

**REGULAR MEETING OF THE PEABODY CITY COUNCIL**  
**JUNE 14, 2012**

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

ABSENT: COUNCILLOR SINEWITZ

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.

P335-12 COUNCILLOR GAMACHE - MOVE TO receive and approve the minutes from the last regular meeting of May 24, 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.

P336-12 COUNCILLOR GAMACHE – MOVE TO receive, under suspension of the rules, Item 7-G communication from His Honor the Mayor regarding Request for vote to accept Chapter 32B, Section 19 as amended on health insurance – GIC Health Plan and to allow Mayor Bettencourt to speak before the City Council. (Unanimous)

(MAYOR BETTENCOURT APPEARED TO SPEAK BEFORE THE CITY COUNCIL)

(THE FOLLOWING COUNCILLORS RECUSED THEMSELVES FROM THE FOLLOWING MATTER CITING A CONFLICT OF INTEREST: COUCILLOR GOULD, COUNCILLOR GARABEDIAN, COUNCILLOR MANNING-MARTIN AND COUNCILLOR MELLO)

(CAPTAIN JOHN DEROSA AND BRUCE NELSON APPEARED TO SPEAK BEFORE THE CITY COUNCIL IN SUPPORT OF MAYOR BETTENCOURT'S REQUEST)

P337-12 COUNCILLOR GRAVEL – MOVE THAT the Peabody City Council accept MGL Chapter 32B, Section 19 (as amended) for the purpose of transferring all subscribers for whom the City provides health insurance to the Group Insurance Commission pursuant to MGL Chapter 32B, Section 19(e).

And further, to authorize the Mayor to: notice forthwith the initial meeting of a Public Employee Committee for the purposes of MGL Chapter 32B, Section 19(e); bargain with such Public Employee Committee for the purpose of MGL Chapter 32B, Section 19(e); enter into an agreement with such Public Employee Committee for the purposes of MGL Chapter 32B, Section 19(e); and take all such other steps as are reasonably related to the transfer of all subscribers to the Group Insurance Commission.

Said acceptance shall be revoked on June 30, 2016, unless otherwise agreed to by both parties.  
(Carried 6-0; Councillors Gould, Garabedian, Manning-Martin and Mello being recused; Councillor Sinewitz absent)

P338-12 COUNCILLOR GAMACHE – MOVE TO receive, under suspension of the rules, Item 7-B communication from His Honor the Mayor regarding Appointments to Conservation Commission. (Unanimous)

P339-12 COUNCILLOR GAMACHE – MOVE TO receive, under suspension of the rules, Item 7-F communication from His Honor the Mayor regarding Appointment; Daniel Collins, 2 Brassie Way, to Park Commission.  
(Unanimous)

(MAYOR BETTENCOURT APPEARED TO SPEAK BEFORE THE CITY COUNCIL REGARDING THE FOLLOWING APPOINTMENTS)

(MR. JOSEPH WALSH APPEARED BEFORE THE CITY COUNCIL TO INTRODUCE HIMSELF)

P340-12 COUNCILLOR GAMACHE - MOVE TO approve the appointment of Joseph Walsh, 174 Lowell Street, Peabody, MA, to the Conservation Commission (Alternate Member) for a two-year term to expire 09/30/2012 (unexpired term of Bruce Comak). (Carried 10-0; Councillor Sinewitz absent)

P341-12 COUNCILLOR GAMACHE - MOVE TO approve the appointment of Bruce Comak, 8 Benevento Circle, Peabody, MA, to the Conservation Commission (Regular Position) for a three-year term to expire 09/30/2013 (unexpired term of Jarrod Hochman). (Carried 10-0; Councillor Sinewitz absent)

P342-12 COUNCILLOR GAMACHE - MOVE TO approve the appointment of Daniel Collins, 2 Brassie Way, Peabody, MA, to the Park Commission (Regular Position) for a five-year term to expire 12/31/2016 (unexpired term of Jim Smerczynski). (Carried 10-0; Councillor Sinewitz absent)

