

REGULAR MEETING OF THE PEABODY CITY COUNCIL
MARCH 12, 2009

PRESENT: COUNCILLORS: BETTENCOURT, GRAVEL, DRISCOLL, MELLO, GAMACHE, OSBORNE, ATHAS, MANNING, AND GARABEDIAN

ABSENT: COUNCILLORS LIACOS AND SINEWITZ

Meeting of the Peabody City Council opened with a moment of silent prayer after being called to order by City Council President Pro Tempore, Robert E. Driscoll.

Salute to the American Flag.

P279-09 COUNCILLOR GAMACHE - MOVE TO receive and approve the minutes from the last regular meeting of February 26, 2009. (Unanimous)

The Council recognized three Student Government Day students from Peabody High School in attendance; Elizabeth King (Representing James Liacos); Matthew Perry (Representing Robert Driscoll); and Matthew Palmer (representing Michael Garabedian).

HEARINGS

The City Council opened with the public hearing on the proposed Zoning Map amendment for the Brooksby Farm area and immediately recessed the same.

P280-09 COUNCILLOR BETTENCOURT – MOVE, under suspension of the rules, to receive the communication from Ana Ortins and Mary Linda Anonello requesting to postpone the public hearing on the proposed Zoning Map amendment for the Brooksby Farm area. (Unanimous)

P281-09 COUNCILLOR BETTENCOURT – MOVE TO recess the public hearing on the proposed Zoning Map amendment for the Brooksby Farm area to Thursday evening, March 26, 2009. (Unanimous)

A public hearing was duly held on the Special Permit application from Antoinette Poli and Joseph Poli, 15 Monson Drive, Peabody, MA. Appearing to speak on behalf of said application was Mr. Joseph Poli. No one appeared to speak in favor. No one appeared to speak in opposition.

P282-09 COUNCILLOR BETTENCOURT - BE IT ORDERED by the City Council of the City of Peabody that the application from Antoinette Poli and Joseph Poli, 15 Monson Drive, Peabody, MA for a Special Permit for a family accessory living area at said 15 Monson Drive, Peabody, MA, as filed in accordance with Section 4.7 of the Peabody Zoning Ordinance, be approved based on the following reasons:

REASON: Owing to the fact that the use as approved 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 9-0, 2 absent)

P283-09 COUNCILLOR GAMACHE – MOVE, under suspension of the rules, to receive the communication from Cheryl A. Vervates c/o Greg's Lounge, 50 Walnut Street regarding an application to amend an Entertainment License. (Unanimous)

P284-09 COUNCILLOR GAMACHE – MOVE TO approve the request from Greg's Lounge, 50 Walnut Street, Peabody, MA to withdraw their application to amend an Entertainment License without prejudice. (Unanimous)

A public hearing was duly held on the Special Permit application from Christine M. Campece for property at 212 Newbury Street. Appearing to speak on behalf off said request was Christine Campece, 73 Locust Street, Middleton, MA. No one appeared to speak in favor. No one appeared to speak in opposition.

P285-09 COUNCILLOR GAMACHE – BE IT ORDERED by the City Council of the City of Peabody that the application from Christine M. Campece c/o Little Bears Playspace, 73 Locust Street, Middleton, MA for a Special Permit for Indoor Recreational Activities, specifically, a children’s recreation facility at 212 Newbury Street, Peabody, MA as filed in accordance with Sections 4.2.5 and 4.4 of the Peabody Zoning Ordinance be approved based on the following reasons and subject to the following conditions:

REASON: Owing to the fact that the use as approved 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.

CONDITION:

1. The hours of operation shall be 8:30 a.m. to 9:00 p.m. Monday through Saturday; and 10:00 a.m. to 8:00 p.m. on Sunday. (Carried 9-0, 2 absent)

A public hearing was duly held on the application to amend an Entertainment License from the Sylvan Street Grille, 12 Sylvan Street, Peabody, MA. Appearing to speak on behalf of the application was Mr. Ernest Tremblay. No one appeared to speak in favor. No one appeared to speak in opposition.

