

REGULAR MEETING OF THE PEABODY CITY COUNCIL
FEBRUARY 22, 2007

PRESENT: COUNCILLORS GARABEDIAN, MURTAGH, BETTENCOURT, SELESNICK, OSBORNE, GAMACHE, ATHAS, LIACOS, ZELLEN AND MELLO

ABSENT: COUNCILLOR DRISCOLL WAS ABSENT

Meeting of the Peabody City Council opened with a moment of silent prayer after being called to order by City Council President, Rico E. Mello.

Salute to the American Flag.

P142-07 COUNCILLOR GAMACHE – MOVE TO receive and approve the minutes from the last regular meeting of February 8, 2007. (Unanimous)

HEARINGS

P143-07 COUNCILLOR ZELLEN - MOVE TO receive, under suspension of the rules, Item 7-A communication from His Honor the Mayor regarding Request acceptance of Chapter 149, Section 33E. (Unanimous)

(INSPECTOR JOSEPH DIFRANCO AND MS. JENNIFER ALLEN ADDRESSED THE CITY COUNCIL REGARDING ITEM 7-A)

P144-07 COUNCILLOR ZELLEN - MOVE TO adopt the provisions of Chapter 149, Section 33E of the Massachusetts General Laws entitled "Leave of absence to serve as an organ donor; state, county and certain municipal employees". (Carried 10-0; Councillor Driscoll absent)

P145-07 COUNCILLOR LIACOS - MOVE TO receive, under suspension of the rules, Item 8-E communication from Dr. C. Milton Burnett, Superintendent of Schools, regarding Capital funds for school technology, and be referred to the Finance Committee. (Unanimous)

P146-07 COUNCILLOR SELESNICK - MOVE, under suspension of the rules, to request that the Director of Finance, Patricia Schaffer, supply the finance committee with the information as to why the school technology appropriation had been held in committee regarding the fact that there was \$300,000 or so in last year's budget as well as in the past two school bond orders for technology and to show the Council that it has either been expended or has been planned for prior to releasing this money. (Unanimous)

(DR. C. MILTON BURNETT, SUPERINTENDENT OF SCHOOLS, ADDRESSED THE CITY COUNCIL REGARDING ITEM 8-E.)

A public hearing was duly held on the Special Permit application from Buonfiglio Funeral Services, Inc., 128 Revere Street, Revere, MA. Appearing to speak on behalf of said application was Attorney John R. Keilty. No one appeared to speak in favor. Ms. Sue Turner, 5006 Heatherwood Lane; Mr. Matthew Pinardi, 184 Lake Street; Mr. Wayne DiChiara, 194 Lake Street; Mr. Robert McKenzie, 168 Lake Street, Mr. Hubert Quinn, 178 Lake Street; and Mr. Kenneth Pinardi, 184 Lake Street appeared to speak in opposition.

P47-07 COUNCILLOR GAMACHE - MOVE TO receive, under suspension of the rules, Item 8-D communication from Community Development Department regarding Special Permit memo, 187 Lake Street. (Unanimous)

P148-07 COUNCILLOR ZELLEN - MOVE TO continue the public hearing on the Special Permit application from Buonfiglio Funeral Services, Inc., 128 Revere Street, Revere, MA until such time as the applicant receives approval from the State Board of Funeral Directors and to further request a legal opinion from the City Solicitor as to whether the law also precludes a financial relationship between the owner of a cemetery and the owner of a funeral home because in the opinion of the City Council there would be a financial relationship for the renting/leasing of offices and space. (Unanimous)

REPORTS OF COMMITTEE

Legal Affairs Committee
February 13, 2007

P149-07 COUNCILLOR ZELLEN - Reporting on behalf of the Legal Affairs Committee - The Legal Affairs Committee meet on Tuesday evening, February 13, 2007 at 6 p.m. Present, in addition to myself, were Councillors Athas, Driscoll and Selesnick. Councillor Gamache was absent. Also appearing was Ms. Jean Delios, Director of Community Development, and the City Solicitor, Larry O'Keefe. The Committee reviewed several matters. The first matter was a request from Community Development seeking permission to put out an RFP on the sale of city-owned land on Bow Street. There was a lot of discussion back and forth between the Council and the Director of Community Development. There were also several abutting residents who spoke in opposition to the sale and their desire to keep this as open space. As a result, the matter was held in committee for further review and the following recommendations were approved. (Report received)

