

REGULAR MEETING OF THE PEABODY CITY COUNCIL
APRIL 8, 2008

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

ABSENT: NONE

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.

P279-08 COUNCILLOR GAMACHE – MOVE TO receive and approve the minutes from the last regular meeting of March 27, 2008. (Unanimous)

HEARINGS

P280-08 COUNCILLOR GAMACHE - MOVE TO continue the public hearing on the Special Permit application from Douglas DePiero, 27 Lowell Street, Peabody, MA. (Unanimous)

P281-08 COUNCILLOR GAMACHE - MOVE to receive, under suspension of the rules, Item 8-L communication from Blair Haney, Community Development Department, regarding Special Permit memo, 27 Lowell Street. (Unanimous)

A public hearing was duly held on the Special Permit application from John & Nancy Jodoin, 9 Albert Road, Peabody, MA. Appearing to speak on behalf of said application was Mr. John Jodoin and Mr. Chris Monaco. No one appeared to speak in favor. Mr. Mason Heuston, 7 Albert Road, Peabody, MA appeared to speak in opposition.

P282-08 COUNCILLOR MELLO - MOVE TO receive, under suspension of the rules, Item 8-M communication from Blair Haney, Community Development Department, regarding Special Permit memo, 9 Albert Road. (Unanimous)

P283-08 COUNCILLOR GAMACHE - BE IT ORDERED by the City Council of the City of Peabody that the application from John & Nancy Jodoin, 9 Albert Road, Peabody, MA for a Special Permit for a family accessory living area at said 9 Albert Road, Peabody, MA, as filed in accordance with Section 4.7 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. That there be no Saturday construction hours; and
2. The applicant must adhere to the Determination of Applicability as approved by the Peabody Conservation Commission.
(Carried 10-0; Councillor Liacos absent)

A public hearing was duly held on the Special Permit application from Mas Bakery Café, Inc., 515 Lowell Street, Peabody, MA. Appearing to speak on behalf of said application was Attorney John R. Keilty. Ms. Deanne Healey, Executive Director of the Peabody Chamber of Commerce, 24 Main Street, Peabody, MA; Mr. Ralph Mastrangelo, 1 Bourbon Street, Peabody, MA; Mr. Lee Tapper, 515 Lowell Street, Peabody, MA; and Mr. Tony Avola, 59 Pine Street, Peabody, MA appeared to speak in favor. No one appeared to speak in opposition.

P284-08 COUNCILLOR DRISCOLL - MOVE TO receive, under suspension of the rules, Item 8-K communication from Blair Haney, Community Development Department, regarding Special Permit memo, 515 Lowell Street. (Unanimous)

P285-08 COUNCILLOR DRISCOLL - MOVE TO receive, under suspension of the rules, late communication Item 2 from Attorney John Keilty regarding Revised site plan, Special Permit, 515 Lowell Street. (Unanimous)

P286-08 COUNCILLOR DRISCOLL - BE IT ORDERED by the City Council of the City of Peabody that the application from Mas Bakery Café, Inc., 515 Lowell Street, Peabody, MA for a Special Permit to operate a drive-through sales window at Perfecto Café, located at said 515 Lowell 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) The plan of record is entitled "Site Development Permit Plan dated February 25, 2008; Revised April 7, 2008"
- 2) Any alterations to the interior of the food service establishment must be approved by the Board of Health.
- 3) An 18 foot fire lane around the property must be established and maintained at all times.
(Carried 10-1; Councillor Manning opposed)

REPORTS OF COMMITTEE

**Industrial & Community Development Committee
April 8, 2008**

P287-08 COUNCILLOR MELLO - Reporting for the Industrial & Community Development Committee - The Industrial & Community Development Committee did meet today at 6 o'clock. Present were myself, Councillor Bettencourt, Councillor Garabedian, Councillor Sinewitz and Councillor Manning sitting in for Councillor Liacos. We had three FALA's before us also an issue regarding the IZ buyout. The results were a motion from Councillor Bettencourt to move and recommend approval of the application from John and Nancy Jodoin at 9 Albert Road -- this issue has been already been before the council -- and two motions by Councillor Sinewitz. (Report received)

