

REGULAR MEETING OF THE PEABODY CITY COUNCIL
OCTOBER 25, 2012

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

ABSENT: COUNCILLOR GRAVEL

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.

P586-12 COUNCILLOR GAMACHE - MOVE TO receive and approve the minutes from the last regular meeting of October 11, 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.

(MAYOR BETTENCOURT APPEARED BEFORE THE CITY COUNCIL TO SPEAK REGARDING ITEM 7-C APPOINTMENT AND MS. EVA "COOKIE" MELANSON INTRODUCED HERSELF TO THE CITY COUNCIL)

P587-12 COUNCILLOR GAMACHE – MOVE TO receive to item 7-C appointment of Eva "Cookie" Melanson, 31 Wiseman Drive, Peabody, MA to the Council on Aging. (Unanimous)

P588-12 COUNCILLOR GAMACHE – MOVE TO approve the appointment of Eva "Cookie" Melanson, 31 Wiseman Drive, Peabody, MA to the Council on Aging for a three year term to expire on September 30, 2015. (Carried 10-0; Councillor Gravel absent)

(MAYOR BETTENCOURT APPEARED BEFORE THE CITY COUNCIL TO SPEAK REGARDING ITEM 7-A ORDINANCE AMENDMENT)

P589-12 COUNCILLOR MANNING-MARTIN– MOVE TO receive, under suspension of the rules, Item 7-A communication from His Honor the Mayor regarding Ordinance Amendment – Human Resources Director, to refer to the Finance Committee and to advertise the ordinance as read. (Unanimous)

P590-12 COUNCILLOR MANNING-MARTIN – MOVE TO receive, under suspension of the rules, Item 7-B communication from His Honor the Mayor regarding Salary Amendment – Human Resources Director and to refer to the Finance Committee and to advertise the ordinance as read. (Unanimous)

REPORTS OF COMMITTEE

FINANCE COMMITTEE
OCTOBER 25, 2012

P591-12 COUNCILLOR GAMACHE – Reporting for the Finance Committee - Earlier this evening we had a brief albeit important Finance Committee meeting; present was Councillor Athas, Councillor Driscoll, Councillor Gould, and in place of Councillor Gravel was Councillor Garabedian. The first item on the agenda was a transfer, which was approved unanimously. (Report received)

P592-12 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 18, 2012:

FROM:

CPC Open Space Fund Balance- \$50,000.00
(Carried 10-0; Councillor Gravel absent)

TO:

CPC Bikeway Extension - \$50,000.00

P593-12 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 21, 2012:

<u>FROM:</u>	<u>TO:</u>
CPC Open Space Fund Balance- \$37,960.00 (Carried 10-0; Councillor Gravel absent)	CPC – 911 Memorial - \$37,960.00

P594-12 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 October 4, 2012:

<u>FROM:</u>	<u>TO:</u>
Cemetery Interest Income \$100,000.00	Cemetery Capital Projects - \$130,000.00
Cemetery Sale of Lots & Graves <u>\$ 30,000.00</u>	
\$130,000.00	

(Carried 10-0; Councillor Gravel absent)

HEARINGS

A public hearing was duly held on the application from Beverly Autotop and Upholstery, Inc., 78 Cabot Street, Beverly, MA. Appearing to speak on behalf of said application was Mr. Janyuzak Almazbek-uulu. No one appeared to speak in favor. Mr. Robert Garcia, 1 Newbury Street, Peabody, MA, appeared to speak in opposition.

P595-12 COUNCILLOR GAMACHE – MOVE TO receive, under suspension of the rules, Item 8-E communication from Attorney Marshall Handley, 9 Abbott Street, Beverly, regarding Beverly Autotop & Upholstery, Inc., 1R Newbury Street. (Unanimous)

P596-12 COUNCILLOR GAMACHE - MOVE TO recess the public hearing on the Special Permit application from Beverly Autotop and Upholstery, Inc., 78 Cabot Street, Beverly, MA. (Unanimous)

P597-12 COUNCILLOR GAMACHE - MOVE TO continue the public hearing on the Class 2 Motor Vehicle License application from Beverly Autotop and Upholstery, Inc., 78 Cabot Street, Beverly, MA. (Unanimous)

A public hearing was duly held on the Zoning Amendments and Zoning Map Amendment. Appearing to speak on behalf of the City was Mayor Bettencourt, City Solicitor Michael Smerczynski and Ms. Karen Sawyer, Director of Community Development. No one appeared to speak in favor. No one appeared to speak in opposition.

