

**REGULAR MEETING OF THE PEABODY CITY COUNCIL**  
**SEPTEMBER 13, 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.

P492-12 COUNCILLOR GAMACHE - MOVE TO receive and approve the minutes from the last regular meeting of August 23, 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 application from P & B Kerkorian Life Estate, 31 ½ Tremont Street, Peabody, MA. Appearing to speak on behalf of the application was Ms. Patricia Nizwantowski. No one appeared to speak in favor. Ms. Bernadette Amaral, 29 Tremont Street, Peabody, MA, appeared to speak in opposition.

P493-12 COUNCILLOR MELLO - BE IT ORDERED by the City Council of the City of Peabody that the application from P & B Kerkorian Life Estate, 31 ½ Tremont Street, Peabody, MA, for a Special Permit to add a second floor deck to a legally existing nonconforming dwelling at said 31 ½ Tremont, Peabody, Mass., as filed in accordance with Sections 1.5, 6.1 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 Driscoll absent)

A public hearing was duly held on the application from Pamela J. Zerber, 81 Cannon Rock Road, Lynn, MA. Appearing to speak on behalf of the application was Ms. Pamela J. Zerber. No one appeared to speak in favor. No one appeared to speak in opposition.

P494-12 COUNCILLOR ATHAS – MOVE TO receive, under suspension of the rules, Item 8-C communication from Blair Haney, Assistant Director of Planning, regarding Special Permit memo, 17 Washington Street. (Unanimous)

P495-12 COUNCILLOR ATHAS - BE IT ORDERED by the City Council of the City of Peabody that the application from Pamela J. Zerber, 81 Cannon Rock Road, Lynn, MA, for a Special Permit to expand a legally existing residential dwelling from 2 to 4 units at 17 Washington Street, Peabody, Mass., as filed in accordance with Sections 4.2.1, 6.1 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 Driscoll absent)

A public hearing was duly held on the application from Gary Nadeau, 7 Gallows Circle, Salem, 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.

P496-12 COUNCILLOR ATHAS – MOVE TO receive, under suspension of the rules, Item 8-B communication from Blair Haney, Assistant Director of Planning, regarding Special Permit memo, 167 Washington Street. (Unanimous)

P497-12 COUNCILLOR ATHAS - BE IT ORDERED by the City Council of the City of Peabody that the application from Gary Nadeau, 7 Gallows Circle, Salem, MA for a Special Permit to a drive through window at the northerly side of the building for use by a financial institution only and which will add a curb cut onto Washington Street at 167 Washington Street, Peabody, MA as filed in accordance with Sections 4.2.5, 6.1 and 15.7 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.

- 1) This Special Permit is issued to Gary Nadeau, 167 Washington Street for use by a business defined as a financial institution and shall terminate upon any change of use. (Carried 10-0, 1 absent)

A public hearing as duly held on the application from Abacus Restaurant, Inc., d/b/a Su Chang's, 373 Lowell Street, Peabody, MA. Appearing to speak on behalf of the application was Ms. Suzanne Waite. No one appeared to speak in favor. Ms. Naomi Kidder, 2 Prospect Street, Peabody, MA; Mr. Donald Belanger, 2 Prospect Street, Peabody, MA; and Ms. Devora Kaiser, 2 Prospect Street, Peabody, MA, appeared to speak in opposition.

P498-12 COUNCILLOR GAMACHE – MOVE TO approve the Entertainment License application from Abacus Restaurant, Inc., d/b/a Su Chang's, 373 Lowell Street, Peabody, MA, for non-live entertainment, specifically televisions, and live entertainment, specifically up to a four-piece jazz band, with the condition that the hours of live entertainment will be Monday and Tuesday from the hours of 6:00 p.m. to 10:00 p.m. and subject to all papers being in order. (Carried 10-0; Councillor Driscoll absent)

A Show Cause hearing was duly held as it relates to the Class 2 Motor Vehicle License issued to Palmetto Motor Sales, Ltd., 100 Foster Street, Peabody, MA. Appearing to speak on behalf of Palmetto Motor Sales, Ltd. was Mr. Angel Cuevas, 15 Dexter Street, Peabody, MA. Appearing to speak on behalf of the City was Ms. Mary Codair, City Collector. No one appeared to speak in favor. No one appeared to speak in opposition.

