

REGULAR MEETING OF THE PEABODY CITY COUNCIL
SEPTEMBER 22, 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.

P704-11 COUNCILLOR GAMACHE - MOVE TO receive and approve the minutes from the last regular meeting of September 8, 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.

HEARINGS

P705-11 COUNCILLOR MELLO – MOVE TO receive and approve, under suspension of the rules, late communication Item 1 from Attorney John Keilty on behalf of Minar Corporation, 10 Margin Street, regarding Request to withdraw Special Permit without prejudice. (Unanimous)

P706-11 COUNCILLOR GAMACHE– MOVE TO receive and approve, under suspension of the rules, late communication Item 2 from Attorney John Keilty on behalf of Lowell Street CVS, LLC, 530-532 Lowell Street, regarding Request to continue public hearing to October 13th. (Unanimous)

P707-11 COUNCILLOR GAMACHE – MOVE TO continue the public hearing on the application from Clear Channel Outdoor, 71 Newbury Street, regarding Construct 2-sides billboard (digital sign) until Thursday, October 27, 2011. (Unanimous)

P708-11 COUNCILLOR GAMACHE – MOVE TO continue the public hearing on the application from Clear Channel Outdoor, 203 Newbury Street, regarding Convert existing billboard to a digital sign until Thursday, October 27, 2011. (Unanimous)

A public hearing was duly held on the application from PK Motor Cars, 195 Washington Street, Peabody, MA. Appearing to speak on behalf of said application was Ms. Christiane Fischer. No one appeared to speak in favor. No one appeared to speak in opposition.

P709-11 COUNCILLOR ATHAS – MOVE TO approve the application for an amendment to a Class 2 Motor Vehicle License by adding the name of Christiane Fischer to PK Motor Cars, 195 Washington Street, Peabody, MA, subject to all papers being in order. (Carried 10-0; Councillor Liacos absent)

A public hearing was duly held on the application from Brodie's Pub, 10 1/2 Lowell Street, Peabody, MA. Appearing to speak on behalf of said application was Attorney John Keilty. No one appeared to speak in favor. No one appeared to speak in opposition.

P710-11 COUNCILLOR ATHAS – MOVE TO approve the application for the transfer of an Entertainment License from Brodie's Pub, 10 1/2 Lowell Street, Peabody, MA, subject to all papers being in order. (Carried 11-0)

A public hearing was duly held on the application from John K. Psiakis, 100 Colonial Drive, Ipswich, MA. Appearing to speak on behalf of said application was Attorney John Keilty. No one appeared to speak in favor. No one appeared to speak in opposition.

P712-11 COUNCILLOR GAMACHE – MOVE TO approve the application for the transfer of a Class 2 Motor Vehicle License for Kross Leasing d/b/a Wheels 4U, 153 Newbury Street, Peabody, MA, subject to all papers being in order. (Carried 11-0)

A Show Cause hearing was duly held as it relates to the Special Permit issued to Denise M. O'Brien, 134-R Newbury Street, Peabody, MA. Appearing to speak on behalf of Boston Canine and Denise M. O'Brien was Attorney Marc Salinas and Ms. Denise M. O'Brien. John Christopher, City Solicitor, and Mr. Bill Pasquale, Board of Health, appeared to speak on behalf of the City. Ms. Denise O'Brien and Mr. John O'Brien, 21 Hampshire Road, Methuen, MA appeared to speak in favor. Mr. Jack Shea of Budget Pools; Ms. Nancy Kaminski, 10 Anderson Street, Peabody, MA; Ms. Jean Carson, 3 Hazel Street, Peabody, MA; Ms. Maria Pintone, 5 Hazel Street, Peabody, MA; Mr. Kevin Weaver, 12 Anderson Street, Peabody, MA; Mr. Edward Bomasi, 25 Bickford Avenue, Revere, MA; and Mr. Robert Wilkins, 3 Seal Harbor Road, Winthrop, MA appeared to speak in opposition.

