

REGULAR MEETING OF THE PEABODY CITY COUNCIL
JUNE 28, 2007

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

ABSENT: COUNCILLOR BETTENCOURT

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.

P647-07 COUNCILLOR GAMACHE – MOVE TO receive and approve the minutes from the last regular meeting of June 14, 2007. (Unanimous)

P648-07 COUNCILLOR DRISCOLL - MOVE TO recognize, under suspension of the rules, Kyle Thomas Desmond and Kory Michael Desmond for attaining the rank of Eagle Scout and for their community service to the City of Peabody and to receive into the record their citations for "Community Achievement". (Unanimous)

HEARINGS

A public hearing was duly held on Petition 8-2007, as submitted by Verizon, 459 Main Street, Saugus, MA. Appearing to speak on behalf of said application was Mr. William B. McEnaney, 459 Main Street, Saugus, MA. No one appeared to speak in favor. No one appeared to speak in opposition.

P649-07 COUNCILLOR DRISCOLL - MOVE TO approve Petition 8-2007, as submitted by Verizon, 459 Main Street, Saugus, MA, for the placement of five (5) solely owned poles on Essex Center Drive, Peabody, MA. (Carried 10-0; Councillor Bettencourt absent)

A public hearing was duly held on the application from Town Car International, 1 Newbury Street Rear, Peabody, MA for a Limousine License requesting the use of twenty (20) vehicles at said 1 Newbury Street Rear, Peabody, MA. Appearing to speak on behalf of said application was Mr. Russell Cook, 2 Windward Drive, Newburyport, MA. Officer Patrick Berardino appeared to speak on behalf of the City. Ms. Suzanne Markham, General Manager of the Holiday Inn Hotel and Suites, appeared to speak in favor. No one appeared to speak in opposition.

P650-07 COUNCILLOR GAMACHE - MOVE TO approve the application from Town Car International, 1 Newbury Street Rear, Peabody, MA for a Limousine License requesting the use of twenty (20) vehicles at said 1 Newbury Street Rear, Peabody, MA, subject to the following conditions:

CONDITIONS:

1. That all vehicles of this operation be parked to the rear of 1 Rear Newbury Street; and 2. They abide by the restrictions of the Holiday Inn parking to the rear of 1 Newbury Street and that there's no interference with the parking between the two properties because it is not delineated. (Carried 10-0; Councillor Bettencourt absent)

Public Services Committee
June 28, 2007

P651-07 COUNCILLOR MURTAGH - Reporting for the Public Services Committee - The Public Services Committee had a meeting this evening and myself with Councillor Liacos and Athas and then we had substitutes Councillor Driscoll and Councillor Gamache. And we also were pleased to have Mrs. Blodgett from the Board of Registrars here. And we reviewed, number one, the voting places in the City of Peabody. And there were two concerns. One was the doubling up of voting precincts. It's not as easily resolved as we would like, but for starters they did decide, for reasons over and above the motion, that the Rockdale Avenue section is very poor, so the motion was to move or relocate the voting section of Ward 1, Precinct 2 from Rockdale Park to the YMCA on Lynnfield Street and that was unanimously approved by the Committee. (Report received)

P652-07 COUNCILLOR MURTAGH - MOVE THAT in accordance with the provisions of Chapter 54, Section 24 of the Massachusetts General Laws, the Peabody City Council upon the recommendation of the Board of Registrars hereby approves the relocation of the polling place for residents of Ward 1, Precinct 2 from Rockdale Park to the Peabody-Lynnfield YMCA located at 259 Lynnfield Street. (Unanimous)

P653-07 COUNCILLOR MURTAGH - Reporting for the Public Services Committee - Mr. Chairman, your motion was concerning residents who lived at the Seeglitz. The bottom line, I guess, is that you just can't move a piece of a precinct and we left that matter in committee. They did state that there's just a lack of accessible areas primarily because ADA approval, but I would think that we got substantial information from the Board of Registrars, which was very valuable. And maybe -- I won't be around -- the next time this survey comes, the City Council should be more inclined to have some input into it and try to find some areas. But the matter of relocating the people from Central Street was left in the committee, Mr. Chairman. And I hope you don't mind, but we just couldn't do much with it. The second one was to amend the White Goods Ordinance, as recommended by the Director of Public Services. (Report received)

P654-07 COUNCILLOR MURTAGH - MOVE TO accept the changes of the White Good Ordinance proposal, as submitted by Mr. Carnevale, and to advertise the ordinance as read. (Carried 8-2; Councillors Liacos and Mello opposed; Councillor Bettencourt absent)

