

**REGULAR MEETING OF THE PEABODY CITY COUNCIL**  
**MAY 26, 2011**

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

ABSENT: NONE

Meeting of the Peabody City Council opened with a moment of silent prayer after being called to order by City Council President, Anne M. Manning-Martin.

Salute to the American Flag.

P375-11 COUNCILLOR GAMACHE - MOVE TO receive and approve the minutes from the last regular meeting of May 12, 2011. (Unanimous)

COUNCILLOR MANNING-MARTIN - 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 Special Permit application from 682 Lowell Street Realty Trust, 47 Federal Street, Salem, MA. Appearing to speak on behalf of said application was Attorney John Keilty, Mr. Stephen Judge and Mr. Roger Garcia. No one appeared to speak in favor. No one appeared to speak in opposition.

P376-11 COUNCILLOR GAMACHE – BE IT ORDERED by the City Council of the City of Peabody that the application from 682 Lowell Street Realty Trust, Stephen Judge, Trustee, 47 Federal Street, Salem, MA requesting to amend Special Permit 20 of 2006 dated June 28, 2006 so as to delete special condition #11 prohibiting transfer and to allow transfer to the applicant and further deleting conditions already complied with and satisfied at said 682 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. Deliveries only be allowed Monday through Saturday from 8:00 a.m. to 6:00 p.m. and deliveries on Sunday will be considered a violation of the special permit.
2. Dumpster pick-up a minimum of two times per week on Monday and Friday. Additional pick-ups may be required if deemed necessary by the Board of Health.
3. No alcoholic beverages are to be consumed or sold on premises.
4. Landscape buffers as shown on the plan to be maintained on a regular basis.
5. 8-foot fence to be maintained in good repair at all times (solid sight-impervious maintenance free vinyl).
6. Hours of operation are Thursday, Friday and Saturday 6:00 a.m. to 9:30 p.m., Sunday through Wednesday 6:00 a.m. to 8:30 p.m.
7. No employee activity before 5:30 a.m. or after 10:30 p.m.
8. All exterior lights to be out no later than 10:30 p.m. except for parking lot security lighting.
9. Fire zone to be maintained with posted signage allowing fire apparatus to make a 360-degree turn at the rear of the parking lot.
10. No live music or dancing allowed at any time.
11. There shall be no transfer of said Special Permit to any other person, estate, trust or corporation without City Council approval through a public hearing.
12. Food preparation for other food establishments owned or operated by licensee prohibited.
13. There shall be no expansion of the building.
14. Three-stack ventilation system to be installed.
15. No further building or construction on the lot.

- 16. No overnight parking of any vehicles.
- 17. The applicant must always maintain a grease trap.  
(Carried 10-0; Councillor Osborne absent)

P377-11 COUNCILLOR GAMACHE – MOVE TO receive and approve, under suspension of the rules, late communication Item 3 from Attorney John R. Keilty, 40 Lowell Street, regarding 47 Newbury Street, request to withdraw without prejudice. (Unanimous)

A public hearing was duly held on the Special Permit application from ZSK Realty Trust, Z. Stanley Kantorosinski, Trustee, 246 Newbury Street, Peabody, MA. Appearing to speak on behalf of said application was Attorney John Keilty. No one appeared to speak in favor. Mr. Russell Donovan, 12 Quail Road, Peabody, MA appeared to speak in opposition.

P378-11 COUNCILLOR GAMACHE – BE IT ORDERED by the City Council of the City of Peabody that the application from ZSK Realty Trust, Z. Stanley Kantorosinski, Trustee, 246 Newbury Street, Peabody, MA for a Special Permit to operate a drive-through window on the southerly side of the building and minor alteration of lawfully, pre-existing structure at 246-248 Newbury Street, Peabody, MA, as filed in accordance with Section 4.2 and 4.4 of the Peabody Zoning Ordinance be approved based on the following reasons and subject to the following condition:

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.

CONDITION:

- 1. Any change in ownership or use with regards to the drive-through window shall require a Special Permit from the City Council.  
(Carried 11-0)

A public hearing was duly held on the Special Permit application from Peabody Alpha Realty, LLC, 130 Newbury Street, Peabody, MA. Appearing to speak on behalf of said application was Attorney John Keilty. No one appeared to speak in favor. Mr. Russell Donovan, 12 Quail Road, Peabody, MA appeared to speak in opposition.

