

**October 12, 2010**

The regular meeting of the Waltham City Council was opened by President Paul J. Brasco. The roll was called by the City Clerk Rosario C. Malone. Present at roll call were Councillors Brasco, Collura, Curtin, Darcy, Giordano, LeBlanc, Logan, Marchese, Marcou, McMenimen, Romard, Rourke, Stanley, Tarallo, and Waddick (15)

Councillor Tarallo moved that the City Council minutes of September 27, 2010 be as amended. The motion carried.

### **Minutes**

Councillor Waddick moved to take a resolution out of order. The motion carried. A resolution presented by Councillors Waddick, Curtin, Brasco, and all other Councillors commending the Pop Warner Football Program on their 50<sup>th</sup> Anniversary.

On a motion by Councillor Waddick to suspend the rules and act without committee reference, the motion carried. The resolution was adopted.

Councillor Curtin moved to take a resolution out of order. The motion carried. A resolution was presented by Councillors Curtin, Waddick, Brasco, Romard and all other Councillors commending Richard Scanlon for his years of service to the Pop Warner Program and to name the field shack at Cornelia Warren Park after him.

On a motion by Councillor Curtin to suspend the rules and act without committee reference, the motion carried. The resolution was adopted.

Councillor Curtin made a motion to adopt an order naming the field shack at Cornelia Warren Park as the Richard Scanlon Field House

The roll was called. Voting yea were Councillors Collura, Curtin, Darcy, Giordano, LeBlanc, Logan, Marchese, Marcou, McMenimen, Romard, Rourke, Stanley, Tarallo, Waddick, and Brasco. The order was adopted.

### **Order # 31427**

Councillor Collura moved to take a resolution out of order. The motion carried. A resolution was presented by Councillor Collura commending the Massachusetts Bass Federation for its help in cleaning the Charles River. On a motion by Councillor Collura to suspend the rules and act without committee reference, the motion carried. The resolution was adopted.

Councillor Collura moved to take a resolution out of order. The motion carried. A resolution was presented by Councillor Collura commending the Avon Representative of District 2415 and their District Manager Liz Dederer on their efforts and support of the Avon Foundation.

On a motion by Councillor Collura to suspend the rules and act without committee reference, the motion carried. The resolution was adopted.

The City Clerk, Rosario C. Malone read Rule 29 A.

### **Special Permit**

American Towers, Inc. as successors by merger to Waltham Towers Inc., of 370 Prospect Hill Road, Waltham, Massachusetts, and Bell Atlantic Mobile of Massachusetts Corporation, Ltd., d/b/a Verizon Wireless, c/o Daniel D. Klasnick, Duval, Klasnick & Pastel LLC of 10 Cedar Street, Suite 17, Woburn, Massachusetts hereby petitions the City Council for a Special Permit pursuant to Sections 3.512, 3.621, 10.531(b), 10.541(b) and 10.56 of the City of Waltham Zoning Ordinance, to install, operate and maintain wireless communication equipment on the existing lattice tower located on the property at 50 Bear Hill Road (Atlas Map R57, Block 1, Lot 1A), consisting of the removal of one (1) existing 4 foot dish antenna located at a centerline height of 70 feet on the tower and replacement with one (1) new 4 foot dish antenna at 70 feet, the removal of six (6) PCS antennas located at a centerline height of 149 feet on the tower and replacement with three (3) LTE antennas and three (3) PCS antennas at 149 feet, and coaxial cabling that will run down the existing tower to an existing ground based equipment shelter. The proposal is shown on the Plans submitted by the Petitioners.

Due notice having been given, President Brasco opened the hearing and speaking in favor was Earl Duval, 10 Cedar Street Suite 17, Woburn MA, attorney for the petitioner and Stephen Russell, representative for Verizon Wireless. No one stood or spoke in favor or in opposition and that portion of the public hearing was declared closed.

