

REGULAR MEETING OF THE PEABODY CITY COUNCIL
FEBRUARY 26, 2009

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

ABSENT: NONE

Meeting of the Peabody City Council opened with a moment of silent prayer after being called to order by City Council President, Barry C. Sinewitz.

Salute to the American Flag.

P232-09 COUNCILLOR GAMACHE - MOVE TO receive and approve the minutes from the last regular meeting of February 12, 2009. (Unanimous)

HEARINGS

A public hearing was duly held on the Special Permit application from Joyce Cucchiara Bongiorno, 4 Caruso Court, Peabody, MA. Appearing to speak on behalf of said application was Ms. Joyce Cucchiara Bongiorno. No one appeared to speak in favor. No one appeared to speak in opposition.

P233-09 COUNCILLOR BETTENCOURT - BE IT ORDERED by the City Council of the City of Peabody that the application from Joyce Cucchiara Bongiorno, 4 Caruso Court, Peabody, MA for a Special Permit for a family accessory living area at said 4 Caruso Court, Peabody, MA, as filed in accordance with Section 4.7 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 11-0)

A public hearing was duly held on the application from R & A Automotive, Inc., 26 Lake Street, Peabody, MA. Appearing to speak on behalf of said application was Mr. Joseph Salvaggio, 7 Pond View Road, Peabody, MA. No one appeared to speak in favor. No one appeared to speak in opposition.

P234-09 COUNCILLOR GAMACHE - MOVE TO approve the application from R & A Automotive, Inc., 26 Lake Street, Peabody, MA for a Class 2 Motor Vehicle License Transfer and to increase the number of vehicles allowed to twenty (20), subject to all papers being in order. (Carried 11-0)

A public hearing was duly held on the Zoning Amendment - Sign Review Board hearing process. Appearing to speak on behalf of said application was Mr. Barry H. Poretsky, 4903 Heatherwood Lane, Peabody, MA. No one appeared to speak in favor. No one appeared to speak in opposition

P235-09 COUNCILLOR GAMACHE - MOVE TO receive, under suspension of the rules, Item 8-I communication from Planning Board regarding Zoning amendment, Section 6.3.9 Sign hearing process. (Unanimous)

P236-09 COUNCILLOR ATHAS - BE IT ORDERED by the City Council of the City of Peabody that an Ordinance Amending the Zoning Ordinance of the City of Peabody entitled Zoning Ordinance-1978, adopted June 27, 1978, as amended, is hereby further amended as follows:

SECTION ONE: By amending Section 6.3.9 Paragraph 2B "Application Process for all Signs," as follows:

Section 2B. By deleting a portion of the following:

Within fourteen (14) days of the receipt of the application including all required materials, the Sign Review Board shall schedule a public hearing by legal notice at least ten (10) days before the hearing date.

And inserting in place thereof:

Within ten (10) days of the receipt of the application including all required materials, the Sign Review Board shall schedule a public hearing by legal notice at least five (5) days before the hearing date.

SECTION TWO: All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION THREE: This ordinance shall take effect as provided by law.
(Carried 11-0)

(COMMUNITY DEVELOPMENT DEPARTMENT MADE A PRESENTATION REGARDING 45 WALNUT STREET/LAND ACQUISITION)

P237-09 COUNCILLOR GAMACHE - MOVE TO receive, under suspension of the rules, late communication Item 1 from Salem Sound regarding 45 Walnut Street. (Unanimous)

P238-09 COUNCILLOR GRAVEL - MOVE TO receive, under suspension of the rules, late communication Item 4 from Peabody Chamber of Commerce regarding 45 Walnut Street. (Unanimous)

P239-09 COUNCILLOR MANNING - BE IT ORDERED by the City Council of the City of Peabody to authorize His Honor the Mayor to acquire a parcel of land in accordance to M.G.L. Chapter 44, Section C for the purpose of purchasing for public parks and playground purposes, by negotiated purchase, known as 45 Walnut Street of Assessor's Map 085 Lot 037 consisting of 1.3 acres, more or less, that said land be conveyed to the City of Peabody under the provisions of Massachusetts General Laws, Chapter 45, Section 14, and as it may hereafter be amended and other Massachusetts statutes relating to public parks and playgrounds, to be managed and controlled by the Park Commission of the City of Peabody, and the Mayor and City Council and Park Commission be authorized to file on behalf of the City of Peabody any and all applications deemed necessary for grants and/or reimbursement from the Commonwealth of Massachusetts deemed necessary under PARC Act (Chapter 933 Acts of 1977, as amended) and/or any others in any way connected with the scope of this Article, and the City of Peabody and the Park Commission be authorized to enter into all agreements and execute any and all instruments as may be necessary on behalf of City of Peabody to affect said purchase.