P288-08 COUNCILLOR MELLO - Reporting for the Industrial & Community Development Committee - MOVE TO recommend that the City Council approve the FALA Special Permit application from John & Nancy Jodoin, 9 Albert Road, Peabody, MA. (Unanimous)

P289-08 COUNCILLOR MELLO - Reporting for the Industrial & Community Development Committee - MOVE TO advertise the FALA's of Geraldine & Kristine Knox/Emmanuel Lucas, 681 Lowell Street and Lauri & James Rawls, 23 Swampscott Avenue. (Unanimous)

P290-08 COUNCILLOR MELLO - Reporting for the Industrial & Community Development Committee - Reporting for the Industrial & Community Development Committee - MOVE TO hold the discussion regarding IZ buyouts in Committee. (Unanimous)

P291-08 COUNCILLOR MELLO - MOVE TO request that the Community Development Department provide the City Council with a detailed plan regarding their proposed pilot project for the use of IZ buyout funds. (Unanimous)

P292-08 COUNCILLOR BETTENCOURT - Reporting for the Industrial & Community Development Committee - There was an item on the agenda of the Industrial & Community Development meeting that Councillor Mello had to recuse himself. It was RFP proposals for 70 Endicott Street. There were two proposals: North Shore Community Health, Inc. and McNiff Builders, Inc. This was a second meeting from a meeting that was continued from, I believe, December. This was a second meeting and representatives from North Shore Community Health, Inc. came and they had requested, due to some confusion over the meeting today, that the item be placed on the agenda for the next meeting. Dr. Hendershott was in Mexico and couldn't be here today and I know they want him to be here for the discussion. So the proposal for North Shore Community Health, Inc. was put on for the next agenda. This is the second meeting that McNiff Builders has failed to show up for. I think that shows a lack of interest and I'm not sure we should even include them in our next meeting, unless we hear from them, but

that's two meetings now that they've missed. However there was one motion from that meeting and Councillor Athas had sat in for Councillor Mello, all the other members were the same. The following motion was made by Councillor Athas. (Report received – Councillor Mello abstained)

P293-08 COUNCILLOR BETTENCOURT - MOVE TO request that the Community Development Department properly board up the windows at 70 Endicott Street from the outside. (Carried 10-0, Councillor Mello abstained)

**Ad Hoc Committee on Drug Education & Awareness
April 8, 2008**

P294-08 COUNCILLOR BETTENCOURT - Reporting for the Ad Hoc Committee on Drug Education & Awareness - There was a meeting of the committee on Drug Education & Awareness prior to the meeting here this evening. Present at the meeting were myself and other committee members: Osborne, Manning, Gravel and Garabedian, as well as Councillors: Sinewitz, Driscoll and Athas. There was one item on the agenda. It was a citywide PTO request for funding for a Mothers Against Drunk Driving presentation to be made at the high school and at the middle school and the name of the program was Takes Two. Present at the meeting and answering questions from the PTO was Kathi Syska and also Phil Sheridan, our athletic director, for the City of Peabody. Also present were members of the Student Health Advisory Council for the city of Peabody high school. Members were Tony Palmieri, Michele Grifoni, A.J. Grube, Erica DiGiacomo and Mark Linehan. So I thank them for coming this evening. After a discussion, the motion was made by Councillor Osborne to fund \$250 for the high school to receive the Mothers Against Drunk Driving presentation and also \$925 for the middle school for 7th and 8th graders, for a total of \$1,175 for all presentations and that was unanimously approved. (Report received)