Councillor Brasco opened the Public Hearing to questions from Councillors. Councillor Romard yielded the floor to Councillor Tarallo, chairman of the Ordinance and Rules Committee. On a request by Councillor Tarallo, Attorney Duval gave a brief history of the special permit. It was determined that a decision from the Building Director regarding the structure was still pending. Required action was necessary on the special permit. The attorney for the petitioner stated that a time extension was submitted to the Council. That portion of the public hearing was declared closed. Councillor Tarallo moved to take the letter for the time extension out of order. The motion carried. Councillor Tarallo moved to act on the extension of time without committee reference. The motion carried. Councillor Tarallo moved approval of the extension of time. The roll was called to adopt the time extension order. Voting yea were Councillors Collura, Curtin, Darcy, Giordano, LeBlanc,

Logan, Marchese, Marcou, McMenimen, Romard, Rourke, Stanley, Tarallo, and Waddick. Order # 31442 was adopted.

Waltham Towers Inc., of 370 Prospect Hill Road, Waltham, Massachusetts, and Bell Atlantic Mobile of Massachusetts Corporation, Ltd., d/b/a Verizon Wireless, c/o Daniel D. Klasnick, Duval, Klasnick & Pastel LLC of 10 Cedar Street, Suite 17, Woburn, Massachusetts petitions the City Council for an extension of time to act on a special permit for property located at 50 Bear Hill Road until December 1, 2010.

It was determined that the denial order recommended by the Committee would not be necessary. Councillor Tarallo moved to have the denial and the special permit application referred to the Ordinance and Rules committee. The motion carried.

### **Special Permit**

TC Saracen LLC, of 130 Turner Street, Waltham, Massachusetts, and Bell Atlantic Mobile of Massachusetts Corporation, Ltd., d/b/a Verizon Wireless, c/o Daniel D. Klasnick, Duval, Klasnick & Pastel LLC of 10 Cedar Street, Suite 17, Woburn, Massachusetts hereby petitions the City Council for a Special Permit pursuant to Sections 3.512, 10.521(b) and 10.56 of the City of Waltham Zoning Ordinance, to install, operate and maintain wireless communication equipment on the rooftop of the existing building located on the property at 190 Willow Street (Atlas Map R071, Block 003, Lot 0019), including the installation of four (4) antennas on a ballast frame at a height of 46.5' above ground level; eight (8) antennas on a steel frame at a height of 49.66' above ground level; an 11'6" x 30' equipment shelter to be placed on a steel frame and painted to match existing penthouse and HVAC units, which will extend to a height of 48.5' above ground level; cable trays on sleepers; a natural gas emergency back up generator to be located inside of the proposed equipment shelter; electric and telephone lines on sleepers from the proposed equipment shelter to existing sources in the building; and two (2) GPS antennas to be mounted on the equipment shelter for E-911 compliance. The proposal is shown the Plans submitted by the Petitioners.

Due notice having been given, President Brasco opened the hearing and speaking in favor was Greg Mercier, 10 Cedar Street Suite 17, Woburn, MA attorney for the petitioner and Stephen Russell, representative for Verizon Wireless. No one stood or spoke in favor or in opposition and that portion of the public hearing was declared closed.

Councillor Brasco opened the Public Hearing to questions from Councillors. Councillor Marchese had various questions. He addressed his concerns regarding the type of generator being used Referred to the Ordinance and Rules Committee.

