

**REGULAR MEETING OF THE PEABODY CITY COUNCIL**  
**MARCH 22, 2007**

PRESENT: COUNCILLORS GARABEDIAN, MURTAGH, BETTENCOURT, SELESNICK, DRISCOLL, OSBORNE, GAMACHE, ATHAS, LIACOS, ZELLEN AND MELLO

ABSENT: NO COUNCILLORS ABSENT

Meeting of the Peabody City Council opened with a moment of silent prayer after being called to order by City Council President, Rico E. Mello.

Salute to the American Flag.

P277-07 COUNCILLOR GAMACHE – MOVE TO receive and approve the minutes from the last regular meeting of March 8, 2007. (Unanimous)

P278-07 COUNCILLOR ATHAS – MOVE, under suspension of the rules, to receive the communication from His Honor the Mayor submitting appointments to the Conservation Commission. (Unanimous)

P279-07 COUNCILLOR ATHAS – MOVE TO approve the following appointments to the Conservation Commission as submitted by His Honor the Mayor:

<u>NAME</u>	<u>POSITION</u>	<u>TERM TO EXPIRE</u>
Alan Klapman 22 Alden Road Peabody, MA	Conservation Commission Alternate Member	Two year term September 30, 2007 Filling the unexpired term of Jared Yagjian
Jared Jagjian Post Office Box 2177 Peabody, MA	Conservation Commission	Three year term September 30, 2008 Filling the unexpired term of Paul Carter

(Unanimous)

REPRESENTATIVES FROM KEYSpan APPEARED BEFORE THE CITY COUNCIL TO DISCUSS GAS LEAK COMPLAINTS IN WARD 6 IN THE AREAS OF INTERVALE AVENUE AND GLEN DRIVE, AND GREENE STREET, STOCKTON ROAD AND PENN ROAD. APPEARING ON BEHALF OF KEYSpan WERE MR. MICHAEL BRUNO, PUBLIC RELATIONS AND WILLIAM COSTIGAN, MANAGER OF MAINTENANCE.

**HEARINGS**

A public hearing was duly held on Petitions 263A and 263B-06 submitted by the Peabody Municipal Light Plant, 201 Warren Street Extension, Peabody, MA. Appearing on behalf of PMLP was Mr. Brian Abacunas. No one appeared to speak in favor. No one appeared to speak in opposition.

P280-07 COUNCILLOR DRISCOLL – MOVE TO approve the following petitions as submitted by the Peabody Municipal Light Plant, 201 Warren Street Extension, Peabody, MA:

Petition 263A-06: Pole relocation on Willowdale Avenue	
Petition 263B-06: New pole on Willowdale Avenue	(Unanimous)

A public hearing was duly held on Petitions 158-04 submitted by the Peabody Municipal Light Plant, 201 Warren Street Extension, Peabody, MA. Appearing on behalf of PMLP was Mr. Brian Abacunas. No one appeared to speak in favor. No one appeared to speak in opposition.

P281-07 COUNCILLOR GAMACHE – MOVE TO approve Petition 158-04 as submitted by the Peabody Municipal Light Plant, 201 Warren Street Extension, Peabody, MA for a pole relocation on Pine Street. (Unanimous)

P282-07 COUNCILLOR DRISCOLL – MOVE, under suspension of the rules, to receive the communication from Attorney John R. Keilty on behalf of A. C. Auto Supply, 3 Bourbon Street. (Unanimous)

P283-07 COUNCILLOR DRISCOLL – MOVE TO allow A.C. Auto Supply, 3 Bourbon Street, Peabody, MA to withdraw their Special Permit without prejudice. (Unanimous)

A public hearing was duly held on the Special Permit application from Dean Collins c/o DC Trust, LLC, 134-R Newbury Street, Peabody, MA. Appearing to speak on behalf of DC Trust, LLC was Mr. Dean Collins, 18 Olsen Road, Peabody, MA. Appearing to speak in favor was Mr. Michael Schulze, 1 Fairmount Road. No one appeared to speak in opposition.