P713-11 COUNCILLOR GAMACHE – MOVE TO receive, under suspension of the rules, Peabody police department reports dated 08/10/09 and 07/18/10. (Unanimous)

P714-11 COUNCILLOR GAMACHE – MOVE TO receive, under suspension of the rules, photographs submitted by Attorney Salinas. (Unanimous)

P715-11 COUNCILLO GAMACHE – MOVE TO issue a warning to Denise M. O'Brien, 134-R Newbury Street, concerning violations of the health code and hours of operation with the understanding that Ms. O'Brien will remedy those issues and provide the neighbors and myself with her cell phone number so that we can be contacted immediately regarding any future issues. (Carried 11-0)

A public hearing was duly held on the application from Anthony J. Leo and Robert G. Leo, 63 Foster Street, Peabody, MA. Appearing to speak on behalf of said application was Attorney Athan Vontzalides. Mr. Kevin Goggin, 30 Sutton Street, Peabody, MA appeared to speak in favor. No one appeared to speak in opposition.

P716-11 COUNCILLOR ATHAS – MOVE TO receive, under suspension of the rules, Item 8-D communication from Chief Robert Champagne, Police Department, regarding 63 Foster Street and 10 Margin Street. (Unanimous)

P717-11 COUNCILLOR ATHAS – MOVE TO receive, under suspension of the rules, Item 8-Q communication from Community Development Department regarding Special Permit memo, 63 Foster Street. (Unanimous)

P718-11 COUNCILLOR ATHAS - BE IT ORDERED by the City Council of the City of Peabody that the application from Anthony J. Leo and Robert G. Leo, 63 Foster Street, Peabody, MA for a Special Permit to allow for the sale and service of alcoholic beverages, beer and wine, at said 63 Foster Street, Peabody, MA, as filed in accordance with Section 4.2.5 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 the hours of operation shall be Sunday through Thursday 8:00 a.m. to 11:00 p.m. and Friday and Saturday 8:00 a.m. to 12:00 a.m.; and
- 2) That food be available for purchase at all times while serving alcohol.
(Carried 10-0; Councillor Sinewitz absent)

(BUILDING INSPECTOR KEVIN GOGGIN AND ZONING BOARD OF APPEALS CHAIRMAN JASON PANOS APPEARED BEFORE THE CITY COUNCIL TO DISCUSS THE PULASKI STREET ISSUE REGARDING TRUCKS AND BUSES)

P719-11 COUNCILLOR GRAVEL – MOVE TO refer the issue of “trucks” in the I-L zoning district to the Industrial & Community Development Committee. (Unanimous)

P720-11 COUNCILLOR MELLO - MOVE TO request a legal opinion from the City Solicitor whether or not the current bus contract with the City is in violation based on the Cease & Desist Order issued to the bus company at 60 Pulaski Street. (Unanimous)

P721-11 COUNCILLOR MELLO - MOVE TO request a legal opinion from the City Solicitor regarding the Wayside Special Permit for storage containers if there is a violation of the Special permit conditions regarding other business activities on premises at 58-R Pulaski Street, and request a show cause hearing on the same. (Unanimous)

P722-11 COUNCILLOR MELLO - MOVE TO invite the owner of Wayside Trailers and the Pulaski Street neighborhood to a meeting of the Industrial & Community Development Committee to discuss neighborhood issues regarding various business activities being conducted on site at 58-R Pulaski Street. (Unanimous)

P723-11 COUNCILLOR MELLO - MOVE TO request that the Police Department, Building Commissioner, Conservation Commission, and Health Department submit any reports and or violation notices with regards to business activities being conducted on the premises of Wayside Trailers, 58-R Pulaski Street, and request they attend a show cause hearing on the same. Further request from the Conservation Commission any findings or complaints regarding the surrounding wetland conservancy area. (Unanimous)

P724-11 COUNCILLOR MELLO - MOVE TO request that the City Collector inform the City Council if the excise taxes have been paid for buses located at 60 Pulaski Street. (Unanimous)

P725-11 COUNCILLOR GAMACHE – MOVE TO receive, under suspension of the rules, a communication from the Zoning Board of Appeals decision regarding 60 Pulaski Street. (Unanimous)

