

## **May 23, 2011**

President Brasco called the regular meeting of the Waltham City Council to order at 8:00 P.M. City Clerk Rosario C. Malone called the roll. Present at roll call were Councillors Brasco, Collura, Curtin, Darcy, Doucette, Giordano, LeBlanc, Logan, Marchese, McMenimen, Romard, Rourke, Stanley, and Tarallo. (14)

Councillor Logan moved to accept the minutes of the May 9, 2011 meeting. The motion was adopted on a voice vote. The minutes were accepted as amended.

The City Clerk read Rule 29 A

### ***Public Hearing***

#### **Special Permit –Property located at 101 Clematis Ave.**

Due notice having been given, President Brasco opened the Public Hearing on the petition by

Charlesbank Estates, Inc. of 70 Charles River Road, Waltham, Massachusetts and New Cingular Wireless PCS, LLC by AT&T Mobility Corporation, Its Manager (“AT&T”) c/o Brian J. Allen, KJK Wireless, 3 Brookside Drive, Sutton, Massachusetts hereby petitions the City Council for a Special Permit to install three (3) panel antennas attached to the existing tower located on the property at 101 Clematis Avenue (Assessor’s Map 55, Block 2, Lot 26), related wireless communications amplifiers and antenna related equipment including remote radio heads and surge arrestors, fiber, cables and other associated equipment in AT&T’s existing equipment room located at the base of the tower. Speaking in favor of the petition was Edward Pare, attorney for the petitioner. No one spoke or stood in opposition and that portion of the public hearing was declared closed. President Brasco opened the Public Hearing to questions from the Councillors. On a point of order, by Councillor Curtin relative to the ad for the special permits for property located at 101 Clematis Ave. Councillor Curtin moved that the matter was improperly before the City Council because no GPS was listed and no reference to the relief in zoning sought. Councillor Curtin deferred to Councillor Tarallo. Councillor Tarallo stated the notices for 37 River Street and 39 Sachem Street were also improperly before the City Council.

President Brasco ruled the matters were not properly before the City Council. Mr. Ed Pare, attorney for the petitioner objected to the ruling. On a motion by Councillor Tarallo to table the three special permits were tabled on the City Council floor pending an opinion by the Law Department.

### ***Public Hearing***

#### **Special Permit – Property located at 37 River Street**

Due notice having been given, President Brasco opened the Public Hearing on the petition by

37 River Street Limited Partnership of 37 River Street, Waltham, Massachusetts and New Cingular Wireless PCS, LLC by AT&T Mobility Corporation, Its Manager ("AT&T") c/o Brian J. Allen, KJK Wireless, 3 Brookside Drive, Sutton, Massachusetts hereby petitions the City Council for a Special Permit to replace three (3) of its existing panel antennas attached to the existing mount on the roof of the building located on the property at 37 River Street (Assessor's Map 71, Block 5, Lot 1) with three (3) panel antennas, related wireless communications amplifiers and antenna related equipment including remote radio heads and surge arrestors, fiber, cables and other associated equipment in AT&T's existing equipment room. Speaking in favor was Edward Pare, attorney for the petitioner. No one spoke or stood in opposition and that portion of the public hearing was declared closed. Tabled on the City Council floor pending opinion from the Law Department.

### ***Public Hearing***

#### **Special Permit – Property located at 39 Sachem Street**

Due notice having been given, President Brasco opened the Public Hearing on the petition by Pinnacle Towers, Inc. of PMB-353, 4017 Washington Road, McMurray, Pennsylvania and New Cingular Wireless PCS, LLC by AT&T Mobility Corporation, Its Manager ("AT&T") c/o Brian J. Allen, KJK Wireless, 3 Brookside Drive, Sutton, Massachusetts hereby petitions the City Council for a Special Permit to replace its nine (9) existing panel antennas attached to the existing tower located on the property at 39 Sachem Street (Assessor's Map 33, Block 1, Lot 5) with nine (9) pole band panel antennas, related wireless communications amplifiers and antenna related equipment including remote radio heads and surge arrestors, fiber, cables and other associated equipment in AT&T's existing equipment shelter. Speaking in favor was Edward Pare, attorney for the petitioner. No one spoke or stood in opposition and that portion of the public hearing was declared closed. President Brasco opened the Public Hearing to questions from the Councillors. Tabled on the City Council floor pending opinion from the Law Department.