P295-08 COUNCILLOR BETTENCOURT - MOVE TO authorize the release of \$1,175.00 from the Drug Foundation account to fund the Takes Two presentation by Mothers Against Drunk Driving at the high school and middle school. (Unanimous)

MOTIONS, ORDERS & RESOLUTIONS

P296-08 COUNCILLOR DRISCOLL - MOVE TO request that the Public Services Department repair the speed bumps at Emerson Park. (Unanimous)

P297-08 COUNCILLOR DRISCOLL - MOVE TO receive, under suspension of the rules, Item 8-D communication from Manuel Galopim regarding Special Permit application and to set up a public hearing. (Unanimous)

P298-08 COUNCILLOR SINEWITZ - MOVE TO send a communication to Public Services Department thanking them for expediting the signs for the child on Harrison Avenue. (Unanimous)

P299-08 COUNCILLOR SINEWITZ - MOVE TO request that the Community Development Department provide the City Council with a status update regarding the grant for the windows at City Hall. (Unanimous)

(COUNCILLOR SINEWITZ INFORMED THE CITY COUNCIL THAT THE AD HOC COMMITTEE ON AGGREGATE INDUSTRIES WILL MEET ON TUESDAY, APRIL 29, 2008 AT 6:00 P.M. TO DISCUSS THE ANNUAL REPORT)

P300-08 COUNCILLOR GAMACHE - MOVE TO request that the Public Services Department repair the curbs that were ruined during the plowing season at 1 Connors Road and 59 Goodale Street. (Unanimous)

P301-08 COUNCILLOR MELLO - MOVE TO request that the Public Services Department repair the sidewalk in front of 16 and 18 Walsh Avenue. (Unanimous)

P302-08 COUNCILLOR MELLO - MOVE, under suspension of the rules, to go to Item 10-A regarding 51 Tracey Street. (Unanimous)

{10-A regarding 51 Tracey Street}

P303-08 COUNCILLOR MELLO - 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 11-0)

P304-08 COUNCILLOR ATHAS - MOVE TO receive, under suspension of the rules, Item 8-E communication from Bruce Rollins, 73 Lynn Street, regarding Special Permit application and to set up a public hearing. (Unanimous)

P305-08 COUNCILLOR ATHAS - MOVE TO request that the City Solicitor to render a legal opinion if the variance granted by the Board of Appeals on February 27, 2006 has expired and a new variance would be required. (Unanimous)

P306-08 COUNCILLOR ATHAS - MOVE TO request that the City Solicitor provide a legal opinion to the City Council as to whether the City Council, as an independent entity, is able to enter into negotiations with other healthcare providers, such as the Massachusetts Interlocal Insurance Association. (Carried 7-4; Councillors Sinewitz, Manning, Liacos and Gravel opposed)

P307-08 COUNCILLOR ATHAS - MOVE TO send to the Industrial & Community Development Committee a discussion regarding an outreach program to seniors and others who own homes in disrepair who may qualify for affordable housing rehab funds. Outreach programs such as posting on the local access TV channel, such as presentations at the Torigian Life Center, such as placing newspaper ads and providing notices in property tax bills. (Unanimous)

COMMUNICATIONS FROM HIS HONOR THE MAYOR

None.

COMMUNICATIONS FROM CITY OFFICERS AND OTHERS

P308-08 COUNCILLOR GAMACHE - MOVE TO receive a communication from Timothy Spanos, City Clerk, regarding License violations and to send to the Legal Affairs Committee. (Unanimous)

P309-08 COUNCILLOR GAMACHE - MOVE TO receive a communication from Attorney John R. Keilty, 40 Lowell Street, regarding Franklin Pierce, LLC; conveyance of parcel to the Conservation Commission. (Unanimous)

P310-08 COUNCILLOR GAMACHE - MOVE TO receive and approve a communication from Kevin Goggin, Building Commissioner, regarding Transfer of Special Permit 14-1998 to George Meimeteas, subject to all papers being in order. (Unanimous)

