

REGULAR MEETING OF THE PEABODY CITY COUNCIL
JUNE 12, 2008

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

ABSENT: COUNCILLOR GAMACHE

Meeting of the Peabody City Council opened with a moment of silent prayer after being called to order by City Council President, Arthur W. Athas.

Salute to the American Flag.

P481-08 COUNCILLOR GRAVEL – MOVE TO receive and approve the minutes from the last regular meeting of May 22, 2008. (Unanimous)

P482-08 COUNCILLOR BETTENCOURT - MOVE TO receive, under suspension of the rules, Item 8-F communication from Veteran's Services Department regarding Naming of city intersection in honor of Lance Corporal Louis Girolimon. (Unanimous)

(MR. CHRISTOPHER J. TIGHE, VETERANS AGENT, ADDRESSED THE CITY COUNCIL REGARDING ITEM 8-F)

P483-08 COUNCILLOR BETTENCOURT - MOVE TO approve the naming of city intersection in honor of Lance Corporal Louis Girolimon. (Carried 10-0; Councillor Gamache absent)

HEARINGS

A public hearing was duly held on the application from Justinjanice LLC, 243-247 Newbury Street, Peabody, MA. Appearing to speak on behalf of said application was Mr. Glen Janice. Mr. Al Maynard, Beverly, MA; Mr. Dick Moody; Ms. Debbie Lastih, 12 Bourbon Street, Peabody, MA and Mr. Richard Zimlack, 245 Newbury Street, Peabody, MA appeared to speak in favor. Mr. Gerald Silver, 11 Ledgewood Way, Peabody, MA; Mr. Charles DiMare, 15 Bourbon Street, Peabody, MA; Mr. James Cantrell, 12 Ledgewood Way, Peabody, MA; Mr. Gerald Godin, 15 Bourbon Street, Peabody, MA; and Mr. Steven Pierce, 6 Ledgewood, Peabody, MA appeared to speak in opposition.

P484-08 COUNCILLOR DRISCOLL - MOVE TO receive Petition regarding 243-245 Newbury Street, Peabody, MA. (Unanimous)

P485-08 COUNCILLOR DRISCOLL - MOVE TO approve the transfer of a Class 2 Motor Vehicle License to 3 Bourbon Street, Peabody, MA, subject to the following conditions:

CONDITIONS:

1. That the transfer is subject to a six-month review; and
 2. A maximum of three (3) cars.
- (Carried 9-1; Councillor Liacos opposed; Councillor Gamache absent)

(UPDATE FROM CITY DEPARTMENTS REGARDING THE FIRE AT THE HIGHLANDS @ DEARBORN)

P486-08 COUNCILLOR MELLO - MOVE TO request a legal opinion from the City Solicitor regarding the options the City has with reference to MGL Chapter 143, Section 98, specifically what the City Council can do to prevent another fire occurring similarly to the Highlands @ Dearborn.. (Unanimous)

P487-08 COUNCILLOR LIACOS - MOVE TO request from the Building Inspector a copy of their report regarding the inspections that have taken place at the Highlands @ Dearborn. (Unanimous)

P488-08 COUNCILLOR LIACOS - MOVE TO request that the Director of Public Services Department appear before the City Council regarding the proposed water tower at The Highlands @ Dearborn. (Unanimous)

P489-08 COUNCILLOR MELLO - MOVE TO approve a 9-month building moratorium on developments with eight residential units or more within the same structure. (Failed 5-5; Councillors Bettencourt, Sinewitz, Mello, Liacos and Athas in favor; Councillor Gamache absent)

P490-08 COUNCILLOR SINEWITZ - MOVE TO request that the Fire Department submit to the City Council a report on ways to better protect those types of buildings like the Highlands @ Dearborn or 84 Aborn Street where height can be a factor, to see if we may need a ladder truck that's going to go up six stories behind Furtado's because we can't reach it. (Unanimous)

A public hearing was duly held on the application for a transfer of a Class 3 Motor Vehicle License from Silvio B. Souza to Jobson Costa d/b/a C & M Auto Body, Inc., 9-B Rear Caller Street, Peabody, MA. Appearing to speak on behalf of said application was Mr. Jobson Costa, 365 Lynnfield Street, Lynn, MA. No one appeared to speak in favor. No one appeared to speak in opposition.