P286-09 COUNCILLOR MELLO – BE IT ORDERED by the City Council of the City of Peabody that the application from the Sylvan Street Grille, 12 Sylvan Street, Peabody, MA requesting to amend their Entertainment License to allow the use of a D.J. at said 12 Sylvan Street, Peabody, MA be approved subject to all papers being in order. (Carried 9-0, 2 absent)

REPORTS OF COMMITTEE

Finance Committee

March 12 12, 2009

P287-09 COUNCILLOR BETTENCOURT - Reporting for the Finance Committee – The Finance Committee met on March 12th just prior to this evening’s regular meeting. Committee members were myself, Councillors Mello, Gamache, Athas and Gravel. (Report received)

P288-09 COUNCILLOR BETTENCOURT - Reporting for the Finance Committee – The first item discussed was a transfer of funds in the amount of \$28,000.00 to fund the collective bargaining agreement with the Police Captain’s Association. The Director of Finance, Patricia Davis Schaffer, appeared to speak on the matter. The request was approved in the Finance Committee, 4-1)

P289-09 COUNCILLOR BETTENCOURT - Reporting for the Finance Committee – **MOVE TO approve the transfer of funds from Unreserved Fund Balance, \$28,000.00 to Police Salaries, \$28,000.00.** (Carried 7-2, 2 absent; Councillors Mello and Manning opposed)

P290-09 COUNCILLOR BETTENCOURT - Reporting for the Finance Committee – The next order of business was a transfer of funds in the amount of \$98,250.00 to fund the Library collective bargaining agreement. The Director of Finance, Patricia Davis Schaffer, appeared to speak on the matter. The request was approved in the Finance Committee, 4-1)

P291-09 COUNCILLOR BETTENCOURT - Reporting for the Finance Committee – **MOVE TO approve the transfer of funds from Unreserved Fund Balance, \$98,250.00 to Library Salaries, \$98,250.00.** (Carried 7-2, 2 absent; Councillors Mello and Manning opposed)

P292-09 COUNCILLOR BETTENCOURT - Reporting for the Finance Committee – The committee discussed the transfer of funds in the amount of \$500,000.00 to fund the Habitat for Humanity Grant. Appearing to speak on the request was Mr. William Power, Chairperson, Community Preservation Committee. The request was approved in the Finance Committee, 5-0)

P293-09 COUNCILLOR BETTENCOURT - Reporting for the Finance Committee – **MOVE TO approve the transfer of funds from the Inclusionary Housing Buyout Fund, \$500,000.00 to Habitat for Humanity Grant, \$500,000.00.** (Carried 9-0, 2 absent)

P294-09 COUNCILLOR BETTENCOURT - Reporting for the Finance Committee – The committee discussed the transfer of funds in the amount of \$98,000.00 to fund the CPA Historic Fund Balance. Appearing to speak on the request was Mr. William Power, Chairperson, Community Preservation Committee. The request was approved in the Finance Committee, 5-0)

P295-09 COUNCILLOR BETTENCOURT - Reporting for the Finance Committee – **MOVE TO approve the transfer of funds from CPA Unreserved Fund Balance, \$98,000.00 to CPA Historic Fund Balance, \$98,000.00.** (Carried 9-0, 2 absent)

P296-09 COUNCILLOR BETTENCOURT - Reporting for the Finance Committee – The committee discussed the transfer of funds in the amount of \$90,000.00 to fund the CPA Sutton Pierson House Preservation project. Appearing to speak on the request was Mr. William Power, Chairperson, Community Preservation Committee. The request was approved in the Finance Committee, 5-0)

P297-09 COUNCILLOR BETTENCOURT - Reporting for the Finance Committee – **MOVE TO approve the transfer of funds from CPA Historic Fund Balance, \$90,000.00 to CPA Sutton Pierson House Preservation, \$90,000.00.** (Carried 9-0, 2 absent)

P298-09 COUNCILLOR BETTENCOURT - Reporting for the Finance Committee – The committee discussed the transfer of funds in the amount of \$250,000.00 to fund the Higgins Middle School feasibility study. Appearing to speak on behalf of the request Mr. Daniel Doucette, Purchasing Agent and Dr. C. Milton Burnett, Superintendent of Schools. The matter was approved in Finance Committee 5-0.

P299-09 COUNCILLOR BETTENCOURT - Reporting for the Finance Committee – **MOVE TO approve the transfer of funds from Unreserved Fund Balance, \$250,000.00 to Feasibility Study – Higgins Middle School, \$250,000.00 as submitted by His Honor the Mayor under date of February 19, 2009. The vote acknowledges that said sums will be expended under the direction of the School Building Committee for the feasibility study the city may be eligible for, under a grant from the Massachusetts School Building Authority; and further acknowledges the MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any costs the City incurs in connection with the feasibility study in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the City.** (Carried 9-0, 2 absent)

P300-09 COUNCILLOR BETTENCOURT - Reporting for the Finance Committee – The last item discussed by the committee was a review of the 4th of July Celebration funds. The committee discussed ways to try and save money in the next years budget regarding 4th of July activities in each ward of the City. After discussion, the committee voted unanimously to continue with the 4th of July celebrations as conducted in previous years.