P726-11 COUNCILLOR GAMACHE – MOVE TO receive and approve, under suspension of the rules, late communication Item 3 from Kevin Goggin, Building Commissioner, regarding Special Permit transfer 7-2003 to the Cut Salon & Barbershop, 5 Andover Street, subject to all papers being in order. (Unanimous)

REPORTS OF COMMITTEE

COMMITTEE OF THE WHOLE SEPTEMBER 22, 2011

P727-11 COUNCILLOR MANNING-MARTIN - Reporting for the Committee of the Whole – The Committee of the Whole met earlier this evening. All Councillors were present. Also speaking at Committee of the Whole meeting regarding the Main Street Realignment Project was Mike Zellen, the chair of the downtown committee; Captain DeRosa of the Peabody police department; Eric Atkins from Green International, consulting firm; Julie Rimenschneider, also of that firm; Nathan Jones and Ms. Karen Sawyer from Community Development. Mr. Atkins of Green International reviewed existing conditions with simulated traffic design; he reviewed inefficient traffic signal design and timing; he projected 10 years out with their traffic volumes used. The proposal that came forward had more efficient lane use, dedicated through-lanes and dedicated turn lanes while safely directing traffic. It offered more efficient use of signals. It offered bump-outs for pedestrian safety and traffic control, in order to slow traffic down. The landscaping, to sum it up, was a beautification project intended to aesthetically improve the area making it attractive, functional and easily maintained. Nathan Jones of the Community Development Department went over parking. He reviewed the parking and suggestions for improved use of parking by maximizing the use of parking that we currently have. It was stressed that additional coordination is needed with the flood mitigation project. The grant, if approved, we'll hear about hopefully in October. And with that they expect construction to start in mid-April and to be completed in November of next year. One successful motion came out of committee made by Councillor Liacos and it passed nine to two. (Report received)

P728-11 COUNCILLOR MANNING-MARTIN - MOVE THAT the City Council of the City of Peabody approve the Main Street Realignment Project. (Carried 8-1; Councillor Athas opposed; Councillors Garabedian and Sinewitz absent)

MOTIONS, ORDERS & RESOLUTIONS

P729-11 COUNCILLOR GRAVEL – MOVE TO send a thank-you communication to Sara Grinell and Sandy Drover for the work that they have done with the Healthy Peabody Collaborative. There was a presentation made yesterday at the ARC and His Honor the Mayor attended, as well as Mr. Hochman from the School Committee and it was to demonstrate some of the artwork that was done by the students to show that they were above the influence of drugs and bullying, etc. It was really quite a nice presentation and I think they deserve to be commended because they did a great job. (Unanimous)

P730-11 COUNCILLOR BETTENCOURT - MOVE TO request that the Public Services Department erect a "no right turn one-way street" sign at the intersection of Symphony Road and Birch Street. Cars have been taking the wrong turn on Birch Street and going the wrong way and the sign should rectify that issue. (Unanimous)

P731-11 COUNCILLOR BETTENCOURT - MOVE TO request that the Parks and Recreation Department remove a tree at 20 Lisburn Road. It is leaning over and causing some damage to the home. (Unanimous)

P732-11 COUNCILLOR BETTENCOURT – MOVE TO receive, under suspension of the rules, Item 7-B communication from His Honor the Mayor regarding City's long-term credit rating by Moody's Investors Service, Inc. (Unanimous)

P733-11 COUNCILLOR OSBORNE – MOVE TO receive and approve, under suspension of the rules, Item 8-J communication from St. Ann's Parish, 136 Lynn Street, regarding Banner, subject to all papers being in order. (Unanimous)

P734-11 COUNCILLOR OSBORNE – MOVE TO request that the Board of Health inspect the area in the vicinity of 134 Rear Newbury Street to address the concerns of the residents, as far as the condition of the area behind the dog pen where the dogs are kept just to get a base line and ensure that no further cleanup is necessary in that area. (Unanimous)

P735-11 COUNCILLOR GAMACHE – MOVE TO receive, under suspension of the rules, late communication Item 4 from Leona & Mario Clarimundo, 96 Tremont Street, regarding Special Permit application and to set up a public hearing. (Unanimous)