P379-11 COUNCILLOR GAMACHE – MOVE TO receive, under suspension of the rules, late communication Item 4 from Richard Reeves, Treasurer, regarding tax status for 130 Newbury Street. (Unanimous)

P380-11 COUNCILLOR GAMACHE – BE IT ORDERED by the City Council of the City of Peabody that the application from Peabody Alpha Realty LLC, 130 Newbury Street, Peabody, MA for a Special Permit to operate a drive-through window and to obtain a Special Permit pursuant to the provisions of the Surface and Groundwater Protection District at said 130 Newbury Street, Peabody, MA as filed in accordance with Section 4.2.5, 4.4 and 4.9 of the Peabody Zoning Ordinance be approved based on the following reasons and subject to the following condition:

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.

CONDITION:

- 1. Any change in ownership or use with regards to the drive-through window shall require a Special Permit from the City Council.  
(Carried 11-0)

## REPORTS OF COMMITTEE

### **MUNICIPAL SAFETY COMMITTEE**

**MAY 26, 2011**

P381-11 COUNCILLOR GARABEDIAN— Reporting for the Municipal Safety Committee - The Municipal Safety Committee met at 6 o'clock. Two pretty hot issues here. A traffic light in front of Bill & Bob's was discussed. Several options were put in front of us by the Peabody police department. I think one of them that really has prevailed is to get a price on a full traffic light in front of Bill & Bob's and a countdown pedestrian light. (Report received)

P382-11 COUNCILLOR GARABEDIAN - MOVE TO request that the Community Development Department, in conjunction with Peabody Fire Alarm, submit a definitive cost estimate for the installation of a traffic signal to service the exit at Bill & Bob's at 2 Central Street, and addition of pedestrian countdown lights at the intersection. The Council respectfully requests the same for their June 9th Municipal Safety Committee meeting. (Unanimous)

P383-11 COUNCILLOR GARABEDIAN – Reporting for the Municipal Safety Committee - The other issue was the ordinance on snow removal up to 1,500 feet from the school. The Committee found a lot of variables in that and had quite a few objections and basically we are just going to keep it in committee. (Report received)

### **AD HOC COMMITTEE ON ENERGY EFFICIENCY AND RENEWABLE ENERGY**

**MAY 19, 2011**

P384-11 COUNCILLOR OSBORNE - Reporting for the Ad Hoc Committee on Energy Efficiency and Renewable Energy - The Ad Hoc Committee on Energy Efficiency and Renewable Energy met on May 19. Present was myself, Councillor Bettencourt, Councillor Mello sat in for Councillor Garabedian, Councillor Driscoll and Councillor Manning-Martin sat in for Councillor Gravel. Also present was Ms. Karen Sawyer, director of Community Development Department; also Mr. Russell Eckel, chairperson of Green Peabody Committee; Ms. Paula Eckel from the Green Peabody Committee; Mr. Jarrod Hochman of the Green Peabody Committee and also from the School Committee; and Mr. Sean Fitzgerald of 6 Elaine Ave., Peabody. The Committee met to discuss Peabody's future participation in the Green Communities Act as established by Chapter 169 of the Acts of 2008. Mr. Eckel, chairperson of the Peabody Green Committee, addressed the committee. Mr. Eckel's message to the Committee was to urge the City of Peabody to take the necessary steps to be designated a green community by the state to reap the benefits of renewable energy and energy efficient grant money to potentially increase Peabody's job base by enticing new businesses to invest in Peabody and to save on future city budgets with energy efficiency programs. The project cost to the city of Peabody would be \$300,000 annually, which would be invested in a statewide trust fund. The costs of the city would be offset by the ratepayers of the Peabody Municipal Light Plant. The project cost to the ratepayers would be \$0.38 per month on their light bill. There's a June 15 application deadline, which the city more than likely will not be ready to file. Another application deadline is scheduled for the fall of 2011. The Committee did receive a petition from the faculty and students of Peabody Veterans Memorial High School in favor of continuation of Greenfest for next year. The following motion was approved in committee. (Report received)

P385-11 COUNCILLOR OSBORNE - MOVE TO request that the City Council consider adopting a resolution or motion that will call on all stakeholders in the City of Peabody to gather and investigate in a good faith manner taking the necessary steps to file for a Green Community application with the Commonwealth of Massachusetts Green Community Division of the Department of Energy Resources. (Unanimous)

### **COMMITTEE OF THE WHOLE**

**MAY 26, 2011**

P386-11 COUNCILLOR MANNING-MARTIN - Reporting for the Committee of the Whole – The Committee of the Whole met this evening to discuss two issues. All members were present. We reviewed the 2010 Aggregate Industries annual report and a motion was made by Councillor Sinewitz to approve. (Report received)

