

REGULAR MEETING OF THE PEABODY CITY COUNCIL
MAY 24, 2012

PRESENT: COUNCILLORS: ATHAS, GOULD, SINEWITZ, GARABEDIAN, MANNING-MARTIN, MELLO, GRAVEL, OSBORNE, GAMACHE, DRISCOLL, AND LIACOS

ABSENT: None.

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.

P297-12 COUNCILLOR GAMACHE - MOVE TO receive and approve the minutes from the last regular meeting of May 10, 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 transfer of a Class 2 Motor Vehicle License from Matthew Gaeta and Carmen Gaeta d/b/a Elite Pre-Owned Auto, 153 Newbury Street, Peabody, MA. Appearing to speak on the matter were both Matthew and Carmen Gaeta. No one appeared to speak in favor. No one appeared to speak in opposition.

P298-12 COUNCILLOR GAMACHE – MOVE TO approve the transfer of a Class 2 Motor Vehicle License to Matthew Gaeta and Carmen Gaeta d/b/a Elite Pre-Owned Auto, 153 Newbury Street, Peabody, MA subject to conditions a previously approved:

1. That there be a maximum of fifteen (15) vehicles for sale at one time;
 2. That the vehicles be parked as requested on the northerly side of the property toward the rear of the property, with two vehicles to be located on the southerly side of the building; and
 3. That access and egress on to the property is not impeded.
- (Carried 11-0)

A public hearing was duly held on the application for a Junk Dealers License from Lisa M. Sawhney, 7 Briarwood Lane, Middleton, MA for property at 41 Cross Street, Peabody, MA. Appearing to speak on the matter was Ms. Lisa M. Sawhney. No one appeared to speak in favor. No one appeared to speak in opposition.

P299-12 COUNCILLOR DRISCOLL – MOVE, under suspension of the rules, to receive a late communication from the Peabody Police Department relative to 41 Cross Street. (Unanimous)

P300-12 COUNCILLOR DRISCOLL – MOVE TO approve the application from Lisa M. Sawhney, 7 Briarwood Lane, Middleton, MA for a Junk Dealers License for property at 41 Cross Street, Peabody, MA subject to the condition that the hours of operation shall be Tuesday through Saturday 10:00 a.m. to 5:00 p.m. (Carried 11-0)

A public hearing was duly held on the application for a Special Permit from John DiRuzza, 18 Blaney Street, Revere, MA for property at 258 Newbury Street, Unit C, Peabody, MA. Appearing to speak on the matter was Mr. John DiRuzza. No one appeared to speak in favor. No one appeared to speak in opposition.

P301.12 COUNCILLOR GAMACHE – BE IT ORDERED by the City Council of the City of Peabody that the application from John DiRuzza, 18 Blaney Street, Revere, MA for a Special Permit to allow for the sale of motorcycles at 258 Newbury Street, Unit C, Peabody, MA as filed in accordance with Sections 4.2.5 and 15.7 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. The maximum vehicles allowed for sale at any one time shall be five (5).
2. The hours of operation shall be 8:00 a.m. to 5:00 p.m. Monday through Sunday.
(Carried 11-0)

A public hearing was duly held on the application for a Class 2 Motor Vehicle License from John DiRuzza, 18 Blaney Street, Revere, MA for property at 258 Newbury Street, Unit C, Peabody, MA. Appearing to speak on the matter was Mr. John DiRuzza. No one appeared to speak in favor. No one appeared to speak in opposition.

P302-12 COUNCILLOR GAMACHE – MOVE TO approve the application for a Class 2 Motor Vehicle License from John DiRuzza, 18 Blaney Street, Revere, MA for property at 258 Newbury Street, Unit C, Peabody, MA subject to the following conditions:

Conditions:

1. The maximum vehicles allowed for sale at any one time shall be five (5).
2. The hours of operation shall be 8:00 a.m. to 5:00 p.m. Monday through Sunday.
(Carried 11-0)

A public hearing was duly held on the Special Permit application from Neil B. Ross and Alicia A. Ross, 6 Charles Street, Peabody, MA for a Special Permit at said 6 Charles Street. Appearing to speak on the matter were Attorney John R. Keilty, 40 Lowell Street, Peabody, MA and Mr. Neil B. Ross. No one appeared to speak in favor. Appearing to speak in opposition were Eva and Thomas Quinlan, 8 Charles Street and Margaret DeCarol, 7 Charles Street.