P301-09 COUNCILLOR BETTENCOURT - Reporting for the Finance Committee – MOVE TO continue with the 4th of July Celebration events as conducted in previous years. (Unanimous)

Committee of the Whole **March 12, 2009**

P302-09 COUNCILLOR DRISCOLL – Reporting for the Committee of the Whole – The Committee of the Whole did not enter into executive session and continued the scheduled Executive Session meeting with regards to Larry's Auto Sales, 93 Lynn Street to a future date, and requested the presence of the City Solicitor. (Report received)

MOTIONS, ORDERS & RESOLUTIONS

P303-09 COUNCILLOR BETTENCOURT – MOVE TO request that the Public Services Department relocate the dead end sign on Gaywood Circle and place said sign underneath the Gaywood Circle street sign. (Unanimous)

P304-09 COUNCILLOR MELLO – MOVE, under suspension of the rules to receive the communication from Jean Delios, Director, Department of Community & Planning regarding sale of real estate – 103 Tremont Street to the Veterans Post. (Unanimous)

P305-09 COUNCILLOR MELLO – BE IT ORDERED by the City Council of the City of Peabody to authorize His Honor the Mayor, Michael J. Bonfanti, to enter into a Purchase & Sales Agreement with The Portuguese American War Veterans of the United States and their affiliates, Post #1 for the premises located at 103 Tremont Street, Peabody, MA for the sum of \$1.00 with the following condition:

To strike the condition enumerated in Section 8.2 (2-D) of the RFP “that the property be deeded back to the City if the property is to be sold” and insert in place thereof a condition or deed restriction that “any proceeds from the any sale of the property not be derived for the benefit of any individual club member and that said proceeds must be donated to a non-profit or veterans organization”.

(Carried 8-0; Councillor Manning voting present; 2 absent)

P306-09 COUNCILLOR GAMACHE – MOVE, under suspension of the rules, to receive the letter from Council President Barry Sinewitz in support of the transfer of funds for the Higgins Middle School and Sutton Pierson House. (Unanimous)

P307-09 COUNCILLOR GAMACHE – MOVE, under suspension of the rules, to receive the application for a Moving Permit from William Power regarding property at 83 Aborn Street. (Unanimous)

P308-09 COUNCILLOR GAMACHE – MOVE TO approve the Moving Permit application from William Power, c/o City of Peabody, 24 Lowell Street, Peabody, MA to move the structure located at 83 Aborn Street to premises adjacent to 33 Washington Street on Sunday, March 29, 2009 subject to all papers being in order and subject to approval and conditions by the Chief of Police. (Unanimous)

P309-09 COUNCILLOR GAMACHE – MOVE TO request that the Community Development Department in conjunction with the Department of Public Services place some trash barrels along the bike path and notices be posted on the bike path concerning Section 16-25 of the City Code “Disposal of Animal Waste”. The bike path is now being utilized and as weather improves there will be more activity on that path, and there is already a build up of trash and animal waste. (Unanimous)

P310-09 COUNCILLOR GAMACHE – MOVE TO send a letter of thanks to the Department of Public Services regarding the pot hole hot line – the hot line seems to be working very well and pot holes are being repaired in a timely manner. (Unanimous)

P311-09 COUNCILLOR ATHAS – MOVE TO thank the Mayor and Police Department for placing the radar displays on Main Street. (Unanimous)

P312-09 COUNCILLOR ATHAS – MOVE, under suspension of the rules, to receive and approve the request from Dance with Dena for use of the Wiggin Auditorium on Thursday evening, March 19th. (Unanimous)

P313-09 COUNCILLOR ATHAS – MOVE TO request that the Public Services Department place a 20 m.p.h school zone sign on Tuckers Court. (Unanimous)

P314-09 COUNCILLOR MANNING – MOVE, under suspension of the rules, to receive the communication from the City Clerk regarding a research of Council minutes enumerating transfer of funds for legal expenses and be referred to the Legal Affairs Committee. (Unanimous)

P315-09 COUNCILLOR DRISCOLL – MOVE TO request that the Public Services Department paint ONLY a single line on Felton Street and not a double line. (Unanimous)

