

Waltham City Council
Minutes of the Meeting of
September 13, 2021

President Brasco called the meeting to order at 7:30 p.m.

Present: Councillors Darcy, Dunn, Durkee, Harris, LaCava, LaFauci, LeBlanc, Mackin, McLaughlin, McMenimen, O'Brien, Paz, Stanley, Vidal and Brasco.

Absent: None.

Board of Survey and Planning

Present: Barrett, Callahan, DeVito, Moroney, Creonte, Keefner and Tarallo.

Absent: None.

City Clerk Waddick recited the Council Prayer followed by President Brasco leading all present in the Pledge of Allegiance. President Brasco asked for a moment of silence to remember all that were lost on September 11, 2001.

Councillor McMenimen moved approval of the Special Meeting Minutes of 8/2/2021. The motion was adopted on a voice vote and the matter was approved. Councillor McMenimen moved approval of the Executive Session minutes from the 8/2/2021 meeting – Potential Real Estate Acquisitions. Councillor Dunn recused herself. The motion was adopted on a voice vote and the matter was approved. Councillor McMenimen moved to send the minutes to the Law Department for review. The motion was adopted on a voice vote and the matter was approved. Councillor McMenimen moved approval of the Executive Session Minutes of 8/2/2021 – Real Estate Lease Matter. The motion was adopted on a voice vote and the matter was approved. Councillor McMenimen moved to send the minutes to the Law Department for review. The motion was adopted on a voice vote and the matter was approved.

The City Clerk read Rule 86.

The first public hearing was a joint public hearing with the Board of Survey and Planning. The public hearing had been recessed from the August 2, 2021 Special Meeting. Attorney Greg B. Cosimi of Choate, Hall & Stewart LLP, representing the petitioner, 1265 Main Street LLC, spoke in favor of the petition. Phil Casey, architect for the petitioner, spoke in favor of the petition. David Hall from Hanover Company spoke in favor of the petition. Andrew Deery from Silverstone spoke in favor of the petition. At the outset of the hearing Councillor LaFauci stated that he met with the petitioner's representative prior to the public hearing to obtain information but that he was impartial. Councillor LeBlanc stated he has an interest in property in the general area and will seek an opinion on conflict, but that he is impartial. Councillor McMenimen asked President Brasco to clarify that what was before the Council was a zone change and not any particular proposal. No one stood in favor. Jeanne Umbrello, 106 Stow Street, Waltham spoke in opposition to the petition. Carol Watts, 23 Keach Street, Waltham spoke in opposition to the petition. Paul Umbrello, 106 Stow Street, Waltham spoke in opposition to the petition. Bryan Stascavage, 116 Stow Street, Waltham spoke in opposition to the petition. 15 people stood in opposition to the petition. Mel Martocchia spoke in a neutral position on the petition. Paul Katz, 89 Cedarwood Ave, Waltham, spoke in a neutral position on the petition. With no one else in

support and no one in opposition and no one in a neutral position on the petition, President Brasco closed this portion of the public hearing and opened the hearing to questions from Councillors. Councillors LaFauci, Darcy, LeBlanc and McMenimen asked questions of the petitioner. Councillor McMenimen disclosed that she had worked with the petitioners in the past but that she was impartial on the matter. Councillors Mackin, O'Brien, Harris and LaCava all asked questions of the petitioner. Board of Survey and Planning Members Callahan, Moroney and Creonte asked questions of the petitioner. Councillors LeBlanc and LaFauci asked questions a second time. All questions were answered by Mr. Cosimi, Robert Nagi, Traffic Consultant and Richard Vallarelli, the petitioner. There was no rebuttal from the petitioner. Councillor LeBlanc moved to suspend the rules to hear from off-Council member, Mayor McCarthy. The Mayor asked that the Council find out if all the state has to do in this matter is to approve the site as an Eligible Location. Councillor LaFauci moved to send a request for an Eligible Location Advisory Opinion to the Executive Office of Housing and Economic Development. Roll call requested. In favor: Durkee, LaFauci, Stanley and Vidal.

Opposed: Darcy, Dunn, Harris, LaCava, LeBlanc, Mackin, McLaughlin, McMenimen, O'Brien and Paz.

Absent: None.

Presiding: Brasco.

The motion did not carry.

Mr. Creonte, Chair of the Board of Survey and Planning stated that the Board would take this matter up at their next meeting on October 6, 2021. With no additional questions from Councillors, President Brasco closed the public hearing and referred the matter to the Ordinances and Rules Committee.

