

REGULAR MEETING OF THE PEABODY CITY COUNCIL
MAY 28, 2009

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

ABSENT: NONE

Meeting of the Peabody City Council opened with a moment of silent prayer after being called to order by City Council President, Barry C. Sinewitz.

Salute to the American Flag.

P561-09 COUNCILLOR GAMACHE - MOVE TO receive and approve the minutes from the last regular meeting of May 14, 2009. (Unanimous)

HEARINGS

A public hearing was duly held on the Special Permit application from Manuel & Dora Bettencourt, 15 Will Sawyer Road, Peabody, MA. Appearing to speak on behalf of said application was Mrs. Dora Bettencourt and Mr. David Jaquith, architect. No one appeared to speak in favor. No one appeared to speak in opposition.

P562-09 COUNCILLOR MELLO - BE IT ORDERED by the City Council of the City of Peabody that the application from Manuel & Dora Bettencourt, 15 Will Sawyer Road, Peabody, MA for a Special Permit for a family accessory living area at said 15 Will Sawyer Road, 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 11-0)

A public hearing was duly held on the application from Lahey Clinic, 1 Essex Center Drive, Peabody, MA. Appearing to speak on behalf of said application was Mr. Harry Roberge. No one appeared to speak in favor. No one appeared to speak in opposition.

P563-09 COUNCILLOR DRISCOLL - MOVE TO receive, under suspension of the rules, late communication Item 5 from Paul DeViller, Lahey Clinic, regarding proposed increase in fuel storage. (Unanimous)

P564-09 COUNCILLOR DRISCOLL - MOVE TO approve the application from Lahey Clinic, 1 Essex Center Drive, for an increase of 900 gallons of diesel fuel aboveground to allow for a new emergency generator on site at 1 Essex Center Drive, Peabody, MA, subject to all papers being in order. (Carried 11-0)

A public hearing was duly held on the application from Goodwill Enterprises, Inc. d/b/a Auto Mall Collection, 218 Andover Street, Peabody, MA. Attorney John R. Keilty, Ms. Cheri Jamali and Mr. Emamgholi Jamali appeared to speak on behalf of the application. No one appeared to speak in favor. No one appeared to speak in opposition.

P565-09 COUNCILLOR GARABEDIAN - MOVE TO recess the public hearing on the application from Goodwill Enterprises, Inc., d/b/a Auto Mall Collection, 218 Andover Street, Peabody, MA, until the first City Council meeting in June. (Unanimous)

A public hearing was duly held on the Special Permit application from Jose D. & Sonia N. Del Valle, 18 Shamrock Street, Peabody, MA. Appearing to speak on behalf of said application was Mr. Ivan Hernandez, 111 Baker Street, West Roxbury, MA. No one appeared to speak in favor. No one appeared to speak in opposition.

P566-09 COUNCILLOR MELLO - MOVE TO receive, under suspension of the rules, Item 8-J communication from Blair Haney, Community Development Department, regarding 18 Shamrock Street. (Unanimous)

P567-09 COUNCILLOR MELLO - BE IT ORDERED by the City Council of the City of Peabody that the application from Jose D. & Sonia N. Del Valle, 18 Shamrock Street, Peabody, MA for a Special Permit to construct a two-story addition to the rear of the dwelling at said 18 Shamrock Street, Peabody, MA, as filed in accordance with Section 1.5 of the Peabody Zoning Ordinance, be approved based on the following reasons and condition:

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. That the property remains a single-family home. (Carried 11-0)

