

REGULAR MEETING OF THE PEABODY CITY COUNCIL
SEPTEMBER 27, 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.

P525-12 COUNCILLOR GAMACHE - MOVE TO receive and approve the minutes from the last regular meeting of September 13, 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 a Petition submitted by Bay Ring Communications, 359 Corporate Drive, Portsmouth, NH. Appearing to speak on behalf of said application was Mr. Steve Bond, Director of Operations. No one appeared to speak in favor. No one appeared to speak in opposition.

P526-12 COUNCILLOR GAMACHE - MOVE to approve the Petition submitted by Bay Ring Communications, 359 Corporate Drive, Portsmouth, New Hampshire, seeking permission to access the right of way on utility poles owned by the City of Peabody to build a fiber optic network, subject to the condition of a third-party Pole Attachment Agreement with the Peabody Municipal Light Plant. (Carried 10-0; Councillor Osborne absent)

A public hearing was duly held on the application from Trader Joe's East, Inc., 711 Atlantic Avenue, Boston, MA. Appearing to speak on behalf of said application was Attorney Andrew Upton. No one appeared to speak in favor. No one appeared to speak in opposition.

P527-12 COUNCILLOR DRISCOLL - BE IT ORDERED by the City Council of the City of Peabody that the application from Trader Joe's East, Inc., 711 Atlantic Avenue, Boston, MA, for a Special Permit to allow for the retail sales of packaged alcoholic beverages at 300 Andover Street, Peabody, Mass., 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 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. That the hours of operation shall be from 8:00 a.m. to 9:00 p.m. seven days a week. (Carried 9-1; Councillor Garabedian opposed; Councillor Osborne absent)

REPORTS OF COMMITTEE

INDUSTRIAL & COMMUNITY DEVELOPMENT COMMITTEE
SEPTEMBER 20, 2012

P528-12 COUNCILLOR GRAVEL– Reporting for the Industrial & Community Development Committee – On September 20th a meeting was held of the Industrial & Community Development Committee. Present for the committee were: Councillor Manning-Martin, Councillor Gould, Councillor Gamache and Councillor Osborne, as well as Ms. Sawyer representing the Community Development Department. We met in the evening. The specific items on the agenda were to address those issues that were presented to us by the mayor, which had some

pending lawsuits associated with them. And after some discussion the following motions were made. (Report received)

P529-12 COUNCILLOR GRAVEL – Reporting for the Industrial & Community Development Committee – MOVE TO recommend that Section 3.1 be amended by reinstating the DDD Residential Overlay District. (Carried 8-2, Councillors Athas and Sinewitz opposed; Councillor Osborne absent)

AMENDMENT BY COUNCILLOR SINEWITZ – MOVE THAT Section 3.1 be rezoned to the B-R Zoning District. (Failed 7-3; Councillors Athas, Gould and Mello in favor; Councillor Osborne absent)

P530-12 COUNCILLOR GRAVEL – Reporting for the Industrial & Community Development Committee – MOVE TO recommend that Section 4.2.5 be amended to allow for the automotive storage of undamaged and operable motor vehicles by Special Permit in the B-R, I-L, I-P and DDD zoning district. (Carried 10-0, Councillor Osborne absent)

P531-12 COUNCILLOR GRAVEL – Reporting for the Industrial & Community Development Committee – Reporting for the Industrial & Community Development Department - The mayor recommended that we amend Section 7.2 dimensional regulations by eliminating the minimum area and frontage in the B-R zoning district. Councillor Gamache moved to recommend that the section be amended by eliminating said minimum area and frontage. The motion failed three to one. (Report received)

P532-12 COUNCILLOR GRAVEL – Reporting for the Industrial & Community Development Committee – MOVE TO recommend that Section 7.2 be amended by increasing the maximum height to 50 feet in the B-R zoning district. (Carried 10-0; Councillor Osborne absent)

P533-12 COUNCILLOR GRAVEL - Reporting for the Industrial & Community Development Committee – MOVE TO recommend that Section 11.6.3 be amended so that the first sentence now reads” “Billboards require a Special Permit, as set forth in Section 6.1, unless authorized pursuant to a Request for Proposals issued by the City and approved by the Special Permit Granting Authority, which is the City Council”. Strike the second sentence, (now incorporated into the first sentence.) (Carried 10-0; Councillor Osborne absent)

