

**REGULAR MEETING OF THE PEABODY CITY COUNCIL**  
**APRIL 26, 2012**

PRESENT: COUNCILLORS: ATHAS, GOULD, SINEWITZ, MELLO, GRAVEL, OSBORNE, GAMACHE, DRISCOLL, AND LIACOS

ABSENT: COUNCILLORS: GARABEDIAN AND MANNING-MARTIN

Meeting of the Peabody City Council opened with a moment of silent prayer after being called to order by City Council President, James K. Liacos.

Salute to the American Flag.

P224-12 COUNCILLOR OSBORNE - MOVE TO receive and approve the minutes from the last regular meeting of April 12, 2012. (Unanimous)

COUNCILLOR LIACOS - 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 116 Main Street, LLC, 314 Clark Street, North Andover, MA. Appearing to speak on behalf of the application was Attorney Athan Vontzalides and Mr. Norman Lee. No one appeared to speak in favor. No one appeared to speak in opposition.

P225-12 COUNCILLOR GAMACHE – MOVE TO receive, under suspension of the rules, late communication Item 2 from 116 Main Street, Departmental response from Police and Fire. (Unanimous)

P226-12 COUNCILLOR GAMACHE – MOVE TO receive, under suspension of the rules, late communication Item 8 from Attorney Athan Vontzalides on behalf of 16 Main Street, LLC, regarding Updated floor plan. (Unanimous)

P227-12 COUNCILLOR ATHAS - BE IT ORDERED by the City Council of the City of Peabody that the application from 116 Main Street, LLC, 314 Clark Street, North Andover, MA for a Special Permit to allow for a portion of the premises to be used as a multifamily dwelling containing a total of nine (9) residential units at 116 Main Street, Peabody, MA, as filed in accordance with Section 4.2.1 and 1.5 of the Peabody Zoning Ordinance, be approved based on the following reasons and 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. To abide by the City of Peabody's Inclusionary Zoning Ordinance;
  2. As requested by the Fire Department, access to the rear of the building including the addition through the Main Street side; and
  3. That a sprinkler protection with stand pipe outlets for the entire structure be provided.
- (Carried 9-0; Councillors Garabedian and Manning-Martin absent)

A public hearing as duly held on the application from The Cheesecake Factory Restaurants, Inc., 210 Andover Street, Peabody, MA. Appearing to speak on behalf of the application was Mr. Michael Carey, General Manager. No one appeared to speak in favor. No one appeared to speak in opposition.

P228-12 COUNCILLOR DRISCOLL – MOVE TO approve the application from The Cheesecake Factory Restaurants, Inc., 210 Andover Street, Peabody, MA, for an Entertainment License for two (2) televisions and XM radio at said 210 Andover Street, Peabody, MA, subject to all papers being in order. (Carried 9-0; Councillors Garabedian and Manning-Martin absent)

A public hearing was duly held on the application from Diomedes H. Mejia, 80 Bowler Street, Lynn, MA. Appearing to speak on behalf of the application was Mr. Diomedes H. Mejia. No one appeared to speak in favor. No one appeared to speak in opposition.

P229-12 COUNCILLOR OSBORNE – MOVE TO approve the application from Diomedes H. Mejia, 80 Bowler Street, Lynn, MA, for a Class 2 Motor Vehicle License at 147 Summit Street, Unit 3B, Peabody, MA, with the condition that only five (5) cars be at that location at any time and subject to all papers being in order. (Carried 9-0; Councillors Garabedian and Manning-Martin absent)

P230-12 COUNCILLOR GAMACHE – MOVE TO continue the public hearing on the application from Total Outdoor Corp., 100 Cummings Center, Suite 226-G, Beverly, MA, until Thursday, May 10, 2012. (Unanimous)

P231-12 COUNCILLOR GAMACHE – MOVE TO continue the public hearing on the application from Neil B. Ross and Alicia A. Ross, 6 Charles Street, Peabody, MA, until Thursday, May 10, 2012. (Unanimous)

### **REPORTS OF COMMITTEE**

#### **FINANCE COMMITTEE APRIL 26, 2012**

P232-12 COUNCILLOR GAMACHE – Reporting for the Finance Committee - Earlier this evening the Finance Committee met. Present were myself, Councillor Driscoll, Councillor Gould, Councillor Gravel and Councillor Liacos. Matters before us: We had the transfer of cemetery interest income to cemetery capital projects and the motion was to approve cemetery interest income \$30,000 and cemetery sale of lots of graves at \$31,000 transferring to cemetery capital projects \$61,000 and that was approved unanimously in committee. (Report received)

P233-12 COUNCILLOR GAMACHE - MOVE TO approve the following appropriation, as submitted by His Honor the Mayor, under date of March 26, 2012:

