

REGULAR MEETING OF THE PEABODY CITY COUNCIL
OCTOBER 13, 2011

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

ABSENT: NONE

Meeting of the Peabody City Council opened with a moment of silent prayer after being called to order by City Council President, Anne M. Manning-Martin.

Salute to the American Flag.

P760-11 COUNCILLOR GAMACHE - MOVE TO receive and approve the minutes from the last regular meeting of September 22, 2011. (Unanimous)

COUNCILLOR MANNING-MARTIN - 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.

P761-11 COUNCILLOR GAMACHE – MOVE, under suspension of the rules, to receive Item 7-A Communication from His Honor the Mayor regarding appointments to Council on Aging and Conservation Commission under date of September 27, 2011. (Unanimous)

P762-11 COUNCILLOR GAMACHE – MOVE TO approve the following appointments as submitted by His Honor the Mayor under date of September 27, 2011:

<u>NAME</u>	<u>POSITION</u>	<u>TERM TO EXPIRE</u>
Arthur N. Doyle 8 St. Ann's Avenue Peabody, MA 01960	Council on Aging	09/30/2014 (3-Year Term) Expired term of Leona Kaplan
Jarrold Hochman 52 Ellsworth Road Peabody, MA 01960	Conservation Commission	09/30/2013 (3-Year Term) Unexpired term of John McRobbie
Charles J. Denny 10 Judith Road Peabody, MA 01960 (Carried 11-0)	Conservation Commission	09/30/2014 (3-Year Term) Expired term of Adam Troupe

P763-11 COUNCILLOR GAMACHE – MOVE under suspension of the rules to receive Item 7-B Communication from His Honor the Mayor under date of September 27, 2011. (Unanimous)

P764-11 COUNCILLOR GAMACHE - MOVE TO approve the following appointments as submitted by His Honor the Mayor under date of September 27, 2011:

<u>NAME</u>	<u>POSITION</u>	<u>TERM TO EXPIRE</u>
Robert Noone 40 Glendale Avenue Peabody, MA 01960	Board of Assessors	09/06/2014 (3-Year Term)
Fred Martini 9 Highview Street E. Hartford, CT 06118	Board of Assessors	09/06/2014 (3-Year Term)

<u>NAME</u>	<u>POSITION</u>	<u>TERM TO EXPIRE</u>
Joel R. Whitman 27 Walnut Street Peabody, MA 01960	Conservation Commission	09/30/2014 (3-Year Term)
Jarrold Yagjian PO Box 2177 Peabody, MA 01960	Conservation Commission	09/30/2014 (3-Year Term)
Bruce Comak 8 Benevento Circle Peabody, MA 01960	Conservation Commission (Alternate Member)	09/30/2013 (2-Year Term)
Russell Bowden 12 Ledgewood Way, #29 Peabody, MA 01960	Council on Aging	09/30/2014 (3-Year Term)
Katherine Morrocco 103 Lowell Street Peabody, MA 01960	Council on Aging	09/30/2014 (3-Year Term)
Sharon Cameron 75 Lake Shore Road Peabody, MA 01960	Human Services Director	09/30/2012 (1-Year Term)
John R. Weld 114 Raleigh Way Portsmouth, NH (Carried 11-0)	Outdoor Education Coordinator	08/31/2012 (1-Year Term)

HEARINGS

A Show Cause hearing was duly held as it relates to the Special Permit issued to D.E.K. Limited Partnership at 58-R Pulaski Street, Peabody, MA. Appearing to speak on behalf of D.E.K. Limited Partnership was Attorney Athan Vontzalides and Mr. Donald Kelley. John Christopher, City Solicitor; Mr. Bill Pasquale, Board of Health; and Mr. Kevin Goggin, Building Commissioner, appeared to speak on behalf of the City. No one appeared to speak in favor. Mr. John Surman, 53 Pulaski Street, Peabody, MA, and Ms. Kathy Wells, 22 Westview Circle, Peabody, MA, appeared to speak in opposition.