(Carried 9-2; Councillors Mello and Sinewitz opposed)

AMENDMENT BY COUCILLOR MELLO - MOVE THAT the seller of 45 Walnut Street post a \$1 million bond for the remediation of the project should the City not get grant funding or the project costs more than is proposed; and should that project cost more than proposed and that the City not get the grant funding, that the bond be used to pay for the cleanup of the property. (**FAILED** 6-5; Councillors Bettencourt, Mello, Athas, Liacos and Sinewitz in favor)

REPORTS OF COMMITTEE

Municipal Safety Committee

February 12, 2009

P240-09 COUNCILLOR GARABEDIAN - Reporting for the Municipal Safety Committee - The Municipal Safety met on February 12. Committee members were Councillor Driscoll and Councillor Manning. City departments present were Chief Champagne; Mr. Nathan Jones, Planner; and Community Development. The first item discussed was a snowplowing complaint at Esquire Apartments, Sabino Farm Road. The Committee discussed the snowplowing filed by Ms. Susan Brotchie of 18 Sabino Farm Road. The complaint alleged that snow is being moved by a private contractor from Esquire Apartments in front of residents' homes on Sabino Farm Road. In attendance was the snowplow contractor. Sabino Farm Road residents appearing to speak were Ms. Susan Brotchie and Mr. Terry Romo. The matter was held in Committee and a motion was approved. (Report received)

P241-09 COUNCILLOR GARABEDIAN - MOVE TO request that the Police Department submit a copy of an incident report that occurred on December 19, 2008 at 18 Sabino Farm Road. (Unanimous)

P242-09 COUNCILLOR GARABEDIAN - Reporting for the Municipal Safety Committee - The second matter discussed was a motion by Councillor Bettencourt on behalf of Tony Vidinha regarding establishing a crime watch throughout the city. The chief of police spoke on the matter and suggested that interested residents from the Union Street area speak with Officer John Nelson. The matter's being reported out of committee as a report of progress. The last matter discussed was the Bikeway safety measures being implemented by the department of Community Development. City planner Nate Jones appeared before the Committee to give an update on the

bikeway project and answered questions regarding safety on the bikeway and mile markers. The Committee members cited some concerns regarding pavement markings and refuse disposal. The matter was held in Committee. The Committee deferred discussion on the red light cameras to the next meeting and also the Walgreen's light on Main street for the next meeting. (Report received)

Ad Hoc Committee on Crystal Lake
February 26, 2009

P243-09 COUNCILLOR GAMACHE - Reporting for the Ad Hoc Committee on Crystal Lake - Ad Hoc Committee on Crystal Lake met earlier this evening. Present were Councillors Gravel, Garabedian, Driscoll and Manning. After a long talk over what should be done, would be done and could be done, Blair Haney gave us a presentation from Community Development. I did have Jack McMahon, Stuart Lazares, and Linda Fredericks report from the Friends of Peabody Lakes as to some ideas as to which way we should go, and out that we seem to have got a few motions. (Report received)

P244-09 COUNCILLOR GAMACHE - Reporting for the Ad Hoc Committee on Crystal Lake - MOVE TO request that Community Development Department develop an RFP for the Crystal Lake dredging project, and to have an engineer on board by May 1 of 2009. (Unanimous)

P245-09 COUNCILLOR GAMACHE - Reporting for the Ad Hoc Committee on Crystal Lake - The other one was as to the original permit that was granted as to where the mud and the soil would be taken explicitly said to go to the golf course or the landfill and those aren't viable solutions anymore so we have to delete that part of the permit. (Report received)

P246-09 COUNCILLOR GAMACHE - Reporting for the Ad Hoc Committee on Crystal Lake - MOVE TO request that Community Development Department look into investigate for the amendment of the permit regarding the dredging of Crystal Lake to delete the disposal sites (golf course and Landfill) from said permit. (Unanimous)

P247-09 COUNCILLOR GAMACHE - Reporting for the Ad Hoc Committee on Crystal Lake - MOVE TO request that the Community Development Department file an application with the Community Preservation Committee requesting funding not to exceed \$1.5 million for the Crystal Lake dredging project. (Unanimous)

Public Services Committee
February 26, 2009

P248-09 COUNCILLOR ATHAS - Reporting for the Public Services Committee - Earlier in the evening there was a meeting of the Public Services Committee. Councillors Driscoll, Gamache, Gravel and Osborne were present. There was one item on the agenda and it was the acceptance of a portion of Dearborn Road as a public way. Robert Langley, the acting director of Public Services, gave a short presentation as to the reasons. We took a vote and it passed five to nothing. (Report received)