Second public hearing: Special Permit at 130 Lexington Street

Attorney Michael Connors of Connors & Connors, LLP, 689 Main Street, Waltham, representing the petitioner spoke in favor of the petition. With no one else in support and no one in opposition and no one in a neutral position on the petition, President Brasco closed this portion of the public hearing and opened the hearing to questions from Councillors. Councillors Durkee and Darcy asked questions of the petitioner. Attorney Connors, Derek Roach of Vanase & Associates and Joe Fonseca, Engineer for the project, answered questions from Councillors. With no additional questions from Councillors, President Brasco closed the public hearing and referred the matter to the Ordinances and Rules Committee.

Third public hearing: Special Permit at 840 Winter Street

Attorney Michael Connors, of Connors & Connors, LLC Main Street, Waltham, representing the petitioner spoke in favor of the petition. Paul Pavone of Local 560 spoke in favor of the petition. One person stood in favor of the petition. With no one else in support and no one in opposition and no one in a neutral position on the petition, President Brasco closed this portion of the public hearing and opened the hearing to questions from Councillors. Councillors LaFauci, LeBlanc and McMenimen asked questions of the petitioner. Attorney Connors and Tim White of Alexandria Real Estate Equities answered questions from Councillors. With no additional questions from Councillors, President Brasco closed the public hearing and referred the matter to the Ordinances and Rules Committee.

Fourth public hearing: 17-25 at 737-745 Moody Street

President Brasco and Councillor LaCava recused themselves from the hearing. Vice President McMenimen assumed the chair. Catherine Murray, 18 Brookfield Road, Framingham and Michael Ruggeri, 82 Walnut Street, Belmont, petitioners and owners of the property spoke in favor of the petition. With no one else in support and no one in opposition and no one in a neutral position on the petition, President Pro Tem McMenimen, closed this portion of the public hearing and opened the hearing to questions from Councillors. Councillors Harris, LeBlanc and LaFauci asked questions of the petitioners. Councillor Harris moved to suspend the rules and act on this matter without committee reference. The motion was adopted on a voice vote and the matter was approved. Councillor Harris moved approval of the matter. The motion was adopted on a voice vote and the matter was approved.

Fifth public hearing: Fuel Storage at 200 West Street

Attorney Philip McCourt, 15 Church Street, representing the petitioner Boston Properties LLC, 800 Boylston Street, Prudential Center, Boston, MA spoke in favor of the petition. Chris Lynch of 154 Turnpike Road, Southborough, MA from Code Red Consultants, spoke in favor of the petition. With no one else in support and no one in opposition and no one in a neutral position on the petition, President Brasco closed this portion of the public hearing and opened the hearing to questions from Councillors. Councillor LaFauci asked questions of the petitioner. With no additional questions from Councillors, President Brasco closed the public hearing and referred the matter to the Licenses and Franchises Committee.

Sixth public hearing: 17-25 at 21 Drury Lane

Attorney Brett Francis, representing the petitioner, spoke in favor of the petition. With no one else in support and no one in opposition and no one in a neutral position on the petition, President Brasco closed this portion of the public hearing and opened the hearing to questions from Councillors. Councillor Darcy asked questions of the petitioner. With no additional questions from Councillors, President Brasco closed the public hearing and referred the matter to the Public Works and Public Safety Committee.

Communications from the Mayor

1. The Mayor respectfully requests a transfer of care, custody and control of the Government Center Gymnasium to the Recreation Department. Referred to the Committee of the Whole
2. The Mayor respectfully requests approval of a proposed City Ordinance amendment of Section 2-184, 2-185, 2-186, 2-187 Department of Maintenance and Director of Maintenance/Clerk of the Works. Referred to the Ordinances and Rules Committee.
3. The Mayor respectfully requests approval of the Compensation Ordinance changes regarding Chief Building Inspector, Director of Inspectional Services, and Director of Maintenance/Clerk of the Works. Referred to the Ordinances and Rules Committee.
4. The Mayor respectfully requests approval of a new City Ordinance, Chapter 20, establishing an Inspectional Services Department. Referred to the Ordinances and Rules Committee.

