

**REGULAR MEETING OF THE PEABODY CITY COUNCIL**  
**MARCH 14, 2013**

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

ABSENT: COUNCILLOR GARABEDIAN

Meeting of the Peabody City Council opened with a moment of silent prayer after being called to order by City Council President, Thomas L. Gould.

Salute to the American Flag.

P171-13 COUNCILLOR GAMACHE - MOVE TO receive and approve the minutes from the last regular meeting of February 28, 2013. (Unanimous)

COUNCILLOR GOULD - 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**

A public hearing was duly held on the application from Rebecca J. Miller c/o Goldrush, LLC, 210 Andover Street, Kiosk 115, Peabody, MA. Appearing to speak on behalf of the application was Mr. Wilfredo Plaza. No one appeared to speak in favor. No one appeared to speak in opposition.

P172-13 COUNCILLOR DRISCOLL – MOVE TO approve the application from Rebecca J. Miller c/o Goldrush, LLC, 210 Andover Street, Kiosk 115, Peabody, MA, for the transfer of a Junk Dealers License, subject to all papers being in order. (Carried 10-0; Councillor Garabedian absent)

A public hearing was duly held on the application from Sunoco, 2 Phoebe Way, Worcester, MA. Appearing to speak on behalf of the application was Ms. Heather Dudko. No one appeared to speak in favor. No one appeared to speak in opposition.

P173-13 COUNCILLOR GAMACHE - BE IT ORDERED by the City Council of the City of Peabody that the application from Sunoco, 2 Phoebe Way, Worcester, MA, for a Special Permit to replace a preexisting, nonconforming 26 square foot manual pricing board with electronic pricing board at 144 Newbury Street, Peabody, MA, as filed in accordance with Sections 1.5, 11.5.2 and 15.7 of the Peabody Zoning Ordinance, be approved based on the following reasons and 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 sign will be a static sign only.  
(Carried 10-0; Councillor Garabedian)

A public hearing was duly held on the application from Sunoco, 2 Phoebe Way, Worcester, MA. Appearing to speak on behalf of the application was Ms. Heather Dudko. No one appeared to speak in favor. No one appeared to speak in opposition.

P174-13 COUNCILLOR ATHAS – MOVE TO receive, under suspension of the rules, Item 8-K communication from Chief Robert Champagne, Police Department, regarding Special Permit memo, 1 Lynn Street. (Unanimous)

P175-13 COUNCILLOR ATHAS - BE IT ORDERED by the City Council of the City of Peabody that the application from Sunoco, 2 Phoebe Way, Worcester, MA, for a Special Permit to replace a preexisting, nonconforming manual pricing board with a 39 square foot electronic pricing board, which exceeds allowed 25 square foot, at 1 Lynn Street, Peabody, MA, as filed in accordance with Sections 1.5, 11.5.2 and 15.7 of the Peabody Zoning Ordinance, be approved based on the following reasons and 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 sign will be a static sign only.  
(Carried 10-0; Councillor Garabedian)

### REPORTS OF COMMITTEE

#### **INDUSTRIAL & COMMUNITY DEVELOPMENT COMMITTEE** **MARCH 11, 2013**

P176-13 COUNCILLOR GAMACHE – Reporting for the Industrial & Community Development Committee – I want to let the council know that we finished up the zoning issues. I am not going to report them out of committee because I would like them typed and sent to the committee in the next package and then I'll report out, so everybody can see what we did the other night. I want to thank Councillor Gould and Councillor Athas. (Report received)

P177-13 COUNCILLOR GAMACHE – MOVE TO request that the Community Development Department provide to the City Council a table of the old versus the new changes to the zoning. (Unanimous)

#### **FINANCE COMMITTEE** **MARCH 14, 2013**

P178-13 COUNCILLOR GAMACHE – Reporting for the Finance Committee – Earlier this evening we met to discuss finance and in the Finance Committee meeting we approved the following transfer. (Report received)

P179-13 COUNCILLOR GAMACHE - MOVE TO approve the following transfer, as submitted by His Honor the Mayor, under date of February 21, 2013:

