

REGULAR MEETING OF THE PEABODY CITY COUNCIL
FEBRUARY 10, 2011

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

ABSENT: COUNCILLOR GRAVEL

Meeting of the Peabody City Council opened with a moment of silent prayer after being called to order by City Council President, Anne M. Manning-Martin.

Salute to the American Flag.

P83-11 COUNCILLOR GAMACHE - MOVE TO receive and approve the minutes from the last regular meeting of January 27, 2011. (Unanimous)

COUNCILLOR MANNING-MARTIN - OPEN MEETING LAW STATEMENT: THIS MEETING IS BEING TELEVISED LIVE ON CABLE CHANNEL 9 AND BEING TAPED BY PEABODY ACCESS TV, AND ALSO BEING RECORDED BY OUR CITY COUNCIL STENOGRAPHER.

HEARINGS

A public hearing was duly held on the application from American Auto Export, 9 Main Street, Suite 4, Peabody, MA. Appearing to speak on behalf of said application was Mr. Ray Melvin. No one appeared to speak in favor. No one appeared to speak in opposition.

P84-11 COUNCILLOR ATHAS - MOVE TO approve the application from American Auto Export, 9 Main Street, Suite 4, Peabody, MA for the transfer of a Class 2 Motor Vehicle License from James Melvin to Raymond Melvin. (Carried 10-0; Councillor Gravel absent)

A public hearing was duly held on the Special Permit application from Domino's Pizza, 12226 Main Campus Drive, Lexington, MA. Appearing to speak on behalf of said application was Attorney David Ankeles. Ms. Karen Sawyer, Director, Community Development Department, appeared to speak on behalf of the City. No one appeared to speak in favor. Mr. Russell Donovan, 12 Quail Road, Peabody, MA appeared to speak in opposition. Councillor Anne M. Manning-Martin recused herself from said public hearing due to a conflict of interest.

P85-11 COUNCILLOR MELLO - MOVE TO receive, under suspension of the rules, Item 8-F communication from Chief Robert Champagne, Police Department, regarding Memorandum, Domino's Pizza, 1 Andover Street. (Unanimous)

P86-11 COUNCILLOR MELLO - MOVE TO receive, under suspension of the rules, Item 8-I communication from Blair Haney, Community Development Department, regarding Memorandum, 1 Andover Street. (Unanimous)

P87-11 COUNCILLOR MELLO - MOVE TO receive, under suspension of the rules, late communication Item 5 from Sharon Cameron, Health Department, regarding Special Permit memo, 1 Andover Street - Domino's Pizza. (Unanimous)

P88-11 COUNCILLOR MELLO - BE IT ORDERED by the City Council of the City of Peabody that the application from Domino's Pizza, 12225 Main Campus Drive, Lexington, MA for a Special Permit to allow for a restaurant without alcoholic beverages and with some food consumed on premises and some food to be consumed away from the premises at 1 Andover Street, Peabody, MA, as filed in accordance with Section 4.2.5 and 4.4 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.

CONDITIONS:

1. The dumpster shall be enclosed with a site impervious fence.
2. Right turn only exit onto Andover Street.
3. Subject to the conditions as set forth in the memorandum from the Peabody Health Department.
4. That lots 19, 19B and 18A be developed as one, single lot, and that a plan of land indicating the same be approved by the Department of Community Development prior to construction. (Carried 9-0; Councillors Gravel and Manning-Martin absent)

P89-11 COUNCILLOR OSBORNE - MOVE TO receive and approve, under suspension of the rules, late communication Item 3 from W.C. Gurrissi & Sons, Inc., 0 Corwin Street, regarding Request to withdraw Inflammables License application without prejudice. (Unanimous)

A public hearing was duly held on the Special Permit application from George Phillips d/b/a Elite Motor Cars, 58-R Pulaski Street, Peabody, MA. Appearing to speak on behalf of said application was Mr. George Phillips. No one appeared to speak in favor. Mr. Arthur Tsonis, 91 Lynn Street, Peabody, MA appeared to speak in opposition.

P90-11 COUNCILLOR OSBORNE - BE IT ORDERED by the City Council of the City of Peabody that the application from George Phillips d/b/a Elite Motor Cars, 58-R Pulaski Street, Peabody, MA for a Special Permit to amend Special Permit 43-1989 to allow for the sale of a maximum of thirteen (13) motor vehicles at any one time at 93 Lynn Street, Peabody, MA, as filed in accordance with Section 1.5 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.