P249-09 COUNCILLOR ATHAS - MOVE TO accept that 1710 foot portion of Dearborn Road as a public way as shown on a plan of land provided by the Public Services Department, and to remove any speed bumps that may be located on said portion of roadway. (Carried 10-0; Councillor Bettencourt voting present)

Industrial & Community Development Committee
February 26, 2009

P250-09 COUNCILLOR MELLO - Reporting for the Industrial & Community Development Committee - The Industrial & Community Development Committee met to review two FALA's. One of them had already come before us around 4 Caruso Court, which was approved unanimously by the Committee. The second one was 15 Monson Drive, which was also approved unanimously by the Committee. (Report received)

P251-09 COUNCILLOR MELLO - MOVE TO recommend that the City Council approve the FALA Special Permit applications from Joyce Cucchiara Bongiorno, 4 Caruso Court and F. Antionette Poli and Joseph Poli, 15 Monson Drive, and that public hearing be scheduled on the same. (Unanimous)

Aggregate Closure Committee
February 11, 2009

P252-09 COUNCILLOR SINEWITZ - Reporting for the Aggregate Closure Committee - The Aggregate Closure Committee met on February 11. Attending the meeting were Councillor Bettencourt, Councillor Gravel and Councillor Manning and myself. And I want to specifically thank Councillors Manning and Gravel because we didn't have a quorum and you bailed me out and that was an important meeting. So what came out of it, to let the council know, is that Aggregate finally came in with their closure plan. And what their closure plan is, is a fill plan. And they want to fill a hole that's 150, 160 feet by 1,200 feet wide with dirt and it's going to take 5,300,000 cubic yards or so of fill to fill it. And the kicker is they're looking at putting somewhat of contaminated soil into the hole. And different levels of contaminants can go into the hole and that is right adjacent to our water supply. So I just want to let the council know that is coming forward and it's going to get pretty interesting. That water supply takes care of Peabody Beverly, Salem, part of Lynn, Middleton and Danvers, so we can't let anything happen to that water supply by leaching in of those contaminated soils. So that's what's happening on that. (Report received)

MOTIONS, ORDERS & RESOLUTIONS

P253-09 COUNCILLOR BETTENCOURT - MOVE TO receive, under suspension of the rules, Item 7-B communication from His Honor the Mayor regarding Transfer of funds - Feasibility study, Higgins Middle School and to refer to the Finance Committee. (Unanimous)

P254-09 COUNCILLOR BETTENCOURT - MOVE TO receive, under suspension of the rules, Item 8-N communication from Patricia Davis Schaffer, Finance Director, regarding School status of appropriations and to refer to the Finance Committee. (Unanimous)

P255-09 COUNCILLOR BETTENCOURT - MOVE TO receive, under suspension of the rules, Item 8-O communication from Patricia Davis Schaffer, Finance Director, regarding City status of appropriations and to refer to the Finance Committee. (Unanimous)

P256-09 COUNCILLOR BETTENCOURT - MOVE TO receive, under suspension of the rules, Item 8-P communication from Patricia Davis Schaffer, Finance Director, regarding General fund summary and to refer to the Finance Committee. (Unanimous)

P257-09 COUNCILLOR BETTENCOURT - MOVE TO receive, under suspension of the rules, late communication Item 2 from His Honor the Mayor regarding Transfer of funds - Habitat for Humanity and to refer to the Finance Committee. (Unanimous)

P258-09 COUNCILLOR GRAVEL - MOVE TO send a letter of congratulations to Charles Silva at the New England Meat Market for successfully staying engaged in the community for the number of years he has and for having continuous operation of the market for 90 years. (Unanimous)

P259-09 COUNCILLOR DRISCOLL - MOVE TO receive, under suspension of the rules, Item 8-C communication from Rita Cavicchio-Christie, 25 Emerson Street, regarding speed/traffic concerns, Ellsworth Road/Emerson Street area and to refer to the Municipal Safety Committee. (Unanimous)

P260-09 COUNCILLOR DRISCOLL - MOVE TO receive, under suspension of the rules, Item 8-E communication from Deputy Chief Martin Cohan regarding Notice of violation - Class 2 Motor Vehicle License, European Car Haus, 218 Andover Street and to refer to the Legal Affairs Committee. (Unanimous)

P261-09 COUNCILLOR GAMACHE – MOVE TO request that the Finance Committee take a look at the Fourth of July activities, which fall on a Saturday this year, and see if this council would like to suspend the Fourth of July for this one year due to the way it falls and possible budget cuts for next year. (Unanimous)

P262-09 COUNCILLOR GAMACHE - MOVE TO request that His Honor the Mayor contact our disposal company, which is JRM, concerning ways of reducing the tipping fees and possibly saving money on the contracts. (Unanimous)