5. The Mayor respectfully requests the opportunity to discuss with the City Council the creation of a Financial Services Department. Referred to the Ordinances and Rules Committee.
6. The Mayor respectfully requests a transfer of funds totaling \$51,000 to fund the three-year collective bargaining agreement between the City and the School Traffic Supervisors' Union for the period of July 1, 2019 – June 30, 2022. Referred to the Finance Committee.
7. The Mayor respectfully requests acceptance of the First Responder Naloxone Grant in the amount of \$5,000 which will be used to purchase equipment that will help in overdose situations. Referred to the Finance Committee.
8. The Mayor respectfully requests a transfer in the amount of \$19,000 for the purchase and installation of a new fuel management system. Referred to the Finance Committee.
9. The Mayor respectfully asked that the care, custody and control of the Fitch School Gymnasium be transferred permanently to the Recreation Department. The Recreation Department will work with Healthy Waltham until a permanent home is found. Referred to the Committee of the Whole.
10. The mayor respectfully requests the confirmation of the appointment of Crystal Philpott, Waltham, MA as the City Purchasing Agent. Referred to the Committee of the Whole.

Applications and Licenses

Orders, Ordinances & Resolutions

- Recording of all Committee Meetings in the Waltham City Council Resolution
City Clerk Waddick read the Resolution. Councillors Darcy, LaCava and Paz spoke on the Resolution. Councillor Paz moved to suspend the rules to hear from an off committee member. The motion was adopted on a voice vote and the matter was approved. Gabriel Kaknes, 94 Chestnut Street, Waltham, spoke on the Resolution. President Brasco referred the matter to the Economic and Community Development Committee.
- Resolution on Overlay Districts
City Clerk Waddick read the Resolution. Councillor McMenimen spoke on the Resolution. Councillor McMenimen moved approval of a Request that the Mayor permit the Law Department, at the invitation of the City Council, to provide information pertaining to Waltham's three current Zoning Map Overlay Districts. The motion was adopted by a voice vote. President Brasco referred the matter to the Committee of the Whole.
- Resolution on Revisions to the Zoning Act
City Clerk Waddick read the Resolution. Councillor McMenimen spoke on the Resolution. Councillor McMenimen moved approval of a Request that the Mayor allow the Law Department to provide a researched analysis of MGL Chapter 358 of the Acts of 2020 to the Waltham City Council at the earliest, convenient time. The motion was adopted by a voice vote. President Brasco referred the matter to the Committee of the Whole.

Committee Reports

Unfinished Business & Other Business

- City Clerk's recommendation for in person early voting in 2021 Municipal Election
Councillor McMenimen moved to suspend the rules to act on the matter without committee reference. The motion was adopted on a voice vote and the matter was approved. Councillor McMenimen moved approval of the matter. The motion was adopted on a voice vote and the matter was approved.
- Law Department's request for executive session regarding pending litigation
Councillor McMenimen moved to table the matter until the end of the Council meeting. The motion was adopted on a voice vote and the matter was approved.
- Law Department's opinion regarding Executive Session Minutes of 8/3/2020
Councillor McMenimen moved to release the minutes. The motion was adopted on a voice vote and the matter was approved.

Tabled Items

- Open Meeting Law Complaint – Law Department's opinion regarding Executive Session Minutes of 1/27/2020- Anticipated Litigation.
Councillor McMenimen moved to release the minutes. The motion was adopted on a voice vote and the matter was approved. Councillor McMenimen moved to file the Open Meeting Law Complaint. The motion was adopted on a voice vote and the matter was filed.

Councillor Paz moved to meet beyond midnight. The motion was adopted on a voice vote and the matter was approved.

Councillor McMenimen moved to take from the table the request for Executive Session. The motion was adopted on a voice vote and the matter was approved. Councillor McMenimen moved to convene in executive session for the purpose of discussing pending litigation and that the Assistant City Solicitors Azadi and Learned attend and that Assistant City Clerk Vizard attend and that City Clerk Waddick act as clerk of the executive session and that Council reconvene in open session following adjournment of the executive session. Roll call required. In favor: Darcy, Dunn, Durkee, Harris, LaCava, LaFauci, LeBlanc, Mackin, McLaughlin, O'Brien, Paz and Vidal.

Opposed: Stanley.

Absent: None.

Presiding: Brasco.

Matter was approved 13-1.

Councillors LaCava and LeBlanc recused themselves. The remaining members of the City Council convened in executive session at 11:58 p.m. on September 13, 2021.

Council reconvened in open session at 1:02 a.m. on September 14, 2021. Councillor McLaughlin moved to meet beyond midnight. The motion was adopted on a voice vote and the matter was approved.

Councillor McLaughlin moved to adjourn. The motion was adopted by a voice vote. Council President Brasco declared the meeting adjourned at 1:03 a.m. on September 14, 2021.

Respectfully submitted by:

Kara Wilson

Executive Assistant to the City Clerk

September 22, 2021