P765-11 COUNCILLOR MELLO – MOVE TO receive, under suspension of the rules, Item 8-H communication from Conservation Commission regarding 58-R Pulaski Street – Wayside Trailers. (Unanimous)

P766-11 COUNCILLOR MELLO – MOVE TO receive, under suspension of the rules, Item 8-J communication from Sharon Cameron, Director, Human Services Department, regarding 58-R Pulaski Street; Wayside Trailers. (Unanimous)

P767-11 COUNCILLOR MELLO – MOVE TO receive, under suspension of the rules, late communication Item 5 from Councillor Rico Mello regarding Photograph of 58-R Pulaski Street. (Unanimous)

P768-11 COUNCILLOR MELLO – MOVE TO receive, under suspension of the rules, late communication Item 6 from Councillor Rico Mello regarding Photographs of 58-R Pulaski Street. (Unanimous)

P769-11 COUNCILLOR MELLO – MOVE TO receive, under suspension of the rules, late communication Item 7 from Councillor Rico Mello regarding Photographs of 58-R Pulaski Street. (Unanimous)

P770-11 COUNCILLOR MELLO – MOVE TO request a legal opinion from the City Solicitor if the storage of car carriers that are entering and exiting the property of Wayside Trailers at 58R Pulaski Street is considered a truck terminal, and if so, is said use currently in violation of the zoning ordinance. (Carried 11-0)

P771-11 COUNCILLOR MELLO – MOVE THAT the issue of Wayside Trailers' storage containers located in the buffer zone 100 feet from the Waters River be referred to the Conservation Commission, and to further request that the Conservation Commission report their findings to the City Council. (Carried 11-0)

P772-11 COUNCILLOR MELLO – MOVE THAT based on a show cause hearing held on October 13, 2011 concerning violations/complaints received from the Board of Health and Conservation Commission as it pertains to the consent decree issued to D.E.K. Limited Partnership, 58R Pulaski Street, Peabody, MA; the City Council based on said findings hereby issues a warning conditional as follows:

- 1) The property owner shall by Monday, October 17, 2011 begin eviction proceedings against William Pinto d/b/a Pinto Recycling; and
- 2) Trailers owned by D.E.K. Limited Partnership/Wayside Trailers shall be empty of all materials within 60 days. (Carried 11-0)

The City Council reconvened the recessed Show Cause hearing on the application from Palmetto Motor Sales, Ltd., 100 Foster Street, Peabody, MA. Appearing to speak on behalf of said application was Mr. Angel Cuevas. Timothy Spanos, City Clerk, appeared to speak on behalf of the City. No one appeared to speak in favor. No one appeared to speak in opposition,

P773-11 COUNCILLOR ATHAS – MOVE TO receive, under suspension of the rules, late communication Item 4 from Mary Codair, City Collector, regarding Tax status update, Palmetto Auto Sales. (Unanimous)

P774-11 COUNCILLOR ATHAS – MOVE TO approve the application for a renewal of a Class 2 Motor Vehicle License from Palmetto Motor Sales, Ltd., 100 Foster Street, Peabody, MA, subject to all papers being in order and final payment of the balance due on excise taxes in arrears within 30 days. (Carried 9-2; Councillors Gravel and Manning-Martin opposed)

A public hearing was duly held on the application from BBRG TR Operating, LLC, 9350 Conroy Windermere Road, Windermere, FL. Appearing to speak on behalf of said application was Mr. Chris Lundsten. No one appeared to speak in favor. No one appeared to speak in opposition.

P775-11 COUNCILLOR DRISCOLL – MOVE TO approve the application from BBRG TR Operating, LLC, 9350 Conroy Windermere Road, Windermere, FL, for the transfer of an Entertainment License doing business as Joe's American Bar & Grill, 210 Andover Street, Peabody, MA, subject to all papers being in order. (Carried 11-0)

P776-11 COUNCILLOR GAMACHE – MOVE TO receive, under suspension of the rules, late communication Item 1 from Attorney John R. Keilty, 40 Lowell Street, regarding a request to continue Special Permit for Lowell Street CVS, 530-532 Lowell Street, and to continue the public hearing to October 27, 2011. (Unanimous)

P777-11 COUNCILLOR GAMACHE – MOVE TO receive, under suspension of the rules, late communication Item 2 from Attorney Athan Vontzalides, 27 Lowell Street, regarding a request to continue Special Permit for 4 Washington Street LLC, 9 Washington Street, and to continue the public hearing to October 27, 2011. (Unanimous)

A public hearing was duly held on the application from Leonia & Mario Clarimundo, 96 Tremont Street, Peabody, MA. Appearing to speak on behalf of said application was Ms. Rosa Gilimundo. No one appeared to speak in favor. No one appeared to speak in opposition.