P491-08 COUNCILLOR ATHAS - MOVE TO approve the transfer of a Class 3 Motor Vehicle License from Silvio B. Souza to Jobson Costa d/b/a C & M Auto Body, Inc., 9-B Rear Caller Street, Peabody, MA, subject to all papers being in order. (Carried 10-0; Councillor Gamache absent)

A public hearing was duly held on the Special Permit application from Douglas DePiero, 76 Farragutt Road, Swampscott, MA. Appearing to speak on behalf of said application was Mr. Douglas DePiero. No one appeared to speak in favor. No one appeared to speak in opposition.

P492-08 COUNCILLOR ATHAS - MOVE TO receive, under suspension of the rules, Item 8-B communication from Community Development Department regarding Special Permit memo, 27 Lowell Street. (Unanimous)

P493-08 COUNCILLOR ATHAS - BE IT ORDERED by the City Council of the City of Peabody that the application from Douglas DiPiero, 76 Farragutt Road, Swampscott, MA for a Special Permit to operate a veterinary hospital at 29 Lowell 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 conditions:

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.

CONDITIONS:

1. That there be overnight stays for the recovery of sick animals only; and
2. That the Health Department conduct a follow-up inspection with the applicant, prior to the issuance of an Occupancy Permit, to insure all papers are in order regarding the disposal of animal and medical waste.
(Carried 8-2; Councillors Gravel and Driscoll opposed; Councillor Gamache absent)

P494-08 COUNCILLOR GARABEDIAN - MOVE TO continue the public hearing on the application from Bismarck Real Estate Partners, 14110 Dallas Parkway, Dallas, TX. (Unanimous)

P495-08 COUNCILLOR OSBORNE - MOVE TO continue the public hearing on Zoning Map Amendment - N.S. Realty Trust, 32-36 Walnut Street regarding map change 85, Parcel 26 from I-L to B-C. (Unanimous)

REPORTS OF COMMITTEE

**Ad Hoc Committee on Crystal Lake
June 12, 2008**

P496-08 COUNCILLOR GARABEDIAN - Reporting for the Ad Hoc Committee on Crystal Lake - We met tonight and it was intended to be a half an hour meeting and ended up being an hour and a half meeting. We continued it to June 26. And one motion came out of that and that's a request that a letter be sent to state rep. Joyce Spiliotis asking the status of the second \$400,000 that we are going to receive and if it needs to be encumbered by a certain date. (Report received)

P497-08 COUNCILLOR GARABEDIAN - MOVE TO send a letter to State Rep. Joyce Spiliotis requesting the status the \$400,000 grant. (Unanimous)

Legal Affairs Committee
June 4, 2008

P498-08 COUNCILLOR LIACOS - Reporting for the Legal Affairs Committee - The Legal Affairs met on June 4, 2008. Present were myself, Councillor Osborne, Councillor Driscoll and Councillor Gravel. The committee met at 6:30 to discuss the upcoming Boulderwood subdivision project off of Bartholomew Street. Councillor Osborne addressed several questions he had to city departments regarding Boulderwood's final approval. Several neighbors were in attendance and their main concern at this point is the city's ability to enforce the conditions placed on the subdivision approval, such as hours of operation, noise, dust control and the affects on Bartholomew Street. There were no motions and no action was taken by the committee. (Report received)

Industrial & Community Development Committee
June 12, 2008

P499-08 COUNCILLOR MELLO - Reporting for the Industrial & Community Development Committee - The Committee met this evening at approximately quarter of seven. In attendance were myself, Councillor Bettencourt, Councillor Garabedian, Councillor Liacos and Councillor Sinewitz, as part of the subcommittee. Also Councillor Manning, Councillor Gravel, Councillor Osborne and Councillor Driscoll were in attendance and Councillor Athas as well. We met first to discuss a FALA review at Cahill, 15 Rose Circle and the subcommittee moved to approve that FALA and I would like to set up a public hearing. (Report received)

P500-08 COUNCILLOR MELLO - MOVE TO recommend that the City Council approve the FALA Special Permit application from Cahill, 15 Rose Circle, and that a public hearing be scheduled on the same. (Unanimous)

P501-08 COUNCILLOR MELLO - Reporting for the Industrial & Community Development Committee - The second order of business was the zoning change request to increase lot sizes from 10,000 to 15,000 square feet. There was a lot of debate and the discussion over this change in zoning and due to that, we came up with a motion and the motion was made by Councillor Liacos. (Report received)