P736-11 COUNCILLOR GAMACHE – MOVE TO receive, under suspension of the rules, late communication Item 5 from His Honor the Mayor regarding Appropriation revaluation project and to refer to the Finance Committee. (Unanimous)

P737-11 COUNCILLOR MELLO - MOVE TO request a handicapped sign for 15 Fulton Street, and that an ordinance be drafted and advertised on the same. (Unanimous)

P738-11 COUNCILLOR DRISCOLL - MOVE TO request that the Peabody Municipal Light Plant install lighting in the area of a pedestrian ramp that leads from the high school athletic fields to the skating rink. The area in question is very dark, has no lighting and creates a safety problem, especially for the elderly who attend sporting events at the high school. (Unanimous)

P739-11 COUNCILLOR DRISCOLL - MOVE TO request that the Public Services Department erect two signs on Jill's Way: One being "Children at play," and the other a "Dead end" sign. (Unanimous)

P740-11 COUNCILLOR ATHAS – MOVE TO receive, under suspension of the rules, Item 8-B communication from Councillor Arthur Athas, Ward 2, regarding Main Street Re-alignment project. (Unanimous)

P741-11 COUNCILLOR ATHAS – MOVE TO receive, under suspension of the rules, Item 8-E communication from John A. Christopher, City Solicitor, regarding Wendy's vs. Billerica Board of Appeals. (Unanimous)

P742-11 COUNCILLOR ATHAS – MOVE TO receive, under suspension of the rules, Item 8-G communication from Community Development Department, regarding Purchase city-owned land – Farnham Avenue and to refer to the Legal Affairs Committee. (Unanimous)

P743-11 COUNCILLOR ATHAS – MOVE TO receive, under suspension of the rules, Item 8-K communication from Washington 4, LLC, 9 Washington Street, regarding Special Permit application and to set up a public hearing. (Unanimous)

P744-11 COUNCILLOR ATHAS - MOVE TO request that the Public Services Department repair the pot hole at 12 State Street. (Unanimous)

P745-11 COUNCILLOR ATHAS – MOVE TO refer the issue of the resident who is requesting a net be erected near his house at The Meadows Golf Course to be placed into the Ad Hoc Committee on Municipal Golf Course. (Unanimous)

COMMUNICATIONS FROM HIS HONOR THE MAYOR

P746-11 COUNCILLOR GAMACHE – MOVE TO receive a communication from His Honor the Mayor regarding Health care reform information. (Unanimous)

COMMUNICATIONS FROM CITY OFFICERS AND OTHERS

P747-11 COUNCILLOR GAMACHE – MOVE TO receive a communication from Janis Survilas, Water Department, regarding Boston Canine, 134R Newbury Street. (Unanimous)

P748-11 COUNCILLOR GAMACHE – MOVE TO receive a communication from Chief Robert Champagne, Police Department, regarding Special Permit memo, 71 and 203 Newbury Street and to refer to the public hearings. (Unanimous)

P749-11 COUNCILLOR GAMACHE – MOVE TO receive a communication from Chief Robert Champagne, Police Department, regarding Proposed ordinance change to Section 4-1 “Drinking of Alcoholic Beverages”, and be referred to the Legal Affairs Committee. (Unanimous)

P750-11 COUNCILLOR GAMACHE – MOVE TO receive and approve a communication from Kevin Goggin, Building Commissioner, regarding Special Permit transfer 4-1981 to Peter Kaufman, subject to all papers being in order. (Unanimous)

P751-11 COUNCILLOR GAMACHE – MOVE TO receive and approve a communication from Kevin Goggin, Building Commissioner, regarding Special Permit transfer 4-1981 to Michael Murray, subject to all papers being in order. (Unanimous)

P752-11 COUNCILLOR GAMACHE – MOVE TO receive a communication from Constantine Skrivanos, 527 Lowell Street, regarding Special Permit application and to set up a public hearing. (Unanimous)

P753-11 COUNCILLOR GAMACHE – MOVE TO receive a communication from Planning Board regarding Agenda and minutes. (Unanimous)