### ***Public Hearing***

#### **Special Permit – Property at 1006 – 1022 Main Street**

#### ***Recessed to May 23, 2011***

Due notice having been given, President Pro-tem Curtin opened the Public Hearing on the petition by Waltham Ventures, LLC, 119 Bare Hill Road, Boxford, MA 01921, Peter J. Morris, Trustee, Main St. Realty Trust, u/d/t dated December 10, 1993, P.O. Box 206, Key Colony Beach, FL 33051, and DPS Waltham Development LLC, 251 Newbury Street, Boston, MA 02115 hereby petition the City Council under the provisions of §5.92 of the Ordinance to allow a reduction in the amount of required parking spaces for retail/restaurant use in a Business B Zoning District. The proposed retail/restaurant building

shall require up to 279 parking spaces under the Zoning Ordinance. The Petitioners are seeking to reduce the number of required parking spaces to a minimum of 239 parking spaces.

The locus is known and numbered as 1006 Main Street and 1022 Main Street and is shown in the "Atlas, City of Waltham, Massachusetts 1988", as Map 58, Block 18, Lot 21 and Map 58, Block 18, Lot 18. The property is situated in a Business B Zoning District.

The legal owners of the locus are Peter J. Morris, Trustee, Main St. Realty Trust, u/d/t dated December 10, 1993, P.O. Box 206, Key Colony Beach, FL 33051 as to property at 1022 Main Street, and DPS Waltham Development LLC, 251 Newbury Street, Boston, MA 02115 as to property at 1006 Main Street. Speaking in favor of the petitioner was Joseph M. Connors, attorney for the petitioner. No one spoke or stood in opposition and that portion of the public hearing was declared closed. President Brasco opened the Public Hearing to questions from the Councillors. President Curtin reminded Mr. Connors that the special permit needed 10 out of 13 votes, and did he wish to continue. Attorney Connors did wish to continue. City Clerk Rosario C. Malone read Council President Brasco's disclosure into the record. Councillor Tarallo moved to continue the hearing until June 13, 2011 in order to have various other issues addressed. On a voice vote, the public hearing was continued.

#### **Communications from the Mayor**

The Clerk read the following communications from the Mayor and each, in turn, was referred to the appropriate committee by President Brasco as indicated below:

**1.** Respectfully request acceptance of a gift of \$ 1,000.00 towards a bench to be placed on the Waltham Common in the honor of the eight Arena brothers who served in the navy and Merchant Marines.

#### **Referred to the Finance Committee**

**2.** Respectfully request acceptance of a grant from the Massachusetts Historical Commission in the amount of \$10,000.00. This grant is a match to that which was previously awarded by the CPC to the Commission for the Survey and Planning Program in the amount of \$ 10,000.00 on March 28, 2011. **Referred to the Finance Committee**

**3.** Respectfully request the appointment of Michael L. J. Chiasson, 25 Circuit Lane, Waltham, as CPW Director for a 3-year term commencing July 1, 2011. **Referred to the Committee of Whole**

**4.** Respectfully request the appointment of Paul G. Centofanti, 17 Wilton Street, Waltham, as City Auditor for a five-year term, and request authorization to enter into the attached Employment Agreement between the City of Waltham and Paul G. Centofanti. **Referred to the Committee of Whole**

**5.** Respectfully request a transfer of capital improvement funds totaling \$ 58,777.70 itemized as follows.

To # 310-155-2001-6571 Software

Amount \$ 18,077.70 Purpose Software and services related to website

From: # 001-155-5800-6575 Software (Fleet management)

To: #001-155-5800-6530 Computer Equipment

Amount: \$18,700.00 Purpose Computer equipment (various)

From: #001-155-5800-6573 Software (Autocad)

To: #001-155-5800-6510 Network systems / switching equipment

Amount \$ 22,000.00 Purpose Network systems / switching equipment

#### **Referred to the Long Term Debt Committee**

6. Respectfully request an appropriation of Chapter 90 funds in the amount of \$1,562,462.00 to fund the street resurfacing / sidewalk improvement project pursuant to the Pavement Condition Index.