P150-07 COUNCILLOR ZELLEN - Reporting on behalf of the Legal Affairs Committee - MOVE TO hold the matter on Bow Street in committee and that the following be forwarded to the City Council for their review. (Unanimous)

P151-07 COUNCILLOR ZELLEN - Reporting on behalf of the Legal Affairs Committee - MOVE TO request an opinion from the Conservation Commission as to whether the property in question on Bow Street is located within a wetlands area. (Unanimous)

P152-07 COUNCILLOR ZELLEN - Reporting on behalf of the Legal Affairs Committee - MOVE THAT the Public Services Department investigate and report their findings to the Legal Affairs Committee, if an active water source of any kind travels through or near said property on Bow Street. (Unanimous)

P153-07 COUNCILLOR ZELLEN - Reporting on behalf of the Legal Affairs Committee - MOVE TO request the Health Department to comment on any wildlife that may be disrupted if this land on Bow Street were to be developed in the future. (Unanimous)

P154-07 COUNCILLOR ZELLEN - Reporting for the Legal Affairs Committee - The next was a land sale RFP summary of proposals. We discussed two parcels of land that Community Development had received bids on. One was 0 Goodridge Street and one was 0 Willowdale Avenue. The Committee discussed at length the Willowdale Avenue property. The Committee was concerned about the bid and number of possible house lots that could be developed on said property and the following recommendations were made. (Report received)

P155-07 COUNCILLOR ZELLEN - Reporting for the Legal Affairs Committee - MOVE TO hold the matter of 0 Willowdale Avenue in Committee. (Unanimous)

P156-07 COUNCILLOR ZELLEN - Reporting on behalf of the Legal Affairs Committee - MOVE TO request the Public Services Department Engineering Department determine how close the pipeline is to said property at 0 Willowdale Avenue. (Unanimous)

P157-07 COUNCILLOR ZELLEN - Reporting on behalf of the Legal Affairs Committee - - MOVE THAT the Public Services Engineering Department investigate the site and determine the number of buildable lots that could be developed on said site at 0 Willowdale Avenue. (Unanimous)

P158-07 COUNCILLOR ZELLEN - Reporting on behalf of the Legal Affairs Committee - MOVE TO request the Assessors office review their market analysis and inform the Legal Affairs Committee of how they arrived at the assessed value of the property at 0 Willowdale Avenue. (Unanimous)

P159-07 COUNCILLOR ZELLEN - Reporting for the Legal Affairs Committee - The other parcel in question was 0 Goodridge Street, which was discussed. Mr. Richard Manley of 20 Goodridge Street, the bidder, appeared before the Committee. Mr. Manley has been the maintaining said property for several years and was the sole bidder. The Committee approved the following recommendation. (Report received)

P160-07 COUNCILLOR ZELLEN - Reporting on behalf of the Legal Affairs Committee - MOVE TO authorize His Honor the Mayor to enter into a purchase a sale agreement with Richard E. and Rose Manley, 20 Goodridge Street for the purchase of the property known as 0 Goodridge Street, Assessor's Map 103, Lot 31, containing approximately 36,059 square feet for the purchase price of \$2,900 and that His Honor the Mayor be authorized to enter into any other agreements or documents necessary to implement the same. Said sale is subject to the following restrictions: That said parcel be deeded as open space only and there shall be no development of any kind on said parcel; and the purchaser shall be required to prepare a plan of land for Planning Board approval. (Carried 10-0; Councillor Driscoll absent)