P655-07 COUNCILLOR MURTAGH - Reporting for the Public Services Committee - The last bit of business is that the City, under its grant from the state regarding alleviating the flood problems in Peabody Square, is going to do some work on the road bed or water bed going towards Salem. And apparently we will be infringing upon MBTA property, so what the mayor has drawn up was a right-of-way agreement and we went through it extensively. And it's just really us writing up some things to protect the MBTA and repair any damage we do to their property. (Report received)

P656-07 COUNCILLOR MURTAGH – BE IT ORDERED by the City Council of the City of Peabody to authorize His Honor the Mayor to enter into an agreement with the MBTA to enter upon Railroad Properties of the MBTA identified as the Danvers Branch along the North River in Peabody, MA from Wallis Street to the Salem line to support flood mitigation work, and to further authorize His Honor the Mayor to enter into any other documents/agreements necessary to implement the same. (Unanimous)

A public hearing was duly held on the application from Freedom Real Estate Investment Corp., 456 Locust Street, Danvers, MA for a Special Permit to remove two (2) existing, nonconforming structures and uses, mobile homes, and replace with two (2) manufactured residential units at 8 North Central Court, Peabody, MA. Appearing to speak on behalf of said application was Attorney John R. Keilty. No one appeared to speak in favor. Mr. Michael Elliot, 55 North Central Street; Mr. David Swenson, 2 North Central Court; Mr. Paul Ness, 47 North Central Street; Mr. David Picardy, 3 North Central Court and Mr. Daniel Vargas 63 North Central Street appeared to speak opposed.

P657-07 COUNCILLOR GAMACHE - MOVE TO receive, under suspension of the rules, Item 8-A communication from Community Development Department regarding Special Permit Memo, Freedom Investment Corp., 8 North Central Court. (Unanimous)

658-07 COUNCILLOR GAMACHE - MOVE TO receive, under suspension of the rules, late communication Item 1 from Attorney John Keilty regarding Revised plans, 8 North Central Court. (Unanimous)

P659-07 COUNCILLOR GAMACHE - MOVE TO receive, under suspension of the rules, late communication Item 3 from Fire Department regarding Comments regarding 8 North Central Court and 124 Newbury Street. (Unanimous)

P660-07 COUNCILLOR MELLO - MOVE TO recess the public hearing on the Special Permit application from Freedom Real Estate Investment Corp., 456 Locust Street, Danvers, MA until Thursday, July 12, 2007. (Unanimous)

P661-07 COUNCILLOR SELESNICK - MOVE TO request a legal opinion from the City Solicitor as to whether the Special Permit application from Freedom Real Estate Investment Corp., 456 Locust Street, Danvers, MA is properly before the City Council. (Carried 9-1; Councillor Mello opposed; Councillor Bettencourt absent)

P662-07 COUNCILLOR SELESNICK - MOVE TO request the Director of Public Services provide to the City Council much more detailed comments on the Special Permit application from Freedom Real Estate Investment Corp. 456 Locust Street, Danvers, MA, especially regarding comments about the wall, as well as any flooding issues that he sees, drainage, traffic, and anything that's appropriate and pertinent. (Unanimous)

A public hearing was duly held on the application from Bismarck Real Estate Partners, 14110 Dallas Parkway, Dallas, TX for a Special Permit to allow a Starbucks coffee shop with drive-through window at 124 Newbury Street, Peabody, MA. Appearing to speak on behalf of said application was Attorney John R. Keilty. Mr. William Power, Chairperson of the Historical Commission, appeared to speak on behalf of the City. No one appeared to speak in favor. No one appeared to speak in opposition.

P663-07 COUNCILLOR GAMACHE - MOVE TO receive, under suspension of the rules, Item 8-B communication from Attorney Sandra Dupuy, 44 May Ave., Needham regarding Special Permit hearing, Bismarck Real Estate. (Unanimous)

P664-07 COUNCILLOR GAMACHE - MOVE TO receive, under suspension of the rules, late communication Item 2 from Attorney John Keilty regarding Revised plans, 124 Newbury Street. (Unanimous)

P665-07 COUNCILLOR GAMACHE - MOVE TO receive, under suspension of the rules, 8-K communication from Community Development Department regarding Special Permit memo, Bismarck/Starbucks, 124 Newbury Street. (Unanimous)