Street	PCI	Street	Sidewalks	Total	Ward
Green Street	35	\$ 46,849.21	\$ 0	\$ 46,850	7
Calvary Street	52	\$253,932.31	\$110,000	\$ 363,933	9
Church Street	52	\$ 43,269.29	\$ 10,000	\$ 53,270	6
Cutting Lane	52	\$ 27,940.49	\$ 0	\$ 27,941	7
Ellery Road	52	\$ 56,384.62	\$ 20,000	\$ 76,385	4
Emery Street	52	\$ 34,279.67	\$ 25,000	\$ 59,280	6
Fairmont Avenue	52	\$ 95,059.86	\$ 20,000	\$ 115,060	7
Pond Street	52	\$130,003.87	\$ 20,000	\$ 150,004	6
Shirley Road	52	\$ 55,278.82	\$ 40,000	\$ 95,279	4
Upland Road	52	\$ 42,871.27	\$ 0	\$ 42,872	1
Wilson Road	52	\$ 24,952.05	\$ 0	\$ 24,953	4

Arcadia Avenue	53	\$ 71,316.67	\$ 0	\$ 71,317	3
Marlborough	Road	53	\$135,316.50	\$ 0 \$ 135,317	3
Grant Street	53	\$ 40,695.00	\$ 10,000	\$ 50,695	5
Rumford Avenue	53	\$ 88,578.95	\$ 10,000	\$ 98,579	8
Plympton Street	53	\$189,880.23	\$100,000	\$ 289,881	6,1
		Total	\$1,701,616*		

In addition to above list, the below is a list of listed arterial streets and a few other arterial streets whose current condition indicates that they need to be done prior to next winter. A new request to the City Council to use any further residue Chapter 90 money and a request for new Bond money will be forthcoming for the three streets below and any other arterials once the reconciliation for the Spring list is completed.

Winter Street \$329,350.00

River Street \$278,422.47

Robbins Street (Parmenter I / Lowell) \$103,348.44

#### **Referred to the Long Term Debt Committee**

**7.** Respectfully request a transfer of funds totaling \$41,910.00 to supplement the water and sewer operation expense accounts for the remainder of this fiscal year.

From: # 600-440-5100-5112 Sewer – FT Wages

To: #600-440-5200-5241 Sewer – Equipment repairs / Maint.

Amount \$25,000.00

From # 600-440-5400-5740 Sewer – Insurance

To # 600-440-5200-5261 Sewer – Equipment Repairs / Maint

Amount \$ 1,910.00

From #610-452-5100-5112 Water – Wages

To #610-452-5200-5261 Water – Infrastructure

Amount \$15,000.00

**Referred to the Finance Committee**

**Licenses all licenses referred to the Licenses and Franchises Committee**

New Second Hand Dealers License The Hobby Shop 269 Moody Street

***Tabled Matters from May 9, 2011***

The City Council amends Chapter 2 of the General Ordinances, "Administration" as most recently amended, is hereby amended by adding the following new Article XXXII Tree Commission

Having been given a first and second reading, the Ordinance Amendment is before the City Council for a third and final reading.

Councillor Rourke moved to have the matter recommitted. On a voice vote, the Ordinance Amend was recommitted to the Ordinances and Rules Committee.

**Compensation Ordinance Amendment**

It is hereby ordered that the Compensation Ordinance of the City of Waltham, Article V, Section 2-29.B. Positions Paid on Salary Rates, as most recently amended, is hereby further amended by the following:

**B.2 Non Union Positions Paid on Salary Rates. is hereby further amended by deleting**

Grade 19 Transportation Director

and inserting

Grade 19 Traffic Engineer

Having had a first reading is before the City Council for a second reading.

Councillor Tarallo moved to give the matter a second reading on a voice vote the Compensation Ordinance Amendment was given a second reading. The roll was called voting yea were Councilors Curtin, Darcy, Doucette, Giordano, LeBlanc, Logan, Marchese, McMenimen, Romard, Rourke, Stanley, and Tarallo. By a vote of 14 to 0, the order was adopted. Order # 31554

**RESOLUTIONS**

Resolution presented by Councillor Curtin regarding the use of land behind the Lawrence School as a snow dump. Councillor Curtin spoke on the hazards created by the continuing melting of the snow. This melting has created a breeding ground for mosquitoes that can carry life-threatening illness. The resolution, with an approved request was referred to the Committee of the Whole.

