

REGULAR MEETING OF THE PEABODY CITY COUNCIL
FEBRUARY 14, 2008

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

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, Arthur W. Athas.

Salute to the American Flag.

P83-08 COUNCILLOR GAMACHE – MOVE TO receive and approve the minutes from the last regular meeting of January 24, 2008. (Unanimous)

HEARINGS

The City Council reconvened the recessed public hearing on the Special Permit application from Luciano P. Dinis, Maria A. Dinis and Anna Maria Dinis, 102-104 Washington Street, Peabody, MA. Appearing to speak on behalf of said application was Attorney David Ankeles. No one appeared to speak in favor. No one appeared to speak in opposition.

P84-08 COUNCILLOR ATHAS - MOVE TO receive, under suspension of the rules, late communication Item 4 from Attorney David Ankeles, 27 Lowell Street, regarding Revised Special Permit plan, 102-104 Washington Street. (Unanimous)

P85-08 COUNCILLOR ATHAS - BE IT ORDERED by the City Council of the City of Peabody that the application from Luciano P. Dinis, Maria A. Dinis and Anna Maria Dinis, 102-104 Washington Street, Peabody, MA for a Special Permit to modify a preexisting nonconforming structure and use at said 102-104 Washington Street, Peabody, MA, as filed in accordance with Section 1.5.1 and 4.4.1 of the Peabody Zoning Ordinance, be approved based on the following reasons and subject to the following 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. To incorporate the conditions placed by the Zoning Board of Appeals decision dated 2/14/08. (Carried 9-0; Councillors Gamache and Gravel absent)

A public hearing was duly held on the application from Harutiun Dermendjian c/o Karo's BBQ, 145-A Summit Street, Peabody, MA. Appearing to speak on behalf of said application was Mr. Harutiun Dermendjian, 112 Lowell Street, Peabody, MA. Mr. Onnig Beurekjian, 36 Raymond Road, Salem, MA appeared to speak in favor. No one appeared to speak in opposition.

P86-08 COUNCILLOR OSBORNE - MOVE TO receive, under suspension of the rules, Item 8-B communication from Community Development Department regarding Special Permit memo 145-A Summit Street. (Unanimous)

P87-08 COUNCILLOR OSBORNE - BE IT ORDERED by the City Council of the City of Peabody that the application from Harutiun Dermendjian c/o Karo's BBQ, 145-A Summit Street, Peabody, MA for a Special Permit for the preparation of food products with all food consumed off premises to supplement an off-site food services business at said 145-A Summit 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 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. Hours of operation shall be 4:00 a.m. to 8:00 p.m.; and
2. That the conditions of the Health, Public Services and Fire Departments are satisfied.
(Carried 10-0; Councillor Gravel absent)

A public hearing was duly held on the application from Four Star Service, Inc., 222 Newbury Street, Peabody, MA. Appearing to speak on behalf of said application was Attorney John R. Keilty and Ms. Carol Frechette. No one appeared to speak in favor. Mr. Joseph Barrasso, 5 Wildmeadow Road, Boxford, MA appeared to speak in opposition.

P88-08 COUNCILLOR GAMACHE - MOVE TO receive, under suspension of the rules, late communication Item 3 from Bruce McCorry, 220 Newbury Street, regarding 222 Newbury Street. (Unanimous)

P89-08 COUNCILLOR GAMACHE - MOVE TO receive, under suspension of the rules, late communication Item 5 from Gary Bistany, 220B Newbury Street, regarding 222 Newbury Street. (Unanimous)

P90-08 COUNCILLOR GAMACHE - MOVE TO receive, under suspension of the rules 8-A communication from Community Development Department regarding Special Permit memo, 222 Newbury Street. (Unanimous)

P91-08 COUNCILLOR GAMACHE - BE IT ORDERED by the City Council of the City of Peabody that the application from Four Star Service, Inc., 222 Newbury Street, Peabody, MA for a Special Permit requesting to amend Special Permit 39-2001 so as to delete Condition #4 stating, "Any vehicle that is totaled, wrecked, junked, or involved in an accident shall not be allowed on the property at any time," and deleting Condition #7, which states, "All disabled vehicles shall be stored indoors," 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 subject to the following 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. (Replace condition #4: All disabled, wrecked, totaled vehicles or vehicles involved in an accident be stored within the area of the building inside and any excess vehicles that cannot be stored inside be stored on the southerly area behind the screened fence.
2. (Replace condition #7): That no vehicles shall remain on the premises for a period exceeding five business days.
(Failed 7-3; Councillors Mello, Liacos and Athas voting against; Councillor Gravel absent)