P387-11 COUNCILLOR MANNING-MARTIN – MOVE TO approve the 2010 Annual Report from Aggregate Industries. (Unanimous)

P388-11 COUNCILLOR MANNING-MARTIN – Reporting for the Committee of the Whole - The Council picked up where we had recessed the review of the proposed redistricting map and ward and precinct lines for the City of Peabody and Councillor Gravel made the following motion, which passed unanimously. (Report received)

P389-11 COUNCILLOR MANNING-MARTIN - BE IT ORDERED by the City Council of the City of Peabody that at a meeting held on May 26, 2011, the Peabody City Council voted to accept, as presented by the City Clerk, Version 3 of the 2011 Re-Precincting Plan for the City of Peabody to be effective as of December 31, 2011. (Carried 11-0)

P390-11 COUNCILLOR MANNING-MARTIN – Reporting for the Committee of the Whole - Also let it be known that the re-precincting plan will not take effect for this election, whether it be in the fall or this November, but the city will notify every voter by postcard their polling place, if it has changed and this vote will take effect January 1. (Report received)

### **MOTIONS, ORDERS & RESOLUTIONS**

P391-11 COUNCILLOR GRAVEL - MOVE TO request that the Building Commissioner advise the City Council of what can be done with the increasing number of abandoned and vacant buildings in the city that are falling into disrepair. (Unanimous)

P392-11 COUNCILLOR GRAVEL - MOVE TO request that a communication be sent to the Liquor Licensing Board regarding the now available liquor permits requesting that the licenses be targeted toward economic recovery areas and restaurant establishments. (Unanimous)

P393-11 COUNCILLOR OSBORNE – MOVE TO request that the Public Services Department investigate for a sidewalk repair on 34 Dexter Street. (Unanimous)

P394-11 COUNCILLOR OSBORNE - MOVE TO request that the Ad Hoc Committee on Spring Pond schedule a meeting and to forward a communication be sent to the Community Development Department and Public Services Departments asking them for an update on the Lowe's/Walmart project in Salem, and to further request that all the interested parties be notified to schedule a site visit prior to the meeting. (Unanimous)

P394A-11 COUNCILLOR OSBORNE – MOVE TO request that the City Clerk contact the Peabody Municipal Light Plant to coordinate a date for meeting with all interested parties regarding the Green Communities Act and the Ad Hoc Committee on Renewable Energy. (Unanimous)

P395-11 COUNCILLOR LIACOS – MOVE TO receive, under suspension of the rules, Item 8-F communication from Attorney John Christopher, City Solicitor, regarding Legal opinion: Peabody Municipal Light Plant salaries. (Unanimous)

P396-11 COUNCILLOR GAMACHE - MOVE TO request that the Peabody Municipal Light Plant investigate the corner of Benevento Circle and Goodale Street to see if they can find a proper location for a streetlight. There is one there, but I would like to have the municipal engineer tell me whether it's in an adequate place or whether the trees have got to be cut back to make it illuminate that corner. (Unanimous)

P397-11 COUNCILLOR GAMACHE - MOVE TO send a communication to Public Services Department asking them what the cost would be to put sewer on Farm Avenue and whether or not there is a tie-in fee once the sewer is located within the street. (Unanimous)

P398-11 COUNCILLOR MELLO - MOVE TO respectfully request that the Public Services Department put in loam and grass seed in front of 9 Buford Road. (Unanimous)

P399-11 COUNCILLOR MELLO – MOVE TO receive and approve, under suspension of the rules, late communication Item 2 from St. Vasilios Church, 5-7 Paleologos Street, regarding Banner request, subject to all papers being in order. (Unanimous)

P400-11 COUNCILLOR MELLO - MOVE, under suspension of the rules, to receive Item 8-H communication from Attorney John R. Keilty, 40 Lowell Street, Peabody requesting an easement regarding property at 10 Elm Street and be referred to the Legal Affairs Committee and to further request information for said meeting from either the Community Preservation Committee or Director of Community Development as to how this would affect the value of city property recently purchased from CPC funds. (Unanimous)

P401-11 COUNCILLOR DRISCOLL - MOVE TO send a communication to the Public Services Department requesting the street sweeper be sent to the Emerson Park area, namely, Perkins Street, Franklin Street, Fay Avenue, Palmer Avenue, Ellsworth Road, James Street and King Street. Apparently that is the only area in the City that hasn't been visited by the street sweeper. (Unanimous)