P534-12 COUNCILLOR GRAVEL - Reporting for the Industrial & Community Development Committee – MOVE TO recommend that Section 11.6.2 be amended to read: An application for a Billboard Special Permit shall be allowed in the B-R1 Zoning District and DDD Zoning District, and that the Zoning Map be amended to create a B-R1 Zoning District which would include all current B-R zones on Route 1 and I-95 proper as noted by the committee on the zoning map. (Carried 8-2; Councillors Sinewitz and Driscoll opposed; Councillor Osborne absent)

P535-12 COUNCILLOR GRAVEL - Reporting for the Industrial & Community Development Committee –MOVE TO recommend that Section 11.6.5 be amended to read: “There shall be a front yard setback of twenty (20) for all billboards, a side yard setback of twenty (20) feet and a rear yard setback of thirty (30) feet.” (Carried 7-4; Councillors Athas, Sinewitz, Mello and Driscoll opposed)

P536-12 COUNCILLOR GRAVEL - Reporting for the Industrial & Community Development Committee – MOVE TO recommend that Section 11.6.6 be amended by increasing the one-time permitting fee and annual renewal fee for static billboards to \$15,000.00 and by increasing the one-time permitting fee and annual renewal fee for digital billboards to \$25,000.00 on major interstate routes and \$20,000.00 on all other routes as allowed in Section 11.6.2. (Carried 9-2; Councillors Sinewitz and Driscoll opposed)

P537-12 COUNCILLOR GRAVEL - Reporting for the Industrial & Community Development Committee – MOVE TO recommend that the Zoning Map be amended by rezoning all parcels with frontage on Webster Street originally zoned I-L and rezoned April 28, 2011 back to I-L. (Carried 11-0)

INDUSTRIAL & COMMUNITY DEVELOPMENT COMMITTEE
SEPTEMBER 27, 2012

P538-12 COUNCILLOR GRAVEL – Reporting for the Industrial & Community Development Committee - We did have a meeting this evening and there was one other issue, which was discussed as an amendment and it was to deal with the lawsuit. (Report received)

P539-12 COUNCILLOR GRAVEL - Reporting for the Industrial & Community Development Committee – MOVE TO amend Section 4.2.6 of the use table to correct the scrivener’s error and to reaffirm the Council’s April 28, 2011 vote to allow “recycling and recovery of solid waste materials, provided all activities are carried on inside a building, is an allowed use by right in the I-P and DDD zoning districts”. (Carried 11-0)

P540-12 COUNCILLOR GRAVEL - Reporting for the Industrial & Community Development Committee – MOVE TO send the approved motions regarding all proposed amendments to the zoning ordinance to the Planning Board in accordance with Chapter 40A to begin the zoning process. (Carried 11-0)

MOTIONS, ORDERS & RESOLUTIONS

P541-12 COUNCILLOR GOULD (Co-motion with Councillor Mello) - MOVE TO request that the Public Services Department clean the corner of Margin Street and Roycroft Road. (Unanimous)

P542-12 COUNCILLOR SINEWITZ - MOVE TO request that the Peabody Municipal Light Plant erect a streetlight across from 16 Monson Drive. (Unanimous)

P543-12 COUNCILLOR SINEWITZ - MOVE TO request that the Public Services Department inspect and repair the sidewalk at the corner of Lake Street and Lindauer Street. I believe it's 102 Lake Street. (Unanimous)

P544-12 COUNCILLOR SINEWITZ - MOVE TO request that the Public Services Department erect a "Caution Horses" sign at 123 Winona Street. (Unanimous)

P545-12 COUNCILLOR GARABEDIAN (Co-motion with Councillor Mello) - MOVE TO request that the Peabody Municipal Light Plant erect a streetlight at 2 Collins Street. (Unanimous)

P546-12 COUNCILLOR MELLO – MOVE TO request that the Police Department provide the City Council with their traffic plan for October’s Haunted Happenings and to refer to the Municipal Safety Committee. (Unanimous)

P547-12 COUNCILLOR MELLO (Co-motion with Councillor Gould) - MOVE TO request that the Park Department and Public Services Department investigate the tree and condition of sidewalk in front of New England Meat Market, 62 Walnut Street, for possible removal of the tree and repair of the sidewalk. The condition of the sidewalk is such that it’s creating a hazardous situation for pedestrians, especially those that are elderly and handicapped. (Unanimous)

