

REGULAR MEETING OF THE PEABODY CITY COUNCIL
JULY 17, 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.

P424-12 COUNCILLOR GAMACHE - MOVE TO receive and approve the minutes from the last regular meeting of June 28, 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.

P425-12 MATTER OF THE RECORD: COUNCILLOR GAMACHE – MOVE TO thank Councillor Gould and Treadwell's for the frappes provided to the City Council for this evening's meeting. (Unanimous)

HEARINGS

P426-12 COUNCILLOR DRISCOLL - MOVE TO continue the two public hearings on the applications from Mansfield Outdoor Advertising, LLC, 990 Moscow Road, Stowe, VT, for property at 80 Newbury Street and 229 Newbury Street until the next regular meeting on August 23, 2012. (Carried 10-0; Councillor Sinewitz absent)

P427-12 COUNCILLOR DRISCOLL - MOVE TO continue the two public hearings on the applications from Total Outdoor Corp., 100 Cummings Center, Beverly, MA, for property at 258 Newbury Street and 210 Andover Street until the next regular meeting on August 23, 2012. (Carried 10-0; Councillor Sinewitz absent)

P428-12 COUNCILLOR DRISCOLL - MOVE TO continue the two public hearings on the applications from Clear Channel Outdoor, 89 Maple Street, Stoneham, MA, for property at 71 Newbury Street and 209 Newbury Street until the next regular meeting on August 23, 2012. (Carried 10-0; Councillor Sinewitz absent)

P429-12 COUNCILLOR GAMACHE – MOVE TO continue the public hearing on Zoning Amendment – Section 8.3 Flood Plain Use Districts/FIRM Maps, until the next regular meeting on August 23, 2012. (Unanimous)

A public hearing as duly held on the application from North Shore Taxi, Inc., 27 Walnut Street, Peabody, MA. Appearing to speak on behalf of the application was Mr. John McKinnon and Mr. Sean McKinnon. No one appeared to speak in favor. No one appeared to speak in opposition.

P430-12 COUNCILLOR MELLO – MOVE TO approve the application from North Shore Taxi, Inc., 27 Walnut Street, Peabody, MA, for an amendment to an existing Taxi Cab License requesting four (4) additional taxi cab licenses at said 27 Walnut Street, Peabody, MA, with the condition that the updated parking plan is approved by the Building Commissioner and subject to all papers being in order. (Carried 10-0; Councillor Sinewitz absent)

A public hearing was duly held on the application from G/J Towing, Inc., 22 Whitin Avenue Extension, Revere, MA. Appearing to speak on behalf of the application was Mr. Paul Gaeta. No one appeared to speak in favor. No one appeared to speak in opposition.

P431-12 COUNCILLOR GAMACHE - BE IT ORDERED by the City Council of the City of Peabody that the application from G/J Towing, Inc., 22 Whitin Avenue Ext., Revere, MA for a Special Permit to allow for the storage of undamaged vehicles and operate an auto & truck repair shop provided all work is conducted inside a building at 131 Newbury Street, Peabody, MA as filed in accordance with Sections 4.2.5, 4.2.6, 6.1 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) Damaged vehicles are not allowed to be stored on site at any time
- 2) All vehicles will be stored behind the fenced in area to the rear of the property as shown on a plan of land entitled "Site Plan for G/J Towing Storage Area dated June 4, 2012".
(Carried 10-0, Councillor Sinewitz absent)

A public hearing was duly held on the application from Shelby, LLC, 55 Spruce Road, North Reading, MA. Appearing to speak on behalf of the application was Attorney John Keilty. No one appeared to speak in favor. No one appeared to speak in opposition.

P432-12 COUNCILLOR OSBORNE - BE IT ORDERED by the City Council of the City of Peabody that the application from Shelby, LLC, 55 Spruce Road, North Reading, MA, for a Special Permit to allow for the removal of earthen products to construct dwellings on property identified as Andrews Brothers Way (formerly Clark Road), Peabody, Mass., as filed in accordance with Sections 14.1 and 15.7 of the Peabody Zoning Ordinance, be approved based on the following reasons:

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. (Carried 10-0; Councillor Sinewitz absent)

(MR. MICHAEL MOUTSOULAS APPEARED BEFORE THE CITY COUNCIL)