**FROM**

Cemetery Perpetual Care Fund- \$300,000.00  
(Carried 10-0; Councillor Garabedian absent)

**TO**

Cemetery - Capital Projects- \$300,000.00

#### **PUBLIC SERVICES COMMITTEE** **MARCH 14, 2013**

P180-13 COUNCILLOR OSBORNE – Reporting for the Public Services Committee - The Public Services Committee met tonight. Present were Councillor Athas, Councillor Driscoll, Councillor Gamache sat in for Councillor Garabedian, and Councillor Manning-Martin sat in for Councillor Mello. The first order of business was an update from the Director of Public Services regarding the possible installation of a sewer line on Farm Ave. Farm Ave. is the only street in the city that does not have access to city sewer. Mr. Langley and Will Paulitz from the department of Public Services were in attendance. They basically presented proposals for two types of sewers, one, an all gravity system with the estimated price of approximately \$280,000; and, two, a system that included a pumping option with a price tag of approximately \$180,000. Also present were a couple families from Farm Ave., including Mr. Bill Brault of 12 Farm Ave. who did take an opportunity to address the committee on his preference for a pump type system. Questions were asked of Mr. Langley as to what the betterment fee would be for the residents of Farm Ave. who would benefit from the access to the sewer line. Right now the sewer usage regulations say it would be about 60 percent cost for the city and approximately 40 percent cost for the citizens. The following motions were made. (Report received)

P181-13 COUNCILLOR OSBORNE - Reporting for the Public Services Committee - MOVE TO request that the City Solicitor provide a legal opinion on how the betterment cost is formulated, how it's allocated to the residents, and whether all the residents on the street have to contribute to the betterment. (Unanimous)

P182-13 COUNCILLOR OSBORNE – Reporting for the Public Services Committee - MOVE TO request that His Honor the Mayor and the Director of Public Services formulate a definitive plan to identify the costs to the city and the costs to the residents of providing city sewer service to the residents of Farm Avenue so we can move forward seeking funding. (Unanimous)

P183-13 COUNCILLOR OSBORNE – Reporting for the Public Services Committee - The next item of business was an issue regarding fence damage to the Pettipas property at 44 Dexter Street. It seems it's an ongoing problem that their fence has been damaged on numerous occasions as a result of snowplowing within the city. The Pettipas' submitted a letter to the City Council along with photos. Mr. Langley said that he did investigate the issue with Mr. Terenzoni and he feels that the city could put up some sort of barrier to prevent this from happening again. There were comments from Councillor Gamache, Councillor Manning-Martin, Councillor Gould, and Councillor Gravel that said we should really crack down on the people we contract to plow the streets and that they should know not to put snow there and to have the director enforce it with the contractors that they would use more caution when plowing that area. Councillor Gravel did bring up the fact that probably contributing to the problem is the fact that when we do get a storm many of the plow drivers plow in excess of 24 hours, up to possibly 35 to 40 hours without rest, and that the Director should look into putting in a requirement for drivers to obtain rest during the plowing operations. Everybody was satisfied that the Public Services director will rectify this problem and ensure that the fence is properly repaired, so we accept this as a report of progress. The other only item on the agenda was regarding the city-owned trees on private property. There was no discussion seeing that the new ordinance had covered that properly. (Unanimous)

### **MOTIONS, ORDERS & RESOLUTIONS**

P184-13 COUNCILLOR GRAVEL – MOVE TO receive, under suspension of the rules, Item 7-A communication from His Honor the Mayor regarding Transfer of funds – From Brooksby Farm Revolving Fund to Brooksby Modular Housing - \$180,000.00 and to refer to the Finance Committee. (Unanimous)

P185-13 COUNCILLOR LIACOS - MOVE TO request that the City Solicitor provide to the City Council a legal opinion regarding restrictions placed on the purchase of Brooksby Farm when it was purchased and placed into conservation land; who would be living in the modular housing and how they're going to be vetted. (Unanimous)