P778-11 COUNCILLOR MELLO - BE IT ORDERED by the City Council of the City of Peabody that the application from Leonia & Mario Clarimundo, 96 Tremont Street, Peabody, MA for a Special Permit to renovate the current space located at said 96 Tremont Street to include a reduced retail business area and use of one two-bedroom dwelling unit, at said 96 Tremont Street, Peabody, MA, as filed in accordance with Section 1.5, 4.2, 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 Liacos absent)

A public hearing was duly held on the application from Constantine G. Scrivanos, 3 Pluff Avenue, North Reading, MA. Appearing to speak on behalf of said application was Attorney John Keilty. Captain John DeRosa, Police Department, appeared to speak on behalf of the City. No one appeared to speak in favor. No one appeared to speak in opposition.

P779-11 COUNCILLOR DRISCOLL - MOVE TO recess the public hearing on the Special Permit application from Constantine G. Scrivanos, 3 Pluff Avenue, North Reading, MA for property at 527 Lowell Street until Thursday, October 27, 2011. (Unanimous)

REPORTS OF COMMITTEE

INDUSTRIAL & COMMUNITY DEVELOPMENT COMMITTEE OCTOBER 6, 2011

P780-11 COUNCILLOR GRAVEL - Reporting for the Industrial & Community Development Committee – The meeting was held of the Industrial & Community Development Committee on Thursday evening, October 6. Present were myself as chair, Councillor Osborne, Councillor Mello, Councillor Manning-Martin and Councillor Athas; absent council members: Liacos, Gamache and Garabedian. We had two issues on the docket for that evening: One was I-L storage of trucks; the other was 58-R Pulaski Street. In the discussion on the storage of trucks Mr. Panos came from the ZBA and basically reiterated that the cease and desist order that was issued was specifically for the property and not in general for the I-L zone. A lot of discussion evolved around the interpretation of nonconforming use, as well as other things, ultimately leading into some motions that were made. The second issue was 58-R Pulaski Street. We met with the neighbors; we listened to the neighbors. Mr. Kelley was there. He made a lot of indication that he wanted to move forward to assist the neighbors. The issue of the car carriers was brought up. I think we've all heard plenty of that this evening. The idea was that they're going to work with not only the tenants there but the police department and the board of health to try to get some of these issues resolved. The following motions were made and approved that evening. (Report received)

P781-11 COUNCILLOR GRAVEL – Reporting for the Industrial & Community Development Committee- MOVE TO request that the City Solicitor render a legal opinion on the ability of Wayside Trailers of 58-R Pulaski Street to have tenants on this property based on the Special Permit/Consent Decree. (Unanimous)

P782-11 COUNCILLOR GRAVEL - Reporting for the Industrial & Community Development Committee- MOVE TO request that the City Solicitor render a legal opinion regarding Wayside Trailers, 58-R Pulaski Street, based on the Special Permit/Consent Decree as to what part of the Special Permit can be enforced. (Unanimous)

P783-11 COUNCILLOR GRAVEL - Reporting for the Industrial & Community Development Committee- MOVE TO request that the Community Development Department work with the Building Commissioner to review the existing language in the Zoning Ordinance as it pertains to the issue of the Zoning Board of Appeals ruling on 60 Pulaski Street and to make a recommendation to the City Council regarding the issue of truck storage in the I-L. (Unanimous)

P784-11 COUNCILLOR GRAVEL - Reporting for the Industrial & Community Development Committee- MOVE TO request a legal opinion from the City Solicitor with regards to a private citizen being named in a civil action suit regarding 60 Pulaski Street and what are the legal ramifications to the individual being named in the lawsuit and how can the City protect that private citizen. (Unanimous)