P343-12 COUNCILLOR GAMACHE – MOVE TO receive, under suspension of the rules, Item 7-A communication from His Honor the Mayor regarding Submission of the Fiscal Year 2013 City of Peabody Operating Budget and to refer to the Finance Committee. (Unanimous)

(MR. DANIEL COLLINS APPEARED BEFORE THE CITY COUNCIL TO INTRODUCE HIMSELF)

### **HEARINGS**

A Show Cause hearing was duly held on the Class 2 Motor Vehicle License held by David Bornstein d/b/a Michael's Motors, 1 Sylvan Street, Peabody, MA. Appearing to speak on behalf of the City was Assistant City Solicitor Adam Buckley and Officer Matthew Stark. Appearing on behalf of Michaels Motors was Mr. David Bornstein and Mr. Dana Bornstein. No one appeared to speak in favor. No one appeared to speak in opposition.

P344-12 COUNCILLOR MELLO – MOVE THAT a warning be issued to David Bornstein d/b/a Michael's Motors, 1 Sylvan Street, Peabody, MA, based on a violation of the restriction of 35 vehicles allowed for sale or not for sale, sold or not sold; all vehicles (those for sale, in for repair, and employee vehicles) must be stored inside the fenced in area of the lot; and said warning be considered Michael's Motors' first violation to the existing Class 2 Motor Vehicle License. (Carried 10-0; Councillor Sinewitz absent)

### **REPORTS OF COMMITTEE**

#### **INDUSTRIAL & COMMUNITY DEVELOPMENT COMMITTEE JUNE 7, 2012**

P345-12 COUNCILLOR GRAVEL– Reporting for the Industrial & Community Development Committee – I am reporting out the meeting of June 7, 2012; present at that meeting were myself, Councillor Manning-Martin, Councillor Gould and Councillor Athas. During that meeting the city departments that were represented was Community Development Karen Sawyer; and the building inspector Mr. Kevin Goggin; Blair Haney, the assistant director of Planning. The committee met on Thursday evening June 7th to discuss the proposed revisions to Section 8.3 "Flood Plain District." The Massachusetts Department of Conservation and Recreation has required that the new FIRM maps be incorporated into the Zoning Ordinance for the City to remain in compliance with the National Flood Insurance Program. Basically they requested language and the adoption of the maps. The Committee recommended that the matter be referred to the Planning Board to begin the zoning amendment process. Councillor Manning-Martin made the following motion. (Report received)

P346-12 COUNCILLOR GRAVEL – MOVE THAT the proposed amendments to the incorporation of the new Flood Insurance Rate Maps and amended language to 8.3 "Flood Plain District Use Regulations," be referred to the Planning Board to begin the zoning process under Chapter 40A of the Massachusetts General Laws. (Unanimous)

**INDUSTRIAL & COMMUNITY DEVELOPMENT COMMITTEE**  
**JUNE 14, 2012**

P347-12 COUNCILLOR MANNING-MARTIN – Reporting for the Industrial & Community Development Committee – Present this evening was Councillor Garabedian, sitting in for Councillor Gravel; Councillor Gamache; Councillor Gould; myself; and Councillor Osborne; and then by the end of the Committee we did have pretty much a full council at that point. We reviewed Section 2 and we made a very minor change and a motion was made by Councillor Gamache. (Report received)

P348-12 COUNCILLOR MANNING-MARTIN – Reporting for the Industrial & Community Development Committee - MOVE TO change prior to number 4 under "Vehicle, commercial," to change the word "and" to "or."  
(Unanimous)

P349-12 COUNCILLOR MANNING-MARTIN– Reporting for the Industrial & Community Development Committee - MOVE THAT under Section 3 "Districts," language be added to allow for outdoor storage and use of operable registered vehicles and commercial vehicles and items stored outside in the following zones: B-R, I-P, DDD, and the newly created I-L North. (Unanimous)