P284-07 COUNCILLOR GAMACHE – MOVE, under suspension of the rules, to receive a communication from the Community Development Department submitting a Special Permit relative to 134-R Newbury Street. (Unanimous)

P285-07 COUNCILLOR GAMACHE – MOVE, under suspension of the rules, to receive the communication from DC Trust, LLC submitting a business plan and site plan for location of vehicles for sale. (Unanimous)

P286-07 COUNCILLOR GAMACHE - BE IT ORDERED by the City Council of the City of Peabody that the application from DC Trust, LLC, 18 Olsen Road, Peabody, MA for a Special Permit to allow for the outdoor sales and/or storage of motor vehicles at 134-R Newbury Street, Peabody, MA as filed in accordance with Section 4.2.5 and 4.4 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.

Condition:

1. That the hours of operation shall be 10:00 a.m. to 6:00 p.m. Monday through Saturday. (Carried 11-0)

A public hearing was duly held on the transfer of a Class 2 Motor Vehicle License application from Dean Collins c/o DC Trust, LLC, 134-R Newbury Street, Peabody, MA. Appearing to speak on behalf of DC Trust, LLC was Mr. Dean Collins, 18 Olsen Road, Peabody, MA. No one appeared to speak in favor. No one appeared to speak in opposition.

P287-07 COUNCILLOR GAMACHE – MOVE TO approve the transfer of a Class 2 Motor Vehicle License from Gardner Park Auto Sales, to DC Trust, LLC, 134-R Newbury Street, Peabody, MA subject to the condition that there shall be no more than twelve (12) unregistered motor vehicles for sale at any one time. (Unanimous)

**REPORTS OF COMMITTEE**

**Ad Hoc Committee on Aggregate Industries  
March 13, 2007**

P288-07 COUNCILLOR ZELLEN - Reporting on behalf of the Ad Hoc Committee on Aggregate Industries - Just to bring the councillors up to date, the Ad Hoc committee, as you recall, appointed last year a special committee consisting of the Ad Hoc committee, neighbors, department heads throughout the city. And basically it was to start the process of talking about a closure plan. You may recall that in the original permit that Aggregate Industries has up to five years to submit to the City Council what their plan is, when the plant closes. So we have met. The members of that committee, the various department heads, came to that meeting, as well as neighbors in the area, Aggregate Industries, Councillor Bettencourt and myself. And basically what has happened is that a task force of department heads, Aggregate Industries and the neighbors are going to be meeting on an ongoing basis to try to come up with a plan that is in the best interests of the city, when that plant closes. Because, as you know, when quarries close down, you have a big hole in the ground and if we're not careful about what we allow to happen there, it could present some issues down the road with flooding or public safety issues. So we want to be sure that when Aggregate Industries closes that, that the city has a hand in what it's going to look like after it's closed. So it's an ongoing process and there will really no motions or anything to approve by the council, other than a report of progress. And this task force is going to be meeting starting on April the 9 at 3:00 p.m. at the offices of Aggregate Industries and it will be an ongoing process. Hopefully we'll be able to come back to the council in the fall with, if not a final plan, at least a working plan. I know that the closure plan in Ashland, once they started it, took between two and three years before it was finalized. So we're really under the gun and I'm not certain that we are going to have a final plan, but at least we, as a group, can extend that provision from five years on, as long as we're going along the right roadway. And certain department heads had some issues. Obviously Public Health has an issue that they want to be sure that when that's closed, that it doesn't become you know infested with mosquitoes or any type of other problems that could arise or water problems. It is close to feeder lakes and rivers that go into the Ipswich watershed, so there's a lot of concern. The fire department had concerns about public safety. You know obviously some of the quarries end up being filled with water. If that's the case or if that is the final plan, we want to be sure that there is proper access around the rim of the quarry for apparatus to get in there. So it is a big concern to the city. And it may not happen for 10 or 15 years and maybe not impact any of us. I'm sure Fred will still be on the council 15 years from now, but many of us may not be. But it is the future of a major section of our city and we should be concerned about how that is left once it is no longer used as a quarry. So at this point, rather than continue on, it's a report of progress. (Report received)