[COUNCIL SINEWITZ VACATED THE COUNCIL PRESIDENT CHAIR - COUNCILLOR DRISCOLL ASSUMED THE CHAIR] A public hearing was duly held on the Special Permit application from EMCO Realty Trust, 682 Lowell Street, Peabody, MA. Appearing to speak on behalf of said application was Attorney Athan Vontzalides. Captain Joseph Berardino and City Solicitor John Christopher appeared on behalf of the City. Ms. Elsie Chesley, 5A Danforth Street, Peabody, MA; Mr. Stephen Mahoney, 45 Donegal Road, Peabody, MA; Mr. Michael Fisher, 13 Jones Road, Peabody, MA; Mr. Richard Chambers, 40 Elizabeth Lane, Peabody, MA; Ms. Deborah Capitumini, 7 Smoke Rise Circle, Peabody, MA; Ms. Rita Nazzaro, 18 Lindauer Street, Peabody, MA; Mr. Michael Barbuto, 22 Roosevelt Avenue, Peabody, MA; Mr. David McHenry, 3 Clinton Road, Peabody, MA; Mr. Patrick Dwyer, 26 Bow Street, Peabody, MA; Mr. Gary Gordon, 39 Samoset Road, Peabody, MA; Mr. John Nickolau, 7 Fitzgerald Way, Beverly, MA; Mr. Joe Olson, 9 Squanto Road, Peabody, MA and Ms. Cara Lima, 14 Elm Street, Peabody, MA appeared to speak in favor. Mr. Robert Tisi, 2 Samos Circle, Peabody, MA; Ms. Cathy Callinan, 9 Samos Circle, Peabody, MA; Ms. Linda O'Leary, 4 Samos Circle, Peabody, MA; Ms. Cynthia Webster, 3 Samos Circle, Peabody, MA; Ms. Carol Addorisio, 1 Samos Circle, Peabody, MA; Ms. Heather Pigeon, 15 Charles Street, Peabody, MA and Ms. Emma DeLava, 6 Samos Circle, Peabody, MA appeared to speak in opposition.

P568-09 COUNCILLOR GAMACHE - MOVE TO receive, under suspension of the rules, late communication Item 6 from EMCO Realty Trust, 682 Lowell Street submitting a petition of signatures in favor of a Special Permit application to allow for the sale of beer, wine and cordials. (Unanimous)

P569-09 COUNCILLOR GAMACHE - MOVE TO receive, under suspension of the rules, late communication Item 1 from Chief Robert Champagne, Police Department, regarding Special Permit memo, EMCO Realty Trust, 682 Lowell Street. (Unanimous)

P570-09 COUNCILLOR GAMACHE - MOVE TO receive, under suspension of the rules, late communication Item 2 from Councillor Arthur Athas regarding Special Permit, EMCO Realty Trust, 682 Lowell Street. (Unanimous)

P571-09 COUNCILLOR GAMACHE - MOVE TO receive, under suspension of the rules, Item 8-M communication from Blair Haney, Community Development Department, regarding Special Permit memo, 682 Lowell Street. (Unanimous)

[AT THIS POINT OF THE HEARING, COUNCILLOR BETTENCOURT HAD TO LEAVE THE REGULAR MEETING DUE TO A FAMILY EMERGENCY. ALL DISCUSSIONS WITH RESPECT TO THE PUBLIC HEARING TERMINATED – MOTION WAS CALLED FOR BY THE COUNCIL PRESIDENT TO RECESS THE PUBLIC HEARING]

P572-09 COUNCILLOR LIACOS - MOVE TO recess the public hearing on the application from EMCO Realty Trust, 682 Lowell Street, Peabody, MA until the first City Council meeting in June. (Carried 6-4; Councillors Sinewitz, Mello, Athas and Manning in opposition; Councillor Bettencourt absent)

REPORTS OF COMMITTEE

Industrial & Community Development Committee **May 28, 2009**

P573-09 COUNCILLOR MELLO - Reporting for the Industrial & Community Development Committee - At this time I would like to report out a meeting of the Industrial & Community Development Committee. The issue was around the proposed zoning amendment for Section 6.3.8 Reader Board Signs. There had again been another adjustment regarding that ordinance, so Councillor Bettencourt made a motion. Attending that subcommittee meeting were myself, Councillor Athas, Councillor Bettencourt and Councillor Manning. (Report received)

