

**REGULAR MEETING OF THE PEABODY CITY COUNCIL**  
**APRIL 10, 2007**

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

ABSENT: NO COUNCILLORS 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.

P336-07 COUNCILLOR GAMACHE – MOVE TO receive and approve the minutes from the last regular meeting of March 22, 2007. (Unanimous)

**HEARINGS**

A public hearing was duly held on the application for an Entertainment License from Seawitch Restaurant, 203 Newbury Street, Peabody, MA. Appearing on behalf of the application was Mr. Greg Klisiaris. No one appeared to speak in favor. No one appeared to speak in opposition.

P337-07 COUNCILLOR GAMACHE – MOVE TO approve the application from Seawitch Restaurant, 203 Newbury Street, Peabody, MA for an Entertainment License for the use of a television, radio, and electric phonograph/CD player subject to all papers being in order. (Carried 10-0, 1 absent; Councillor Liacos)

A public hearing was duly held on the application for an Entertainment License from Royal Garden Restaurant, 126 Newbury Street, Peabody, MA. Appearing on behalf of the application was Mr. Cuong Huynh, 275 South Great Road, Lincoln, MA. No one appeared to speak in favor. No one appeared to speak in opposition.

P338-07 COUNCILLOR GAMACHE – MOVE TO approve the application from Royal Garden Restaurant, 126 Newbury Street, Peabody, MA for an Entertainment License for the use of a television and radio subject to all papers being in order. (Carried 10-0, 1 absent; Councillor Liacos)

A public hearing was duly held on the Special Permit application from Borders Group, Inc., 151 Andover Street, Peabody, MA. Appearing to speak on behalf of the application was Mr. Peter Sherman, General Manager of Borders Books. No one appeared to speak in favor. No one appeared to speak in opposition.

P339-07 COUNCILLOR MURTAGH – BE IT ORDERED by the City Council of the City of Peabody that the application from Borders Group, Inc., 151 Andover Street, Peabody, MA for a Special Permit to amend Special Permit 14-1993, condition #34 to extend the store hours for the release of the 7<sup>th</sup> Harry Potter title on Friday, July 20, 2007 from 10:00 p.m. to 1:00 a.m. as filed in accordance with Section 4.2.5 and 4.4 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 10-0, 1 absent; Councillor Liacos opposed)

A public hearing was duly held on the Special Permit application from Borders Group, Inc., 151 Andover Street, Peabody, MA. Appearing to speak on behalf of the application was Attorney John R. Keilty, 40 Lowell Street, Peabody, MA. No one appeared to speak in favor. Appearing to speak in opposition were the following:

Chris Chigas, 5 Tammie Lane	
William A. Toomey, 33 Abington Avenue	Cynthia Olendzenski, 24 Reynolds Road
Mark O'Hara, 12 Reynolds Road	Alan Frost, 14 Tammie Lane
Paul Hamel, 10 Loris Road	Norman St. Pierre, 9 Reynolds Road
Steve Ferrante, 13 Gardner Street	Michael Shoper, 16 Reynolds Road
Linda Gross, 13 Northfield Road	Carolyn Kurkowski, 9 Tammie Lane
Raymond Morneau, 10 Reynolds Road	Richard Medina, 1-B Laurel Street
John Rowe, 12 Northfield Road	

P340-07 COUNCILLOR MURTAGH – MOVE, under suspension of the rules, to receive the following communications and be made a part of the Special Permit hearing for Borders Group, Inc.:

Residents of Reynolds/Loris Road area re: Petition in opposition  
Community Development Department re: Special Permit memorandum  
DeScenza Jewelers re: Traffic (Unanimous)

P341-07 COUNCILLOR MELLO – BE IT ORDERED by the City Council of the City of Peabody that the application from Borders Group, Inc., 151 Andover Street, Peabody, MA for a Special Permit to modify the Special Permit plan referenced in the Consent Decree being "Permit Site Plan Prepared by Meridian Engineering Collaborative, Dated January 25, 1993; Revised February 12, 1993". The original Special Permit was 1993-14 and dated May 18, 1993 and showed no connection to Loris Road from parking lot; said request is to correct the plan showing access to Loris Road as filed in accordance with Section 4.4 of the Peabody Zoning Ordinance be approved. (Failed 10-0, 1 absent; Councillor Liacos absent)

A public hearing was duly held on the Special Permit application from Turnpike @ Winona LLC., 128 Newbury Street, Peabody, MA. Appearing to speak on behalf of the application was Attorney John R. Keilty, 40 Lowell Street, Peabody, MA. No one appeared to speak in favor. Appearing to speak in opposition was Mr. Des Tiihonen, 3 Pierce Road, Peabody, MA.