CONDITIONS:

1. Limit of thirteen (13) unregistered motor vehicles on premises at any one time for sale or not for sale, sold or not sold.
2. All vehicles shall not encroach onto the sidewalk.
3. Hours of operation shall be 9:00 a.m. to 7:00 p.m. Monday through Saturday; Sunday 12:00 p.m. to 5:00 p.m.
4. Servicing of vehicles shall not be conducted after 6:00 p.m.

(Carried 10-0; Councillor Gravel absent)

A public hearing was duly held on the application from George Phillips d/b/a Elite Motor Cars, 58-R Pulaski Street, Peabody, MA. Appearing to speak on behalf of said application was Mr. George Phillips. No one appeared to speak in favor. No one appeared to speak in opposition.

P91-11 COUNCILLOR OSBORNE - MOVE TO approve the application for a change of address on a Class 2 Motor Vehicle License from Elite Motor Cars from 58-R Pulaski Street to 93 Lynn Street, Peabody, MA, subject to the following conditions:

1. Limit of thirteen (13) unregistered motor vehicles on premises at any one time for sale or not for sale, sold or not sold.
2. All vehicles shall not encroach onto the sidewalk.
3. Hours of operation shall be 9:00 a.m. to 7:00 p.m. Monday through Saturday; Sunday 12:00 p.m. to 5:00 p.m.
4. Servicing of vehicles shall not be conducted after 6:00 p.m.

(Carried 10-0; Councillor Gravel absent)

The public hearing notice was duly read by the City Clerk regarding the Special Permit application from T-Mobile Northeast LLC for premises at 0 Fairview Avenue. No testimony was given as the public hearing was recessed due to a procedural matter under Chapter 40A of the Massachusetts General Laws.

P103-11 COUNCILLOR MANNING-MARTIN - MOVE TO defer action on the proposed Map 9 until the committee receives a more defined locus. (Unanimous)

P104-11 COUNCILLOR MANNING-MARTIN - MOVE TO approve the proposed Map 8 as submitted. (Unanimous)

P105-11 COUNCILLOR MANNING-MARTIN - MOVE TO approve the proposed Map 7 as submitted. (Unanimous)

P106-11 COUNCILLOR MANNING-MARTIN - MOVE TO approve the proposed Map 6 as submitted. (Unanimous)

P107-11 COUNCILLOR MANNING-MARTIN - MOVE TO approve the proposed Map 5 as submitted. (Unanimous)

P108-11 COUNCILLOR MANNING-MARTIN - MOVE TO approve the proposed Map 4 as submitted. (Unanimous)

P109-11 COUNCILLOR MANNING-MARTIN - MOVE TO approve the proposed Map 3 as submitted. (Failed 8-2; Councillors Liacos & Driscoll opposed; Councillor Garabedian absent in sub-committee – the existing map 3 is in effect).

P110-11 COUNCILLOR MANNING-MARTIN - MOVE TO amend the proposed Map 2 to change the following areas that are currently B-C to R-2: Park Street, Park Square, Summer Street, Spring Street Court, Little's Lane and Elliott Place. (Unanimous)

P111-11 COUNCILLOR MANNING-MARTIN - MOVE TO amend the proposed Map 2 to keep that portion of Chestnut Street that is currently zoned R-2. (Unanimous)

P112-11 COUNCILLOR MANNING-MARTIN - MOVE TO amend Maps 1 and 2 to keep all currently B-C zoned districts proposed to be changed to R-4 as B-C. (Unanimous)

P113-11 COUNCILLOR MANNING-MARTIN - MOVE TO approve the remaining portions of the proposed Maps 1 & 2 that have not been amended. (Unanimous)

P114-11 COUNCILLOR MANNING-MARTIN - MOVE TO approve Maps 1 & 2 as amended. (Unanimous)

P115-11 COUNCILLOR MANNING-MARTIN - MOVE TO approve the proposed Map 9 as submitted. (Unanimous)

P116-11 COUNCILLOR MELLO – MOVE, under suspension of the rules, to receive the communication from the Department of Community Development submitting the 2011 zoning map revisions dated February 10, 2011. (Unanimous)