P402-11 COUNCILLOR DRISCOLL – MOVE TO receive, under suspension of the rules, Item 8-G communication from Richard Walker, Director, Park Dept., regarding Former recreation building on Perkins Street and to request that the Park Department take such action as soon as possible. (Unanimous)

P403-11 COUNCILLOR DRISCOLL – MOVE TO receive, under suspension of the rules, Item 8-N communication from Blair Haney, Community Development Department, regarding Request to donate land to City – Arnold Avenue and to refer to the Legal Affairs Committee. (Unanimous)

P404-11 COUNCILLOR ATHAS – MOVE TO receive, under suspension of the rules, late communication Item 1 from Councillor Arthur Athas regarding Correction/zoning district – Special Permit application for 79 Lynnfield Street. (Unanimous)

P405-11 COUNCILLOR ATHAS – MOVE TO receive, under suspension of the rules, Item 8-J communication from One Stop Market, 288 Lynnfield Street, regarding Special Permit application and to set up a public hearing. (Unanimous)

P406-11 COUNCILLOR ATHAS – MOVE TO receive, under suspension of the rules, Item 8-I communication from Lynnfield Street Donuts, Inc., 79 Lynnfield Street, regarding Special Permit application and to set up a public hearing after a corrected application is received. (Unanimous)

P407-11 COUNCILLOR ATHAS - MOVE TO request a handicapped sign for 5 Caller Street, and that an ordinance be drafted and advertised on the same. (Unanimous)

P408-11 COUNCILLOR ATHAS – MOVE TO notify the School Department regarding the proposed position of a facilities manager and the idea that the position come from the School Department side since most of the City buildings are school property. (Unanimous)

P409-11 COUNCILLOR MANNING-MARTIN (Co-motion with Councillor Athas) - MOVE TO respectfully request that the Public Services Department repaint the crosswalks on Lynnfield Street by CVS. I also received some inquiries and concerns about the lane configuration on Lynnfield Street in that area by CVS, so further request that the Police Department provide the City Council with traffic information at that location and to refer that matter to the Municipal Safety Committee. (Unanimous)

P410-11 COUNCILLOR MANNING-MARTIN – MOVE TO request that with regards to the buses stored at 60 Pulaski Street, after careful research by the City Solicitor, to refer the matter of where the buses are registered with the Registry of Motor Vehicles to the Legal Affairs Committee to determine if there is a violation under Chapter 60 of the Mass General Laws with regards to the non-payment of excise taxes to the City of Peabody. Request the presence of the City Solicitor and Deputy Chief Cohan on this matter. (Carried 10-0)

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

None.

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

P411-11 COUNCILLOR GAMACHE – MOVE TO receive a communication from Chief Robert Champagne, Police Department, regarding Special Permit memos regarding 47 Newbury Street, 130 Newbury Street; 682 Lowell Street. (Unanimous)

P412-11 COUNCILLOR GAMACHE – MOVE TO receive and approve a communication from Northeast ARC, 64 Holten Street, Danvers regarding Banner, subject to all papers being in order. (Unanimous)

P413-11 COUNCILLOR GAMACHE – MOVE TO receive a communication from Department of Human Services regarding Letters to trash haulers regarding ordinance restrictions on hours of pick up and to send a letter of thank you to Mr. John Yale for his efforts in this matter. (Unanimous)

P414-11 COUNCILLOR GAMACHE – MOVE TO receive a communication from Planning Board regarding Agenda (5/19) and Minutes (5/5). (Unanimous)

P415-11 COUNCILLOR GAMACHE – MOVE TO receive a communication from Blair Haney, Community Development Department, regarding Special Permit memo, 47 Newbury Street. (Unanimous)

P416-11 COUNCILLOR GAMACHE – MOVE TO receive a communication from Blair Haney, Community Development Department, regarding Special Permit memo, 246 Newbury Street. (Unanimous)

P417-11 COUNCILLOR GAMACHE – MOVE TO receive a communication from Blair Haney, Community Development Department, regarding Special Permit memo, 130 Newbury Street. (Unanimous)

P418-11 COUNCILLOR GAMACHE – MOVE TO receive and approve a communication from Kevin Goggin, Building Commissioner, regarding Transfer of Special Permit 4-1981 to Bay State Training, subject to all papers being in order. (Unanimous)

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

P419-11 COUNCILLOR GAMACHE – MOVE TO receive and approve the following Block Party request, subject to all papers being in order:

Alexandra Street/Travis Terrace – July 3<sup>rd</sup>  
(Unanimous)

P420-11 COUNCILLOR GAMACHE – MOVE TO receive and approve the following Junk Dealer License (Renewal for 2011), subject to all papers being in order:

Game Stop 6278, 637 Lowell Street  
Game Stop 6409, 210 Andover Street  
Game Stop 664, 300 Andover Street  
Sempre Ltd., 41 Cross Street  
Azorean Brothers of the Holy Ghost, 20 Howley Street  
Martoni & James Ltd., 215 Newbury Street #206  
Long's Jewelers Ltd., 35 Cross Street  
Charland Appliance Center, 15 Spring Street  
Mandracchia Trading Company, Inc., 147 Summit Street, Bldg 3D  
Golden Link, 515 Lowell Street  
(Unanimous)

P421-11 COUNCILLOR GAMACHE - MOVE TO receive and approve the following Taxi/Limousine Driver License (Renewal for 2011), subject to all papers being in order:

David Viscante – License 3  
Edmond Halltari - License 4  
Charles Dunton - License 6  
Karl B. Kuempel – License 7  
Nicholas Bissel – License 141  
(Unanimous)

**UNFINISHED BUSINESS FROM THE PRECEDING MATTER**

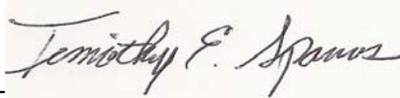
{10-A regarding Increase sticker fees from \$10.00 to \$20.00}

P422-11 COUNCILLOR GAMACHE - BE IT ORDERED by the City Council of the City of Peabody that an Ordinance Amending Section 13-3 Entitled White Goods Collection and Fees of the City Code of the City of Peabody be adopted as advertised and read. (Carried 7-3; Councillors Osborne, Mello and Driscoll opposed; Councillor Sinewitz absent)

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

SUBMITTED TO HIS HONOR THE MAYOR, JUNE 6, 2011

RETURNED BY HIS HONOR THE MAYOR, JUNE 6, 2011



ATTEST

(Timothy E. Spanos, City Clerk)

**COMMUNICATIONS:**

Chief Robert Champagne, Police Department re: Special Permit memos regarding 47 Newbury Street; 130 Newbury Street; 682 Lowell Street  
 Northeast ARC, 64 Holten Street, Danvers re: Banner  
 Kevin Goggin, Building Commissioner re: Transfer of Special Permit 4-1981 to Bay State Training  
 Department of Human Services re: Letters to trash haulers regarding ordinance restrictions on hours of pick up  
 Planning Board re: Agenda (5/19) and Minutes (5/5)  
 Attorney John Christopher, City Solicitor re: Legal opinion: Peabody Municipal Light Plant salaries  
 Richard Walker, Director, Park Dept. re: Former recreation building on Perkins Street  
 Atty. John R. Keilty, 40 Lowell Street re: Request for easement, 10 Elm Street  
 Lynnfield Street Donuts, Inc., 79 Lynnfield Street re: Special Permit application  
 One Stop Market, 288 Lynnfield Street re: Special Permit application  
 Blair Haney, Community Development Department re: Special Permit memo, 47 Newbury Street  
 Blair Haney, Community Development Department re: Special Permit memo, 246 Newbury Street  
 Blair Haney, Community Development Department re: Special Permit memo, 130 Newbury Street  
 Blair Haney, Community Development Department re: Request to donate land to City – Arnold Avenue

**BLOCK PARTY**

Club Luis de Camoes, 10 Collins Street – June 18th  
 Alexandra Street/Travis Terrace – July 3rd

**JUNK DEALER**

Game Stop 6278, 637 Lowell Street	Game Stop 6409, 210 Andover Street
Game Stop 664, 300 Andover Street	Sempre Ltd., 41 Cross Street
Azorean Brothers of the Holy Ghost, 20 Howley Street	Martoni & James Ltd., 215 Newbury Street #206
Long's Jewelers Ltd., 35 Cross Street	Charland Appliance Center, 15 Spring Street
Golden Link, 515 Lowell Street	
Mandracchia Trading Company, Inc., 147 Summit Street, Bldg 3D	

**TAXI/LIMOUSINE DRIVER LICENSE**

David Viscante – License 3  
 Edmond Halltari – License 4  
 Charles Dunton – License 6  
 Karl B. Kuempel – License 7  
 Nicholas Bissell – License 141