P548-12 COUNCILLOR MELLO – MOVE TO receive and approve, under suspension of the rules, Item 8-B communication from Office of Inspectional Services regarding Transfer of Special Permit 21-1996 to Christopher DiNicola, 64A Pulaski Street, for a dance studio, subject to all papers being in order. (Carried 11-0)

P549-12 COUNCILLOR GRAVEL (Co-motion with Councillor Sinewitz) – MOVE TO receive, under suspension of the rules, Item 8-D communication from Howard Caras, 41 Hampshire Road, regarding Condition of Hampshire Road and to refer to the Public Services Department. (Unanimous)

P550-12 COUNCILLOR GRAVEL – MOVE TO request that the Community Development Department provide the City Council with an update and schedule of the downtown realignment project. (Unanimous)

P551-12 COUNCILLOR OSBORNE (Co-motion with Councillor Gravel) - MOVE TO request that the Building Inspector contact the owners of the vacant lot between 19 and 21 Sandra Road and request that the lot be cleaned up. (Unanimous)

P552-12 COUNCILLOR OSBORNE - MOVE TO request that the Public Services Department inform the City Council as to when the repair of the driveway at 222 Lynn Street will occur. There was a pole that got knocked down and damaged the entrance to his driveway. Public Services has been there and I'm just looking for some information as to when that would be repaired. (Unanimous)

P553-12 COUNCILLOR OSBORNE - MOVE TO request that Public Services Department report the progress for the property at 5 Daniel Terrace. This property was gutted to make room for new construction and there was concern from the neighbors that a culvert may have been compromised during the destruction. Public Services has been to the property and inspected it and we do not know the results of that inspection. (Unanimous)

(COUNCILLOR OSBORNE INFORMED THE CITY COUNCIL THAT ON THURSDAY, OCTOBER 25, 2012, THERE WILL BE A NEIGHBORHOOD MEETING REGARDING THE BOULDERWOOD PROJECT AT 6:00 P.M. IN THE FRANK L. WIGGIN AUDITORIUM)

P554-12 COUNCILLOR GAMACHE – MOVE TO request that the Public Services Department replace the existing "Single lane traffic" sign heading east on Larrabee Terrace with a larger and brighter sign. (Unanimous)

P555-12 COUNCILLOR GAMACHE – MOVE TO request that the Peabody Municipal Light Plant erect a streetlight on Taylor Street basically at the end of the church parking lot opposite the Kiley School. (Unanimous)

P556-12 COUNCILLOR GAMACHE – MOVE TO receive, under suspension of the rules, Item 7-A communication from His Honor the Mayor regarding Transfer of funds – CPC Open Space Fund Balance to CPC Bikeway Extension \$50,000.00 and to refer to the Finance Committee. (Unanimous)

P557-12 COUNCILLOR GAMACHE – MOVE TO receive, under suspension of the rules, Item 7-B communication from His Honor the Mayor regarding Transfer of funds – CPC Open Space Fund Balance to CPC 911 Memorials \$37,960.00 and to refer to the Finance Committee. (Unanimous)

P558-12 COUNCILLOR DRISCOLL - MOVE TO send a thank-you communication to His Honor the Mayor, the Parks & Forestry Department and the Public Services Department for the upkeep and maintenance of the September 11th memorial park at the end of Grandview Road. They've done a super job. (Unanimous)

P559-12 COUNCILLOR DRISCOLL - MOVE TO request that the Parks & Forestry Department and the Public Services Department investigate a tree and the condition of the sidewalk in front of Sempre Jewelers at 41 Cross Street for possible removal of the tree and repair of the sidewalk. The condition of the sidewalk is such that it's creating a hazardous situation for pedestrians, especially those that are elderly and handicapped. (Unanimous)

COMMUNICATIONS FROM HIS HONOR THE MAYOR

Previously received.