P161-07 COUNCILLOR ZELLEN - Reporting for the Legal Affairs Committee - And the final piece was a request by an abutter to purchase Lincoln Street, which is a paper street. And there was a petition to purchase that. The petitioner came before the Council and expressed his desire and the reasons why he wanted to purchase this. There were a number of abutters that were present. Some were in favor of it, some were opposed to it. The end result is the abutter was asked to go back and consider only purchasing a portion of that paper street, so as to leave an eight-foot pedestrian right-of-way between Kingston and Hourihan Street that the folks in that area have enjoyed. So as a result of that Councillor Athas made the following motion. (Report received)

P162-07 COUNCILLOR ZELLEN - Reporting on behalf of the Legal Affairs Committee - MOVE TO request that Mr. Mario Regis of 21 Hingston Street present a new proposed plan of land to the Legal Affairs Committee to be prepared by a surveyor or engineer indicating exactly which portion of Lincoln Street he would be requesting to purchase and also to show the location of the eight-foot pedestrian right-of-way that is to be maintained. (Unanimous)

Industrial & Community Development Committee
February 13, 2007

P163-07 COUNCILLOR SELESNICK - Reporting for the Industrial & Community Development Committee - I substituted for Councillor Bettencourt in his absence due to illness. The other members of the Committee who were there were Councillors Athas, Osborne, and Councillors Driscoll and Zellen sat in for Councillors Liacos and Bettencourt. Mr. Ralph Gandolfo, the Building Inspector, was also there. The Committee meeting was held on February 13 and we reviewed five Special Permit applications for FALA's. Although there is a current moratorium on the acceptance of FALA Special Permit applications, these applicants were in the process of preparing their Special Permit prior to the moratorium and had affidavits from the Building Inspector and City Clerk that they had been working on it with them. The first one was Jill and Kevin Houlden, 3 Monson Drive. The Committee reviewed the Special Permit application for a FALA with the Building Inspector and the applicants. A minor change was recommended to the plan, specifically that the applicant must reconfigure the inside front entryway to the main residence by removing the front door. The following motion was made by Councillor Zellen. (Report received)

P164-07 COUNCILLOR SELESNICK - MOVE TO recommend that the City Council approve the Special Permit application from Jill and Kevin Houlden, 3 Monson Drive, that a public hearing be scheduled on the same, subject to the applicant submitting a revised plan for the front entryway, which needs to be open to the main residence. (Unanimous)

P165-07 COUNCILLOR SELESNICK - Reporting for the Industrial & Community Development Committee - The second FALA was Nancy E. Lyons, 11 Summit Terrace. The Committee reviewed the Special Permit application with the Building Inspector and the applicant, Nancy Lyons, and Rob Torres. After reviewing the application and plans, the Committee recommended the application move forward for approval to the City Council. The following motion was made by Councillor Driscoll. (Report received)

P166-07 COUNCILLOR SELESNICK - Reporting for the Industrial & Community Development Committee - MOVE TO recommend that the City Council approve the Special Permit application from Nancy E. Lyons, 11 Summit Terrace, and that a public hearing be scheduled on the same. (Unanimous)

P167-07 COUNCILLOR SELESNICK - Reporting for the Industrial & Community Development Committee - The third FALA was Jill E. Garvey, 36 Granite Street. The Committee reviewed the Special Permit application with the Building Inspector and the applicant, Jill Garvey. Also in attendance was Mr. Gary Roltsch. After reviewing the application and plans, the Committee recommended the application move forward for approval to the full City Council. (Report received)

P168-07 COUNCILLOR SELESNICK - Reporting for the Industrial & Community Development Committee - MOVE TO recommend that the City Council approve the Special Permit application from Jill E. Garvey, 36 Granite Street, and that a public hearing be scheduled on the same. (Unanimous)

P169-07 COUNCILLOR SELESNICK - Reporting for the Industrial & Community Development Committee - The fourth FALA was Bruce D. Ceccarossi, 176 Lake Street. The Committee reviewed the Special Permit application with the Building Inspector and the applicant. After reviewing the application and plans, the Committee recommended a motion by Councillor Zellen. (Report received)