COMMUNICATIONS FROM HIS HONOR THE MAYOR

No communications

COMMUNICATIONS FROM CITY OFFICERS AND OTHERS

P316-09 COUNCILLOR GAMACHE - MOVE TO receive and approve the banner request from HAWC-DV, 27 Congress Street, Salem to display a banner across Lowell Street at City Hall from April 15th to April 26th subject to all papers being in order. (Unanimous)

P317-09 COUNCILLOR GAMACHE - MOVE TO receive and approve the banner request from the Peabody Chamber of Commerce, 24 Main Street, Peabody to display a banner across Central Street at Railroad Avenue from April 15th to May 31st subject to all papers being in order. (Unanimous)

P318-09 COUNCILLOR GAMACHE - MOVE TO receive a communication from Russell Donovan, 12 Quail Road, Peabody, MA relative to the YMCA project at 259 Lynnfield Street. (Unanimous)

P319-09 COUNCILLOR GAMACHE – MOVE TO receive the communication from William Power, President, Peabody Historical Society & Museum regarding the proposed Zoning Map amendment for the Brooksby Farm area and be referred to the public hearing. (Unanimous)

P320-09 COUNCILLOR GAMACHE – MOVE TO receive the communication from the Department of Community Development regarding the proposed Zoning Map amendment for the Brooksby Farm area and be referred to the public hearing. (Unanimous)

P321-09 COUNCILLOR GAMACHE – MOVE TO receive the Special Permit application from Rochelle Agneta, 54 Russell Street and request a public hearing be scheduled on the same. (Unanimous)

P322-09 - MOVE TO receive and approve a communication from Kevin Goggin, Building Commissioner, regarding Transfer of Special Permit 22-2004 to William Demoree d/b/a C & C's Galley, subject to all papers being in order. (Unanimous)

P323-09 COUNCILLOR GAMACHE - MOVE TO receive and approve the request from Jon Simmons care of the Peabody High School Vocal Music for use of the Wiggin Auditorium on Tuesday, April 14th and Wednesday, April 15th, 2009. (Unanimous)

P324-09 COUNCILLOR GAMACHE - MOVE TO receive a communication from Richard Yagjian, Chairman, Retirement Board in answer to Councillor Gravel's motion regarding the City's unfunded liability. (Unanimous)

P325-09 COUNCILLOR GAMACHE - MOVE TO receive a communication from Chief Robert Champagne, Police Department, relative to commercial vehicles over 2.5 tons on Southwick Road. (Unanimous)

P326-09 COUNCILLOR GAMACHE – MOVE TO receive a communication from Blair Haney, Community Development Department, relative to a special permit memo for 212 Newbury Street. (Unanimous)

PRESENTATION OF PETITIONS, MEMORIALS AND REMONSTRANCES

P327-09 COUNCILLOR GAMACHE - MOVE TO receive the application to amend a Class 2 Motor Vehicle License from Universal Auto Center, 36-42 Foster Street, and to set up a public hearing. (Unanimous)

P328-09 COUNCILLOR GAMACHE – MOVE TO receive and approve the application to renew a Class 2 Motor Vehicle License from Mike's Auto Sales, 100 Birney Street subject to all papers being in order. (Unanimous)

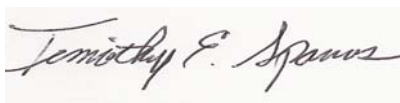
UNFINISHED BUSINESS FROM THE PRECEDING MATTER

P328-09 COUNCILLOR OSBORNE – BE IT ORDERED by the City Council of the City of Peabody that An Ordinance Amending Chapter 27 Entitled Streets, Sidewalks and Other Public Places of the Code of the City of Peabody be adopted as advertised and read [Summit Street from Lynnfield Street to end property line of 145-A Summit Street]. (Unanimous)

P329-09 COUNCILLOR GAMACHE – BE IT ORDERED by the City Council of the City of Peabody that An Ordinance Amending Article II Police Department of the Code of the City of Peabody be adopted as advertised and read. [Two Deputy Chiefs of Police] (Carried 6-2, 1 present, 2 absent; Councillor Gravel voting present; Councillors Bettencourt and Mello opposed; Councillors Liacos and Sinewitz absent)

MOVED: MOVE TO adjourn. Regular meeting of the Peabody City Council adjourned at 8:35 p.m.

SUBMITTED TO HIS HONOR THE MAYOR, MARCH 16, 2009
RETURNED BY HIS HONOR THE MAYOR, MARCH 16, 2009

ATTEST 
(Timothy E. Spanos, City Clerk)