P433-12 COUNCILLOR MANNING-MARTIN – MOVE, under suspension of the rules, to receive item 7-A, Communication from His Honor the Mayor, submitting various appointments, under date of July 10, 2012. (Unanimous)

P434-12 COUNCILLOR MANNING-MARTIN – MOVE TO approve the following appointments as submitted by His Honor the Mayor under date of July 10, 2012:

NAME:	POSITION:	TERM TO EXPIRE:
Roy Simoes 17 LeBlanc Drive Peabody, MA 01960	Planning Board	05/31/2017 (5-Year Term) Expired term of Curt Bellavance
Beth Brennan O'Donnell 12 Ethel Avenue Peabody, MA 01960	Planning Board (Alternate Member)	05/31/2017 (5-Year Term) Expired term of Roy Simoes
Michael C. Moutsoulas 18 Grandview Avenue Peabody, MA 01960 (Carried 10-0; Councillor Sinewitz absent)	Board of Registrars	06/20/2015 (3-Year Term) Expired term of Mark Vainas

REPORTS OF COMMITTEE

LEGAL AFFAIRS COMMITTEE JULY 17, 2012

P435-12 COUNCILLOR MANNING-MARTIN – Reporting for the Legal Affairs Committee – We did meet tonight for Legal Affairs at 6:15; members present were Councillor Garabedian, Councillor Mello, Councillor Driscoll and sitting in for Councillor Sinewitz was Councillor Athas. We had several items on the agenda. First was a

complaint regarding the encroachment of land at the end of Tremont Place and there was a motion to hold it in committee, due to an examination of the title going on. There are still some questions regarding that lot, so there was a motion to hold that in committee. The next item was a legal opinion regarding 58 Rear Pulaski Street, Wayside, car carriers loading and offloading their vehicles on days, evenings and weekends. We did receive an opinion from the City Solicitor stating that this was an allowable use; however, the matter is pending litigation so that may change upon the completion of that litigation. In the meantime, while that is pending, Councillor Mello made the following motion. (Report received)

P436-12 COUNCILLOR MANNING-MARTIN - MOVE TO refer the issue of car carriers in the I-L District to the Industrial & Community Development Committee (Unanimous)

P437-12 COUNCILLOR MANNING-MARTIN – Reporting for the Legal Affairs Committee - The next item was Tow Trucks Registered with the Police Department and we received that information, as requested of the chief of police, and we received that as a report of progress. The final issue was review of Section 6 of the agenda regarding Motions, Orders and Resolutions. I need to again thank City Clerk Tim Spanos for his due diligence in this matter. He made a subject that we thought might have gotten a little sticky pretty clear to us and he did some research and advised us that that there are no changes necessary in how we conduct business under Motion, Orders and Resolutions. The reason for that is as long as the Chair does not have prior knowledge of the item to be discussed, then there is no Open Meeting Law violation. So it's been determined through his research that the way we conducted business in the past and ongoing should remain the same and there has been no issue with Open Meeting Law violations. So that is a report of progress as well. There was one more issue and it was regarding Home Rule Petition procedure for manufactured homes and affordable housing. There was some further discussion on that matter and Councillor Driscoll made the following motion. (Report received)

P438-12 COUNCILLOR MANNING-MARTIN - MOVE TO request that the Community Development Department and the City Solicitor provide the City Council with further information with regards to the issue of adding manufactured homes to the affordable housing inventory as to what will be counted as affordable housing; what is the impact on future development should it be counted as affordable housing; and also request an update on the Town of Danvers' home-rule petition that they put forward which was similar to what the City Council is considering. (Unanimous)

MOTIONS, ORDERS & RESOLUTIONS

P439-12 COUNCILLOR ATHAS - MOVE TO request that the Public Services Department install a crosswalk at the corner of Oak Street and Foster Street. (Unanimous)

P440-12 COUNCILLOR ATHAS - MOVE TO request that the Public Services Department replace the crosswalk sign at the Christina Drive crosswalk in the direction heading towards Lynnfield Street. (Unanimous)

P441-12 COUNCILLOR GAMACHE- Whereas an emergency condition exists affecting the health, safety and welfare of citizens of the City of Peabody in the vicinity of 79 Lynnfield Street;

THEREFORE BE IT ORDERED by the City Council of the City of Peabody that the Building Inspector be instructed to make a site visit of the property at 79 Lynnfield Street on July 18, 2012 to find out what conditions on Special Permit 7-2012 issued to Linear Retail Peabody #1, LLC have been adhered to and what have not, and instruct the Building Inspector to direct the applicant that all conditions be adhered to and be completed within 30 days.