P342-07 COUNCILLOR GAMACHE – MOVE, under suspension of the rules, to receive a communication from the Community Development Department submitting a Special Permit memorandum relative to 128 Newbury Street. (Unanimous)

P343-07 COUNCILLOR GAMACHE – MOVE, under suspension of the rules, to receive the communication from Attorney John R. Keilty on behalf of Turnpike @ Winona LLC submitting an interior site plan. (Unanimous)

P344-07 COUNCILLOR MURTAGH – MOVE TO recess the Special Permit public hearing as filed by Turnpike @ Winona LLC, 128 Newbury Street, Peabody, MA to Thursday evening, May 10, 2007 to allow the City Council time to review this evening's public hearing transcript and to request further information from the applicant. (Unanimous)

P345-07 COUNCILLOR ZELLEN – MOVE TO request that the City Clerk insure that a detailed business plan accompany all Special Permit applications outlining the applicants intended use of the property in question. (Unanimous)

REPORTS OF COMMITTEE

**Aggregate Task Force Closure Plan Committee  
April 9, 2007**

P346-07 COUNCILLOR ZELLEN - Reporting for the Aggregate Task Force Closure Plan Committee- I will try to be very quick with this and brief, Mr. President, but I would ask all the councillors to listen to this because I think it's something that I want you to hear. There was a task force committee that was appointed by this City Council consisting of members of the community that live in that area, Aggregate Industries, as well as members of the City Council and department heads. We did meet at the Aggregate Industries site on Monday the 9th at 3:00 p.m. and there were representatives from that entire group that I mentioned: Aggregate representatives, the neighborhood task force members, as well as myself, Councillor Bettencourt, representative from DPW, Public Health, Fire Department and Community Development. Obviously we all went there with the purpose of meeting to discuss the closure plan, which is required by our Special Permit. Aggregate Industries, while they realize the purpose of the meeting was specifically for that, they began by indicating that they wanted to put their cards on the table -- and that was the terminology that they used -- that they have decided to seek expansion of their operation and to double the size of the quarry and to come before this City Council with a new Special Permit request to do that. Well, needless to say, everyone at that meeting was beside themselves and it really was not a proper time to talk about closure, inasmuch as Aggregate is looking to, not only maintain what they're doing and close it in a few years, but to expand the quarry to double its size. So obviously there was no purpose in this committee discussing a closure plan, in light of the information that was brought up. So Councillor Bettencourt and I very quickly conferred and we believe that the Ad Hoc Committee on Aggregate Industries of the City Council should have a meeting and at that meeting that we should invite the Mayor and interested people to discuss this whole issue, because it's more than just a closure plan right now. One of the things that was suggested was they do have to give us a closure plan by October to be in compliance, so they're going to give us a closure plan whether we like it or whether we don't like it is immaterial. But one of the things that we could consider doing, in light of this new thing, is to either request that they continue to give us the closure plan and say to them if you want to come before this City Council, that's your prerogative at some time in the future. But again we did not want to make this a unilateral decision, Councillor Bettencourt and myself, for the entire city. So there is more going on up there than meets the eye. And again I will say I give credit to Aggregate Industries to at least putting it on the table up front, rather than go through a charade of a closing plan and then hit us with it later on. But I just want to everybody to know that the Aggregate Industries issue is not going away, it may be double the problems in the future. So with that it's a vote of progress and I thank you for your attention in listening to that report. (Report received)

MOTIONS, ORDERS & RESOLUTIONS

P347-07 COUNCILLOR MURTAGH – MOVE THAT our legislative delegation pursue all avenues with regards to any flood relief funds that may be available to the City of Peabody (Unanimous)

P348-07 COUNCILLOR MURTAGH – As a matter of the record, I wish to inform all Councillors that the Department of Community Development will be conducting public hearings regarding the City of Peabody's 2007-2008 Community Development Block Grant One Year Action Plan. (Received)

P349-07 COUNCILLOR BETTENCOURT – As a point of information, the Industrial & Community Development Committee jointly with the Ad Hoc Committee on Zoning will be meeting on Tuesday, April 24, 2007 to discuss the proposed zoning changes to the downtown area. (Report received)