P667-07 COUNCILLOR GAMACHE - BE IT ORDERED by the City Council of the City of Peabody that the application from Bismarck Real Estate Partners, 14110 Dallas Parkway, Dallas, TX for a Special Permit to allow a Starbucks coffee shop with drive-through window at 124 Newbury 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. Vehicle protection for the boundary of the Gibbs Cemetery located to the rear of the property. During construction, the petitioner shall place a temporary chain-link fence with a three-foot buffer;
2. The petitioner shall work with the Historical Commission to ensure that the area of Gibbs Cemetery is permanently protected so that it will not be damaged, if there's vehicular traffic that traverses through the property;
3. To come before the City Council from up to one year from the date of opening to review potential queuing problems;
4. To erect a "No queuing past this point," sign to be located on the property to ensure that there will be no queuing back onto Route 1;
5. Construction hours are 7:00 a.m. to 7:00 p.m. Monday through Friday and 7:00 a.m. to 5:00 p.m. on Saturday; and
6. Hours of Operation for the businesses are 6:00 a.m. to 11:00 p.m. Monday through Saturday and 6:00 a.m. to 10:00 p.m. on Sunday.

(Carried 10-0; Councillor Bettencourt was absent)

(MS. MAGGIE MCBREEN OF 35 GARDNER STREET ADDRESSED THE CITY COUNCIL REGARDING BUSSING FEES)

REPORTS OF COMMITTEE

Previously reported out at beginning of meeting (Public Services Committee)

MOTIONS, ORDERS & RESOLUTIONS

P668-07 COUNCILLOR GARABEDIAN - MOVE TO request the Public Services Department inform the City Council in writing when a motion has been completed. (Unanimous)

P669-07 COUNCILLOR GARABEDIAN - MOVE TO request the Police Department investigate the area of 135 Russell Street, where brush growing into the roadway is obstructing the view of vehicles exiting Gates Road. (Unanimous)

P670-07 COUNCILLOR SELESNICK - MOVE TO receive, under suspension of the rules, Item 8-E communication from Peabody Crossing, LLC regarding Status report on affordable housing agreement and to refer to the Industrial & Community Development Committee and to further request an opinion from the City Solicitor as to whether said communication meets the requirements of the Participation Agreement that was signed by the City. (Unanimous)

P671-07 COUNCILLOR SELESNICK - MOVE TO receive, under suspension of the rules, Item 8-L communication from Brendan Callahan, Community Development Department, regarding FALA report and to thank Brendan Callahan for sending this report and for the work that he's doing. I would also like him to send us a time frame of when he thinks these inspections will be finished and to request that he follow up on the applicants who have cancelled their site visit, as well as those who have not yet responded, and for him to let us know whether or not he feels the ordinance needs to be amended to put in a fine for people who do not respond or accept an appointment. (Unanimous)

P672-07 COUNCILLOR DRISCOLL - MOVE TO receive, under suspension of the rules, Item 8-D communication from Police Department regarding Ordinance amendment, drive through windows and to refer to the Legal Affairs Committee. (Unanimous)

P673-07 COUNCILLOR OSBORNE - MOVE TO receive and approve, under suspension of the rules, late communication Item 5 Block Party: Bay State Road at Lakeshore Park (July 3), subject to all papers being in order. (Unanimous)

P674-07 COUNCILLOR OSBORNE - MOVE TO request that Lieutenant Martin Cohan, Police Department, submit to City Council, through the City Clerk, his list of recommendations for traffic improvements that could be made on Bartholomew Street. (Unanimous)

P675-07 COUNCILLOR OSBORNE - MOVE TO request a communication be sent to His Honor the Mayor, acting as Chairman of the Committee, to see what actions the School Committee is going to take to make sure that the proper number of buses are available for the students that need them and to ask the bus company if there is any leeway for an extension. (Unanimous)

P676-07 COUNCILLOR ATHAS - MOVE TO request the Building Inspector to authorize a clean up of the leftover fire debris at 5 Park Street. (Unanimous)

P677-07 COUNCILLOR ATHAS - MOVE TO receive, under suspension of the rules, Item 8-G communication from Community Development Department regarding 70 Endicott Street and to request the City seek a variance for 70 Endicott Street, as recommended by His Honor the Mayor in his April 10, 2007 memo that he wrote to us. (Unanimous)

P678-07 COUNCILLOR ATHAS - MOVE TO request the City Clerk post all City Council regular meeting and subcommittee meeting agendas on the Channel 9 community access TV, as a matter of ritual. (Unanimous)

P679-07 COUNCILLOR ATHAS - MOVE TO receive, under suspension of the rules, late communication Item 7 from Councillor Arthur Athas regarding the BN/BN2 zoning district and be referred to the Industrial & Community Development Committee (Unanimous)