Resolution presented by Councillor Curtin regarding the loss of one third of the water the city is being charged for. Councillor Curtin spoke on the charges from the MWRA increasing and that one third of unaccountable water is excessive. The resolution, with an approved request was referred to the Public Works Committee.

Resolution presented by Councillors Rourke, Tarallo, Logan, and Darcy regarding "Green Community Act". Councillor Rourke spoke on the importance of the City Council becoming familiar with the Green Communities Designation and Grant Programs requirements. The resolution, with an approved request was referred to the Committee of the Whole.

Resolution presented by Councillors Logan and Collura regarding the Moose Club property for parking. Councillor Logan spoke on the need for more parking in Moody Street business district. The resolution, with an approved request was referred to the Committee of the Whole.

## **COMMITTEE REPORTS**

### **LICENSES AND FRANCHISES COMMITTEE**

The Licenses and Franchises Committee recommended that the renewal of a Second Hand Dealers License Curio Vintage 379 Moody St. be granted.

Councillor Logan moved the action of the Committee be the action of the Council. On a voice vote, the license was granted.

The Licenses and Franchises Committee recommended that the renewal of a Second Hand Dealers License More Than Words 376 Moody St. be granted.

Councillor Logan moved the action of the Committee be the action of the Council. On a voice vote, the license was granted.

The Licenses and Franchises Committee recommended that the new license to place Fruits & Vegetables on the sidewalk at 315 Moody St. be approved with conditions.

Condition: That the drawing of the stand with dimensions be attached to the License.

Councillor Logan moved the action of the Committee be the action of the Council. On a voice vote, the license was granted.

#### **LONG TERM DEBT COMMITTEE**

The Long Term Debt Committee recommended a transfer of capital improvement funds in the amount of \$207,000.00 to supplement the existing funding for the pump station upgrade. project.

From # 603-440-2005-7360 Sewer Rehab – General

To # 603-440-2005-6473 Sewer Rehab – Pump Station Upgrade

Amount \$207,000.00

Be approved.

Councillor Stanley moved the action of the Committee be the action of the Council. On a voice vote, the order was adopted. Order # 31556

The Long Term Debt Committee recommended that a transfer of capital improvement funds in the amount of \$23,000.00 to fund the design contract for the Smith Street water main project.

From #613-450-2003-7400 Water Improvements –General

To #613-450-2003-7430 Water Improvements - Smith Street

Amount \$23,000.00

be approved.

Councillor Stanley moved the action of the Committee be the action of the Council. On a voice vote, the order was adopted. Order # 31558

The Long Term Debt Committee recommended that a transfer of funds totaling \$ 50,000.00 for various Water/Sewer/Drain capital improvements projects be approved.



Councillor Stanley moved the action of the Committee be the action of the Council. On a voice vote, the order was adopted. Order # 31557

The Long Term Debt Committee recommended that the CPC Charles River Museum – Time Extension be placed on file.

Councillor Stanley moved the action of the Committee be the action of the Council. On a voice vote, the CPC Charles River Museum – Time Extension was placed on file.

### **COMMITTEE OF THE WHOLE**

The Committee of the Whole recommended that the resolution supporting the Bottle Bill be approved.

Councillor Waddick moved the action of the Committee be the action of the Council. On a voice vote, the resolution was adopted.

The Committee of the Whole recommended that the Schedule for the appointing new members to the CPC (Community Preservation Committee) be approved.

Councillor Rourke moved the action of the Committee be the action of the Council.

On a voice vote, the Schedule was adopted.

Councillor Rourke moved to take a matter out of committee. The application for the CPC Committee Councillor Rourke moved to adopt the application. On a voice vote, the application was approved.