P303-12 COUNCILLOR GAMACHE – MOVE, under suspension of the rules, to receive the communication from Attorney John R. Keilty, 40 Lowell Street, Peabody, MA submitting a revised plot plan of land pertaining to 6 Charles Street, Peabody, MA. (Unanimous)

P304-12 COUNCILLOR DRISCOLL – BE IT ORDERED by the City Council of the City of Peabody that the application from Neil B. Ross and Alicia A. Ross, 6 Charles Street, Peabody, MA for a Special Permit to construct a 15 x 25 addition to the northwest side of a single family, non-conforming structure, as shown on a plan of land for Alicia & Neil Ross with a revised ate of May 6, 2012 at said 6 Charles Street, Peabody, MA as filed in accordance with Sections 1.5 and 15.7 of the Peabody Zoning Ordinance be denied based on the following reasons for denial:

The proposed addition is substantially more detrimental than the existing non-conforming structure to the neighborhood and because of its size and placement will have a negative affect on the adjacent property and destroy the character of the neighborhood.

(Carried 11-0)

A public hearing was duly held on the Special Permit application from A & R Convenience, Inc., 44 Margin Street, Peabody, MA. Appearing to speak on the matter was Attorney John R. Keilty, 40 Lowell Street, Peabody, MA. No one appeared to speak in favor. No one appeared to speak in opposition.

P305-12 COUNCILLOR MELLO – MOVE, under suspension of the rules, to receive late communication 1 from the Board of Health relative to 44 Margin Street. (Unanimous)

P306-12 COUNCILLOR MELLO – MOVE, under suspension of the rules, to receive late communication 2 from the Police Department relative to 44 Margin Street. (Unanimous)

P307-12 COUNCILLOR MELLO – BE IT ORDERED by the City Council of the City of Peabody that the application from A & R Convenience, Inc., 44 Margin Street, Peabody, MA for a Special Permit to allow for the sale of alcoholic beverages, beer & wine, at an existing convenience store located in a B-N zoning district at said 44 Margin Street, Peabody, MA as filed in accordance with Section 4.2.5 and 15.7 of the Peabody Zoning Ordinance be approved. (Failed 6-4, 1 absent; Councillors Athas, Sinewitz, Manning-Martin and Mello opposed; Councillor Gamache absent)

REPORTS OF COMMITTEE

FINANCE COMMITTEE MAY 24, 2012

(Report received) P308-12 COUNCILLOR DRISCOLL– Reporting for the Finance Committee –The Finance Committee met on May 24, 2012 prior to the regular meeting. The committee reviewed 3 transfer of fund requests from His Honor the Mayor regarding Fire Alarm expenses, City Clerk and Election expenses, and Rent Control Board expenses. The following recommendations were approved:

P309-12 COUNCILLOR DRISCOLL – Reporting for the Finance Committee – MOVE TO approve the following transfer of funds as submitted by His Honor the Mayor under date of May 3, 2012:

<u>FROM</u>	<u>TO</u>
Fire Alarm Salaries - \$53,500.00	Fire Alarm-Building Maintenance - \$31,500.00
	Fire Alarm-Outside Services - <u>\$22,000.00</u>
	<u>\$53,500.00</u>

(Carried 10-0, 1 absent)

P309A-12 COUNCILLOR DRISCOLL – Reporting for the Finance Committee – MOVE TO approve the following transfer of funds as submitted by His Honor the Mayor under date of May 4, 2012:

<u>FROM</u>	<u>TO</u>
Reserve Fund – \$55,000.00	Election Expenses-Outside Services \$55,000.00

(Carried 10-0, 1 absent)

P310-12 COUNCILLOR DRISCOLL – Reporting for the Finance Committee – MOVE TO approve the following transfer of funds as submitted by His Honor the Mayor under date of May 4, 2012:

<u>FROM</u>	<u>TO</u>
Reserve Fund – \$6,400.00	City Clerk-Part Time Wages - \$2,400.00
	City Clerk Outside Services - <u>\$4,000.00</u>
	<u>\$6,400.00</u>

(Carried 10-0, 1 absent)

P311-12 COUNCILLOR DRISCOLL – Reporting for the Finance Committee - MOVE TO approve the following transfer of funds as submitted by His Honor the Mayor under date of May 4, 2012:

<u>FROM</u>	<u>TO</u>
Reserve Fund Operating Budget - \$8,000.00	Rent Control Board Expenses - \$8,000.00

(Carried 9-1, 1 absent; Councillor Manning-Martin opposed)

P312-12 COUNCILLOR DRISCOLL – Reporting for the Finance Committee – MOVE TO send a communication to our State delegation requesting that a home rule petition be filed to count mobile homes as affordable housing similar to what the Town of Danvers has requested. (Unanimous)