COMMUNICATIONS FROM CITY OFFICERS AND OTHERS

P560-12 COUNCILLOR GAMACHE – MOVE TO receive a communication from Susan Antonellis, Board of Assessors, regarding Request to purchase city-owned land, Farnham Avenue and to refer to the Legal Affairs Committee. (Unanimous)

P561-12 COUNCILLOR GAMACHE – MOVE TO receive a communication from Beverly Autotop & Upholstery, Inc., 1R Newbury Street, regarding Special Permit and to set up a public hearing. (Unanimous)

P562-12 COUNCILLOR GAMACHE – MOVE TO receive a communication from Essex County Superior Court, 56 Federal Street, regarding Certificate of last entry of judgment; Special Permit, 532 Lowell Street for approval of billboard and to refer to the Legal Affairs Committee. (Unanimous)

P563-12 COUNCILLOR GAMACHE – MOVE TO receive a communication from Mass Office of Outdoor Advertising, 10 Park Plaza, Boston, regarding Application for outdoor billboard at 532 Lowell Street and to refer to the Legal Affairs Committee. (Unanimous)

PRESENTATION OF PETITIONS, MEMORIALS AND REMONSTRANCES

P564-12 COUNCILLOR GAMACHE– MOVE TO receive and approve the following Taxi/Limousine Driver License, subject to all papers being in order:

Richard Lopez – License 87
 Timothy Emerson – License 88
 Edward Churchill III – License 89
 Rose M. Anderson – License 90
 (Unanimous)

P565-12 COUNCILLOR GAMACHE– MOVE TO receive and approve the following Junk Dealer License (Renewal for 2012), subject to all papers being in order:

Long's Jewelers LTD, 35 Cross Street
 Martoni & James, 215 Newbury Street
 (Unanimous)

P566-12 COUNCILLOR GAMACHE – MOVE TO receive Entertainment License (Transfer) L.D. Restaurant, Inc., d/b/a Dinis Restaurant & Lounge, 135 Washington Street, and to set up a public hearing. (Unanimous)

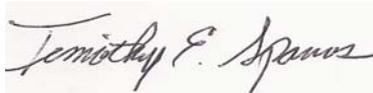
P567-12 COUNCILLOR GAMACHE– MOVE TO receive Class 2 Motor Vehicle License (New) Beverly Autotop & Upholstery, Inc., 1R Newbury Street, and to set up a public hearing. (Unanimous)

UNFINISHED BUSINESS FROM THE PRECEDING MATTER

None.

MOVED: MOVE TO adjourn. Regular meeting of the Peabody City Council adjourned at 9:00 p.m.

SUBMITTED TO HIS HONOR THE MAYOR, OCTOBER 5, 2012
 RETURNED BY HIS HONOR THE MAYOR, OCTOBER 5, 2012



ATTEST _____
 (Timothy E. Spanos, City Clerk)

COMMUNICATIONS:

His Honor the Mayor re: Transfer of funds – CPC Open Space Fund Balance to CPC Bikeway Extension \$50,000.00

His Honor the Mayor re: Transfer of funds – CPC Open Space Fund Balance to CPC 911 Memorials \$37,960.00

Susan Antonellis, Board of Assessors re: Request to purchase city owned land; Farnham Avenue

Office of Inspectional Services re: Transfer of Special Permit 21-1996 to Christopher DiNicola, 64A Pulaski Street for a dance studio

Beverly Autotop & Upholstery, Inc., 1R Newbury Street re: Special Permit application for automotive sales of used motor vehicles (Hearing necessary)

Howard Caras, 41 Hampshire Road re: Condition of Hampshire Road

Essex County Superior Court, 56 Federal Street re: Certificate of last entry of judgment; Special Permit, 532 Lowell Street for approval of billboard

Mass Office of Outdoor Advertising, 10 Park Plaza, Boston re: Application for outdoor billboard at 532 Lowell Street

TAXI/LIMOUSINE DRIVER LICENSE:

Richard Lopez – License 87
 Timothy Emerson – License 88
 Edward Churchill III – License 89
 Rose M. Anderson – License 90

JUNK DEALER LICENSE: (Renewal for 2012)

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Long's Jewelers LTD, 35 Cross Street

Martoni & James, 215 Newbury Street

ENTERTAINMENT LICENSE: (Transfer)

L.D. Restaurant, Inc. d/b/a Dinis Restaurant & Lounge, 135 Washington Street

CLASS 2 MOTOR VEHICLE LICENSE: (New)

Beverly Autotop & Upholstery, Inc., 1R Newbury Street