P350-07 COUNCILLOR DRISCOLL – MOVE, under suspension of the rules, to receive item 8-E, communications from residents of Farnham Avenue filing a complaint regarding the property at 15 Farnham Avenue and request that a copy be sent to the Chief of Police for his review. (Unanimous)

P351-07 COUNCILLOR DRISCOLL – MOVE, under suspension of the rules, to receive item 8-K, communication from the Public Services Department submitted a cost estimate for sidewalks on Felton Street and be referred to the Mayor to consider funding said project. (Unanimous)

P352-07 COUNCILLOR GAMACHE (Co-Motion with Councillor Osborne) – MOVE TO request that the City Clerk provide the City Council with a copy of the City of Peabody Speed Zone Map as prepared by the Department of Public Services. (Unanimous)

P353-07 COUNCILLOR ATHAS –MOVE TO request the Department of Public Services to clean, on a regular basis, across from Pierpont Park on Pierpont St., the trash and debris that collects along the stretch of cement wall at the bottom of the old Sewell school. (Unanimous)

P354-07 COUNCILLOR ATHAS – MOVE TO forward a reminder to the Department of Community Development regarding a previous motion on the proposed zoning changes to the downtown area/potential number of residential units that could be constructed and that it be in the hands of the Com. Dev. Indus. Committee one week prior to our committee mtg. on Tuesday, April 24.

*February 22, 2007:*

*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)*

P355-07 COUNCILLOR ATHAS – MOVE TO request that the Mayor consider providing the City Council with some type of newsletter or other type of information system that can keep the City Council informed on all matters happening in the City. (Unanimous)

P356-07 COUNCILLOR LIACOS – MOVE, under suspension of the rules, to receive item 7-B and late communication #3 relative to Fire Salaries, transfer of funds, and be referred to the Finance Committee. (Unanimous)

P357-07 COUNCILLOR LIACOS – MOVE, under suspension of the rules, to receive item 7-C, 7-D and 7-F regarding various transfers of funds and be referred to the Finance Committee. (Unanimous)

P358-07 COUNCILLOR LIACOS – MOVE, under suspension of the rules, to receive item 7-E, transfer of funds relative to Cemetery Capital Project - \$54,000.00. (Unanimous)

P359-07 COUNCILLOR LIACOS – MOVE, under suspension of the rules, to approve the transfer of funds from **Cemetery Sale of Lots & Graves \$54,000.00 to Cemetery Capital Projects, \$54,000.00** as submitted by His Honor the Mayor. (Unanimous)

P360-07 COUNCILLOR ZELLEN – MOVE, under suspension of the rules, to receive items 8-C and 8-D, communication from Lawrence J. O'Keefe, City Solicitor, submitting legal opinions relative to Aggregate Industries and be referred to the Ad Hoc Committee on Aggregate Industries. (Unanimous)

P361-07 COUNCILLOR ZELLEN – MOVE, under suspension of the rules, to receive items 8-F and 8-G, communication from John A. Christopher, Assistant City Solicitor relative to Buonfiglio v Garabedian, et al; special permit hearing and request that the Special Permit public hearing regarding property at 187 Lake Street, Peabody, MA be reconvened on Thursday evening, May 10, 2007 and that the public hearing notice be re-advertised and all abutters be re-notified. (Unanimous)

P362-07 COUNCILLOR ZELLEN – MOVE THAT the Community Development Department provide the City Council at least one weeks notice regarding future Construction Review meetings and agendas. (Unanimous)

P363-07 COUNCILLOR SELESNICK – MOVE THAT the Community Development Department provide the committees reviewing the proposed zoning changes with their comments and recommendations regarding “parameters of the offices of businesses operating in residential areas” and “live/work space uses”. (Unanimous)

P364-07 COUNCILLOR MELLO – MOVE THAT the Public Services Department sweep the bridge on Andover Street at Exit 19 which is creating a hazardous situation in that area. (Unanimous)

P365-07 COUNCILLOR MELLO – MOVE TO request that the Board of Health investigate large amounts of trash being placed out on the sidewalk on Wallis Street in the vicinity of McIntyre Court on weekends and 2 to 3 days in advance of their regular trash pickup. (Unanimous)

P366-07 COUNCILLOR MELLO – MOVE TO request the Public Services Department clean the trash and debris that has accumulated to the rear of the Berry Street property as it backs up to Endicott Street. (Unanimous)

P367-07 COUNCILLOR MELLO – MOVE TO request that the Public Services Department smooth out the hop top patches on Pulaski Street which are creating a noise nuisance when trucks travel over those bumps. (Unanimous)