P263-09 COUNCILLOR OSBORNE - MOVE TO receive, under suspension of the rules, Item 8-A communication from Attorney William F. Delaney on behalf of Lawrence Parente regarding Larry's Auto Sales, 93 Lynn Street and to set up an Executive Session meeting. (Unanimous)

P264-09 COUNCILLOR OSBORNE - MOVE TO receive, under suspension of the rules, Item 8-J communication from Peabody-Lynnfield YMCA, 259 & 265 Lynnfield Street regarding Site plan and to refer to the Industrial & Community Development Committee. (Unanimous)

P265-09 COUNCILLOR ATHAS - MOVE TO request that the Public Services Department repair the sidewalk at 22 Swampscott Avenue as soon as possible. An elderly person had an accident and tripped over the raised sidewalk there. (Unanimous)

P266-09 COUNCILLOR ATHAS - MOVE TO receive, under suspension of the rules, Item 8-D communication from Chief Robert Champagne, Police Department, regarding Speed display sign, Main Street and to refer to the Municipal Safety Committee. Further request that the Police Department meet with the Ward Councillor to discuss the location of said display signs. (Unanimous)

P267-09 COUNCILLOR SINEWITZ - MOVE TO receive, under suspension of the rules, Item 7-A communication from His Honor the Mayor regarding Pot hole hot line and to request that the City Clerk advertise the pothole number on the city Web site and the cable access channel. (Unanimous)

COMMUNICATIONS FROM HIS HONOR THE MAYOR

Previously received.

COMMUNICATIONS FROM CITY OFFICERS AND OTHERS

P268-09 COUNCILLOR GAMACHE - MOVE TO receive and approve a communication from Peabody High School Cheerleading regarding Banner request, subject to all papers being in order. (Unanimous)

P269-09 COUNCILLOR GAMACHE - MOVE TO receive a communication from Luisa Collins, 23 Tracey Street, regarding Request to change no parking from westerly to easterly side of Tracey Street. (Unanimous)

P270-09 COUNCILLOR GAMACHE - MOVE TO receive a communication from Timothy Spanos, City Clerk, regarding Election Calendar 2009 and to approve the same. (Unanimous)

P271-09 COUNCILLOR GAMACHE - MOVE TO receive and approve a communication from Kevin Goggin, Building Commissioner, regarding Transfer of Special Permit 4-1981 to Robert Dionne d/b/a Northshore Ambulance, Inc., subject to all papers being in order. (Unanimous)

P272-09 COUNCILLOR GAMACHE - MOVE TO receive a communication from Board of Registrars regarding Salary ordinance and send the Board of Registrars a communication thanking them for their concerns and understanding of that salary ordinance. (Unanimous)

P273-09 COUNCILLOR GAMACHE - MOVE TO receive a communication from Community Development Department regarding 45 Walnut Street - in response to Council questions. (Unanimous)

P274-09 COUNCILLOR GAMACHE - MOVE TO receive a communication from Margaret E. Tierney, 6 Scott Drive, regarding Gas leaks. (Unanimous)

PRESENTATION OF PETITIONS, MEMORIALS AND REMONSTRANCES

P275-09 COUNCILLOR GAMACHE - MOVE TO receive Inflammables License (amendment) - Wayside Trailers, 58 Pulaski Street and to set up a public hearing. (Unanimous)

P276-09 COUNCILLOR GAMACHE - MOVE TO receive and approve the following Entertainment Licenses (Renewal for 2009), subject to all papers being in order:

A.O.H., 58 Lowell Street
Bonkers Funhouse Pizza, 535 Lowell Street
Gallo Nero, 89 Main Street
Golden Banana, 151 Newbury Street
Italian American Citizens Club, 7 Blaney Avenue
Misono Japanese Steakhouse, 82 Newbury Street
Outback Steakhouse, 300 Andover Street
(Unanimous)

P277-09 COUNCILLOR GAMACHE - MOVE TO approve the Innholder License (Renewal for 2009) Hampton Inn, 59 Newbury Street, subject to all papers being in order. (Unanimous)

P278-09 COUNCILLOR GAMACHE - MOVE TO approve Class 2 Motor Vehicle Licenses (Renewal for 2009) Braspeed Auto Sales, 195 Washington Street, subject to all papers being in order. (Unanimous)

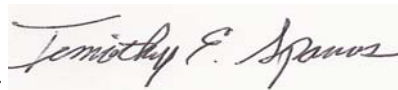
UNFINISHED BUSINESS FROM THE PRECEDING MATTER

None.

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

SUBMITTED TO HIS HONOR THE MAYOR, MARCH 3, 2009
RETURNED BY HIS HONOR THE MAYOR, MARCH 3, 2009

ATTEST



(Timothy E. Spanos, City Clerk)