P598-12 COUNCILLOR GAMACHE – BE IT ORDERED by the City Council of the City of Peabody to amend the Zoning Map of the City of Peabody adopted on April 28, 2011 by amending the BR Zoning District and creating a BR1 Zone as follows: That the proposed BR1 Zoning District be amended by deleting a portion of the proposed BR1 zone inadvertently placed on Route 95 north of the bike path on the easterly side of 95 to the Danvers line, and that said zoning amendment be adopted as amended and read.

(Carried 10-0, Councillor Gravel absent)

P599-12 COUNCILLOR GAMACHE - BE IT ORDERED by the City Council of the City of Peabody to approve the following amendments to the Peabody Zoning Ordinance as adopted on April 28, 2011 and that said amendments be adopted as advertised and read:

Amend Section 11.6.2 “Applicability” to allow applications for billboard in a DDD and BR1 zoning district only.

Amend Section 11.6.3 “Applications” so that the first sentence now reads” “Billboards requires 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).

Amend 11.6.5 “Dimensional Requirements” to change the front yard setbacks for billboard from 40 feet to 20 feet.

Amend Section 11.6.6 "Term of Permit" 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 10-0, Councillor Gravel absent)

P600-12 COUNCILLOR GAMACHE - BE IT ORDERED by the City Council of the City of Peabody to amend the Zoning Ordinance of the City of Peabody adopted on April 28, 2011 by amending Section 3.1 by reinstating the Designated Development District Residential Overlay District, and that said amendment be adopted as advertised and read. (Carried 10-0, Councillor Gravel absent)

P601-12 COUNCILLOR GAMACHE - BE IT ORDERED by the City Council of the City of Peabody to approve the following amendments to the Peabody Zoning Ordinance as adopted on April 28, 2011 and that said amendments be adopted as read:

Amend Section 4.2.5 to allow for the automotive storage of undamaged and operable motor vehicles by Special Permit in the BR, IL, IP and DDD zoning districts

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 IP and DDD zoning districts"

Amend Section 7.2 by increasing the maximum height to 50 feet in the BR zoning district.
(Carried 10-0, Councillor Gravel absent)

P602-12 COUNCILLOR GAMACHE – BE IT ORDERED by the City Council of the City of Peabody to amend the Zoning Map of the City of Peabody adopted on April 28, 2011 be amended by rezoning all parcels with frontage on Webster Street originally zoned IL and rezoned GB on April 28, 2011 back to IL, and that said amendment be adopted as advertised and read. (Carried 10-0, Councillor Gravel absent)

MOTIONS, ORDERS & RESOLUTIONS

P603-12 COUNCILLOR ATHAS – MOVE TO receive, under suspension of the rules, Item 8-F communication from Valter C. Barcamonte, 20 Lincoln Road, regarding Special Permit application; to request a rationale from the Building Inspector as to the reason a Special Permit is needed; and to request that the City Solicitor provide the City Council a legal opinion as to whether the issue in front of the City Council is noncompliance or the whole application for dimensional use. (Unanimous)

P604-12 COUNCILLOR GOULD (Co-motion with Councillor Mello) - MOVE TO request that the Public Services Department trim the trees at 24A Harris Street, grind a stump that has made the sidewalk buckle, and repair the sidewalk at 24 Harris Street. (Unanimous)

P605-12 COUNCILLOR SINEWITZ – MOVE TO send a communication thanking Aggregate Industries for their hard work on the bike path. (Unanimous)

P606-12 COUNCILLOR MANNING-MARTIN – MOVE TO request that the Community Development Department provide the City Council with a copy of the Hillside Protection Act and to refer to the Legal Affairs Committee. (Unanimous)

P607-12 COUNCILLOR MANNING-MARTIN (Co-motion with Councillor Osborne) - MOVE TO request that MassHighway change the speed limit on the entire length of Bartholomew Street to 20 miles per hour. (Unanimous)

P608-12 COUNCILLOR MELLO - MOVE TO set up a public hearing for Item 8-F communication from Valter C. Barcamonte, 20 Lincoln Road, regarding Special Permit application. (Unanimous)

P609-12 COUNCILLOR OSBORNE - MOVE THAT Section 19-97.1 titled "15-Minute Zones 24 hours," be amended and advertised to include Veterans Memorial Drive north side from Lynn Street to the turn to Rockdale Park. (Unanimous)

P610-12 COUNCILLOR OSBORNE - MOVE TO request that Section 19-93 titled "Restricted Parking," be amended and advertised to include Veterans Memorial Drive south side from Lynn Street to Rockdale Park and zoning be restricted to residents parking only as evidenced by a display within the front window of any parked vehicle with a parking permit issued by the City Clerk to those residents of said street. (Unanimous)

P611-12 COUNCILLOR OSBORNE – MOVE TO request that the City Clerk notify residents of the Veterans Memorial Drive area of the process for obtaining a parking permit. (Unanimous)