P170-07 COUNCILLOR SELESNICK - Reporting for the Industrial & Community Development Committee - MOVE TO recommend that the City Council approve the Special Permit application from Bruce D. Ceccarossi, 176 Lake Street, and that a public hearing be scheduled on the same. (Unanimous)

P171-07 COUNCILLOR SELESNICK - Reporting for the Industrial & Community Development Committee - And the last FALA was Timothy and Dawn Russell, 6 Temi Road. The Committee reviewed the Special Permit application for a FALA with the Building Inspector and the applicants, Timothy and Dawn Russell. Also in attendance was Mr. Tom Frangos. After reviewing the applications and plans, the Committee recommended that the application move forward to the City Council for a public hearing and for approval. (Report received)

P172-07 COUNCILLOR SELESNICK - Reporting for the Industrial & Community Development Committee - MOVE TO recommend that the City Council approve the Special Permit application from Timothy and Dawn Russell, 6 Temi Road, and that a public hearing be scheduled on the same. (Unanimous)

Committee of the Whole
February 22, 2007

P173-07 COUNCILLOR MELLO - Reporting for the Committee of the Whole - I also have a report out of Committee of the Whole. This evening was the last presentation for the zoning revision. Some of the areas discussed were the zoning districts, nonconformance, dimensional controls, parking, signs, landscaping, impact mitigation and the expansion of a B-C District to include a residential component. The following motion was made by Councillor Bettencourt. (Report received)

P174-07 COUNCILLOR MELLO - Reporting for the Committee of the Whole - MOVE TO send full copies of the proposal for the zoning revisions to all libraries for public viewing. (Unanimous)

MOTIONS, ORDERS & RESOLUTIONS

P175-07 COUNCILLOR MURTAGH - MOVE TO request that the Community Development Department and the Director of Public Services appear before the Public Services Committee regarding the flooding in Peabody Square and the traffic situation. (Unanimous)

P176-07 COUNCILLOR SELESNICK - MOVE TO receive, under suspension of the rules, Item 8-C communication from Lawrence J. O'Keefe, City Solicitor, regarding Chemical storage. (Unanimous)

P177-07 COUNCILLOR OSBORNE - MOVE TO receive, under suspension of the rules, Item 8-B communication from Lt. John DeRosa, Traffic Division, regarding Bartholomew Street and to refer to the Municipal Safety Committee and to further request that the City Clerk send a communication to Mass Highway to determine if the City of Peabody has the authority to divide a public way in terms of denying access to vehicular traffic. (Unanimous)

P178-07 COUNCILLOR ATHAS - MOVE TO request the Department of Public Services install "No dumping" signs on fences enclosing Strongwater Brook at the following locations: 31-33 Pierpont Street and at the end of Sherman Street. (Unanimous)

P179-07 COUNCILLOR ATHAS - MOVE TO request the Department of Public Services install crosswalk signs with arrows pointing at the crosswalk traversing 76 Lynnfield Street and 77 Lynnfield Street. (Unanimous)

P180-07 COUNCILLOR ATHAS - MOVE TO request the Department of Public Services install crosswalk signs with arrows pointing at the crosswalk traversing Summit Street and Christina Drive. (Unanimous)

P181-07 COUNCILLOR ATHAS - MOVE TO request the Department of Public Services clean up a storm drain at 15 Norfolk Avenue. (Unanimous)

P182-07 COUNCILLOR ATHAS - MOVE TO request that the Community Development Department submit a report to the City Council indicating the maximum number of residential apartment/condo units that could be possibly built, if the I-L zoned parcels were converted to B-C residential parcels, as proposed in their memorandum and maps dated 02/13/07, and assuming that developers by right would wish to maximize the amount of residences they could build. (Unanimous)

P183-07 COUNCILLOR LIACOS - MOVE TO receive, under suspension of the rules, Item 8-J communication from Patricia Davis Schaffer, Director of Finance, regarding Status of appropriations, FY-2007 City budget. (Unanimous)