(Emergency Preamble - Carried 8-2; Councillor Sinewitz absent; Councillors Manning-Martin & Liacos opposed)
(Motion to adopt - Carried 10-0; Councillor Sinewitz absent)

P442-12 COUNCILLOR ATHAS – MOVE TO receive, under suspension of the rules, Item 8-C communication from Community Development Department regarding Number of Section 8 and affordable housing units and to refer to the Legal Affairs Committee. (Unanimous)

P443-12 COUNCILLOR ATHAS – MOVE TO request that the Community Development Department provide the City Council with information as to the reason why the Park Street affordable housing units were not listed on the affordable housing inventory. (Unanimous)

P444-12 COUNCILLOR ATHAS – MOVE TO receive, under suspension of the rules, Item 8-G communication from Planning Board regarding Zoning recommendation; FIRM Map, Section 8.3. (Unanimous)

P445-12 COUNCILLOR ATHAS - MOVE TO request that the City Clerk, Community Development Department, and the Planning Board confirm that the wording for the updating of Section 8.3 Flood Plain Use Districts/FIRM Maps includes the wording submitted by Community Development Section 8.3 Section A, B, C and D. (Unanimous)

P446-12 COUNCILLOR GOULD - MOVE TO request the City Council in conjunction with the School Committee and His Honor the Mayor adopt an Island for the traffic island in front of Sports Collectibles and Century Bank. (Unanimous)

P447-12 COUNCILLOR MANNING-MARTIN – MOVE TO receive and approve, under suspension of the rules, Item 8-E communication from Community Development Department, regarding Banner, subject to all papers being in order. (Unanimous)

P448-12 COUNCILLOR MELLO - MOVE TO receive and approve, under suspension of the rules, the following Block Party requests, subject to all papers being in order:

Corner of Carol Ann Road and Jefferson Road – August 4th
Our Lady of Help for Northend Street @ Shamrock/Kenwood/Principals Way - August 17th thru 19th
Intersection of Rawding/Buttonwood Lane to intersection of Fitz Road/Buttonwood Lane – August 25th
(Unanimous)

P449-12 COUNCILLOR OSBORNE - MOVE TO receive and forward to the Public Services Department late communication Item 1 from Residents of 20, 27 and 31 Joyce Road regarding flooding issues in their area and to request that the Public Services Director report if the area has been investigated, if there's any plan in place to fix the flooding and whether he could recommend a short-term fix, as well as a long-term fix for this area, which includes the end of Will Sawyer Road and Whitney Drive. (Unanimous)

P450-12 COUNCILLOR OSBORNE – MOVE TO receive and approve, under suspension of the rules, Item 8-F communication from Kevin Goggin, Building Inspector, regarding Transfer of Special Permit 24-1987; Hung's Kitchen, 145A Summit Street, subject to all papers being in order. (Carried 8-2; Councillors Gould, Sinewitz and Garabedian absent)

P451-12 COUNCILLOR DRISCOLL - MOVE TO request that the Parks, Recreation & Forestry Department remove some dangerous tree limbs in front of 25 Ethel Avenue. (Unanimous)

P452-12 COUNCILLOR DRISCOLL – MOVE TO receive and approve, under suspension of the rules, the following Junk Dealers License (Renewal for 2012), subject to all papers being in order:

Sempre Fine Jewelry, 41 Cross Street
GameStop #6278, 637 Lowell Street, Suite 8B
GameStop #6409, 210 Andover Street, E108
GameStop #664, 300 Andover Street
(Unanimous)

COMMUNICATIONS FROM HIS HONOR THE MAYOR

Previously received.