**Finance Committee  
March 22, 2007**

P289-07 COUNCILLOR LIACOS - Reporting for the Finance Committee - Prior to the regular council meeting this evening at 6 o'clock in the Frank L. Wiggin Auditorium, the Finance Committee met. Members: Myself, Councillor Athas, Councillor Bettencourt, Councillor Murtagh, Councillor Zellen and Councillor Garabedian sat in for the first part; and all other City Councillors were present. The first item on the agenda was a Transfer of Funds from the Reserve Fund to Fire Overtime. We met with the fire chief, he explained to us, in detail, the necessity for these funds. And this really come to us from his Honor the Mayor, Mayor Bonfanti. The Fire Chief has requested a transfer of funds to cover the extraordinary cost of overtime incurred during the past nine months. The transfer is from the Reserve Fund for \$100,000 to Fore Overtime. (Report received)

P290-07 COUNCILLOR LIACOS - MOVE TO approve the following Transfer, as submitted by His Honor the Mayor, under date of March 5, 2007.

<b><u>FROM:</u></b>	<b><u>TO:</u></b>
Reserve Fund - \$100,000.00	Fire - Overtime \$100,000.00
100-1320-57410	100-2200-51130
(Carried 11-0)	

P291-07 COUNCILLOR LIACOS - MOVE TO refer the Fire Department sick time to the Municipal Safety Committee for further discussion. (Unanimous)

P292-07 COUNCILLOR LIACOS - Reporting for the Finance Committee - The next item was a meeting with the Superintendent of Schools, Milton Burnett. And his request to us was from the sale of the Brown School transfer from sale of real estate for \$350,000.00 to 2007 School Capital Improvement - computer upgrades specified in technological report. \$350,000.00. And Superintendent Burnett explained to us the purpose for the purchase of the technology and where it would go in the various schools, so at this time I make that motion. (Report received)

P293-07 COUNCILLOR LIACOS - MOVE TO approve the following Transfer, as submitted by His Honor the Mayor:

<b><u>FROM:</u></b>	<b><u>TO:</u></b>
Sale of Real Estate- \$350,000.0	2007 School Capital Improvement
	Computer upgrades specified in Technology Report - \$350,000.00
(Carried 11-0)	

**MOTIONS, ORDERS & RESOLUTIONS**

P294-07 COUNCILLOR MURTAGH – MOVE TO request that the Board of Registrars review the polling placed and attempt to revise them so that there will no longer be two precincts voting in the same location. (Unanimous)

P295-07 COUNCILLOR BETTENCOURT – MOVE, under suspension of the rules, to receive item 8-K, communication from Martha Holden, Library Director submitting an update on the after-school activities drop in program at the Library, and the same be referred to the Ad Hoc Committee on Drug Education and Awareness. (Unanimous)

P296-07 COUNCILLOR BETTENCOURT – MOVE, under suspension of the rules, to receive item 8-L, communication from Jean Delios, Director of Community Development, submitting the job description on the code enforcement officer and the same be referred to the Finance Committee. (Unanimous)

P297-07 COUNCILLOR BETTENCOURT – MOVE TO send a letter to the Essex County District Attorney, Jonathan Blodgett, request the District Attorney to make a determination if the School Committee violated the open meeting law on Tuesday, March 20, 2007 with regarding to entering into Executive Session, and to further investigate if criminal activities should be pursued with respect possible non-public records being divulged to the public. (Carried 8-3; Councillors Selesnick, Osborne and Liacos opposed)

P298-07 COUNCILLOR SELESNICK – MOVE TO inform Dr. Milton Burnett, Superintendent of Schools, that the City Council are very happy to support school technology, and to request an update from the Superintendent on technology existing at each school and request a breakdown of the following in an effort to review the requested information prior to school budget review by the City Council:

- 1) The number of computers and accessory equipment encumbered; purchase since Fiscal Year 2004; and
- 2) Include separately in this update the additional technology to be purchased with all technology funds approved tonight and left from the bond and FY-07 budget funds. (Unanimous)

P299-07 COUNCILLOR SELESNICK – MOVE, under suspension of the rules, to receive item 8-P; communication from the City Clerk submitting to the City Council a report regarding Class 2 and 3 Motor Vehicle Licenses issued for 2007. (Unanimous)

P300-07 COUNCILLOR SELESNICK – MOVE, under suspension of the rules, to receive item 8-G; communication from the Department of Community Development and Planning submitting find changes to the 2006 Recreation and Open Space Plan as requested by City Council and to adopt the same as amended. (Unanimous)

P301-07 COUNCILLOR DRISCOLL – MOVE TO request from the School Committee and Superintendent their policy on class size and strategies to make class size smaller. (Unanimous)

P302-07 COUNCILLOR DRISCOLL – MOVE TO send a communication to the Mass Highway Department, District 4, requesting them to repair the pavement on the southbound lane of the bridge at Lowell Street. (Unanimous)

P303-07 COUNCILLOR OSBORNE – MOVE TO rescind the ordinance for handicap parking at 14A Glendale Avenue (Section 19-81 of the City Code) and that the Public Services Department be requested to remove the handicap parking sign from said address. (Unanimous)

P304-07 COUNCILLOR GAMACHE – MOVE TO request that the Public Services Department place on their priority list for Spring repairs the curbs at 1 Connors Road and 61 Goodale Street that have been damaged. (Unanimous)

P305-07 COUNCILLOR GAMACHE – MOVE TO request the Director of Public Services submit to the City Council the 2007 schedule for the cleaning of catch basins and street sweeping operations. (Unanimous)

P306-07 COUNCILLOR GAMACHE – MOVE TO thank the Department of Public Services, Mayor and Chris Tighe regarding the flooding problems that appear to be abated in the West Peabody area. (Unanimous)

P307-07 COUNCILLOR GAMACHE – MOVE TO request that the Public Services Committee meet to discuss the drainage problems in the Centerfield area and to invite Kevin DeBeradinis and Tom Hawes to said meeting to discuss flooding issues and to also send an invitation to the Public Services Department as well. Possibly the committee could meet at 50 Farm Avenue if that makes it easier for all parties. (Unanimous)

P308-07 COUNCILLOR ATHAS – MOVE TO send a letter of thanks to Martha Holden, Library Director, for all her efforts regarding the after-school activities program at the library. (Unanimous)

P309-07 COUNCILLOR ATHAS – MOVE TO RESPECTFULLY request that the Public Services Department repair potholes at the following locations:

End of Brown Street at the South Memorial School, Maple Street Extension  
Washington Street at 283-285 (Unanimous)

P310-07 COUNCILLOR ATHAS – MOVE TO respectfully request that the Industrial & Community Development Committee schedule a meeting to discuss the issue of ways to utilize the affordable housing funds collected by the City and through the Community Preservation Act, and request the Community Development Department to prepare a list of options for the Council to consider. (Unanimous)

P311-07 COUNCILLOR ATHAS – MOVE TO request to place on the next Finance Committee agenda a discussion regarding the status of non-profit organizations paying in lieu of taxes donations to support the services they receive from the City. (Unanimous)

P312-07 COUNCILLOR LIACOS – MOVE, under suspension of the rules, to receive the following reports from the Mayor and Director of Finance and be referred to the Finance Committee:

- a) Information on Fiscal 2008 health insurance costs
- b) Summary of revenues as of March 12, 2007
- c) Status of City appropriations as of March 12, 2007
- d) Status of School appropriations as of March 12, 2007
- e) FY-2008 local aid estimates
- f) Stabilization fund and free cash balance report for cities and towns
- g) FY-2008 budget summary listing (Unanimous)