P117-11 COUNCILLOR GAMACHE – MOVE THAT in accordance with the provisions of Chapter 40A, Section 5 of the Massachusetts General Laws, that the proposed revisions to the City of Peabody Zoning Ordinance entitled "City of Peabody Zoning Ordinance-2011" and Zoning Map entitled "City of Peabody Zoning Map-2011, dated February 10, 2011" be referred to the Planning Board to begin the zoning process. (Unanimous)

(MS. KAREN SAWYER, DIRECTOR, COMMUNITY DEVELOPMENT DEPARTMENT, APPEARED BEFORE THE CITY COUNCIL TO ANSWER QUESTIONS ON THE PROCESS THE PLANNING BOARD IS EXPECTED TO TAKE REGARDING THE ZONING REVISIONS)

MOTIONS, ORDERS & RESOLUTIONS

P118-11 COUNCILLOR BETTENCOURT - MOVE TO request that His Honor the Mayor provide the City Council with information as to where we are in our snow budget and if there is a shortfall, where we plan to obtain that money (Unanimous)

P119-11 COUNCILLOR BETTENCOURT - MOVE TO place the issue of commercial vehicles parking in residential neighborhoods into the Municipal Safety Committee. (Unanimous)

P120-11 COUNCILLOR MELLO - MOVE TO request that the Building Commissioner provide the City Council with his decision regarding schools buses being parked at lot 60 on Pulaski Street by right. In our zoning it's pretty clear that buses are not allowed to be stored on I-L property. (Unanimous)

P121-11 COUNCILLOR MELLO - MOVE TO send a thank-you letter to His Honor the Mayor and the Public Services Department for their efforts on snow removal in the city and their follow-up on snow concerns in the city. (Unanimous)

P122-11 COUNCILLOR SINEWITZ - MOVE TO request that the Police Department look at the traffic situation at the end of Terry Road where the children exit the path from the Burke School and about the feasibility of eliminating parking on that small strip. (Unanimous)

P123-11 COUNCILLOR SINEWITZ - MOVE TO request that the Public Services Department install a mirror at the intersection of Winona Street and Donegal Road. There's a blind spot in the road when people go to take a left-hand turn. (Unanimous)

P124-11 COUNCILLOR ATHAS - MOVE TO thank His Honor the Mayor and the Public Services Department for removing snow from the downtown area, and request that snow be removed in the same manner for future storms. (Unanimous)

P125-11 COUNCILLOR ATHAS - MOVE TO receive, under suspension of the rules, late communication Item 2 from Habitat for Humanity, 12-15 Park Street, regarding Special Permit application and to set up a public hearing. (Unanimous)

P126-11 COUNCILLOR ATHAS - MOVE TO receive, under suspension of the rules, Item 8-E communication from Terenzoni Realty Trust, 86 Endicott Street, regarding Site plan. (Unanimous)

COMMUNICATIONS FROM HIS HONOR THE MAYOR

None.

COMMUNICATIONS FROM CITY OFFICERS AND OTHERS

P127-11 COUNCILLOR OSBORNE - MOVE TO receive a communication from Chief Steven E. Pasdon, Fire Department, regarding W.C. Gurrisi & Sons, 0 Corwin Street. (Unanimous)

P128-11 COUNCILLOR GAMACHE - MOVE TO receive a communication from Planning Board regarding Minutes and agenda. (Unanimous)

P129-11 COUNCILLOR GAMACHE - MOVE TO receive a communication from Metropolitan Area Planning Council regarding Snow removal policy toolkit. (Unanimous)

P130-11 COUNCILLOR GAMACHE - MOVE TO receive a communication from CEA Manifest, LLC, 227 Andover Street, regarding Site plan. (Unanimous)

P131-11 COUNCILLOR OSBORNE - MOVE TO receive a communication from Blair Haney, Community Development Department, regarding Memorandum, 0 Corwin Street. (Unanimous)

P132-11 COUNCILLOR SINEWITZ - MOVE TO receive a communication from Karen Sawyer, Director, Community Development Department, regarding Flood mitigation, legal services for site access agreement/request for special municipal employee status and to refer to the Legal Affairs Committee and to request that the City Solicitor provide the City Council with a legal opinion. (Unanimous)

(ATTORNEY CHARLES LERAY INTRODUCED HIMSELF TO THE CITY COUNCIL.)