P574-09 COUNCILLOR MELLO - Reporting for the Industrial & Community Development Committee- MOVE TO advertise and set up a public hearing for June 25, 2009 regarding the proposing zoning amendment to Section 6.3.8 Reader Board Signs. (Unanimous)

Ad Hoc Golf Committee
May 28, 2009

P575-09 COUNCILLOR OSBORNE - Reporting for the Ad Hoc Golf Committee - The Ad Hoc Committee on Golf met this evening. Present were myself, Councillor Driscoll, Councillor Bettencourt sat in for Councillor Liacos. Also present were Councillors: Mello, Gamache, Athas, Manning, Garabedian and Gravel. We had a representative from the community, Mr. John Goulos, who spoke to the committee regarding some improvements he would like to see go on at the golf course between beverage carts and the junior memberships. And he listed quite a few different things he'd like to see done at the golf course. Also Mr. Dick Walker spoke after Mr. Goulos and explained why some of the things were done the way they are and why the golf course is run the way it is. However it felt refreshing to get the change in the opinion and that many opinions. I thought there was value to that group. We assured them that we would be meeting again and that group would be invited. In the past there has been an advisory board to the golf course. I don't know what the status of that board is. I will be talking to the mayor to see about establishing another advisory board to the golf course. It's a report of progress. (Report received)

Municipal Safety Committee
May 28, 2009

P576-09 COUNCILLOR MELLO - Reporting for the Municipal Safety Committee- MOVE TO request that the Community Development Department research the cost of a raised pedestrian crosswalk. (Unanimous)

P577-09 COUNCILLOR MELLO - Reporting for the Municipal Safety Committee- MOVE TO request that the City Solicitor provide a legal opinion to the City Council regarding liability issue of raised crosswalks. (Unanimous)

P578-09 COUNCILLOR MELLO - Reporting for the Municipal Safety Committee- MOVE TO request that the Community Development Department research the cost for a pad on Felton Street and Longstreet Road to accommodate a crosswalk. (Unanimous)

P579-09 COUNCILLOR MELLO - Reporting for the Municipal Safety Committee- MOVE TO request that the Park Department post a 10 mile per hour speed sign on Brooksby Farm Road. (Unanimous)

P580-09 COUNCILLOR MELLO - Reporting for the Municipal Safety Committee- MOVE TO request that the Community Development Department investigate the lights at the mall on Prospect Street and see if they are in sequence. (Unanimous)

P581-09 COUNCILLOR MELLO - Reporting for the Municipal Safety Committee- MOVE TO request that the Police Department monitor the Brooksby neighborhood on Fridays and weekends. (Unanimous)

The committee met to discuss a concern by residents of Newcastle and Seneca Road regarding speeding on Newcastle Road. Residents of the area did appear to speak before the committee requesting the committee to consider the installation of a 3-way stop sign on Newcastle Road at Seneca Road. (Report Received)

P582-09 COUNCILLOR MELLO – Reporting for the Municipal Safety Committee - MOVE TO request that the Public Services Department install a three-way "Stop" sign to be installed at the corner of Newcastle and Seneca Road and to amend the ordinance appropriately. (Unanimous)

P582A-09 COUNCILLOR MELLO – Reporting for the Municipal Safety Committee – The committee met to discuss the communication from Phil Sudenfield, 19 Fay Avenue regarding No Turn on Red signs at the corner of Allens Lane and Washington Street; and corner of Forest Street at Lowell Street. The Community Development Department and Police Department appeared before the committee. The signs are established in conformance with the Manual on Traffic Controls and that signs are required by state law because both locations have an exclusive pedestrian phase that requires a No Turn on Red sign. The matter was held in committee. (Report received)

Committee of the Whole
May 28, 2009

P583-09 COUNCILLOR SINEWITZ - Reporting for the Committee of the Whole - The Committee of the Whole met to discuss Aggregate Industries and there was one motion out of that by Councillor Gamache. (Report received)

P584-09 COUNCILLOR GAMACHE - Reporting for the Committee of the Whole - MOVE TO request that the Board of Health reinstate the noise testing at Aggregate Industries. Even though they are not doing any blasting, there are some residents who say there's some noise emanating from the site. (Unanimous)