P186-13 COUNCILLOR GRAVEL - MOVE TO refer to the Municipal Safety Committee the issue of changing the light on Lowell Street, which is the light that was put in for the Dunkin' Donuts, from a three-way to a four-way light, in recognition of the fact that Subway has opened and there's free and open access for people leaving that parking lot for the Subway to go in either direction. There's nothing restricting it. (Unanimous)

P187-13 COUNCILLOR GRAVEL (Co-motion with Councillor Sinewitz) – MOVE TO request that the City of Peabody Web site place the pot hole hotline phone number on the home page in a large font. (Unanimous)

P188-13 COUNCILLOR GRAVEL - MOVE TO request that the Public Services Department advise the City Council of what their intentions are to repair the damage that was done by the sidewalk plows in many parts of the city, but in particular on Lynnfield Street the sidewalk plows or the snow blower took the entire side of the sidewalk out on a big stretch of Lynnfield Street and blew the turf into people's yards resulting in a significant amount of damage to those sidewalks. I also would like to have them include in their report how they also plan to address the fact that a plow knocked out one of the brand-new bumpouts on Main Street and the bricks are now all over the side of the street. I do have a suggestion for them, particularly on the bumpouts, that they put up traffic bollards so they can see where the bumpouts are. (Unanimous)

P189-13 COUNCILLOR GRAVEL - MOVE TO request that the City Solicitor provide a legal opinion on the impact of the recent finding of the Attorney General on the issue of the rejection of Wakefield's disposition of the medical marijuana dispensary. (Unanimous)

P190-13 COUNCILLOR OSBORNE – MOVE TO receive, under suspension of the rules, Item 8-B communication from David Keniston, School Business Manager, regarding Source of noise emanating from Brown School and to request that a communication be sent to Ms. Elaine Metropolis, Principal of Brown School, thanking her for her diligent investigation of this matter. (Unanimous)

P191-13 COUNCILLOR MANNING-MARTIN – MOVE TO receive, under suspension of the rules, Item 7-B communication from His Honor the Mayor regarding Request a vote from the City Council to remove the positions of the Police Chief and Fire Chief from the jurisdiction of the Civil Services system; to refer to the Legal Affairs Committee; and to request that His Honor the Mayor forward his rationale and plan on this subject to the City Council so that we can digest it prior to scheduling the Legal Affairs Committee meeting. (Unanimous)

P192-13 COUNCILLOR MANNING-MARTIN (Co-motion with Councillor Athas) – MOVE TO receive, under suspension of the rules, Item 8-H communication from Eva Marie Quinlan, 8 Charles Street, regarding Section 7.3.9 zoning ordinance; to refer to the Industrial & Community Development Committee; and to request that the Community Development Department provide the City Council with an explanation as to why that certain sentence was removed from the ordinance. (Unanimous)

P193-13 COUNCILLOR DRISCOLL – MOVE TO receive, under suspension of the rules, Item 8-C communication from Chief Robert Champagne, Police Department, regarding Comment regarding request to purchase city-owned land from Willowdale Condominium Association. (Unanimous)

P194-13 COUNCILLOR DRISCOLL - MOVE TO request that the Public Services Department repair the sidewalk at 8-10 Ethel Avenue for an elderly constituent. (Unanimous)

P195-13 COUNCILLOR MELLO - MOVE TO request that a letter of congratulations be sent to Father John, the principal, and staff at Saint John's School for holding an event, which ultimately was a simulcast of the announcement of Pope Francis and his first address to the Catholic population. St. John's sent out a text welcoming families and students to the school to watch this historic event take place. (Unanimous)

P196-13 COUNCILLOR ATHAS - MOVE TO request that a communication be sent to the high school principal to see if there potentially could be a snow clearing volunteer high school group to go through the neighborhoods and help seniors clear their property. (Unanimous)

{10-A regarding Salary of the Mayor}

P197-13 COUNCILLOR GAMACHE - BE IT ORDERED by the City Council of the City of Peabody that an Ordinance Amending Section 2-13 of the City Code of the City of Peabody be adopted as amended and read. (Carried 8-2; Councillors Manning-Martin and Mello opposed; Councillor Garabedian absent)