P680-07 COUNCILLOR ATHAS - MOVE TO receive, under suspension of the rules, Item 8-F communication from CVS Pharmacy, 174 Main Street, regarding Special Permit application, drive-through window and to set up a public hearing. (Unanimous)

P681-07 COUNCILLOR ATHAS - MOVE TO receive, under suspension of the rules, Item 8-H communication from McDonald's Corporation, 133 Main Street, regarding Amend Special Permit 13-2002 to extend hours of operation and to set up a public hearing. (Unanimous)

P682-07 COUNCILLOR ATHAS - MOVE TO receive, under suspension of the rules, Item 8-I communication from William Collins, 80 Foster Street, regarding Complaint regarding code violations and to refer to the Building Inspector's Office. (Unanimous)

P683-07 COUNCILLOR ATHAS - MOVE TO receive, under suspension of the rules, Item 8-C communication from Community Development Department regarding Land swap - acceptance of easement land to rear of George Peabody Museum with Eastman Gelatine Corporation and to refer to the Legal Affairs Committee. (Unanimous)

P684-07 COUNCILLOR ZELLEN - MOVE TO request the Public Services Department restripe the center divider line on Stockton Road from Livingston Drive to Lowell Street. (Unanimous)

P685-07 COUNCILLOR ZELLEN - MOVE TO receive, under suspension of the rules, Item 8-N communication from Attorney Jerry Effren c/o Aggregate Industries regarding Quarry closure plan. (Unanimous)

P686-07 COUNCILLOR MELLO - MOVE TO request the Public Services Department look into repairing the sidewalk on 10 Mount Vernon Street. There's an issue of run-off coming from St. Mary's Cemetery in Salem going across Mount Vernon Street and destroying the sidewalk and also causing flooding in residents' basements. (Unanimous)

P687-07 COUNCILLOR MELLO - MOVE TO request the Superintendent of Schools consider extending the busing signup deadline to families that are on extended vacation out of the City, in order that they do not miss the opportunity to bus their children to school. (Unanimous)

P688-07 COUNCILLOR SELESNICK - MOVE TO request the City Clerk look into the possibility of using either the Council on Aging or the library as an alternative site for City Council meetings, when the weather is extremely warm, so that the people who come to meetings will be able to conduct their business in a good manner. (Unanimous)

COMMUNICATIONS FROM HIS HONOR THE MAYOR

P689-07 COUNCILLOR ZELLEN - MOVE TO receive a communication from His Honor the Mayor, regarding Ordinance amendment; salary increase for election workers and to refer to the Finance Committee. (Unanimous)

COMMUNICATIONS FROM CITY OFFICERS AND OTHERS

P690-07 COUNCILLOR SELESNICK - MOVE TO receive the communication from Timothy Spanos, City Clerk, regarding Request City Council for use of the Accu Vote Optical Scan voting system. (Unanimous)

P690A-07 COUNCILLOR SELESNICK – BE IT ORDERED by the City Council of the City of Peabody that Accu Vote Optical Scan Voting System be used in all polling places within the City of Peabody effective in the year 2007. (Unanimous)

P691-07 COUNCILLOR ZELLEN - MOVE TO receive communication from Jack Elias, 468 Lowell Street, regarding Special Permit application, Automobile service station and to set up a public hearing. (Unanimous)

P692-07 COUNCILLOR ZELLEN - MOVE TO receive late communication from Denise O'Brien, 134-R Newbury Street regarding Special Permit application and to set up a public hearing. (Unanimous)

P693-07 COUNCILLOR ZELLEN – MOVE, under suspension of the rules, to receive the communication from His Honor the Mayor submitting various re-appointments. (Unanimous)

P694-07 COUNCILLOR ZELLEN – MOVE TO approve the following re-appointments as submitted by His Honor the Mayor:

<u>NAME</u>	<u>POSITION</u>	<u>TERM TO EXPIRE</u>
Dr. Eugene Smith 6 Leblanc Drive	Board of Health	1 st Monday in February, 2010 3 year term
Audrey Gordon 17 Pine Street	Board of Registrars	June 1, 2010 3 year term
Stanley Smith, Jr. 2 Marion Road	Cemetery Commission	February 1, 2010 3 year term
Corey Carter 2 Christopher Terrace	Civic Center Commission	December 31, 2007 1 year term
Darren Kelly 746R Lowell Street	Community Preservation	April 1, 2008 1 year term
Michael Schulze One Fairmount Road	Community Preservation	April 1, 2008 1 year term