P350-12 COUNCILLOR MANNING-MARTIN– Reporting for the Industrial & Community Development Committee - MOVE THAT under Section 3.5 become a more restrictive in terms of the 50 foot buffer zone between zoning districts and we reinstated the DDD Residential Overlay District. (Unanimous)

**MOTIONS, ORDERS & RESOLUTIONS**

P351-12 COUNCILLOR ATHAS – MOVE TO request that the Community Development Department provide the City Council with a side by side comparison of the current and proposed technical corrections to the Zoning Ordinance. (Carried 9-1; Councillor Gravel opposed; Councillor Sinewitz absent)

P352-12 COUNCILLOR ATHAS – MOVE TO request that at the next Industrial & Community Development Committee meeting the City Council first discuss any zoning issues related to the current litigation against the City before any other proposed technical corrections to the Zoning Ordinance. (Carried 9-1; Councillor Liacos opposed; Councillor Sinewitz absent)

P353-12 COUNCILLOR ATHAS – MOVE TO receive, under suspension of the rules, Item 8-Q communication from Attorney Michael Smerczynski, City Solicitor, regarding Legal opinion; manufactured homes/affordable housing petition and to refer to the Legal Affairs Committee. (Unanimous)

P354-12 COUNCILLOR ATHAS – MOVE TO receive, under suspension of the rules, Item 8-J communication from Stacey Bernson, Community Development Department, regarding Number of section 8 and number of affordable housing units in City. (Unanimous)

P355-12 COUNCILLOR ATHAS – MOVE TO request that the Community Development Department provide the City Council with an updated list of number of Section 8 and number of affordable housing units in the City as of June 1, 2012. (Unanimous)

P356-12 COUNCILLOR GOULD (Co-motion with Councillor Mello) – MOVE TO request that the Public Services Department survey the intersection of Sparrow Lane Extension and Central Street and try to help alleviate traffic flow of the residents that have no other way to get out of Sparrow Lane Extension but Central Street by placing signage or a painted queue area on the street itself. (Unanimous)

P357-12 COUNCILLOR GARABEDIAN (Co-motion with Councillor Athas) – MOVE TO request that the Public Services Department add Carlton Street to the paving list. (Unanimous)

P358-12 COUNCILLOR MELLO (Co-motion with Councillor Gould) – MOVE TO refer the issue of creating an ordinance prohibiting heavy commercial vehicles on Dobbs Road to the Municipal Safety Committee and to request that the Police Department prepare a report for Mass Department of Transportation regarding same. (Unanimous)

P359-12 COUNCILLOR MELLO (Co-motion with Councillor Gould) – MOVE TO refer the issue of creating an ordinance prohibiting heavy commercial vehicles on North Central Street and Newcastle Road to the Municipal Safety Committee and to request that the Police Department prepare a report for Mass Department of Transportation regarding same. (Unanimous)

P360-12 COUNCILLOR GRAVEL (Co-motion with Councillor Athas) - Whereas an emergency conditions exists affecting the health, safety and welfare of citizens of the City of Peabody; therefore be it ordered by the City Council of the City of Peabody that the Public Services Department replace the “one-way” sign on Lowe Street. (Emergency Preamble - Carried 10-0; Councillor Sinewitz absent)  
(Motion to adopt - Carried 10-0; Councillor Sinewitz absent)

P361-12 COUNCILLOR OSBORNE – MOVE TO receive and approve, under suspension of the rules, Item 8-A communication from International Festival Committee regarding Banner request, subject to all papers being in order. (Unanimous)

P362-12 COUNCILLOR OSBORNE– MOVE TO receive, under suspension of the rules, Item 8-F communication from Shelby LLC, Murphy Road, regarding Special Permit application and to accept their withdrawal. (Unanimous)

P363-12 COUNCILLOR OSBORNE – MOVE TO receive, under suspension of the rules, Item 8-K communication from Chief Robert Champagne, Police Department, regarding Dog nuisance Linden Road, to thank the Police Department for their response and to refer said matter to the Municipal Safety Committee. (Unanimous)