**FROM:**

**TO:**

Cemetery Interest Income       \$30,000.00

Cemetery Capital Projects - \$61,000.00

Cemetery Sale of Lots & Graves \$31,000.00

(Carried 8-0; Councillors Garabedian, Manning-Martin and Driscoll absent)

P234-12 COUNCILLOR GAMACHE – MOVE TO receive and approve, under suspension of the rules, late communication Item 1 from Peabody Historical Society & Museum, requests application be removed from consideration relative to Felton House roof repairs, subject to all papers being in order. (Unanimous)

#### **COMMITTEE OF THE WHOLE APRIL 12, 2012**

P235-12 COUNCILLOR LIACOS – Reporting for the Committee of the Whole – Earlier this evening as well the Committee of the Whole met at 6:45 in the Frank L. Wiggin Auditorium. The purpose of this meeting was to review the 2011 Aggregate Industries report. Councillor Sinewitz had the report and asked a number of questions and from that report Councillor Sinewitz made two motions. (Report received)

P236-12 COUNCILLOR LIACOS - Reporting for the Committee of the Whole –MOVE TO request that any correspondence from Aggregate Industries to the Building Inspector, Fire Department, Conservation Commission, Board of Health, and Planning Board also be sent to the City Council. (Carried 9-0; Councillors Garabedian and Manning-Martin absent)

P237-12 COUNCILLOR LIACOS – Reporting for the Committee of the Whole –MOVE TO approve the Aggregate Industries 2011 Annual Report, as submitted. (Carried 9-0; Councillors Garabedian and Manning-Martin absent)

**MOTIONS, ORDERS & RESOLUTIONS**

P238-12 COUNCILLOR ATHAS – MOVE TO receive, under suspension of the rules, late communication Item 6 from Linear Retail Peabody #1, Stipulation of Dismissal. (Unanimous)

P239-12 COUNCILLOR ATHAS – MOVE TO receive, under suspension of the rules, Item 8-D communication from The David J. Gordon Trust, 65 Main Street, regarding Parking; Peabody Square realignment project and to refer to the Industrial & Community Development Committee. (Unanimous)

P240-12 COUNCILLOR ATHAS - MOVE TO receive, under suspension of the rules, Item 8-G communication from Karen Sawyer, Director, Community Development Department, regarding Zoning Ordinance – proposed technical corrections and to refer to the Industrial & Community Development Committee. (Unanimous)

P241-12 COUNCILLOR ATHAS - MOVE TO request that the City Solicitor provide a legal opinion as to whether and the procedure that the City should use to properly notify abutters who are affected by any change in the Zoning Ordinance. (Unanimous)

P242-12 COUNCILLOR MELLO – MOVE TO receive, under suspension of the rules, late communication Item 7 from 1 Sylvan Street, Michael's Motors Police Report and to set up a Show Cause Hearing. (Unanimous)

P243-12 COUNCILLOR MELLO – MOVE TO receive and approve, under suspension of the rules, Item 8-A communication from Our Lady of Fatima, 50 Walsh Avenue, regarding Banner, subject to all papers being in order. (Unanimous)

P244-12 COUNCILLOR MELLO - MOVE TO receive, under suspension of the rules, Item 8-E communication from A & R Convenience, 44 Margin Street, regarding Special Permit application and to set up a public hearing. (Unanimous)

P245-12 COUNCILLOR OSBORNE - MOVE TO request that the Forestry Department investigate a tree for removal at 18 Lynch Street. (Unanimous)

P246-12 COUNCILLOR DRISCOLL – MOVE TO receive, under suspension of the rules, Item 8-H communication from Attorney Michael Smerczynski, City Solicitor, regarding Legal opinion, 6 Charles Street. (Unanimous)

P247-12 COUNCILLOR DRISCOLL – MOVE TO receive, under suspension of the rules, late communication Item 3 from 6 Charles Street, Departmental response from Police and Fire. (Unanimous)

P248-12 COUNCILLOR DRISCOLL – MOVE TO receive, under suspension of the rules, late communication Item 4 from 6 Charles Street, Letter from abutter at 8 Charles Street, Arthur Makar. (Unanimous)

P249-12 COUNCILLOR DRISCOLL (Co-motion with Councillor Gamache) – MOVE TO receive, under suspension of the rules, late communication Item 5 from 532 Lowell Street, Department response from Fire and Public Services. (Unanimous)

**COMMUNICATIONS FROM HIS HONOR THE MAYOR**

P250-12 COUNCILLOR GAMACHE – MOVE TO receive and approve a communication from His Honor the Mayor regarding Request for joint informational meeting with School Committee regarding Higgins Middle School project. (Unanimous)

P251-12 COUNCILLOR GAMACHE - MOVE TO receive and approve the appointment of Bernard Horowitz, 17 Albert Road, Peabody, MA, to the Board of Health (Regular Position) for a three-year term to expire 02/01/2015 (Expired term of John J. Barry, III). (Carried 9-0; Councillors Garabedian and Manning-Martin absent)