<u>NAME</u>	<u>POSITION</u>	<u>TERM TO EXPIRE</u>
Michael Rizzo, Jr. 40 Samoset Road	Conservation Commission	September 30, 2009 3 year term
Rev. Andrew Demotses 6 Gates Road	Council on Aging	September 30, 2009 3 year term
John Jeffers 19 Orchard Street	Council on Aging	September 30, 2009 3 year term
Marilyn Limongiello 1 Butternut Avenue	Cultural Council	June 1, 2010 3 year term
Maria Enes Afonso DaSilva 5 School Street	Cultural Council	June 1, 2009 3 year term
Sharon Cameron 50 Glendale Avenue	Human Services Director	September 30, 2008 1 year term
Kenneth Britt 50 Glendale Avenue	Housing Authority	June 11, 2011 5 year term
William Havey 351 Lancaster Street Leominster, MA	Outdoor Education Coordinator	August 31, 2008 1 year term

(Unanimous)

PRESENTATION OF PETITIONS, MEMORIALS AND REMONSTRANCES

P695-07 COUNCILLOR OSBORNE - MOVE TO receive and approve Block Party - July 3, 2007: 2-10 Southwick Avenue, subject to all papers being in order. (Unanimous)

P696-07 COUNCILLOR OSBORNE - MOVE TO receive and approve Junk Dealers License (Renewal) for Charland Appliance Center, 48 Foster Street, subject to all papers being in order. (Unanimous)

P697-07 COUNCILLOR OSBORNE - MOVE TO receive and approve the following Limousine License transfers, subject to all papers being in order:

Fox Run Limousine, 134 Newbury Street (Lic. #139)
Tri City Services, 55R Walnut Street (Lic. #138) (Unanimous)

P698-07 COUNCILLOR OSBORNE - MOVE TO receive and approve the Taxi Cab License transfer - Community Taxi, 27R Walnut Street (Lic. #20), subject to all papers being in order. (Unanimous)

P699-07 COUNCILLOR OSBORNE - MOVE TO receive Entertainment License application from Brothers Kouzina, 25 Newbury Street, and to set up a public hearing. (Unanimous)

P700-07 COUNCILLOR OSBORNE - MOVE TO receive and approve the following Limousine/Taxi Driver Licenses, subject to all papers being in order:

William Rasmussen, 4 Anderson Street, Peabody	Fox Run Limousine	
Angelo Caruso, 8R Sunset Road, Gloucester	Fox Run Limousine	
Rita Rasmussen, 4 Anderson Street, Peabody	Fox Run Limousine	
David Gallant, 6 Orchard Lane, Danvers	Fox Run Limousine	
Alfred Porter, 33 Sidney Avenue, Lynn	Fox Run Limousine	
James Cloutman, 19 Rainbow Terrace, Salem	Tri City Taxi	
Wilfredo Moreno, 96 Newbury Street, Danvers	Tri City Taxi	
Melissa Cassie, 5 Mill Street, Beverly	Tri City Taxi	
Joseph Bain, 6 Pulaski Street, Peabody,	Community Taxi	
John Miller, 4A Russell Drive, Salem	Community Taxi	(Unanimous)

UNFINISHED BUSINESS FROM THE PRECEDING MATTER

{10-A regarding 55 Tracey Street}

P701-07 COUNCILLOR SELESNICK - BE IT ORDERED by the City Council of the City of Peabody that an Ordinance Amending Section 19-81 of the City Code entitled Handicap Zone be adopted as amended and read. (Carried 6-0; Councillors Garabedian, Murtagh, Bettencourt, Driscoll and Gamache absent)

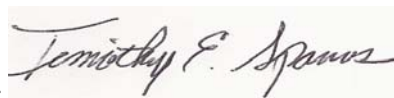
P702-07 COUNCILLOR SELESNICK - BE IT ORDERED by the City Council of the City of Peabody that an Ordinance Amending the Water & Sewer Rates of the Code of the City of Peabody be adopted as amended and read. (Failed 5-1; Councillor Mello opposed; Councillors Garabedian, Murtagh, Bettencourt, Driscoll and Gamache absent)

P703-07 COUNCILLOR SELESNICK - BE IT ORDERED by the City Council of the City of Peabody that an Ordinance Amending Chapter 28 Utilities of the Code of the City of Peabody be adopted as amended and read. (Failed 5-1; Councillor Mello opposed; Councillors Garabedian, Murtagh, Bettencourt, Driscoll and Gamache absent)

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

SUBMITTED TO HIS HONOR THE MAYOR, JULY 5, 2007
RETURNED BY HIS HONOR THE MAYOR, JULY 5, 2007

ATTEST



(Timothy E. Spanos, City Clerk)