P499-12 COUNCILLOR ATHAS – MOVE TO deny the Class 2 Motor Vehicle License (Renewal for 2012) issued to Palmetto Motor Sales, Ltd., 100 Foster Street, Peabody, MA, for nonpayment of taxes and nonpayment of motor vehicle excise taxes. (Carried 9-2; Councillors Garabedian and Mello opposed)

## **REPORTS OF COMMITTEE**

### **MUNICIPAL SAFETY COMMITTEE** **SEPTEMBER 13, 2012**

P500-12 COUNCILLOR GARABEDIAN – Reporting for the Municipal Safety Committee – Tonight the Municipal Safety Committee met with Public Services and the Police Department. There's a city ordinance on your desk. We came to an agreement with just a couple of minor changes in it. In one of them the Chief of Police would make the decision but we eliminated that to just only one person and that would be the department of public works with some good case behind it that one man is in charge of the emergency and allows us to allow him to have the power make the decision whether it's an emergency or not. (Report received)

P501-12 COUNCILLOR GARABEDIAN - MOVE TO add the following language to the ordinance regarding snow and other emergencies in Section B: ""The activation of emergency declaration of the parking ban shall automatically be enacted upon occurrence of the following and be reaffirmed by declaration by the Director of Public Services or the director's designee." (Unanimous)

P502-12 COUNCILLOR GARABEDIAN – MOVE TO add the following language to the ordinance regarding snow and other emergencies in Section D: "The duration of the emergency parking ban shall remain in effect until rescinded by Public Services. Parking shall be prohibited on all city streets for the duration of the parking ban." (Unanimous)

P503-12 COUNCILLOR GARABEDIAN – MOVE TO approve and advertise the ordinance regarding snow and other emergencies. (Carried 10-0; Councillor Gamache absent)

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

P504-12 COUNCILLOR ATHAS – MOVE TO request that the Fire Alarm inspector inspect the traffic light at the intersection of Route 114 and Esquire Drive. The red light signal is difficult to see as you exit Esquire Drive onto Route 114. (Unanimous)

P505-12 COUNCILLOR ATHAS - MOVE TO request a handicapped sign for 64 Foster Street, and that an ordinance be drafted and advertised on the same. (Unanimous)

P506-12 COUNCILLOR ATHAS - MOVE TO request that the Public Services Department repair the sections of sidewalk that have been uplifted by tree roots between 13 and 17 Granite Street. (Unanimous)

P507-12 COUNCILLOR ATHAS – MOVE TO request that the Public Services Department install a "No parking here to corner," sign at 2 Norfolk Avenue and Lynnfield Street. (Unanimous)

P508-12 COUNCILLOR ATHAS – MOVE TO request that the Public Services Department replace the curbing in the area of 16 Carlton Street. (Unanimous)

P509-12 COUNCILLOR GOULD – MOVE TO receive and approve, under suspension of the rules, Item 8-A communication from St. Vasilios Church, 5 Paleologos Street, regarding Banner, subject to all papers being in order. (Unanimous)

P510-12 COUNCILLOR MELLO - MOVE TO thank the Public Services Department for clearing the sidewalk on Tremont Street between the streets of Wallis and Webster Street and to request that the remaining debris be removed. (Unanimous)

P511-12 COUNCILLOR MELLO - MOVE TO request that the Public Services Department replace the "No throughway" signs at both ends of Highland Park. They're worn and they can't be read. (Unanimous)

P512-12 COUNCILLOR GRAVEL – MOVE TO receive, under suspension of the rules, Item 7-A communication from His Honor the Mayor regarding Proposed amendments to revised zoning ordinance and to refer to the Industrial & Community Development Committee. (Unanimous)

P513-12 COUNCILLOR GRAVEL – MOVE TO receive, under suspension of the rules, Item 8-F communication from Attorney Adam Buckley, Assistant City Solicitor, regarding Issue regarding properties abandoned or foreclosed and to refer to the Legal Affairs Committee. (Unanimous)

P514-12 COUNCILLOR GRAVEL (Co-motion with Councillor Gould) - MOVE TO request that His Honor the Mayor provide an estimate of the cost of renovating the Frank L. Wiggin Auditorium so that we can put together a grant application for the Community Preservation Committee. (Unanimous)

P515-12 COUNCILLOR GRAVEL - MOVE TO request that the Community Development Department provide the City Council with an update on the time line and the progress of the downtown project, specific to the realignment, so that we can keep our constituents informed of what's happening. (Unanimous)