REPORTS OF COMMITTEE

Industrial & Community Development Committee February 7, 2008

P92-08 COUNCILLOR BETTENCOURT - Reporting for the Industrial & Community Development Committee - On February 7, 2008 the Industrial & Community Development Committee met. Committee members present was myself as chair, who sat in for Councillor Mello, who had to recuse himself because of a conflict. Councillor Mello was present and left as the meeting began. Other councillors were Garabedian and Sinewitz; Councillor Athas

and Councillor Gravel, also present was Councillor Manning. City departments present were Jean Delios, the director of Community Development Department and our City Solicitor John Christopher. The subject matter was one item. It was a review of two RFP's -- request for proposals -- for the potential site of 70 Endicott Street. As you know, we've been dealing with that issue now for a couple years -- the old abandoned site of the School Administration building, which right now is not being utilized. There were two proposals that were submitted and reviewed by the Committee. The first was from North Shore Community Health, Inc. Appearing on their behalf was Dr. Robert Henderschott, the CEO, and Paul O'Shea, treasurer and member of their board. Their proposal was to purchase the building and the land for \$1 and to construct a new healthcare facility on-site. After a lengthy discussion with all committee members, the proposal was held in committee for a further review at another meeting. The second proposal was from McNiff Builders to build four homes there, however no one appeared on their behalf and we decided not to review the matter with nobody present for the petitioner, so that matter was held in committee for a further committee meeting to be set up shortly. (Report received)

Legal Affairs Committee
February 14, 2008

P93-08 COUNCILLOR LIACOS - Reporting for the Legal Affairs Committee - Prior to the regular meeting this evening at 6:45, the Legal Affairs subcommittee met. Present were myself, Councillor Driscoll, Councillor Gamache, Councillor Manning, Councillor Osborne and Councillor Bettencourt. We had two items on the agenda. The first was a request from Lieutenant Cohan to review the Entertainment License applications. And basically this is just to go over the old application that dates back to the '70s, update it, make it more modern and present it to the Council. And it was moved by Councillor Gamache that that form would appear to us in our next regular agenda and we would pass it at the next meeting, so I would make the motion that that appear on our next agenda. (Report received)

P94-08 COUNCILLOR LIACOS - MOVE TO refer the matter of updating Entertainment License applications to the next Legal Affairs Committee meeting. (Unanimous)

P95-08 COUNCILLOR LIACOS - Reporting for the Legal Affairs Committee - The second item was a review of a License application. This was brought up by Councillor Manning. She noted that there are a number of items on here that are sensitive, especially to people's identity and so forth and also that it is not gender-friendly as well. And those changes are going to be made and there was a motion made by Councillor Manning to update this form and to also eliminate any sensitive information being entertained in the public record. (Report received)

P96-08 COUNCILLOR LIACOS - MOVE THAT the License applications be updated to be gender-friendly as well as to remove any sensitive personal information. (Unanimous)

Ad Hoc Committee on Aggregate Industries
January 31, 2008

P97-08 COUNCILLOR SINEWITZ - Reporting for the Ad Hoc Committee on Aggregate Industries - The Ad Hoc Committee on Aggregate Industries met on January 31. Present was Councillor Bettencourt, Garabedian, and myself as committee members, and Councillors Manning and Mello, which I would like to thank you both for attending that. Also in attendance was attorney Christopher, our City Solicitor, and Steve Pasdon the fire chief. On the agenda was three items. One was to discuss the paving of the front driveway, the second was to set a date for a closure meeting and the third was to discuss a possible expansion plan. The driveway situation: They're waiting for KeySpan and Councillor Garabedian made a motion to send a letter to KeySpan, to try to expedite that. I guess there's a gas line going right down the middle of the road, so that needs to be addressed. We did set up a closure meeting -- the second item on the agenda -- that's going to be next Thursday at 6:30 right here. The third item was a PowerPoint presentation by Aggregate Industries in regards to an expansion plan. Many neighbors spoke. State rep Joyce Spiliotis, State rep Ted Spiliotis spoke. No one spoke in favor of the expansion. Everybody who spoke was in opposition, based on the impact of the surrounding neighborhoods from blasting. But there was some concerns raised about the effects of the Ipswich River and the surrounding wetlands area and testing for possible contaminants into a holding pond, which leaches back into our water supply, so these are some pretty serious issues we're going to have to address. I think it was a productive meeting. We really got a lot out on the table. And that was really about it and I would like to make a motion to receive this as a report of progress. (Report received)

P98-08 COUNCILLOR SINEWITZ - MOVE TO request that the City Clerk send a letter to KeySpan to expedite the gas line as soon as possible. (Unanimous)