{10-B regarding Salary of the City Council}

P198-13 COUNCILLOR GAMACHE - BE IT ORDERED by the City Council of the City of Peabody that an Ordinance Amending Section 2-14 of the City Code of the City of Peabody be adopted as advertised and read. (Carried 7-3; Councillors Gravel, Manning-Martin and Mello opposed; Councillor Garabedian absent)

P199-13 COUNCILLOR SINEWITZ - MOVE TO receive, under suspension of the rules, Item 8-G communication from Aggregate Industries, 55 Russell Street, Peabody, MA, regarding 2012 annual report. (Unanimous)

P200-13 COUNCILLOR GOULD - MOVE TO request that the Public Services Department repair the sidewalk at 62 Margin Street, which was torn up by a snowplow. (Unanimous)

### **COMMUNICATIONS FROM HIS HONOR THE MAYOR**

Previously received.

### **COMMUNICATIONS FROM CITY OFFICERS AND OTHERS**

P201-13 COUNCILLOR GRAVEL – MOVE TO receive and approve a communication from Timothy E. Spanos, City Clerk, regarding Special State Election Warrant for April 2, 2013. (Unanimous)

P202-13 COUNCILLOR ATHAS – MOVE TO receive a communication from Mass DOT, Boston, MA, regarding Notice of public hearing from the Office of Outdoor Advertising; 203 Newbury Street and 71 Newbury Street. (Unanimous)

P203-13 COUNCILLOR OSBORNE – MOVE TO receive and approve a communication from Arthur Pavlo, Building Department Director, regarding Transfer of Special Permit 17-2011 to Amy E. McMath, 96 Tremont Street, subject to all papers being in order. (Unanimous)

P204-13 COUNCILLOR OSBORNE – MOVE TO receive a communication from Planning Board regarding Housing Production Plan recommendation and to refer to the Committee of the Whole. (Unanimous)

P205-13 COUNCILLOR OSBORNE – MOVE TO receive a communication from Attorney Michael Smerczynski, City Solicitor, regarding Explanation of permit vs. linkage fees and to refer to the Industrial & Community Development Committee. (Unanimous)

P206-13 COUNCILLOR OSBORNE – MOVE TO receive a communication from Chief Robert Champagne, Police Department, regarding Restricted parking at 1 Elm Street and to refer to the Municipal Safety Committee. (Unanimous)

### **PRESENTATION OF PETITIONS, MEMORIALS AND REMONSTRANCES**

P207-13 COUNCILLOR MELLO – MOVE TO receive and approve Use of the Wiggin Auditorium – NSCAP, 75 Central Street for graduation program on June 20, 2013, subject to all papers being in order. (Unanimous)

P208-13 COUNCILLOR MELLO – MOVE TO receive Junk Dealer License (New) Amy E. McMath, 96 Tremont Street, and to set up a public hearing. (Unanimous)

P209-13 COUNCILLOR MELLO – MOVE TO receive Class 2 Motor Vehicle License (Amendment) – Country Club Motors, 90 Margin Street, and set up a public hearing. (Unanimous)

P210-13 COUNCILLOR MELLO – MOVE TO receive and approve Class 2 Motor Vehicle License (Renewal for 2013) Mike's Auto Sales, 100 Birney Street, subject to all papers being in order. (Unanimous)

P211-13 COUNCILLOR MELLO – MOVE TO receive and approve Innholder License (Renewal for 2013) Holiday Inn Peabody, 1 Newbury Street, subject to all papers being in order. (Unanimous)

P212-13 COUNCILLOR MELLO – MOVE TO receive and approve the following Entertainment License (Renewal for 2013), subject to all papers being in order:

A.O.H. Division 11, 58 Lowell Street  
 Buddah's Tavern, 144-146 Washington Street  
 Peabody/Lynn Elks 1409, 40 Oak Street  
 Holiday Inn Peabody, 1 Newbury Street  
 Reds Kitchen & Tavern, 131 Newbury Street  
 Salem Country Club, 133 Forest Street  
 (Unanimous)