P364-12 COUNCILLOR OSBORNE – MOVE TO receive, under suspension of the rules, Item 8-P communication from Shelby LLC, Andrews Brothers Way (formerly Clark Road) regarding Special Permit application and to set up a public hearing. (Unanimous)

P365-12 COUNCILLOR GAMACHE – MOVE TO receive, under suspension of the rules, Item 7-C communication from His Honor the Mayor regarding Transfer of funds; fire supplies/equipment \$60,000.00 and to refer to the Finance Committee. (Unanimous)

P366-12 COUNCILLOR GAMACHE – MOVE TO receive, under suspension of the rules, Item 7-D communication from His Honor the Mayor regarding Transfer of funds; Chapter 90 road improvement projects \$1,279,587.00 and to refer to the Finance Committee. (Unanimous)

P367-12 COUNCILLOR GAMACHE – MOVE TO receive, under suspension of the rules, Item 7-E communication from His Honor the Mayor regarding Transfer of funds; Police medical, gasoline, cruiser repairs \$58,500.00 and to refer to the Finance Committee. (Unanimous)

P368-12 COUNCILLOR GAMACHE (On behalf of Councillor Sinewitz) – MOVE TO receive, under suspension of the rules, Item 8-E communication from Captain John DeRosa, Police Department, regarding Parking issues; end of Russell Street near bike path and to amend the City Ordinance “Article IV-Parking, Section 19-94 Parking prohibited on certain streets,” by adding “Russell Street, from Glenn Drive at 159 Russell Street, both sides in a westerly direction to Boston Street,” and to advertise. (Unanimous)

P369-12 COUNCILLOR GAMACHE – MOVE TO receive, under suspension of the rules, Item 8-L communication from David R. Gamache, Ward 5 Councillor, regarding adding City Treasurer to departmental response form for licenses and special permits and request that the City Clerk add the same to all response forms. (Unanimous)

P370-12 COUNCILLOR DRISCOLL – MOVE TO receive and approve, under suspension of the rules, Item 8-G communication from St. John the Baptist Church, 17 Chestnut Street, regarding Banner request, subject to all papers being in order. (Unanimous)

P371-12 COUNCILLOR DRISCOLL – MOVE TO receive, under suspension of the rules, Item 8-M communication from G/J Towing, Inc., 131 Newbury Street, regarding Special Permit application and to set up a public hearing. (Unanimous)

P372-12 COUNCILLOR DRISCOLL – MOVE TO receive, under suspension of the rules, Item 8-N communication from Total Outdoor Corp., 258 Newbury Street, regarding Special Permit application and to set up a public hearing. (Unanimous)

P373-12 COUNCILLOR DRISCOLL – MOVE TO receive, under suspension of the rules, Item 8-O communication from Total Outdoor Corp., 210 Andover Street, regarding Special Permit application and to set up a public hearing. (Unanimous)

P374-12 COUNCILLOR DRISCOLL – MOVE TO receive, under suspension of the rules, Item 8-R communication from Clear Channel Outdoor, 71 Newbury Street, regarding Special Permit application and to set up a public hearing. (Unanimous)

P375-12 COUNCILLOR DRISCOLL – MOVE TO receive, under suspension of the rules, Item 8-S communication from Clear Channel Outdoor, 203 Newbury Street, regarding Special Permit application and to set up a public hearing. (Unanimous)

P376-12 COUNCILLOR DRISCOLL – MOVE TO receive, under suspension of the rules, Item 8-C communication from Mansfield Outdoor Advertising, 80 Newbury Street, regarding Special Permit application and to set up a public hearing. (Unanimous)

P377-12 COUNCILLOR DRISCOLL – MOVE TO receive, under suspension of the rules, Item 8-D communication from Mansfield Outdoor Advertising, 229 Newbury Street, regarding Special Permit application and to set up a public hearing. (Unanimous)

P378-12 COUNCILLOR DRISCOLL – MOVE TO receive, under suspension of the rules, Item 8-B communication from Scott Colby, Aggregate Industries, regarding Letter to Board of Health regarding sound testing and to refer to the Ad Hoc Committee on Aggregate Industries. (Unanimous)

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

Previously received.