P502-08 COUNCILLOR MELLO - MOVE TO send to the Planning Board the issue of changing the lot size from 10,000 square feet to 15,000 square feet to take affect on the south side of Felton Street all the way down to the west side of Prospect Street where it adjoins to Lowell Street on the east side of Lowell Street to Baldwin Street all the way on both sides. (Unanimous)

P503-08 COUNCILLOR MELLO - MOVE TO approve using IZ buyout funds for the Park Street project and to set up a selection committee made up of two councillors, representatives from the neighborhood, a representative from the Historic Commission as well as Community Development. (Unanimous)

P504-08 COUNCILLOR MELLO - MOVE TO hold the issue of 45 Walnut Street in Committee. (Unanimous)

P505-08 COUNCILLOR MELLO - Reporting for the Industrial & Community Development Committee - Also there was a motion by Councillor Bettencourt regarding 70 Endicott RFP proposals. The motion was to hold the issue in committee and also to send a letter to McNiff Builders to our next meeting. It seems that one of the applicants that proposed the healthcare center has withdrawn their application. (Report received)

P506-08 COUNCILLOR MELLO - MOVE TO send a communication to McNiff Builders requesting that a representative attend the next Industrial & Community Development Committee regarding their proposal for 70 Endicott Street. (Unanimous)

Committee of the Whole
June 12, 2008

P507-08 COUNCILLOR ATHAS - Reporting for the Committee of the Whole - We had a Committee of the Whole meeting in executive session prior to the full council meeting. And out of that meeting there was a motion made. (Report received)

P508-08 COUNCILLOR ATHAS – Reporting for the Committee of the Whole – BE IT ORDERED by the City Council of the City of Peabody to authorize the City Solicitor to enter into a settlement agreement between the plaintiffs in the MTBE litigation vs LyondellBasell Industries and Equistar Chemicals LP. (Carried 10-0; Councillor Gamache absent)

MOTIONS, ORDERS & RESOLUTIONS

P509-08 COUNCILLOR DRISCOLL - MOVE TO request that the proper ordinance be drafted for a four-way stop sign at Mount Pleasant and Longview, Felton Street. (Unanimous)

P510-08 COUNCILLOR BETTENCOURT - MOVE TO receive, under suspension of the rules, Item 7-A communication regarding Various appropriations, as submitted by His Honor the Mayor, and to refer to the Finance Committee. (Unanimous)

P511-08 COUNCILLOR BETTENCOURT - MOVE TO receive and approve, under suspension of the rules, the following Block Party requests, subject to all papers being in order:

Evans Road - July 4th Lake Shore Park - July 3rd (Unanimous)

P512-08 COUNCILLOR SINEWITZ - MOVE TO receive, under suspension of the rules, Item 8-I communication from Sharon Kokoras, 716 Lowell Street, regarding Request to purchase city land and to refer to the Legal Affairs Committee. (Unanimous)

P513-08 COUNCILLOR SINEWITZ - MOVE TO receive, under suspension of the rules, Item 8-J communication from Nicholas Vlismas, 20 Farnham Avenue, regarding Request to purchase city land and to refer to the Legal Affairs Committee. (Unanimous)

P514-08 COUNCILLOR MELLO - MOVE TO receive, under suspension of the rules, late communication Item 4 from Borders Books & Music, 151 Andover Street, regarding Special Permit application and to set up a public hearing. (Unanimous)

P515-08 COUNCILLOR MELLO - MOVE TO request that the Park Commission place portable toilets at Connolly Park for the summer recreation season. (Unanimous)

P516-08 COUNCILLOR OSBORNE - MOVE TO receive and approve, under suspension of the rules, Item 7-B communication from His Honor the Mayor regarding Appointment - Richard St. Pierre to an Alternate Position to the Community Preservation Committee for a two-year term to expire 04/01/2010. (Unanimous)

P517-08 COUNCILLOR OSBORNE - MOVE TO receive, under suspension of the rules, Item 8-A communication from Kathleen & Shawn Cahill, 15 Rose Circle, regarding Special Permit application and to set up a public hearing. (Unanimous)

P518-08 COUNCILLOR OSBORNE - MOVE TO receive and approve, under suspension of the rules, Item 8-C communication from International Festival regarding Banner request, subject to all papers being in order. (Unanimous)

P519-08 COUNCILLOR OSBORNE - MOVE TO receive and approve, under suspension of the rules, Item 8-D communication from St. Vasilios Church regarding Banner request, subject to all papers being in order. (Unanimous)