P313-12 COUNCILLOR DRISCOLL – Reporting for the Finance Committee – MOVE TO send a communication to His Honor the Mayor requesting that he forward his opinion to the City Council with regards to the City Council forming an ad hoc committee for the purpose of reviewing the issues of a City board, the Rent Control Board, regulating rent control vs. affordable housing. (Unanimous)

MUNICIPAL SAFETY COMMITTEE
MAY 24, 2012

P314-12 COUNCILLOR GARABEDIAN – Reporting for the Municipal Safety Committee – The committee met prior to the regular meeting to review the transfer of low power radio to the Police Department and the issue of the winter parking ban. The Police Department did notify the City Council that low power radio was transferred from Peabody Access Telecommunication, Inc. to the police station. Once the police station renovations are completed, the final phase of transfer will be completed and 1640 AM radio will be accessible from the police station. The Committee also discussed the elimination of the winter parking ban. The committee felt with today's technology of notifying residents of a snow emergency via 1640 AM radio, cable television, Nixle messaging, and the ability of flashing blue lights at various intersections, the elimination of the winter parking ban and development of a snow emergency process would in order. The following recommendation was approved:

P314A-12 COUNCILLOR GARABEDIAN – Reporting for the Municipal Safety Committee – MOVE THAT the winter parking plan as stated in Section 19-91 of the Peabody City Code be eliminated, and that the Municipal Safety Committee meet with the Police, Public Services, and Fire Departments to develop a snow emergency plan. (Carried 10-0, 1 absent)

COMMITTEE OF THE WHOLE
MAY 24, 2012

P315-12 COUNCILLOR LIACOS – Reporting for the Committee of the Whole – The committee of the whole met prior to the regular meeting with the City Solicitor, Michael Smerczynski, to discuss the open meeting law and how the City Council conducts its business. Discussion focused on late communications not included in the regular meeting agenda and item 6 “Motions, Orders & Resolutions”. The following motions were approved in committee.

P316-12 COUNCILLOR LIACOS – Reporting for the Committee of the Whole – MOVE THAT late communications be eliminated from Council business unless they are of an emergency nature from the Mayor. (Unanimous)

P317-12 COUNCILLOR LIACOS – Reporting for the Committee of the Whole – MOVE THAT Item 6 of the Council's regular meeting agenda entitled “Motions, Orders and Resolutions” be referred to the Legal Affairs Committee for review. (Unanimous)

MOTIONS, ORDERS & RESOLUTIONS

P318-12 COUNCILLOR ATHAS – MOVE, under suspension of the rules, to receive Item 8-J from the City Solicitor relative to public notice of zoning ordinance adoption/amendment. (Unanimous)

P319-12 COUNCILLOR ATHAS – MOVE TO request that the Community Development Department submit to the Industrial & Community Development Committee a side by side comparison of the proposed technical changes similar to what was used to review the entire zoning ordinance last year. (Unanimous)

P320-12 COUNCILLOR ATHAS – MOVE, under suspension of the rules, to receive the communication from Karen Sawyer, Director, Community Development & Planning Department, relative to a request to amend the zoning ordinance regarding Section 8.3 Flood Plain District and be referred to the Industrial & Community Development Committee. Further to request for said meeting a copy of the proposed FIRM Map requesting to be incorporated into the zoning ordinance. (Unanimous)

P321-12 COUNCILLOR ATHAS – MOVE, under suspension of the rules, to receive the communication from Councillor Arthur Athas relative to a Salem News article regarding affordable housing/mobile homes. (Unanimous)

P322-12 COUNCILLOR ATHAS – MOVE TO request that the Community Development Department submit to the City Council a list of the number of units that are considered Section 8 and number of affordable housing units in the City that's defined under Section 40B. (Unanimous)

P323-12 COUNCILLOR ATHAS – MOVE TO request that the City Solicitor review the proposed language used by the Town of Danvers regarding their request for a home rules petition and to review the Danvers procedure and recommend a similar procedure for Peabody to include mobile homes as affordable housing in Peabody and to be referred to the Legal Affairs Committee. (Unanimous)

P324-12 COUNCILLOR SINEWITZ (Co-motion with Councillor Mello) – MOVE TO send a letter of thanks to James Smerczynski for his 34 years of service and dedication as he is retiring from the Park Commission. (Unanimous)

P325-12 COUNCILLOR MELLO – MOVE, under suspension of the rules to receive and approve the request for banner from St. Vasilios Greek Orthodox Church, 5-7 Paleologos Street to display a banner from June 11th through July 9th across Central Street at Wilson Square. (Unanimous)