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

P379-12 COUNCILLOR GAMACHE – MOVE TO receive a communication from 116 Main Street Trust, 116 Main Street, regarding Site plan. (Unanimous)

P380-12 COUNCILLOR GAMACHE – MOVE TO receive a communication from Patricia Davis Schaffer, Director of Finance, regarding School status of appropriations and to refer to the Finance Committee. (Unanimous)

P381-12 COUNCILLOR GAMACHE – MOVE TO receive a communication from Patricia Davis Schaffer, Director of Finance, regarding City status of appropriations and to refer to the Finance Committee. (Unanimous)

P382-12 COUNCILLOR GAMACHE – MOVE TO receive a communication from Patricia Davis Schaffer, Director of Finance, regarding General fund summary and to refer to the Finance Committee. (Unanimous)

P383-12 COUNCILLOR GAMACHE – MOVE TO receive a communication from Timothy Spanos, City Clerk, regarding 2012 license report. (Unanimous)

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

P384-12 COUNCILLOR GAMACHE – MOVE TO receive and approve the following Taxi/Limousine Driver License, subject to all papers being in order:

Peter Freedman - License 3	Wayne Hitchings - License 4
Lawrence L'Italien - License 5	Michael Johnson - License 6
Howard W. Stretton - License 7	Juan Peguero - License 8
Thomas Rash - License 9	Anthony Zucchari - License 10
(Unanimous)	

P385-12 COUNCILLOR GAMACHE – MOVE TO receive and approve Use of the Wiggin Auditorium – High School Social Studies Class – March 22 and 23, 2013, subject to all papers being in order. (Unanimous)

P386-12 COUNCILLOR GAMACHE – MOVE TO receive and approve the following Junk Dealers License (Renewal for 2013), subject to all papers being in order:

Azorean Holy Ghost, 20-22 Howley Street  
Ginger's Closet, 101 Lynn Street  
Golden Link, 515 Lowell Street  
(Unanimous)

P387-12 COUNCILLOR GAMACHE – MOVE TO receive Taxi Cab License (Amendment) North Shore Taxi, Inc., 27C Walnut Street – Increase 4 additional taxi cabs and to set up a public hearing. (Unanimous)

P388-12 COUNCILLOR GAMACHE – MOVE TO receive and approve Taxi Cab License Transfer – North Shore Taxi, Inc., 27C Walnut Street – License 25, subject to all papers being in order. (Unanimous)

P389-12 COUNCILLOR GAMACHE – MOVE TO receive and approve the following Block Party Permits for 2012, subject to all papers being in order:

Upham Street to Donna Street – June 30<sup>th</sup>  
12 to 25 Evans Road – June 30<sup>th</sup>  
Lake Shore Park (Bay State Road & Lake Shore Road) – July 3<sup>rd</sup>  
Alexandra Street and Travis Terrace – July 4<sup>th</sup>  
6 to 14 Martinack Avenue – July 7<sup>th</sup>  
45 to 27 Benevento Circle – July 7<sup>th</sup>  
(Unanimous)

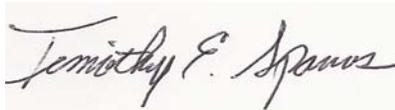
#### **UNFINISHED BUSINESS FROM THE PRECEDING MATTER**

None.

MOVED: MOVE TO adjourn. Regular meeting of the Peabody City Council adjourned at 9:25 p.m.