P368-07 COUNCILLOR MELLO – MOVE TO request the Public Services Department to repaint the stop line on Pulaski Street at Buxton Lane. (Unanimous)

P369-07 COUNCILLOR MELLO – MOVE TO request that the Public Services Department repair the sidewalk at 3 Reynolds Road. (Unanimous)

P370-07 COUNCILLOR MELLO – MOVE TO request that the Public Services Department repaint the crosswalk at the park on Loris Road. (Unanimous)

#### **COMMUNICATIONS FROM HIS HONOR THE MAYOR**

P371-07 COUNCILLOR MURTAGH – MOVE TO receive the communication from His Honor the Mayor regarding bus parking fees at the skating rink. (Unanimous)

#### **COMMUNICATIONS FROM CITY OFFICERS AND OTHERS**

P372-07 COUNCILLOR MURTAGH – MOVE TO receive the communication from the Mass Highway Department relative to speed reduction on Felton Street and suspension of traffic signal at Route One southbound jug handle and be referred to the Municipal Safety Committee. (Unanimous)

P373-07 COUNCILLOR ZELLEN – MOVE TO receive the communication from Daniel B. Kulak, Assistant City Solicitor relative to School Committee complaint of violation of Mass General Laws. (Unanimous)

P374-07 COUNCILLOR MURTAGH – MOVE TO receive the communication from the Peabody Veterans Council relative to Memorial Day activities on May 28, 2007 and request that in preparation of the Memorial Day parade that Lowell Street be blocked off from vehicular traffic between Sawyer Street and Peabody Square during the speaking portion of the program (Unanimous)

P375-07 COUNCILLOR MURTAGH – MOVE TO receive the Mass Municipal Association action letter relative to State budget information. (Unanimous)

P376-07 COUNCILLOR MURTAGH – MOVE TO receive and approve the following banner requests subject to all papers being in order:

Peabody High School Drama Department to be displayed over Central Street at Wilson Square between April 19<sup>th</sup> and May 14<sup>th</sup>

North Shore Elder Services to be displayed over Lowell Street at City Hall between April 18<sup>th</sup> and May 1<sup>st</sup> (Unanimous)

P377-07 COUNCILLOR GAMACHE – MOVE TO receive the Special Permit application from Robert Godjikian, 7 Flynn Road, Peabody, MA and request that the Industrial & Community Development Committee review the same for a recommendation for public hearing. (Unanimous)

P378-07 COUNCILLOR GAMACHE – MOVE TO receive the communication from Wild Meadow Equipment Corp., 2 DeBush Avenue, Middleton, MA filing a complaint regarding vehicles for sale at 222 Newbury Street and request that the Peabody Police Department investigate the same. (Unanimous)

P379-07 COUNCILLOR GAMACHE – MOVE TO receive the communication from Senator Frederick Berry relative to health insurance information. (Unanimous)

#### **PRESENTATION OF PETITIONS, MEMORIALS AND REMONSTRANCES**

P380-07 COUNCILLOR GAMACHE – MOVE TO receive and approve the transfer of Taxi Cab Licenses 12 and 14 from Community Taxi, 27R Caller Street, Peabody, MA subject to all papers being in order. (Unanimous)

P381-07 COUNCILLOR GAMACHE – MOVE TO receive and approve the Limousine/Taxi Driver Licenses subject to all papers being in order:

William Flynn, Jr., 3 Oakland Street, Salem  
Robert Corriveau, Jr., 78 Endicott Street, Peabody

Jerry Mello, 1A Christina Drive, Peabody  
(Unanimous)

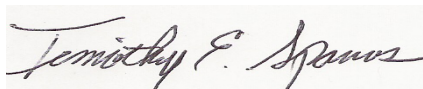
#### **UNFINISHED BUSINESS FROM THE PRECEDING MATTER**

P382-07 COUNCILLOR GAMACHE – BE IT ORDERED by the City Council of the City of Peabody that An Ordinance Amending Section 19-94 Entitled Parking Prohibited on Certain Streets; Johnson Street northwesterly side from Lowell Street up to the property line of 7 Johnson Street be adopted as advertised and read. (Carried 11-0)

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

SUBMITTED TO HIS HONOR THE MAYOR, APRIL 13, 2007  
RETURNED BY HIS HONOR THE MAYOR, APRIL 13, 2007

ATTEST



(Timothy E. Spanos, City Clerk)