P754-11 COUNCILLOR GAMACHE – MOVE TO receive a communication from Karen Sawyer, Director, Community Development Department, regarding List of grants received from 2006-2011. (Unanimous)

P755-11 COUNCILLOR GAMACHE – MOVE TO receive a communication from Community Development Department regarding Special Permit memo, 71 Newbury Street and to refer to the public hearing. (Unanimous)

P756-11 COUNCILLOR GAMACHE – MOVE TO receive a communication from Community Development Department regarding Special Permit memo, 203 Newbury Street and to refer to the public hearing. (Unanimous)

P757-11 COUNCILLOR GAMACHE – MOVE TO receive a communication from Community Development Department regarding Special Permit memo, 530-532 Lowell Street and to refer to the public hearing. (Unanimous)

PRESENTATION OF PETITIONS, MEMORIALS AND REMONSTRANCES

P758-11 COUNCILLOR GAMACHE – MOVE TO receive and approve Taxi/Limousine Driver License – Christopher Walton, 3 Horton Court, Salem, MA, subject to all papers being in order. (Unanimous)

P759-11 COUNCILLOR GAMACHE - MOVE TO receive Entertainment License – Joe American Bar & Grill, 210 Andover Street, and to set up a public hearing. (Unanimous)

UNFINISHED BUSINESS FROM THE PRECEDING MATTER

None.

MOVED: MOVE TO adjourn. Regular meeting of the Peabody City Council adjourned at 11:10 p.m.

SUBMITTED TO HIS HONOR THE MAYOR, SEPTEMBER 29, 2011

RETURNED BY HIS HONOR THE MAYOR, SEPTEMBER 29, 2011



ATTEST _____
(Timothy E. Spanos, City Clerk)

COMMUNICATIONS:

Janis Survilas, Water Department re: Boston Canine, 134R Newbury Street

Councillor Arthur Athas, Ward 2 re: Main Street re-alignment project

Chief Robert Champagne, Police Department re: Special permit memo, 71 and 203 Newbury Street

Chief Robert Champagne, Police Department re: 63 Foster Street and 10 Margin Street

John A. Christopher, City Solicitor re: Wendy's vs. Billerica Board of Appeals

Chief Robert Champagne, Police Department re: Proposed ordinance change to Section 4-1 "Drinking of Alcoholic Beverages"

Community Development Dept re: Purchase city owned land-Farnham Avenue

Kevin Goggin, Building Commissioner re: Special Permit transfer 4-1981 to Peter Kaufman

Kevin Goggin, Building Commissioner re: Special Permit transfer 4-1981 to Michael Murray

St. Ann's Parish, 136 Lynn Street re: Banner

Washington 4 LLC, 9 Washington Street re: Special permit application

Constantine Scivanos, 527 Lowell Street re: Special permit application

Planning Board re: Agenda and minutes

Karen Sawyer, Director, Community Development re: List of granted received from 2006-2011

Community Development Department re: Special Permit memo, 71 Newbury Street

Community Development Department re: Special Permit memo, 203 Newbury Street

Community Development Department re: Special Permit memo, 63 Foster Street

Community Development Department re: Special Permit memo, 530-532 Lowell Street

His Honor the Mayor re: Health care reform information

His Honor the Mayor re: City's long-term credit rating by Moody's Investors Service, Inc.

Attorney John Keilty on behalf of Minar Corporation, 10 Margin Street, re: Request to withdraw Special Permit without prejudice

Attorney John Keilty on behalf of Lowell Street CVS, LLC, 530-532 Lowell Street, re: Request to continue public hearing to October 13th

Kevin Goggin, Building Commissioner, re: Special Permit transfer 7-2003 to the Cut Salon & Barbershop, 5 Andover Street

Leona & Maria Clarimundo, 96 Tremont Street, re: Special Permit application

His Honor the Mayor re: Appropriation revaluation project

CLASS 2 MOTOR VEHICLE LICENSE (Amendment)

Christopher Walton, 3 Horton Court, Salem

ENTERTAINMENT LICENSE

Joe American Bar & Grill, 210 Andover Street re: Transfer