SUBMITTED TO HIS HONOR THE MAYOR, JUNE 22, 2012

RETURNED BY HIS HONOR THE MAYOR, JUNE 22, 2012



ATTEST

(Timothy E. Spanos, City Clerk)

#### **COMMUNICATIONS:**

His Honor the Mayor re: Submission of the Fiscal Year 2013 City of Peabody Operating Budget

His Honor the Mayor re: Appointments to Conservation Commission

His Honor the Mayor re: Transfer of funds; fire supplies/equipment \$60,000.00

His Honor the Mayor re: Transfer of funds; Chapter 90 road improvement projects \$1,279,587.00

His Honor the Mayor re: Transfer of funds; Police medical, gasoline, cruiser repairs \$58,500.00

His Honor the Mayor re: Appointment; Daniel Collins, 2 Brassie Way to Park Commission

His Honor the Mayor re: Request for vote to accept Chapter 32B, Section 19 as amended on health insurance – GIC Health Plan

International Festival Committee re: Banner request

Scott Colby, Aggregate Industries re: Letter to Board of Health regarding sound testing

Mansfield Outdoor Advertising, 80 Newbury Street re: Special permit application

Mansfield Outdoor Advertising, 229 Newbury Street re: Special permit application

Capt. John DeRosa, Police Department re: Parking issues; end of Russell Street near bike path

Shelby LLC, Murphy Road re: Special Permit application

St. John the Baptist Church, 17 Chestnut Street re: Banner request  
 116 Main Street Trust, 116 Main Street re: Site plan  
 Timothy Spanos, City Clerk re: 2012 license report

Stacey Bernson, Community Development Department re: Number of section 8 and number of affordable housing units in City

Chief Robert Champagne, Police Department re: Dog nuisance Linden Road

David R. Gamache, Ward 5 Councillor re: Add City Treasurer to departmental response form for licenses and special permits

G/J Towing, Inc., 131 Newbury Street re: Special permit application

Total Outdoor Corp., 258 Newbury Street re: Special Permit application

Total Outdoor Corp., 210 Andover Street re: Special Permit application

Shelby LLC, Andrews Brothers Way (formerly Clark Road) re: Special Permit application

Attorney Michael Smerczynski, City Solicitor re: Legal opinion; manufactured homes/affordable housing petition

Clear Channel Outdoor, 71 Newbury Street re: Special permit application

Clear Channel Outdoor, 203 Newbury Street re: Special permit application

Patricia Davis Schaffer, Director of Finance re: School status of appropriations

Patricia Davis Schaffer, Director of Finance re: City status of appropriations

Patricia Davis Schaffer, Director of Finance re: General fund summary

**TAXI/LIMO/SINE DRIVER LICENSE:**

Peter Freedman - License 3

Wayne Hitchings - License 4

Lawrence L'Italien - License 5

Michael Johnson - License 6

Howard W. Stretton - License 7

Juan Peguero - License 8

Thomas Rash - License 9

Anthony Zucchari - License 10

**USE OF THE WIGGIN AUDITORIUM:**

High School Social Studies Class – March 22 and 23, 2013

**JUNK DEALER LICENSE:** (Renewal for 2013)

Azorean Holy Ghost, 20-22 Howley Street

Ginger's Closet, 101 Lynn Street

Golden Link, 515 Lowell Street

**TAXI CAB LICENSE:** (Amendment)

North Shore Taxi, Inc., 27C Walnut Street – Increase 4 additional taxi cabs

**TAXI CAB LICENSE:** (Transfer)

North Shore Taxi, Inc., 27C Walnut Street – License 25

**BLOCK PARTY PERMITS FOR 2012:**

Upham Street to Donna Street – June 30<sup>th</sup>

12 to 25 Evans Road – June 30<sup>th</sup>

Lake Shore Park (Bay State Road & Lake Shore Road) – July 3<sup>rd</sup>

Alexandra Street and Travis Terrace – July 4<sup>th</sup>

6 to 14 Martinack Avenue – July 7<sup>th</sup>

45 to 27 Benevento Circle – July 7<sup>th</sup>