P184-07 COUNCILLOR LIACOS - MOVE TO receive, under suspension of the rules, Item 8-K communication from Patricia Davis Schaffer, Director of Finance, regarding Status of revenues for general fund. (Unanimous)

P185-07 COUNCILLOR LIACOS - MOVE TO receive, under suspension of the rules, Item 8-L communication from Patricia Davis Schaffer, Director of Finance, regarding Status of appropriations, FY-2007 School budget. (Unanimous)

P186-07 COUNCILLOR MURTAGH - MOVE TO request from the Finance Director a list of all present balances on all the accounts that we have. (Unanimous)

P187-07 COUNCILLOR LIACOS - MOVE TO request that Councillors forward all agenda items and requests for attendance, whether it be His Honor the Mayor, the Finance Director or any other department head, to the City Clerk in advance of the March 22, 2007 Finance Committee meeting. (Unanimous)

P188-07 COUNCILLOR LIACOS - MOVE TO receive, under suspension of the rules, late communication from Dr. C. Milton Burnett, Superintendent of Schools regarding School Committee budget sessions (Unanimous)

P189-07 COUNCILLOR LIACOS -MOVE TO request the Finance Director provide to the City Council in advance of the March 22, 2007 Finance Committee meeting the updated stabilization fund and free cash for all of the cities and towns in Massachusetts printed out in a chart. (Unanimous)

P190-07 COUNCILLOR LIACOS - MOVE THAT the Finance Committee will not accept any late materials from any departments during budget sessions. If it doesn't go out in the regular packet, then it isn't discussed until the next budget session. (Unanimous)

P191-07 COUNCILLOR LIACOS - MOVE TO request a vote from the School Committee as to whether they will relinquish their control over the buildings and facilities to a facilities manager, as proposed by His Honor the Mayor. (Unanimous)

P192-07 COUNCILLOR LIACOS - MOVE TO request His Honor the Mayor submit to the City Council a detailed job description of the facilities manager position, including salary, education, qualifications, experience, and responsibilities. (Unanimous)

P193-07 COUNCILLOR LIACOS - MOVE TO request His Honor the Mayor submit to the City Council a flow chart for the facilities manager position in an organizational format as it relates both to school and city personnel. (Unanimous)

P194-07 COUNCILLOR LIACOS - MOVE TO request a legal opinion from the City Solicitor as well as any information our elected State delegation can ascertain on the State level regarding what the City Council's authority is regarding determining percentages, as it relates to regulating employees health benefits. (Unanimous)

P195-07 COUNCILLOR LIACOS - MOVE TO request the City Solicitor submit a legal opinion to the City Council regarding the proper procedure for releasing executive session minutes of completed bargaining contracts. (Unanimous)

P196-07 COUNCILLOR ZELLEN - MOVE TO request the Department of Public Services inspect and make necessary repairs to the storm drain at the end of Hampshire Road, specifically in front of 41 Hampshire Road. (Unanimous)

P197-07 COUNCILLOR ZELLEN - MOVE TO receive, under suspension of the rules, Item 8-N communication from Rob Robinson, Aggregate Industries, regarding Siren blast letter and to refer to the Ad Hoc Committee on Aggregate Industries. (Unanimous)

P198-07 COUNCILLOR ZELLEN - MOVE TO receive, under suspension of the rules, Item 8-N communication from Rob Robinson, Aggregate Industries, regarding Pre-blast survey letter and to refer to the Ad Hoc Committee on Aggregate Industries. (Unanimous)

P199-07 COUNCILLOR MELLO - MOVE TO respectfully request His Honor the Mayor and the Peabody Police Department to monitor Pulaski Street rear regarding a lot of trucks that are parking at the beginning near the street and running throughout the night disturbing the neighbors. (Unanimous)