**COMMUNICATIONS FROM CITY OFFICERS AND OTHERS**

P252-12 COUNCILLOR GAMACHE – MOVE TO receive and approve a communication from Peabody Pop Warner c/o 2 Antonelli Way, regarding Banner, subject to all papers being in order. (Unanimous)

P253-12 COUNCILLOR GAMACHE – MOVE TO receive a communication from Karen Sawyer, Director, Community Development Department, regarding Affordable housing meeting – April 30<sup>th</sup>. (Unanimous)

P254-12 COUNCILLOR GAMACHE – MOVE TO receive a communication from John DiRuzza, 258-C Newbury Street, regarding Special Permit application and to set up a public hearing. (Unanimous)

P255-12 COUNCILLOR GAMACHE – MOVE TO receive a communication from Public Services Department regarding Sheffield Drive paving issue and to refer to the Public Services Committee. (Unanimous)

**PRESENTATION OF PETITIONS, MEMORIALS AND REMONSTRANCES**

P256-12 COUNCILLOR GAMACHE – MOVE TO receive and approve Use of the Wiggin Auditorium – NSCAP, 98 Main Street, for June 14<sup>th</sup>, subject to all papers being in order. (Unanimous)

P257-12 COUNCILLOR GAMACHE – MOVE TO receive and approve the following Junk Dealer License (Renewal for 2012), subject to all papers being in order:

GameStop 6409, 210 Andover Street  
GameStop 664, 300 Andover Street  
GameStop 6278, 637 Lowell Street  
(Unanimous)

P258-12 COUNCILLOR GAMACHE – MOVE TO receive and approve Entertainment License (Renewal for 2012) Toscana’s Ristorante, 3 Bourbon Street, subject to all papers being in order. (Unanimous)

P259-12 COUNCILLOR GAMACHE – MOVE TO receive and approve the following Taxi/Limousine License, subject to all papers being in order:

David Howland – License 132  
Dana McPhee - License 131  
(Unanimous)

P260-12 COUNCILLOR GAMACHE – MOVE TO receive Junk Dealer License (New) – Lisa Sawhney d/b/a Sempre, 41 Cross Street, and to set up a public hearing. (Unanimous)

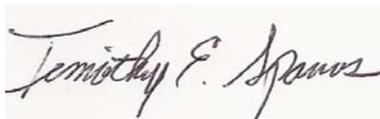
P261-12 COUNCILLOR GAMACHE – MOVE TO receive Class 2 Motor Vehicle License (New) – John DiRuzza, 258-C Newbury Street, and to set up a public hearing. (Unanimous)

**UNFINISHED BUSINESS FROM THE PRECEDING MATTER**

None.

MOVED: MOVE TO adjourn. Regular meeting of the Peabody City Council adjourned at 8:30 p.m.

SUBMITTED TO HIS HONOR THE MAYOR, MAY 7, 2012  
RETURNED BY HIS HONOR THE MAYOR, MAY 7, 2012



ATTEST

(Timothy E. Spanos, City Clerk)

**COMMUNICATIONS:**

His Honor the Mayor re: Request for joint informational meeting with School Committee re: Higgins Middle School project

His Honor the Mayor re: Appointment – Bernard Horowitz to Board of Health

Our Lady of Fatima, 50 Walsh Avenue re: Banner

Peabody Pop Warner c/o 2 Antonelli Way re: Banner

Karen Sawyer, Director, Community Development Department re: Affordable housing meeting – April 30th

The David J. Gordon Trust, 65 Main Street re: Parking; Peabody Square realignment project

A & R Convenience, 44 Margin Street re: Special permit application

John DiRuzza, 258-C Newbury Street re: Special permit application

Karen Sawyer, Director, Community Development Department re: Zoning Ordinance – proposed technical corrections

Attorney Michael Smerczynski, City Solicitor re: Legal opinion, 6 Charles Street

Public Services Department re: Sheffield Drive paving issue

**USE OF THE WIGGIN AUDITORIUM:**

NSCAP, 98 Main Street for June 14th

**JUNK DEALER LICENSE:** (Renewal for 2012)

GameStop 6409, 210 Andover Street

GameStop 664, 300 Andover Street

GameStop 6278, 637 Lowell Street

**ENTERTAINMENT LICENSE:** (Renewal for 2012)

Toscana's Ristorante, 3 Bourbon Street

**TAXI/LIMOUSINE LICENSE:**

David Howland – License 132

Dana McPhee – License 131

**JUNK DEALER LICENSE:**

Lisa Sawhney d/b/a Sempre, 41 Cross Street

**CLASS 2 MOTOR VEHICLE LICENSE:**

John DiRuzza, 258-C Newbury Street