PRESENTATION OF PETITIONS, MEMORIALS AND REMONSTRANCES

P133-11 COUNCILLOR GAMACHE - MOVE TO receive Petition - Verizon, Dracut, MA regarding Pole petition for 240 Lynnfield Street and to set up a public hearing. (Unanimous)

P134-11 COUNCILLOR GAMACHE - MOVE TO receive Class 2 Motor Vehicle License (Transfer) Motor Mania, LLC, 98 Foster Street and to set up a public hearing. (Unanimous)

P135-11 COUNCILLOR GAMACHE - MOVE TO receive and approve the following Entertainment License (Renewal for 2011), subject to all papers being in order:

Burton's Grill, 210 Andover Street
Carrabba's, 1A Newbury Street
(Unanimous)

P136-11 COUNCILLOR GAMACHE - MOVE TO receive and approve Limousine License (Renewal for 2011) Michael's Limousine, 161 Lynn Street, subject to all papers being in order. (Unanimous)

P137-11 COUNCILLOR GAMACHE - MOVE TO receive and approve Class 3 Motor Vehicle License (Renewal for 2011) Gurrisi Brothers Auto & Truck Sales & Salvage, LLC d/b/a Lion's Auto Parts, 0 Corwin Street, subject to all papers being in order. (Unanimous)

P138-11 COUNCILLOR GAMACHE - MOVE TO receive and approve the following Taxi/Limousine Driver License, subject to all papers being in order:

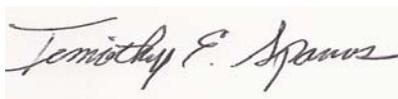
Michael Paciulli - License 120
Edmund Neves, Jr. - License 122
Russell Melliver - License 123
(Unanimous)

UNFINISHED BUSINESS FROM THE PRECEDING MATTER

P139-11 COUNCILLOR GAMACHE - MOVE TO receive a late communication Notice of Appeal to Board of Appeals Decision regarding 33 Murray Street. (Carried 9-0; Councillor Bettencourt abstained; Councillor Gravel absent)

MOVED: MOVE TO adjourn. Regular meeting of the Peabody City Council adjourned at 8:40 p.m.

SUBMITTED TO HIS HONOR THE MAYOR, FEBRUARY 17, 2011
RETURNED BY HIS HONOR THE MAYOR, FEBRUARY 17, 2011

ATTEST 
(Timothy E. Spanos, City Clerk)

COMMUNICATIONS:

Chief Steven E. Pasdon, Fire Department re: W.C. Gurrisi & Sons, 0 Corwin Street
Planning Board re: Minutes and agenda
Metropolitan Area Planning Council re: Snow removal policy toolkit
CEA Manifest LLC, 227 Andover Street re: Site plan
Terenzoni Realty Trust, 86 Endicott Street re: Site plan
Chief Robert Champagne, Police Department re: Memorandum, Domino's Pizza, 1 Andover Street

Peter M. McGinn, 8 Park Street re: Proposed zoning map revisions
Blair Haney, Community Development Department re: Memorandum, 0 Corwin Street
Blair Haney, Community Development Department re: Memorandum, 1 Andover Street

Karen Sawyer, Director, Community Development Department re: Flood mitigation, legal services for site access agreement/request for special municipal employee status

PETITION

Verizon, Dracut, MA re: Pole petition for 240 Lynnfield Street

CLASS 2 MOTOR VEHICLE LICENSE TRANSFER

Motor Mania LLC, 98 Foster Street

ENTERTAINMENT LICENSE (Renewal for 2011)

Burton's Grill, 210 Andover Street
Carrabba's, 1a Newbury Street

LIMOUSINE LICENSE (Renewal for 2011)

Michael's Limousine, 161 Lynn Street

CLASS 3 MOTOR VEHICLE LICENSE (Renewal for 2011)

Gurrisi Brothers Auto & Truck Sales & Salvage LLC d/b/a Lion's Auto Parts, 0 Corwin Street

TAXI/LIMOUSINE DRIVER LICENSE

Michael Paciulli – License 120
Edmund Neves, Jr. – License 122
Russell Melliver – License 123