P520-08 COUNCILLOR OSBORNE - MOVE TO receive and approve, under suspension of the rules, Item 8-E communication from Stage One Drama Club regarding Banner request, subject to all papers being in order. (Unanimous)

P521-08 COUNCILLOR ATHAS - MOVE TO draft an ordinance change and advertise for a 30- minute parking limit at 49A Lowell Street to Tasty Food's restaurant location. (Unanimous)

P522-08 COUNCILLOR ATHAS - MOVE TO send a communication congratulating Mr. William Power for his recent recognition as Preservationist of the Year by the Massachusetts Historical Commission. (Unanimous)

COMMUNICATIONS FROM HIS HONOR THE MAYOR

COMMUNICATIONS FROM CITY OFFICERS AND OTHERS

P523-08 COUNCILLOR MELLO - MOVE TO receive late communication 1 Petition - Residents in vicinity of 32-36 Walnut Street regarding Opposed to zoning request. (Unanimous)

PRESENTATION OF PETITIONS, MEMORIALS AND REMONSTRANCES

P524-08 COUNCILLOR OSBORNE - MOVE TO receive and approve the following Junk Dealer Licenses (Renewal for 2008), subject to all papers being in order:

Newbury Comics, Inc., 240 Andover Street	Martoni & James, Ltd., 215 Newbury Street
Golden Link, 515 Lowell Street	(Unanimous)

P525-08 COUNCILLOR OSBORNE - MOVE TO receive Junk Dealer License application from Twice Is Nice Boutique, 47-49 Central Street and to set up a public hearing. (Unanimous)

P526-08 COUNCILLOR OSBORNE - MOVE TO receive Class 2 Motor Vehicle License transfer application from Lake Street, Citgo, Inc., 26 Lake Street and to set up a public hearing. (Unanimous)

P527-08 COUNCILLOR OSBORNE - MOVE TO receive and approve the following Block Party Requests, subject to all papers being in order:

4 Aberdeen Avenue - June 21 st	28 St. Ann's Ave. to 35 Griffin Road - July 4 th
All of Griffin Road - July 4 th	(Unanimous)

UNFINISHED BUSINESS FROM THE PRECEDING MATTER

P528-08 COUNCILLOR OSBORNE - MOVE TO receive Item 8-G communication from Conservation Commission regarding Review of Aggregate annual report and to refer to the Ad Hoc Committee on Aggregate Industries. (Unanimous)

P529-08 COUNCILLOR OSBORNE - MOVE TO receive Item 8-H communication from Community Development Department regarding Economic target area designation and to request Community Development Department provide to the City Council a clearer map. (Unanimous)

P530-08 COUNCILLOR GARABEDIAN - MOVE TO receive Item 8-K communication from Mass. Association of Conservation Commissions regarding Certificate of achievement, Lucia DelNegro. (Unanimous)

P531-08 COUNCILLOR OSBORNE - MOVE TO receive Item 8-L communication from Planning Board regarding Zoning recommendation - 32-36 Walnut Street. (Unanimous)

P532-08 COUNCILLOR OSBORNE - MOVE TO receive Item 8-M communication from Community Development Department regarding Zoning recommendation 32-36 Walnut Street. (Unanimous)

P533-08 COUNCILLOR OSBORNE - MOVE TO receive late communication Item 2 from His Honor the Mayor regarding Proposed ordinance amendment; surplus goods. (Unanimous)

P534-08 COUNCILLOR OSBORNE - MOVE TO receive late communication Item 3 from James & Susan Small for 6 Naumkeag Road regarding Special Permit application and to set up a public hearing. (Unanimous)

P535-08 COUNCILLOR OSBORNE – BE IT ORDERED by the City Council of the City of Peabody an ordinance amending the code of the City of Peabody entitled “Chapter 7 Buildings and Building Regulations” of the Code of the City of Peabody by increasing the fees in Section 7-58 entitled Fees for Permits and Inspections be adopted as advertised and read. (Carried 10-0, 1 absent)

MOVED: MOVE TO adjourn. Regular meeting of the Peabody City Council adjourned at 10:40 p.m.

SUBMITTED TO HIS HONOR THE MAYOR, JUNE 19, 2008
RETURNED BY HIS HONOR THE MAYOR, JUNE 19, 2008

ATTEST  (Timothy E. Spanos, City Clerk)