P213-13 COUNCILLOR MELLO – MOVE TO receive and approve the following Taxi/Limousine Driver License, subject to all papers being in order:

Michael Bloomberg – License 118      Paul J. Emelian, Jr. – License 119  
 (Unanimous)

P214-13 COUNCILLOR MELLO – MOVE TO receive and approve the following Taxicab License Transfer, subject to all papers being in order:

North Shore Taxi, Inc., 27-C Walnut Street – Licenses 26 & 27  
 Tri City Services, Inc., 55R Walnut Street – Licenses 2 & 3      (Unanimous)

**UNFINISHED BUSINESS FROM THE PRECEDING MATTER**

None.

MOVED: MOVE TO adjourn. Regular meeting of the Peabody City Council adjourned at 9:00 p.m.

SUBMITTED TO HIS HONOR THE MAYOR, MARCH 21, 2013

RETURNED BY HIS HONOR THE MAYOR, MARCH 21, 2013



ATTEST

(Timothy E. Spanos, City Clerk)

**COMMUNICATIONS:**

His Honor the Mayor re: Transfer of funds – From Brooksby Farm Revolving Fund to Brooksby Modular Housing - \$180,000.00

His Honor the Mayor re: Request a vote from the City Council to remove the positions of the Police Chief and Fire Chief from the jurisdiction of the Civil Service system.

Timothy E. Spanos, City Clerk re: Special State Election Warrant for April 2, 2013

David Keniston, School Business Manager re: Source of noise emanating from Brown School

Chief Robert Champagne, Police Department re: Comment regarding request to purchase city-owned land from Willowdale Condominium Association

Mass DOT, Boston, MA re: Notice of public hearing from the Office of Outdoor Advertising; 203 Newbury Street and 71 Newbury Street

Arthur Pavlo, Building Dept. Director re: Transfer of Special Permit 17-2011 to Amy E. McMath, 96 Tremont Street Planning Board re: Housing Production Plan recommendation

Aggregate Industries, 55 Russell Street, Peabody, MA re: 2012 annual report

Eva Marie Quinlan, 8 Charles Street re: Section 7.3.9 zoning ordinance

Attorney Michael Smerczynski, City Solicitor re: Explanation of permit vs. linkage fees

Chief Robert Champagne, Police Department re: Restricted parking at 1 Elm Street

Chief Robert Champagne, Police Department re: Special Permit memo, 1 Lynn Street

**USE OF THE WIGGIN AUDITORIUM:**

NSCAP, 75 Central Street for graduation program on June 20, 2013

**JUNK DEALER LICENSE:** (New)

Amy E. McMath, 96 Tremont Street

**CLASS 2 MOTOR VEHICLE LICENSE:** (Amendment)

Country Club Motors, 90 Margin Street

**CLASS 2 MOTOR VEHICLE LICENSE:** (Renewal for 2013)

Mike's Auto Sales, 100 Birney Street

**INNHOLDER LICENSE:** (Renewal for 2013)

Holiday Inn Peabody, 1 Newbury Street

**ENTERTAINMENT LICENSE:** (Renewal for 2013)

A.O.H. Division 11, 58 Lowell Street

Buddah's Tavern, 144-146 Washington Street

Peabody/Lynn Elks 1409, 40 Oak Street

Holiday Inn Peabody, 1 Newbury Street

D & R Roadhouse Pub, 55 Pulaski Street

Reds Kitchen & Tavern, 131 Newbury Street

Salem Country Club, 133 Forest Street

**TAXI/LIMO/SINE DRIVER LICENSE:**

Michael Bloomberg – License 118

Paul J. Emelian, Jr. – License 119

**TAXICAB LICENSE TRANSFER:**

North Shore Taxi, Inc., 27-C Walnut Street - Licenses 26 & 27

Tri City Services, Inc., 55R Walnut Street – Licenses 2 & 3