P313-07 COUNCILLOR LIACOS – MOVE, under suspension of the rules, to receive item 8-E; communication from Lawrence J. O'Keefe, City Solicitor, relative to executive session minutes and be referred to the Legal Affairs Committee. (Unanimous)

P314-07 COUNCILLOR LIACOS – MOVE, under suspension of the rules, to receive item 8-F; communication from Daniel B. Kulak, Assistant City Solicitor, relative to the Council's authority on regulating employee health benefits and be referred to the Legal Affairs Committee. (Unanimous)

P315-07 COUNCILLOR ZELLEN (Co-Motion with Councillor Gamache) – MOVE TO request that the Ad Hoc Committee on Crystal Lake schedule a meeting with the next two weeks to meet with the Director of Community Development or her staff representative to receive a progress report on the State grant monies received relative to the Crystal Lake project. (Unanimous)

P316-07 COUNCILLOR ZELLEN – MOVE, under suspension of the rules, to receive item 8-H; communication from the Public Services Department, relative to their investigation of an active water source near the Bow Street property (formerly of PMLP) and be referred to the Legal Affairs Committee. (Unanimous)

P317-07 COUNCILLOR ZELLEN - MOVE, under suspension of the rules, to receive item 8-M; communication from the Human Services Department, relative to their investigation on the effects of wildlife if there were to be construction on the Bow Street property (formerly of PMLP) and be referred to the Legal Affairs Committee. (Unanimous)

P318-07 COUNCILLOR ZELLEN – MOVE, under suspension of the rules, to receive the late communication from Attorney John R. Keilty filing a complaint on behalf of Buonfiglio Funeral Services vs the City Council as it pertains to their Special Permit application and to request that the Council president schedule an executive session meeting to receive a legal opinion from the City Solicitor on said matter. (Unanimous)

P319-07 COUNCILLOR MELLO – MOVE TO respectfully request that the Department of Human Services investigate the recent clean up project at the rear of 19 Andover Street; and to request to a remediation of the site in that there appears to pools of water that is collecting on that site that could potentially attract mosquitoes in the summer months. (Unanimous)

P320-07 COUNCILLOR MELLO – MOVE TO respectfully request the Chief of Police to monitor Harris Street from speeding vehicles. (Unanimous)

COUNCILLOR FREDERICK MURTAGH ANNOUNCED THAT HE WOULD NOT BE SEEKING RE-ELECTION FOR HIS COUNCILLOR-AT-LARGE SEAT IN THE FALL OF 2007.

**COMMUNICATIONS FROM HIS HONOR THE MAYOR****COMMUNICATIONS FROM CITY OFFICERS AND OTHERS**

P321-07 COUNCILLOR MURTAGH - MOVE TO receive a communication from Marie Berube, 5 Country Club Road regarding a taxi complaint. (Unanimous)

P322-07 COUNCILLOR MURTAGH – MOVE TO receive the communication from the Mass Highway Department, District 4 relative to dividing Bartholomew Street. (Unanimous)

P323-07 COUNCILLOR MURTAGH – MOVE TO receive the communication from the Public Services Department relative to an odor complaint at the high school. (Unanimous)

P324-07 COUNCILLOR MURTAGH – MOVE TO receive the communication from the Public Services Department relative to various Council motions. (Unanimous)

P325-07 COUNCILLOR MURTAGH – MOVE TO receive the communication from the Public Services Department relative to proximity of Maritimes Gas Pipeline near Willowdale Avenue and be referred to the Legal Affairs Committee. (Unanimous)

P326-07 COUNCILLOR MURTAGH – MOVE TO receive the site plan application from Ira Motor Group, 252 Andover Street. (Unanimous)

P327-07 COUNCILLOR MURTAGH – MOVE TO receive the 2006 Annual Report from the Police Department. (Unanimous)

P328-07 COUNCILLOR MURTAGH – MOVE TO receive the Special Permit application from Lahey Clinic Foundation, Inc., 1 Essex Center Drive and request a public hearing be scheduled on the same. (Unanimous)