P516-12 COUNCILLOR GRAVEL - MOVE TO refer to the Industrial & Community Development Committee the issue of sidewalk seating and display in the downtown area in Business Central. Many of the shop owners have contacted me. Some of the restaurants have attempted and have been denied the ability to put seats outside, either on the side of their building or in front of their building, and it just puts them at a disadvantage to the point that several are considering now leaving because they can't display their wares. (Unanimous)

P517-12 COUNCILLOR GRAVEL - MOVE TO request advice from His Honor the Mayor and the Legal Department on initiating a home-rule petition for liquor licenses in the Business Central. (Unanimous)

P518-12 COUNCILLOR OSBORNE (Co-motion with Councillor Gamache) - MOVE THAT the City Clerk make arrangements for the clock to be reinstalled on the wall outside the mayor's office. (Unanimous)

P519-12 COUNCILLOR DRISCOLL – MOVE TO receive, under suspension of the rules, Item 8-D communication from Trader Joe’s East, Inc., 300 Andover Street, regarding Special Permit application and to set up a public hearing. (Unanimous)

P520-12 COUNCILLOR DRISCOLL - MOVE TO request that the Public Services Department be made aware that on Wahtera Road the neighbors have landscaped the end of the cul-de-sac so when removing snow, leave it on the hot-top. (Unanimous)

P521-12 COUNCILLOR DRISCOLL – MOVE TO receive, under suspension of the rules, Item 8-E communication from Stacey Bernson, Assistant Director of Community Development, regarding Adding manufactured homes to affordable housing inventory and to refer to the Legal Affairs Committee. (Unanimous)

**COMMUNICATIONS FROM HIS HONOR THE MAYOR**

Previously received.

**COMMUNICATIONS FROM CITY OFFICERS AND OTHERS**

Previously received.

**PRESENTATION OF PETITIONS, MEMORIALS AND REMONSTRANCES**

P522-12 COUNCILLOR DRISCOLL – MOVE TO receive Class 2 Motor Vehicle License Amendment, Michael Motors, 1 ½ Sylvan Street, and to set up a public hearing. (Unanimous)

P523-12 COUNCILLOR DRISCOLL – MOVE TO receive and approve the following Taxi/Limousine Driver License, subject to all papers being in order:

Joshua Rodriguez – License 84  
(Unanimous)

Joseph Staten, Jr. - License 85

P524-12 COUNCILLOR DRISCOLL – MOVE TO receive and approval the following Junk Dealer License (Renewal for 2012), subject to all papers being in order:

A-1 Restaurant Trader, 119R Foster Street  
Peabody Estate Buyer, Inc., 43 Main Street  
(Unanimous)

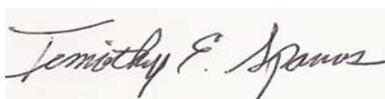
**UNFINISHED BUSINESS FROM THE PRECEDING MATTER**

None.

MOVED: MOVE TO adjourn. Regular meeting of the Peabody City Council adjourned at 9:05 p.m.

SUBMITTED TO HIS HONOR THE MAYOR, SEPTEMBER 20, 2012

RETURNED BY HIS HONOR THE MAYOR, SEPTEMBER 20, 2012

ATTEST   
(Timothy E. Spanos, City Clerk)

**COMMUNICATIONS:**

His Honor the Mayor re: Proposed amendments to revised zoning ordinance

St. Vasilios Church, 5 Paleologos Street re: Banner

Blair Haney, Assistant Director of Planning re: Special Permit memo, 167 Washington Street

Blair Haney, Assistant Director of Planning re: Special Permit memo, 17 Washington Street

Trader Joe's East, Inc., 300 Andover Street re: Special permit application

Stacey Bernson, Assistant Director of Community Development re: Adding manufactured homes to affordable housing inventory

Attorney Adam Buckley, Assistant City Solicitor re: Issue regarding properties abandoned or foreclosed

**CLASS 2 MOTOR VEHICLE LICENSE:** (Amendment)

Michael Motors, 1 ½ Sylvan Birney Street

**TAXI/LIMOUSINE DRIVER LICENSE:**

Joshua Rodriguez – License 84

Joseph Staten, Jr. - License 85

**JUNK DEALER LICENSE:** (Renewal for 2012)

A-1 Restaurant Trader 119R Foster Street

Peabody Estate Buyer, Inc., 43 Main Street