P326-12 COUNCILLOR MELLO – MOVE, under suspension of the rules, to receive the communication from Assistant City Solicitor, Adam J. Buckley, relative to the issue regarding Wayside at 58 Rear Pulaski Street and be referred to the Legal Affairs Committee. (Unanimous)

P327-12 COUNCILLOR MELLO – MOVE TO place on the next regular meeting agenda the issue of creating an ordinance for prohibiting heavy commercials on Dobbs Road and to request that the Police Department submit their comments on said proposal. (Unanimous)

P328-12 COUNCILLOR OSBORNE – MOVE, under suspension of the rules, to receive the Special Permit application from Henry A. Labreque and Brendan P. Labreque for 73 Bartholomew Street and a public hearing be scheduled on the same. (Unanimous)

P329-12 COUNCILLOR OSBORNE – MOVE TO request that the Forestry Department replace the tree on West Diane Road that was damaged by a snow plow. (Unanimous)

P330-12 COUNCILLOR OSBORNE – MOVE TO request that the Forestry Department trim the tree on Linden Road across the street from the last house on the right hand side. (Unanimous)

P331-12 COUNCILLOR DRISCOLL – MOVE TO receive the communication from the City Solicitor, Michael Smerczynski, relative to cable rate regulation in the City of Boston and be referred to the Public Services Committee. (Unanimous)

P332-12 COUNCILLOR DRISCOLL – MOVE TO receive the communication from the City Solicitor, Michael Smerczynski, relative to Linear Retail Peabody #1 LLC, 79 Lynnfield Street. (Unanimous)

COMMUNICATIONS FROM HIS HONOR THE MAYOR

No communications.

COMMUNICATIONS FROM CITY OFFICERS AND OTHERS

Previously received.

PRESENTATION OF PETITIONS, MEMORIALS AND REMONSTRANCES

P333-12 COUNCILLOR DRISCOLL – MOVE TO receive and approve the following applications for Taxi/Limousine Driver Licenses subject to all papers being in order:

John A. Silva – License #1
(Unanimous)

Ervin R. Saravia – License #2

P334-12 COUNCILLOR DRISCOLL – MOVE TO receive and approve the following applications for renewal of 2012 Junk Dealer Licenses subject to all papers being in order:

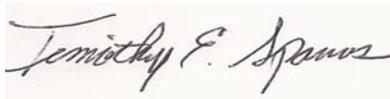
Elite Design & Consign, 101 Lynn Street
Best Buy Stores, LP, 210 Andover Street, W117
Goldrush, MA, LLC, 210 Andover Street, PC#3 (Unanimous)

UNFINISHED BUSINESS FROM THE PRECEDING MATTER

None.

MOVED: MOVE TO adjourn. Regular meeting of the Peabody City Council adjourned at 9:45 p.m.

SUBMITTED TO HIS HONOR THE MAYOR, MAY 29, 2012
RETURNED BY HIS HONOR THE MAYOR, MAY 29, 2012



ATTEST _____
(Timothy E. Spanos, City Clerk)

COMMUNICATIONS

- Attorney John R. Keilty, 40 Lowell Street re: Revised special permit plan for 6 Charles Street
- Attorney Michael Smerczynski, City Solicitor re: Linear Retail Peabody stipulation of dismissal
- Henry & Brendan Labrecque, 73 Bartholomew Street re: Special Permit application
- Attorney Adam Buckley, Assistant City Solicitor re: Legal opinion; 58 Rear Pulaski Street
- St. Vasilios Church, 5-7 Paleologos Street re: Banner
- Peabody Babe Ruth, 1 Newbury Street re: Banner
- Attorney Michael Smerczynski, City Solicitor re: Legal opinion; basic cable regulation City of Boston vs. Comcast
- Councillor Arthur Athas, 26 Lynnfield Street re: Affordable housing article
- Karen Sawyer, Director, Community Development Department re: Request for zoning amendment; Amend Section 8.3 Flood Plain District
- Attorney Michael Smerczynski, City Solicitor re: Legal opinion; zoning ordinance adoption/amendment
- Health Department re: 44 Margin Street
- Police Department re: 44 Margin Street
- Police Department re: 41 Cross Street

PRESENTATION OF PETITIONS/MEMORIALS/REMONSTRANCE’S

- Taxi/Limousine Driver License
- John A. Silva – License 1
- Ervin R. Saravia – License 2
- Junk Dealer License (Renewal for 2012)
- Elite Design & Consign, 101 Lynn Street
- Best Buy Stores, 210 Andover Street W117
- Goldrush MA LLC, 210 Andover Street PC#3