P311-08 COUNCILLOR GAMACHE - MOVE TO receive a communication from Mass Department of Revenue regarding Assessment of poles & wires. (Unanimous)

P312-08 COUNCILLOR GAMACHE - MOVE TO receive a communication from Community Development Department regarding Park Street neighborhood meeting. (Unanimous)

P313-08 COUNCILLOR SINEWITZ - MOVE TO receive a communication from Community Development Department regarding Response to Council motion - Registry of Motor Vehicles. (Unanimous)

P314-08 COUNCILLOR GAMACHE - MOVE TO receive a communication from Joseph Silva, Code Enforcement Officer, regarding FALA report/illegal signs and to send a letter to Mr. Silva thanking him for the update. (Unanimous)

P315-08 COUNCILLOR GAMACHE - MOVE TO receive and approve a communication from Attorney John R. Keilty on behalf of 194 Turnpike, LLC, regarding Request to further recess to May. (Unanimous)

PRESENTATION OF PETITIONS, MEMORIALS AND REMONSTRANCES

P316-08 COUNCILLOR GAMACHE - MOVE TO receive and approve Innholder Licenses (Renewal for 2008) - Homewood Studio Suites Hotel, 200 Jubilee Drive, subject to all papers being in order. (Unanimous)

UNFINISHED BUSINESS FROM THE PRECEDING MATTER

P317-08 (COUNCILLOR GAMACHE - MOVE the question re: Coolidge Avenue Bond Order.
(Carried 7-4; Councillors Bettencourt, Sinewitz, Mello and Athas opposed)

{10-B Bond Order - Coolidge Avenue Water Treatment Plant}

P318-08 COUNCILLOR GRAVEL - BE IT ORDERED by the City Council of the City of Peabody that \$950,000 is appropriated for the purpose of financing the design and construction of improvements to the Coolidge Avenue Water Treatment Plant, including, without limitation, the installation of a suction dredge, a dewatering belt filter press, a floating submersible suction decant pump, a residual/sludge removal system and two finish water pumps, and also including, without limitation, all costs thereof as defined in Section 1 of Chapter 29C of the General Laws; that to meet this appropriation the Treasurer with the approval of the Mayor is authorized to borrow \$950,000 and issue bonds or notes therefore under G.L. c.44 and/or Chapter 29C of the General Laws; that such bonds or notes shall be general obligations of the City unless the Treasurer with the approval of the Mayor determines that they should be issued as limited obligations and may be secured by local system revenues as defined in Section 1 of Chapter 29C; that the Treasurer with the approval of the Mayor is authorized to borrow all or a portion of such amount from the Massachusetts Water Pollution Abatement Trust established pursuant to Chapter 29C and in connection therewith to enter into a loan agreement and/or a security agreement with the Trust and otherwise to contract with the Trust and the Department of Environmental Protection with respect to such loan and for any federal or state aid available for the project or for the financing thereof; and that the Mayor is authorized to enter into a project regulatory agreement with the Department of Environmental Protection, to expend all funds available for the project and to take any other action necessary to carry out the project, and said Bond Order be adopted as advertised and read.

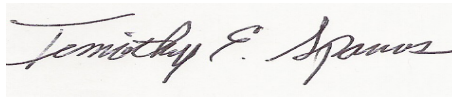
(Failed 6-5; Councillors Sinewitz, Mello, Manning, Liacos and Athas opposed)

AMENDMENT BY COUNCILLOR MELLO - MOVE TO amend Councillor Gravel's motion regarding Item 10-B, by reducing the amount of the Bond Order to \$550,000. (Failed 6-5; Councillors Sinewitz, Mello, Manning, Liacos and Athas in favor)

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

SUBMITTED TO HIS HONOR THE MAYOR, APRIL 14, 2008
RETURNED BY HIS HONOR THE MAYOR, APRIL 14, 2008

ATTEST



(Timothy E. Spanos, City Clerk)