P200-07 COUNCILLOR MELLO - MOVE TO respectfully request His Honor the Mayor and the Department of Public Services put a sand barrel down at the end of Abington Avenue where people are having difficulty getting up over that hill. (Unanimous)

P201-07 COUNCILLOR MELLO - MOVE TO request that His Honor the Mayor and/or a representative of the Mayor's office and the Department of Public Services speak with Mr. Steve Feinstein of 21 Northfield Road regarding a sewerage station on Northfield Road that has backed up sewerage onto his property. (Unanimous)

P202-07 COUNCILLOR MELLO - MOVE TO receive, under suspension of the rules, Item 8-H communication from Public Services Department regarding Berry Street water problem and to thank them for their prompt response. (Unanimous)

P203-07 COUNCILLOR MELLO - MOVE TO receive, under suspension of the rules, Item 8-I communication from Health Department regarding Trash Complaint, Walnut @ Harris Street and to thank them for their prompt response. (Unanimous)

P204-07 COUNCILLOR MELLO - MOVE TO request Chief Pasdon submit to the City Council regarding Item 8-C the process of inspections with regard to chemical storage and how often inspections are made and by whom and if companies are not complying with inspections, what happens. (Unanimous)

COMMUNICATIONS FROM HIS HONOR THE MAYOR

No communications.

COMMUNICATIONS FROM CITY OFFICERS AND OTHERS

P205-07 COUNCILLOR MURTAGH - MOVE TO receive and approve a communication from Timothy E. Spanos, City Clerk, regarding 2007 Municipal Election Calendar. (Unanimous)

P206-07 COUNCILLOR MURTAGH - MOVE TO receive and approve a communication from Massachusetts Motorcycle Association, Amesbury, MA regarding "Motorcycles are Everywhere" program-request to hang signs, subject to all papers being in order and that the MMA coordinate with the Chief of Police the location of their signs. (Unanimous)

P207-07 COUNCILLOR MURTAGH - MOVE TO receive a communication from Community Development Department regarding Recreation and Open Space Plan and to refer to the Industrial & Community Development Committee. (Unanimous)

P208-07 COUNCILLOR MURTAGH - MOVE TO receive a communication from A.C. Auto Supply, Inc., 779 Western Avenue, Lynn, MA regarding Special Permit application, 3 Bourbon Street and to set up a public hearing. (Unanimous)

P209-07 COUNCILLOR MURTAGH - MOVE TO receive a communication from DC Trust, LLC, 18 Olsen Road, Peabody, MA regarding Special Permit application, 134 Newbury Street and to set up a public hearing. (Unanimous)

P210-07 COUNCILLOR MURTAGH - MOVE TO receive a communication from Daniel B. Kulak, Assistant City Solicitor, regarding Draft ordinance, Parking prohibited on Johnson Street and to advertise same. (Unanimous)

PRESENTATION OF PETITIONS, MEMORIALS AND REMONSTRANCES

P211-07 COUNCILLOR MURTAGH - MOVE TO receive a Class 2 Motor Vehicle License transfer from DC Trust, LLC, 134 Newbury Street and to set up a public hearing. (Unanimous)

P212-07 COUNCILLOR MURTAGH - MOVE THAT the following Class 2 Motor Vehicle License renewal applications be approved, subject to all papers being in order and subject to all taxes being paid to the City Clerk:

Fat Boy Cycles, 11 Caller Street
Unlimited Sales, 3 Birney Street (Unanimous)

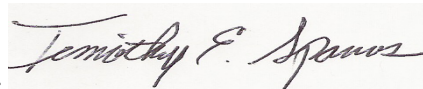
UNFINISHED BUSINESS FROM THE PRECEDING MATTER

None.

MOVED: MOVE TO adjourn. Regular meeting of the Peabody City Council adjourned at 9:30 p.m.

SUBMITTED TO HIS HONOR THE MAYOR, FEBRUARY 28, 2007
RETURNED BY HIS HONOR THE MAYOR, FEBRUARY 28, 2007

ATTEST



(Timothy E. Spanos, City Clerk)