AD HOC COMMITTEE ON MUNICIPAL CONSOLIDATION & EFFICIENCY OCTOBER 13, 2011

P785-11 COUNCILLOR GRAVEL - Reporting for the Ad Hoc Committee on Municipal Consolidation & Efficiency – We had a meeting this evening. In attendance were Councillors: Driscoll, Gamache, Bettencourt, Mello and Garabedian, as well as myself; later attended also by Councillors: Osborne and Sinewitz. The issue was to talk about the feasibility study. The consultant from Financial Advisory Associates came and described the content of the report that they had provided to the City under contract and gave us an executive overview of the PowerPoint presentation. There were several questions and several issues brought up about the actual effects of the consolidation. Another meeting will be scheduled to discuss this further and to bring in department heads, etc. as necessary to continue on the process of determining how we can best do the consolidation or cost savings based upon the different groups. (Report of progress)

FINANCE COMMITTEE
OCTOBER 13, 2011

P786-11 COUNCILLOR GAMACHE - Reporting for the Finance Committee – We met earlier this evening. The only item on the agenda this evening was a transfer of funds from sale of real estate to FY-2013 revaluation project for \$569,000. The Committee members that were present were Councillors: Driscoll and Gravel; and Councillors: Manning-Martin and Councillor Bettencourt sat in on the meeting. There was a motion by Councillor Gravel to approve the transfer. (Report received)

P787-11 COUNCILLOR GAMACHE - Reporting for the Finance Committee – MOVE TO approve the following transfer of funds as submitted by His Honor the Mayor under date of September 22, 2011:

<u>FROM</u>	<u>TO</u>
Sale of Real Estate - \$569,400.00 (Unanimous)	FY 2013 Revaluation project - \$569,400.00

MUNICIPAL SAFETY COMMITTEE
OCTOBER 13, 2011

P788-11 COUNCILLOR GARABEDIAN - Reporting for the Municipal Safety Committee – The Municipal Safety Committee meeting met tonight to discuss Loris Road an area in which traffic has picked up heavily and the speeding IS basically out of control in that whole neighborhood. We had several families here speaking about it. (Report received)

P789-11 COUNCILLOR GARABEDIAN - Reporting for the Municipal Safety Committee- MOVE TO send a home-rule petition to MassHighway to lower the speed limit on Loris Road from 30 miles per hour to 25 miles per hour. (Unanimous)

P790-11 COUNCILLOR GARABEDIAN - Reporting for the Municipal Safety Committee- MOVE TO request that the Public Services Department install a "30 miles per hour" speed limit sign on Loris Road. (Unanimous)

MOTIONS, ORDERS & RESOLUTIONS

P791-11 COUNCILLOR GRAVEL – MOVE TO request that the Community Development Department provide the City Council with a plan for how we can better demark the bike path to include the potential of putting in solar demarcation points, which would have emergency lighting and them and maybe an emergency phone. While I recognize that this may not be something that the City wants to undertake financially, this might be something where a joint city/private venture might be able to address it. (Unanimous)

P792-11 COUNCILLOR BETTENCOURT - MOVE TO request that the Human Services Department provide the City Council with a report on the cause of the odors that are emanating from Eastman Gelatine. (Unanimous)

P793-11 COUNCILLOR GAMACHE (Co-motion with Councillor Mello) – MOVE TO receive and approve, under suspension of the rules, late communication Item 3 from Our Lady of Fatima Church, 50 Walsh Avenue, regarding Banner request, subject to all papers being in order. (Unanimous)

P794-11 COUNCILLOR GAMACHE - MOVE TO request that the information regarding low-interest loans that may be available to both businesses and homeowners that suffered damage from the recent flooding be posted on Channel 9. (Unanimous)

P795-11 COUNCILLOR GARABEDIAN – BE IT ORDERED by the City Council of the City of Peabody that emergency condition exists affecting the health, safety and welfare of citizens of the City of Peabody; therefore MOVE TO request that the Public Services Department investigate for a street light on the pole in front of 0 Apple Hill Road. (Unanimous)
 (Emergency Preamble - Carried 10-0; Councillor Liacos absent)
 (Motion to adopt - Carried 10-0; Councillor Liacos absent)

P796-11 COUNCILLOR MELLO – MOVE TO receive, under suspension of the rules, Item 8-B communication from Public Services Department regarding Gardner Street. (Unanimous)

P797-11 COUNCILLOR MELLO – MOVE TO receive and approve, under suspension of the rules, Item 8-E communication Banner requests subject to all papers being in order.