MOTIONS, ORDERS & RESOLUTIONS

P585-09 COUNCILLOR GRAVEL - MOVE TO receive, under suspension of the rules, Item 7-A communication from His Honor the Mayor regarding Transfer of funds to CPC Historical, Community Housing and Open Space Reserve Funds and to refer to the Finance Committee. (Unanimous)

P586-09 COUNCILLOR GRAVEL - MOVE TO receive, under suspension of the rules, Item 7-B communication from His Honor the Mayor regarding Various transfers from CPC funds for open space and Bikeway land purchase and to refer to the Finance Committee. (Unanimous)

P587-09 COUNCILLOR GRAVEL - MOVE TO receive, under suspension of the rules, Item 8-K communication from Patricia Davis Schaffer, Director of Finance, regarding Updated debt schedule through June 30, 2011 and to refer to the Finance Committee. (Unanimous)

P588-09 COUNCILLOR GRAVEL - MOVE TO receive, under suspension of the rules, Item 8-L communication from Patricia Davis Schaffer, Director of Finance, regarding Updated status of appropriations and to refer to the Finance Committee. (Unanimous)

P589-09 COUNCILLOR GRAVEL (Co-motion with Councillor Osborne) - MOVE TO request that Sandra Road be placed on the list for paving. We continue to get numerous complaints from the neighbors that after the gas company repaired a gas line they left the road a disaster. (Unanimous)

P590-09 COUNCILLOR GAMACHE - MOVE TO request that the Public Services Department install a 30 mile per hour speed sign on Dearborn Road. The location to be determined by the Director of Public Services. (Unanimous)

P591-09 COUNCILLOR GAMACHE - MOVE TO receive, under suspension of the rules, late communication Item 3 from Aggregate Industries, 55 Russell Street, regarding In response to Council motions P453 and P454 (Stone and asphalt brought on site; DEP correspondence) and to refer to the Ad Hoc Committee on Aggregate Industries. (Unanimous)

P592-09 COUNCILLOR GAMACHE - MOVE TO receive and approve, under suspension of the rules, late communication Item 4, the following Utility Contractor Licenses, subject to all papers being in order:

SLT Construction Corp., 3 Marion Drive, Carver, MA
 CARLCO Construction, Inc., 39 Saddlebred Drive, Leominster, MA
 KCC Excavation, LLC, 668 Main Street, Wilmington, MA (Unanimous)

P593-09 COUNCILLOR GAMACHE - MOVE TO receive, under suspension of the rules, late communication Item 7 from Omni Development c/o CVS, 520-532 Lowell Street regarding an application for Special Permit and to set up a public hearing. (Unanimous)

P594-09 COUNCILLOR OSBORNE - MOVE TO receive, under suspension of the rules, Item 8-F communication from Clark Realty, LLC, 0 Clark Road, Peabody regarding Special Permit and to set up a public hearing. (Unanimous)

P595-09 COUNCILLOR ATHAS - MOVE TO receive, under suspension of the rules, Item 8-I communication from Atty. John A. Christopher, City Solicitor, regarding Legal opinion, Section 1.5.1 Nonconforming uses, single & two-family homes and to refer to the Legal Affairs Committee. (Unanimous)

P596-09 COUNCILLOR ATHAS - MOVE TO receive, under suspension of the rules, Item 8-O communication from Blair Haney, Community Development Department, regarding Purchase abandoned railroad for open space and bikeway extension and to refer to the Finance Committee. (Unanimous)

P597-09 COUNCILLOR ATHAS - MOVE TO request that the Public Services Department paint a crosswalk at 30 Lynnfield Street. (Unanimous)

P598-09 COUNCILLOR ATHAS - MOVE TO request that the Public Services Department replace the missing slab of sidewalk at 17 Lynnfield Street. (Unanimous)

P599-09 COUNCILLOR ATHAS - MOVE TO request that the Public Services Department replace the missing slab of sidewalk at 27 Lynnfield Street. (Unanimous)