P612-12 COUNCILLOR OSBORNE - MOVE TO request that the Peabody Municipal Light Plant install a streetlight in the area of 43A Bartholomew Street and at the intersection of Lynn Street and Bartholomew Street. (Unanimous)

P613-12 COUNCILLOR OSBORNE – MOVE TO receive, under suspension of the rules, Item 8-G communication from Mark Pesaturo, 160 Lynn Street, regarding Special Permit application and to set up a public hearing. (Unanimous)

(COUNCILLOR GAMACHE INVITED THE CITY COUNCIL TO ATTEND A NEIGHBORHOOD MEETING REGARDING THE BRIA LANE ISSUE AT THE FRANK L. WIGGIN AUDITORIUM ON THURSDAY, NOVEMBER 1, 2012 AT 6:00 P.M.)

P614-12 COUNCILLOR DRISCOLL – MOVE TO receive, under suspension of the rules, Item 8-B communication from Austin Walsh, 22 Palmer Avenue, regarding Crosswalk markings and to refer to the Municipal Safety Committee. (Unanimous)

P615-12 COUNCILLOR DRISCOLL – MOVE TO receive, under suspension of the rules, Item 8-A communication from Public Services Department, regarding Farnham Avenue request for city-owned land and to refer to the Legal Affairs Committee. (Unanimous)

COMMUNICATIONS FROM HIS HONOR THE MAYOR

P616-12 COUNCILLOR GAMACHE – MOVE TO receive a communication from His Honor the Mayor regarding Appropriation; from CPC Unreserved to CPC Administration; \$15,000.00 and to refer to the Finance Committee. (Unanimous)

COMMUNICATIONS FROM CITY OFFICERS AND OTHERS

P617-12 COUNCILLOR GAMACHE – MOVE TO receive and approve a communication from St. Paul's Episcopal Church, 12 Washington Street, regarding Banner request, subject to all papers being in order. (Unanimous)

P618-12 COUNCILLOR GAMACHE – MOVE TO receive a communication from Attorney Michael Smerczynski, City Solicitor, regarding Dismissal of zoning lawsuit; Peabody Alpha Realty Trust. (Unanimous)

P619-12 COUNCILLOR GAMACHE – MOVE TO receive a communication from Planning Board regarding Zoning recommendations. (Unanimous)

PRESENTATION OF PETITIONS, MEMORIALS AND REMONSTRANCES

P620-12 COUNCILLOR GAMACHE – MOVE TO receive and approve the following Taxi/Limousine Driver License (Renewal for 2012), subject to all papers being in order:

David Terry – License 91
 Mohanned G. Uddin – License 92
 Alfred Grenier, Jr. – License 93
 (Unanimous)

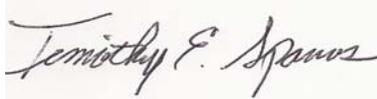
P621-12 COUNCILLOR GAMACHE – MOVE TO receive and approve Drainlayers License – Phoenix Communications, Inc., 70 James Street, Worcester, MA, subject to all papers being in order. (Unanimous)

UNFINISHED BUSINESS FROM THE PRECEDING MATTER

MOVED: MOVE TO adjourn. Regular meeting of the Peabody City Council adjourned at 9:35 p.m.

SUBMITTED TO HIS HONOR THE MAYOR, NOVEMBER 5, 2012

RETURNED BY HIS HONOR THE MAYOR, NOVEMBER 5, 2012



ATTEST

(Timothy E. Spanos, City Clerk)

COMMUNICATIONS:

His Honor the Mayor re: Ordinance Amendment – Human Resources Director

His Honor the Mayor re: Salary Amendment – Human Resources Director

His Honor the Mayor re: Appointment; Eva “Cookie” Melanson to Council on Aging

His Honor the Mayor re: Appropriation; From CPC Unreserved to CPC Administration; \$15,000.00

Public Services Department re: Farnham Avenue request for city-owned land

Austin Walsh, 22 Palmer Avenue re: Crosswalk markings

St. Paul’s Episcopal Church, 12 Washington Street re: Banner request

Attorney Michael Smerczynski, City Solicitor re: Dismissal of zoning lawsuit; Peabody Alpha Realty Trust

Attorney Marshall Handley, 9 Abbott Street, Beverly re: Beverly Autotop & Upholstery, Inc., 1R Newbury Street

Valter C. Barcamonte, 20 Lincoln Road re: Special permit application

Mark Pesaturo, 160 Lynn Street re: Special permit application

Planning Board re: Zoning recommendations

TAXI/LIMOUSINE DRIVER:

David Terry – License 91

Mohanned G. Uddin – License 92

Alfred Grenier, Jr. – License 93

DRAINLAYERS LICENSE:

Phoenix Communications, Inc., 70 James Street, Worcester, MA