**PRESENTATION OF PETITIONS, MEMORIALS AND REMONSTRANCES**

P329-07 COUNCILLOR GAMACHE - MOVE TO receive and approve the following Entertainment License renewal applications for 2007 subject to all papers being in order:

AOH Division 11, 58 Lowell Street	Bennigans, 71 Newbury Street:
Bertucci's Restaurant, 210 Andover Street	Bertucci's Restaurant, 15 Newbury Street
Brodie's Pub, 10 1/2 Lowell Street	Bugaboo Creak Steakhouse, 210 Andover Street
Cabaret Lounge, 96 Newbury Street	Capone's, Inc., 147 Summit Street
Century House, 235 Andover Street	Club Luis de Camoes, 10 Collins Street
Collins Colonial Cafe, 168 Main Street	Courthouse Pub, 43 Central Street
D & R Road Pub, Inc., 55 Pulaski Street	Elk's Lodge 1409, 40 Oak Street
Fire Bull Restaurant, 5 Central Street	Gallo Nero, 89 Main Street
Greg's Lounge, 50 Walnut Street	Holiday Inn, 1 Newbury Street
Italian American Citizens Club, 7 Blaney Avenue	Jade's, 4 Bourbon Street
Joe's American Bar & Grill, 210 Andover Street	Knights of Columbus, 96 Main Street
Legal Sea Foods, 210 Andover Street	Misono Japanese Restaurant, 82 Newbury Street
Outback Steakhouse, 300 Andover Street	Paddy Kelly, 154 Washington Street
Portuguese Benefit Society, 61 Northend Street	Portuguese American War Vets Post #1, 103 Tremont Street
Spinelli's Function Facility, 10 Newbury Street	Sylvan Street Grille, 12 Sylvan Street
Toscana's Ristorante, 3 Bourbon Street	The Peabody Coffee House, 59 Walnut Street
VFW Post 1011, 20 Stevens Street	Wardhurst Club, Inc., 31 Lynnfield Street
Willowtree Restaurant, 135 Washington Street (Unanimous)	

P330-07 COUNCILLOR GAMACHE – MOVE TO receive and approve the Innholder License renewal application for 2007 from the Holiday Inn, 1 Newbury Street subject to all papers being in order. (Unanimous)

P331-07 COUNCILLOR GAMACHE – MOVE TO receive and approve the Lodging House License renewal application for 2007 from John Skouras Realty Trust, 59 Walnut Street subject to all papers being in order. (Unanimous)

P332-07 COUNCILLOR GAMACHE – MOVE TO receive and approve the Taxi Cab License Transfer from Community Taxi, 27R Caller Street - License #16. (Unanimous)

P333-07 COUNCILLOR GAMACHE – MOVE TO receive the Entertainment License application from Pellana, 9 Rear Sylvan Street and schedule a public hearing on the same. (Unanimous)

P334-07 COUNCILLOR GAMACHE – MOVE TO receive the Class 2 Motor Vehicle License Amendment application from Walnut Street Auto Sales, 55-57 Walnut Street and schedule a public hearing on the same. (Unanimous)

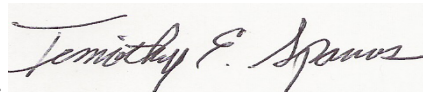
P335-07 COUNCILLOR GAMACHE – MOVE, under suspension of the rules, to receive the Entertainment License application from Turnpike at Winona, LLC, 128 Newbury Street and a public hearing be scheduled on the same. (Unanimous)

**UNFINISHED BUSINESS FROM THE PRECEDING MATTER**

MOVED: MOVE TO adjourn. Regular meeting of the Peabody City Council adjourned at 9:15 p.m.

SUBMITTED TO HIS HONOR THE MAYOR, MARCH 26, 2007  
RETURNED BY HIS HONOR THE MAYOR, MARCH 26, 2007

ATTEST



(Timothy E. Spanos, City Clerk)