P600-09 COUNCILLOR ATHAS - MOVE TO request that the Public Services Department move the three granite slabs at 21 Hingston Street to the rear of the property towards the rock rise. (Unanimous)

P601-09 COUNCILLOR ATHAS - MOVE TO request that the Public Services Department repair the sidewalk at 20 Hourihan Street. (Unanimous)

P602-09 COUNCILLOR SINEWITZ - MOVE TO request that the Public Services Department send an e-mail to Ward Councillors letting them know what sidewalks are going to be fixed or what streets are going to be paved ahead of time. (Unanimous)

COMMUNICATIONS FROM HIS HONOR THE MAYOR

Previously received.

COMMUNICATIONS FROM CITY OFFICERS AND OTHERS

P603-09 COUNCILLOR GAMACHE - MOVE TO receive a communication from Atty. John A. Christopher, City Solicitor, regarding Brooksby Farm lease status with Historical Society. (Unanimous)

P604-09 COUNCILLOR GAMACHE - MOVE TO receive and approve a communication from The Shining Star, 59 Central Street regarding Sidewalk sale request, subject to all papers being in order. (Unanimous)

P605-09 COUNCILLOR GAMACHE - MOVE TO receive and approve a communication from Chabad Lubavitch of Peabody, 83 Pine Street regarding Banner, subject to all papers being in order. (Unanimous)

P606-09 COUNCILLOR GAMACHE - MOVE TO receive a communication from Mass Highway Department regarding Truck exclusion request for Paleologos, Tracey, Fulton, Harris & Mount Vernon Streets. (Unanimous)

P607-09 COUNCILLOR GAMACHE - MOVE TO receive a communication from Blair Haney, Community Development Department, regarding Revised proposed zoning amendment for reader board signs. (Unanimous)

P608-09 COUNCILLOR GAMACHE - MOVE TO receive a communication from Children's Extended Care, 10 Centennial Drive regarding Site plan. (Unanimous)

P609-09 COUNCILLOR GAMACHE - MOVE TO receive a communication from Dr. Eliot G. Sherr, 205 Andover Street regarding Site plan. (Unanimous)

P610-09 COUNCILLOR GAMACHE - MOVE TO receive a communication from Jean Delios, Director, Community Development Department, regarding 45 Walnut Street; PowerPoint presentation from May 14th. (Unanimous)

P611-09 COUNCILLOR GAMACHE - MOVE TO receive a communication from Nate Jones, Community Development Department, regarding New traffic signal, Washington Street @ Allens Lane. (Unanimous)

PRESENTATION OF PETITIONS, MEMORIALS AND REMONSTRANCES

P612-09 COUNCILLOR GAMACHE - MOVE TO receive License for the Carriage of Passengers for Hire - CityConnect, Inc., 35 Eldon Street, Boston and to set up a public hearing. (Unanimous)

P613-09 COUNCILLOR GAMACHE - MOVE TO receive and approve the following Taxi Cab License (Transfers), subject to all papers being in order:

Community Taxi, 27-R Caller Street (License #20)
Tri City Services, 55-R Walnut Street (License #9)
(Unanimous)

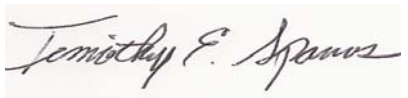
P614-09 COUNCILLOR GAMACHE - MOVE TO receive and approve Limousine License (Transfer) Michael's Limousine Company, 161 Lynn Street (License 181), subject to all papers being in order. (Unanimous)

UNFINISHED BUSINESS FROM THE PRECEDING MATTER

None.

MOVED: MOVE TO adjourn. Regular meeting of the Peabody City Council adjourned at 10:30 p.m.

SUBMITTED TO HIS HONOR THE MAYOR, JUNE 5, 2009
RETURNED BY HIS HONOR THE MAYOR, JUNE 5, 2009

ATTEST 
(Timothy E. Spanos, City Clerk)