Committee of the Whole
February 14, 2008

P99-08 COUNCILLOR ATHAS - Reporting for the Committee of the Whole - What we have decided to do regarding 73 Lynn Street is to hold a new public hearing on 73 Lynn Street, as to the conditions only, as remanded back to the City Council for a Special Permit. (Report received)

P100-08 COUNCILLOR ATHAS - MOVE TO set up a public hearing, as to conditions only, for a Special Permit for 73 Lynn Street as remanded back to the City Council from Superior Court. (Unanimous)

MOTIONS, ORDERS & RESOLUTIONS

P101-08 COUNCILLOR BETTENCOURT - MOVE TO receive, under suspension of the rules, late communication Item 1 from Patricia Davis Schaffer, Director of Finance, regarding Drug foundation account update and to refer to the Ad Hoc Committee on Drug Education & Awareness. (Unanimous)

P102-08 COUNCILLOR BETTENCOURT - MOVE TO request that the Community Development Department appear before the City Council at their next regularly scheduled meeting to present a short presentation regarding the bike path. (Unanimous)

P103-08 COUNCILLOR SINEWITZ - MOVE TO request that the Community Development Department also present a report to the City Council on what safety measures are being taken on the bike path in regards to Aggregate Industries and the blasting pit. It goes right behind the quarry and I want to know who's responsible if someone gets hurt, knocked off a bike. If it can crack foundations and pictures can fall off walls, what happens if kids are out there? I just don't know this, so I would like to get some answer to that. (Unanimous)

P104-08 COUNCILLOR SINEWITZ - MOVE TO request that the Peabody Police Department go to the Westside Restaurant at 682 Lowell Street and investigate claims and concerns about alcohol being consumed on the premises and to report back to the City Council if there's been any other complaints filed on any issues. (Carried 7-3; Councillors Gamache, Manning and Garabedian opposed; Councillor Gravel absent)

P105-08 COUNCILLOR SINEWITZ - MOVE TO request that the City Clerk send a communication to the Fire Department, Industrial & Community Development Department and the Conservation Commission requesting that a representative attend the February 21, 2008 meeting of the Ad Hoc Committee on Aggregate Industries. (Unanimous)

P106-08 COUNCILLOR SINEWITZ - MOVE TO receive, under suspension of the rules, Item 8-J communication from Aggregate Industries, 55 Russell Street, regarding Blasting notification/preblast survey and to refer to the Ad Hoc Committee on Aggregate Industries. (Unanimous)

P107-08 COUNCILLOR SINEWITZ - MOVE TO receive, under suspension of the rules, Item 8-K communication from Kevin Goggin, Building Inspector, regarding 682 Lowell Street; delivery trucks and trash dumpster pickups. (Unanimous)

P108-08 COUNCILLOR GAMACHE - MOVE TO request that His Honor the Mayor, Michael Bonfanti, consider appropriating the necessary funds to place sidewalks on the easterly side of Lake Street from the entrance of Huntington Woods to where the sidewalk ends heading towards Lindauer Street. And I am also going to attach the letter that I received from Mr. Dwyer. (Unanimous)

P109-08 COUNCILLOR MELLO - MOVE TO respectfully request the Public Services Department repair a pothole on and around 124 Tremont Street. (Unanimous)

P110-08 COUNCILLOR MELLO - MOVE TO refer the matter of traffic issues parishioners are having at 75 Tremont Street to the Municipal Safety Committee and to also request that a representative from the Police Department also attend that committee meeting to offer some solutions around that. (Unanimous)

P111-08 COUNCILLOR MELLO - Motion to respectfully request the Department of Community Development present to the Industrial & Community Development Subcommittee an update on the ongoing plans to solve the flooding problems on properties between Main Street & Walnut Street starting at Central Street including allocated monies, plans/stages of work, start dates and expected outcomes. (Unanimous)

P112-08 COUNCILLOR LIACOS - MOVE TO receive, under suspension of the rules, Item 8-C communication from Community Development Department regarding City hall window restoration project, to refer to the Finance Committee and to request a representative of Community Development Department attend the next Finance Committee meeting. (Unanimous)

P113-08 COUNCILLOR LIACOS - MOVE TO receive, under suspension of the rules, Item 8-D communication from School Committee regarding Request for ordinance; require residents within a school zone to clear sidewalks of snow and to refer to the Municipal Safety Committee. (Unanimous)

P114-08 COUNCILLOR OSBORNE - MOVE TO receive, under suspension of the rules, Item 8-G communication from Richard A. Hetherington, 3 First Avenue, regarding Special Permit application and to set up a public hearing. (Unanimous)

