice President Jordan-yes, Councilor Hobbs Everett-yes, Councilor Michitson-yes, Councilor Ferreira-yes, Councilor Lewandowski-yes, Councilor Toohey-yes, Councilor McGonagle-abstain, Councilor LePage-yes, Councilor Rogers-yes, President Sullivan-yes.

PASSED YEAS 9, NAYS 0, ABSTENTATION 1 (McGonagle), ABSENT 1 (Basiliere)

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Motion by Councilor LePage to incorporate all of the department's comments and recommendations. Second by Councilor Toohey.

City Clerk Wright: Vice President Jordan-yes, Councilor Hobbs Everett-yes, Councilor Michitson-yes, Councilor Ferreira-yes, Councilor Lewandowski-yes, Councilor Toohey-yes, Councilor McGonagle-abstain, Councilor LePage-yes, Councilor Rogers-yes, President Sullivan-yes.

PASSED YEAS 9, NAYS 0, ABSTENTATION 1 (McGonagle), ABSENT 1 (Basiliere)

Motion by Councilor Lewandowski that soil and air quality testing at least on annual basis results of same to be submitted to Board of Health, Fire and City Departments for review. Second by Councilor LePage.

City Clerk Wright: Vice President Jordan-yes, Councilor Hobbs Everett-yes, Councilor Michitson-yes, Councilor Ferreira-yes, Councilor Lewandowski-yes, Councilor Toohey-yes, Councilor McGonagle-abstain, Councilor LePage-yes, Councilor Rogers-yes, President Sullivan-yes.

PASSED YEAS 9, NAYS 0, ABSTENTATION 1 (McGonagle), ABSENT 1 (Basiliere)

Motion by Councilor Lewandowski must go through Natural Heritage permitting process. Second by Councilor LePage.

City Clerk Wright: Vice President Jordan-yes, Councilor Hobbs Everett-yes, Councilor Michitson-yes, Councilor Ferreira-yes, Councilor Lewandowski-yes, Councilor Toohey-yes, Councilor McGonagle-abstain, Councilor LePage-yes, Councilor Rogers-yes, President Sullivan-yes.

PASSED YEAS 9, NAYS 0, ABSTENTATION 1 (McGonagle), ABSENT 1 (Basiliere)

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Motion by Councilor Lewandowski that the applicant pay for a study for inhalation and gas health risks. Second by Councilor LePage.

City Clerk Wright: Vice President Jordan-yes, Councilor Hobbs Everett-yes, Councilor Michitson-yes, Councilor Ferreira-yes, Councilor Lewandowski-yes, Councilor Toohey-yes, Councilor McGonagle-abstain, Councilor LePage-yes, Councilor Rogers-yes, President Sullivan-yes.

PASSED YEAS 9, NAYS 0, ABSTENTATION 1 (McGonagle), ABSENT 1 (Basiliere)

Motion by Councilor Lewandowski that the applicant does a follow-up traffic study after six months to make sure that the impacts that were proposed were real and accurate. Second by Councilor LePage.

City Clerk Wright: Vice President Jordan-yes, Councilor Hobbs Everett-yes, Councilor Michitson-yes, Councilor Ferreira-yes, Councilor Lewandowski-yes, Councilor Toohey-yes, Councilor McGonagle-abstain, Councilor LePage-yes, Councilor Rogers-yes, President Sullivan-yes.

PASSED YEAS 9, NAYS 0, ABSTENTATION 1 (McGonagle), ABSENT 1 (Basiliere)

Motion by Councilor Lewandowski that all voted on conditions are subject to review and at such review the council retains the authority to revoke the license based on the actual elements of the review. Second by Councilor LePage.

City Clerk Wright: Vice President Jordan-yes, Councilor Hobbs Everett-yes, Councilor Michitson-yes, Councilor Ferreira-yes, Councilor Lewandowski-yes, Councilor Toohey-yes, Councilor McGonagle-abstain, Councilor LePage-yes, Councilor Rogers-yes, President Sullivan-yes.

PASSED YEAS 9, NAYS 0, ABSTENTATION 1 (McGonagle), ABSENT 1 (Basiliere)

Motion by Councilor LePage to approve the license for the diesel fuel tank with all those conditions and departmental conditions. Second by Councilor Toohey.

City Clerk Wright: Vice President Jordan-no, Councilor Hobbs Everett-yes, Councilor Michitson-no, Councilor Ferreira-no, Councilor Lewandowski-no, Councilor Toohey-yes, Councilor McGonagle-abstain, Councilor LePage-yes, Councilor Rogers-yes, President Sullivan-no

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TIE YEAS 4, NAYS 4, ABSTENTATION 1 (McGonagle), ABSENT 1 (Basiliere)

Discussion took place about the previous vote that the numbers did not add up. President Sullivan stated we will take the vote again. Madam Clerk let's take the vote one more time for clarity purposes.

City Clerk Wright: Vice President Jordan-no, Councilor Hobbs Everett-no, Councilor Michitson-no, Councilor Ferreira-no, Councilor Lewandowski-no, Councilor Toohey-yes, Councilor McGonagle-abstain, Councilor LePage-yes, Councilor Rogers-yes, President Sullivan-no

DID NOT PASS YEAS 3, NAYS 6, ABSTENTATION 1 (McGonagle), ABSENT 1 (Basiliere)

II. Findings

The individual findings of councilors are included in the Council's administrative records and are also reflected in the opinions and statements as reflected in the minutes. The findings of the council as a whole are stated here.

The majority of the councilors found that the approval of the license would result in a adverse impact to the public welfare, community needs, and the neighborhood. The Councilors noted as follows:

-the hours of operation of a facility dispensing fuel to tractor trailers trucks is excessive and harmful to the neighbors including adjacent assisted living facility. Although conditioning requiring buffers to eliminate lighting and restrictions in the hours of operation and against idling may be helpful, these conditions are not enough to eliminate the adverse impact.

-a specific adverse impact resulting from approval of the license and operation of the facility involved the negative traffic impact. The facility would be located adjacent to I495 with on and off ramps utilizing an intersection which one councilor described as being the worst intersection in Haverhill. The traffic study submitted by the applicant was criticized as being completely unrealistic in light of comments about the traffic impact made by councilors and neighbors upon personal knowledge made at the hearing.

-facilities serving trucks including fueling facilities cause potential hazards such as diesel exhaust release; harmful compounds being released in air and soil damages to adjacent wetlands; noise

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disturbances due to excessive truck traffic; low air quality level causing breathing issues, ground water contamination and traffic safety issues.

Decision

On December 2, 2025, the Haverhill City Council roll voted against approving the application for flammable storage license with six (6) members voting nay, three (3) members voting yea and one (1) absent and one (1) abstention.

Vice President Jordan-no, Councilor Hobbs Everett-no, Councilor Michitson-no, Councilor Ferreira-no, Councilor Lewandowski-no, Councilor Toohey-yes, Councilor McGonagle-abstain, Councilor LePage-yes, Councilor Rogers-yes, President Sullivan-no

DID NOT PASS YEAS 3, NAYS 6, ABSTENTATION 1 (McGonagle), ABSENT 1 (Basiliere)

Thomas J. Sullivan, President
Haverhill City Council

12/30/25

Date