**Councillor Rourke moved to take a matter out of committee.**

That the City Council approved the action of the School Committee in declaring the necessary area of the Fitch School, now designated by a fence, the actual size determined by the approved ANR Plan, which includes the instrument survey, to the City of Waltham as surplus property. On a voice vote, the order was adopted. Order # 31562

### **ORDINANCE AND RULES COMMITTEE**

The Ordinances and Rules Committee recommended that the following General Ordinance Amendment be given a first reading

Chapter 1 of the General Ordinances of the City of Waltham, entitled “GENERAL PROVISIONS,” Section 1-13(b) entitled “Enforcement of municipal ordinances, by-laws and regulations,” as most

recently amended is hereby further amended by striking out under "PENALTY," next to "Sec. 17-16 (a) Placing snow or ice upon streets or sidewalks"

be given a first reading.

Councillor Tarallo moved the action of the Committee be the action of the Council. The General Ordinance Amendment was given a first reading.

### **FINANCE COMMITTEE**

The Finance Committee recommended that the City Council reauthorize three Department Revolving Accounts under the provisions of Massachusetts General Law Chapter 44, Section 53e ½ for the City Clerk, Council on Aging and Recreation Department.

Councillor Curtin moved the action of the Committee be the action of the Council. On a voice vote, the order was adopted. Order # 31559

The Finance Committee recommended that the City Council accept the gift of a donation in the amount of \$ 500.00 on behalf of Brandeis University's Starving Artist group to Waltham's new middle school "Chill Zone " to be used for program needs with an interest in possibly promoting music or guest performer to appear at the "Chill Zone".

Councillor Curtin moved the action of the Committee be the action of the Council. On a voice vote, the order was adopted. Order # 31560

The Finance Committee recommended that the City Council accept a gift for use of the garages and parking area on the easterly side of Moody Street 756-8 Moody Street during the construction of the Moody Street Fire Station Apparatus floor.

Councillor Curtin moved the action of the Committee be the action of the Council. On a voice vote, the order was adopted. Order # 31561

The Finance Committee recommended that the resolution establishing Section 457 be placed on file.

Councillor Tarallo spoke on the importance of establishing Section 457. Councillor Tarallo thanked City Auditor Dennis Quinn and his staff for all their hard work.

Councillor Curtin moved the action of the Committee be the action of the Council. On a voice vote the resolution was placed on file.

The Finance Committee recommended that the petition for the abatement for 121 Worcester Lane be placed on file.

Councillor Curtin moved to have the abatement recommitted. On a voice vote, the abatement was recommitted to the Finance Committee.

#### **REDISTRICTING COMMITTEE**

The Redistricting Committee recommended that the new Ward and Precincts lines and descriptions be approved effective December 31, 2011.

Councillor Tarallo thanked the Committee for all the hard work. He also thanked Eric Rizzo, IT Department and Wade Putman, Assistant City Engineer for all their work. Councillor Tarallo moved the action of the Committee be the action of the Council.

The roll was called voting yea were Councillors Brasco, Collura, Curtin, Darcy, Doucette, Giordano, LeBlanc, Logan, Marchese, McMenimen, Romard, Rourke, Stanley, and Tarallo. The order was adopted by a 14-0 vote. Order #31555

#### **Finance Committee May 23, 2011 meeting**

The Finance Committee recommended that an appropriation in the amount of \$333,447.00 to fund the Parking Meter Budget for fiscal year 2012 from:

From Parking Meter Receipts Reserves

To	Parking Meter – Salaries 232-480-5100	\$199,997.00
	Parking Meter – Expenses 232-480-5200	\$ 71,950.00
	Parking Meter – Equipment / Unusual 232-480-5200	\$ 60,000.00
	Parking Meter – Uniforms 232-480-5500	\$ 1,500.00

be approved.

Councillor Curtin moved the action of the Committee be the action of the Council. On a voice vote, the order was adopted. Order # 31563

The Finance Committee recommended that the Mayor's Budget for fiscal year 2012 in the amount of \$207,707,737.00 be adopted. Councillor Curtin moved the action of the Committee be the action of the Council. The roll was called. Voting yea were Councillors Brasco, Collura, Curtin, Darcy, Doucette, Giordano, LeBlanc, Logan, Marchese, McMenimen, Romard, Rourke, Stanley and Tarallo.

Councillor Logan moved to adjourn. The motion was adopted. On a voice vote, the City Council adjourned at 10:05 PM.