P115-08 COUNCILLOR OSBORNE - MOVE TO receive, under suspension of the rules, late communication Item 6 from Brian Barrett, Assistant City Solicitor regarding the Mullin amendment and to refer the same to the Legal Affairs Committee. (Unanimous)

P116-08 COUNCILLOR LIACOS -MOVE TO receive, under suspension of the rules, Item 8-H communication from Richard Emmery, 301 Brooksby Village Drive, regarding Sidewalks in Northshore Mall and to refer to the Municipal Safety Committee. (Unanimous)

P117-08 COUNCILLOR ATHAS - MOVE TO receive, under suspension of the rules, Item 8-I communication from Public Services Department regarding Streetlight, Summer @ Foster Street. (Unanimous)

P118-08 COUNCILLOR GAMACHE - MOVE TO receive, under suspension of the rules, Item 8-E communication from Planning Board regarding Streetlight, 26 Emily Lane - request for appointment and to request the City Clerk notify Mr. Polignone of said appointment. (Unanimous)

P119-08 COUNCILLOR DRISCOLL - MOVE TO receive, under suspension of the rules, Item 8-F communication from Attorney John Keilty on behalf of Lahey Clinic, 1 Essex Center Drive, regarding Request for extension to submit a parking plan, and to grant the extension to August of 2008. (Unanimous)

P120-08 COUNCILLOR ATHAS - MOVE TO request the Public Services Department repair the crosswalk sign post at the CVS plaza on 85 Lynnfield Street. (Unanimous)

P121-08 COUNCILLOR ATHAS - MOVE TO request that the Health Department remind JRM to not engage in commercial trash pickup before 7:00 a.m. at the Dunkin' Donuts on Washington Street. (Unanimous)

COMMUNICATIONS FROM HIS HONOR THE MAYOR

None.

COMMUNICATIONS FROM CITY OFFICERS AND OTHERS

P122-08 COUNCILLOR BETTENCOURT - MOVE TO receive communication from Patricia Davis Schaffer, regarding Schools status of appropriations and to refer to the Finance Committee. (Unanimous)

P123-08 COUNCILLOR BETTENCOURT - MOVE TO receive communication from Patricia Davis Schaffer, Director of Finance, regarding City status of appropriations and to refer to the Finance Committee. (Unanimous)

P124-08 COUNCILLOR BETTENCOURT - MOVE TO receive communication from Patricia Davis Schaffer, Director of Finance, regarding Summary of revenues 2/7/08 and to refer to the Finance Committee. (Unanimous)

PRESENTATION OF PETITIONS, MEMORIALS AND REMONSTRANCES

P125-08 COUNCILLOR GAMACHE - MOVE TO receive the Transfer - Peabody Gulf Auto Sales to Prestige Motors of Peabody, 6 Willard Street and to set up a public hearing. (Unanimous)

P126-08 COUNCILLOR GAMACHE - MOVE TO receive and approve the following Class 2 Motor Vehicle Licenses (Renewal for 2008), subject to all papers being in order:

Sylvan Street Auto Sales & Service, 1 1/2 Sylvan Street
Brasped Auto Sales & Service, 195 Washington Street
Jefferson Auto Sales, 36-42 Foster Street
(Unanimous)

P127-08 COUNCILLOR GAMACHE - MOVE TO receive and approve the following Taxi Cab License Transfers, subject to all papers being in order:

Tri City Services, Inc., 55R Walnut Street (License #9)
Community Taxi, 27R Caller Street (License #11 and #17)
(Unanimous)

UNFINISHED BUSINESS FROM THE PRECEDING MATTER

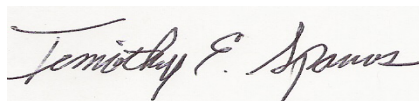
{10-A regarding 19 Rose Circle and 47A Bay State Road}

P128-08 COUNCILLOR OSBORNE - BE IT ORDERED by the City Council of the City of Peabody that an Ordinance Amending Section 19-81 of the City Code entitled Handicap Zone be adopted as amended and read. (Carried 10-0; Councillor Gravel absent)

P129-08 COUNCILLOR OSBORNE - MOVE TO receive late communication Item 2 from His Honor the Mayor regarding FY 2009 State budget/Local Aid/Casino Revenue update. (Unanimous)

MOVED: MOVE TO adjourn. Regular meeting of the Peabody City Council adjourned at 10:00 p.m.

SUBMITTED TO HIS HONOR THE MAYOR, FEBRUARY 20, 2008
RETURNED BY HIS HONOR THE MAYOR, FEBRUARY 20, 2008



ATTEST _____
(Timothy E. Spanos, City Clerk)