Covenant Christian Academy, 83 Pine Street, Peabody
 St. Paul's Episcopal Church, 12 Washington Street, Peabody
 Rosewood Nursing and Rehab, 22 Johnson Street, Peabody, (Unanimous)

P798-11 COUNCILLOR MELLO – MOVE TO receive, under suspension of the rules, Item 8-M communication from Community Development Department regarding Special Permit memo, 96 Tremont Street. (Unanimous)

P799-11 COUNCILLOR MELLO - MOVE TO request that a communication be sent to National Grid asking if they have any plans to run a gas line down to the Esquire Drive neighborhood. (Unanimous)

P800-11 COUNCILLOR SINEWITZ - MOVE TO request that the Public Services Department inspect the storm drains at 16 Dana Road. During the hurricane the homeowners in that area were hit extremely hard. One resident had four feet of water in his basement and when the cars were driving through, the wakes were hitting the front of his house. If there is no damage underground I'd like to know what it would cost to extend the storm drain and maybe put in another culvert to alleviate the flooding in that area. (Unanimous)

P801-11 COUNCILLOR DRISCOLL – MOVE TO receive, under suspension of the rules, Item 8-K communication from Board of Assessors regarding Value of land on Farnham Avenue and to refer to the Legal Affairs Committee and Paul & Melissa Gustafson. (Unanimous)

P802-11 COUNCILLOR DRISCOLL - MOVE TO request that the Peabody Municipal Light Plant install a streetlight on pole number 2 in front of 10 Orchard Street. (Unanimous)

P803-11 COUNCILLOR ATHAS – MOVE TO receive, under suspension of the rules, Item 8-I communication from Costa Auto Service, Inc., 195 Washington Street, regarding Special Permit application and to set up a public hearing. (Unanimous)

P804-11 COUNCILLOR ATHAS - MOVE TO receive, under suspension of the rules, Item 8-L communication from Community Development Department regarding Special Permit memo, 9 Washington Street and to refer to the public hearing. (Unanimous)

P805-11 COUNCILLOR ATHAS - MOVE TO request that the Community Development Department provide a Zoning Map to each City Councillor. (Unanimous)

P806-11 COUNCILLOR ATHAS - MOVE TO request that the Community Development provide the City Council with recommendations on how Strong Water Brook can be better improved to handle the type of flooding we had. (Unanimous)

COMMUNICATIONS FROM HIS HONOR THE MAYOR

P807-11 COUNCILLOR GAMACHE – MOVE TO receive a communication from His Honor the Mayor regarding Healthy Peabody Collaborative. (Unanimous)

COMMUNICATIONS FROM CITY OFFICERS AND OTHERS

P808-11 COUNCILLOR GAMACHE – MOVE TO receive a communication from Sharon Cameron, Director, Human Services Department, regarding Disposal of medical waste and to refer to the public hearing. (Unanimous)

P809-11 COUNCILLOR GAMACHE – MOVE TO receive a communication from Peabody Veterans Council regarding Veterans Day Ceremony. (Unanimous)

P810-11 COUNCILLOR GAMACHE – MOVE TO receive a communication from Mass DOT, 519 Appleton Street, Arlington, regarding I-95 Improvements. (Unanimous)

P811-11 COUNCILLOR GAMACHE – MOVE TO receive a communication from Mary Codair, City Collector, regarding Excise tax payments; Salter Transportation and to refer to the Finance Committee. (Unanimous)

P812-11 COUNCILLOR GAMACHE – MOVE TO receive a communication from William C. Campbell, Woburn City Clerk, regarding In support of H1972. (Unanimous)