COMMUNICATIONS FROM CITY OFFICERS AND OTHERS

P453-12 COUNCILLOR GAMACHE – MOVE TO receive the communication from Timothy Spanos, City Clerk, submitting the State Primary Warrant. (Unanimous)

P454-12 COUNCILLOR GAMACHE – MOVE TO approve the State Primary warrant for Thursday, July 19, 2012 September 6, 2012 and the same be posted. (Unanimous)

P454-12 COUNCILLOR GAMACHE – MOVE TO receive a communication from Glenn Trueira, Manager, Peabody Municipal Light Plant, regarding 20 Hampshire Road; tree limbs in wires. (Unanimous)

P455-12 COUNCILLOR GAMACHE – MOVE TO receive and approve the banner request from the Community Covenant Church, 83 Pine Street subject to all papers being in order. (Unanimous)

P456-12 COUNCILLOR GAMACHE – MOVE TO receive a communication from Chief Robert Champagne, Police Department, regarding Special Permit memos; hearings 4-E through 4-J and to refer to the public hearings. (Unanimous)

PRESENTATION OF PETITIONS, MEMORIALS AND REMONSTRANCES

P457-12 COUNCILLOR GAMACHE – MOVE TO receive and approve Class 2 Motor Vehicles License (Renewal for 2012) Mike’s Auto Sales, 100 Birney Street, subject to all papers being in order. (Unanimous)

P458-12 COUNCILLOR GAMACHE – MOVE TO receive and approve the following Taxi/Limousine Driver License, subject to all papers being in order:

- | | |
|------------------------------|--------------------------------|
| Michael Orlando – License 42 | Patrick Garfield – License 43 |
| Robert Mudri – License 45 | Steven Eldridge – License 46 |
| Dana McPhee – License 47 | Robert Ruest – License 48 |
| George A. Zuk – License 49 | Daniel W. McGrath – License 50 |
| Robert Berzon – License 51 | |
- (Unanimous)

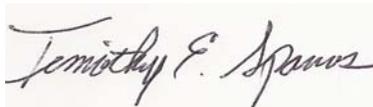
P459-12 COUNCILLOR GAMACHE – MOVE TO receive the Inflammables License application from P & M Realty Property, LLC, 129 Newbury Street, and to set up a public hearing. (Unanimous)

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, JULY 20 2012
RETURNED BY HIS HONOR THE MAYOR, JULY 20, 2012



ATTEST

(Timothy E. Spanos, City Clerk)

COMMUNICATIONS:

- His Honor the Mayor re: Submission of Appointments:
 Roy Simoes, 17 LeBlanc Drive- Planning Board
 Beth Brennan O'Donnell, 12 Ethel Avenue– Planning Board Alternate Member
 Michael C. Moutsoulas, 18 Grandview Avenue- Board of Registrars
- Timothy Spanos, City Clerk re: State Primary Warrant
 Glenn Trueira, Manager, Peabody Municipal Light Plant re: 20 Hampshire Road; tree limbs in wires
 Community Development Department re: Number of Section 8 and affordable housing units
 Community Covenant Church, 83 Pine Street re: Banner
 Community Development Department re: Banner
 Kevin Goggin, Building Inspector re: Transfer of special permit 24-1987; Hung’s Kitchen, 145A Summit Street
 Planning Board re: Zoning recommendation; FIRM Map, Section 8.3
 Chief Robert Champagne, Police Department re: Special permit memos; hearings 4-E thru 4-J

CLASS 2 MOTOR VEHICLE LICENSE: (Renewal for 2012)

Mike's Auto Sales, 100 Birney Street

BLOCK PARTY PERMITS FOR 2012:

Corner of Carol Ann Road and Jefferson Road – August 4th

Our Lady of Help for Northend Street @ Shamrock/Kenwood/Principals Way - August 17th thru 19th

Intersection of Rawding & Buttonwood Lane to intersection of Fitz Road & Buttonwood Lane – August 25th

TAXI/LIMO/SINE DRIVER LICENSE:

Michael Orlando – License 42 Patrick Garfield – License 43

Robert Mudri – License 45 Steven Eldridge – License 46

Dana McPhee – License 47 Robert Ruest – License 48

George A. Zuk – License 49 Daniel W. McGrath – License 50

Robert Berzon – License 51

JUNK DEALER LICENSE: (Renewal for 2012)

Sempre Fine Jewelry, 41 Cross Street

GameStop #6278, 637 Lowell Street, Suite 8B

GameStop #6409, 210 Andover Street, E108

GameStop #664, 300 Andover Street

INFLAMMABLES LICENSE: (New)

P & M Realty Property, LLC, 129 Newbury Street