PRESENTATION OF PETITIONS, MEMORIALS AND REMONSTRANCES

P813-11 COUNCILLOR GAMACHE – MOVE TO receive and approve the following Taxi/Limousine Driver License, subject to all papers being in order:

- | | |
|---------------------------------|----------------------------------|
| Timothy Hogan – License 81 | Joseph Dumy – License 82 |
| Mark Topping – License 83 | Stephen Spirito – License 84 |
| Dana Finnemore – License 85 | Ahmed A. Oladejo – License 88 |
| Christopher Prizio – License 86 | Robert Colucci – License 90 |
| Jonathan Smith – License 92 | Alejandro Fernandez – License 91 |
- (Unanimous)

P814-11 COUNCILLOR GAMACHE - MOVE TO receive Junk Dealers License (New) Best Buy Stores LP, 210 Andover Street #W117, and to set up a public hearing. (Unanimous)

P815-11 COUNCILLOR GAMACHE – MOVE TO receive and approve Use of Wiggin Auditorium – Young Opera Company of New England, Lynnfield, MA, Saturday, December 10, 2011, subject to all papers being in order. (Unanimous)

UNFINISHED BUSINESS FROM THE PRECEDING MATTER

None.

MOVED: MOVE TO adjourn. Regular meeting of the Peabody City Council adjourned at 10:20 p.m.

SUBMITTED TO HIS HONOR THE MAYOR, OCTOBER 21, 2011
RETURNED BY HIS HONOR THE MAYOR, OCTOBER 21, 2011



ATTEST _____
(Timothy E. Spanos, City Clerk)

COMMUNICATIONS:

- His Honor the Mayor re: Appointments to Council on Aging and Conservation Commission
- His Honor the Mayor re: Various appointments
- His Honor the Mayor re: Call to action meeting of the Healthy Peabody Collaborative
- Sharon Cameron, Director, Human Services Department re: Disposal of medical waste
- Public Services Department re: Gardner Street
- Peabody Veterans Council re: Veterans Day Ceremony
- Mass DOT, 519 Appleton Street, Arlington re: I-95 Improvements
- Banners requests: Covenant Christian Academy St. Paul's Episcopal Church Rosewood Nursing and Rehab
- Mary Codair, City Collector re: Excise tax payments; Salter Transportation
- William C. Campbell, Woburn City Clerk re: In support of H1972
- Conservation Commission re: 58-R Pulaski Street – Wayside Trailers
- Costa Auto Service, Inc., 195 Washington Street re: Special permit application

Sharon Cameron, Director, Human Services Department re: 58-R Pulaski Street; Wayside Trailers
Board of Assessors re: Value of land on Farnham Avenue
Community Development Department re: Special permit memo, 9 Washington Street
Community Development Department re: Special permit memo, 96 Tremont Street

Attorney John R. Keilty, 40 Lowell Street re: Request to continue Special Permit for Lowell Street CVS, 530-532 Lowell Street

Attorney Athan Vontzalides, 27 Lowell Street re: Request to continue Special Permit for 4 Washington Street LLC, 9 Washington Street

Our Lady of Fatima Church, 50 Walsh Avenue re: Banner request

Mary Codair, City Collector, re: Tax status update, Palmetto Auto Sales

Councillor Rico Mello regarding Photograph of 58-R Pulaski Street

Councillor Rico Mello regarding Photographs of 58-R Pulaski Street

Councillor Rico Mello regarding Photographs of 58-R Pulaski Street

TAXI/LIMOUSINE DRIVER LICENSE

Timothy Hogan – License 81

Joseph Dumy – License 82

Mark Topping – License 83

Stephen Spirito – License 84

Dana Finnemore – License 85

Ahmed A. Oladejo – License 88

Christopher Prizio – License 86

Robert Colucci – License 90

Jonathan Smith – License 92

Alejandro Fernandez – License 91

JUNK DEALERS LICENSE (New)

Best Buy Stores LP, 210 Andover Street #W117

USE OF THE WIGGIN AUDITORIUM

Young Opera Company of New England, Lynnfield, MA Saturday, December 10, 2011