### **Special Permit**

Winter Street Trust, c/o Hale & Dorr, of 60 State Street, Boston, Massachusetts, and Bell Atlantic Mobile of Massachusetts Corporation, Ltd., d/b/a Verizon Wireless, c/o Daniel D. Klasnick, Duval, Klasnick & Pastel LLC of 10 Cedar Street, Suite 17, Woburn, Massachusetts hereby petitions the City Council for a Special Permit pursuant to Sections 3.512, 10.521(b), 10.531(b) and 10.56 of the City of Waltham Zoning Ordinance, to install, operate and maintain wireless communication equipment on the rooftop of the existing building located on the property at 385-387 Winter Street (Atlas Map R031, Block 001, Lot 0001), including the installation of four (4) antennas within two (2) 30" fiberglass canisters mounted to the rooftop, designed to resemble vent pipe chimneys colored to match the existing building architecture, with two (2) antennas being installed inside each canister which will both extend to a height of 65'3" above ground level; an 11'6" x 20' equipment shelter designed to resemble a common building penthouse mounted on the rooftop which will extend to a height of 65'9" above ground level with four (4) antennas installed on the side of the proposed rooftop mounted equipment shelter extending to a height of 65'9" above ground level; cable trays on sleepers; an emergency generator Appleton plug at the base of the existing building; electric and telephone lines on sleepers from the proposed equipment shelter to existing sources in the building; and one (1) GPS antenna mounted to the cable tray for E-911 compliance. The proposal is shown the Plans submitted by the Petitioners.

Due notice having been given, President Brasco opened the hearing and speaking in favor was Greg Mercier, 10 Cedar Street Suite 17, Woburn, MA attorney for the petitioner and Stephen Russell, representative for Verizon Wireless. No one stood or spoke in favor or in opposition and that portion of the public hearing was declared closed.

Councillor Brasco opened the Public Hearing to questions from Councillors. Councillor Tarallo asked for clarification that no testimony was given at the public hearing on September 13, 2010 and that the matter was withdrawn without prejudice because it was not properly advertised. Councillor Tarallo had various questions. The special permit was referred to the Ordinance and Rules Committee.

### **Special Permit**

Northland One Moody Realty LLC, of 2150 Washington Street, Newton, Massachusetts, and Bell Atlantic Mobile of Massachusetts Corporation, Ltd., d/b/a Verizon Wireless, c/o Daniel D.

Klasnick, Duval, Klasnick & Pastel LLC of 10 Cedar Street, Suite 17, Woburn, Massachusetts hereby petitions the City Council for a Special Permit pursuant to Sections 3.512, 10.521(b), 10.531(b) and 10.56 of the City of Waltham Zoning Ordinance, to install, operate and maintain wireless communication equipment on the façade and rooftop of the existing building located on the property at 1 Moody Street (Atlas Map R60, Block 16, Lot 7), consisting of the removal of six (6) existing PCS antennas from the façade and rooftop and replacement with three (3) LTE antennas and three (3) PCS antennas. The proposal is shown on the Plans submitted by the Petitioners.

Due notice having been given, President Brasco opened the hearing and speaking in favor was Earl Duval, 10 Cedar Street Suite 17, Woburn, MA attorney for the petitioner and Stephen Russell, representative for Verizon Wireless. No one stood or spoke in favor or in opposition and that portion of the public hearing was declared closed.

Councillor Brasco opened the Public Hearing to questions from Councillors. A brief history of the application was given. The original date for submission of the special permit was March 8, 2010. Action by the City Council is required by October 15, 2010 because of the extension of time given. That portion of the public hearing was declared closed. Councillor Tarallo move to take the committee recommendation out of order. The Ordinance and Rules Committee has reviewed the application and has recommended for approval on their committee report of October 4, 2010. The motion carried. Councillor Tarallo moved on the recommendation of the committee to adopt the order. The roll was called. Voting yea were Councillors Collura, Curtin, Darcy, Giordano, LeBlanc, Logan, Marchese, Marcou, Romard, Rourke, Stanley, Tarallo, and Waddick. Voting nay was Councillor McMenimen.

**Order # 31429 was adopted.**

### **Communications from the Mayor**

1. Respectfully request the City Council to accept a grant from the Executive Office of Public Safety and Security State 911 Department in the amount of \$ 25,613.00. This amount will be used for training related costs associated with the 911 system.

**Referred to the Finance Committee**

2. Respectfully request an appropriation in the amount of \$40,000.00 from account # 237-560-2300-3591 Fund Balance Reserve for Handicap Projects to the following accounts.

#237-560-2315-5205	Police Details	\$25,000
#237-560-2323-5205	South Middle School (HP access)	\$10,000
#237-560-2324-5205	Veterans Skating Rink (HP access)	\$5,000

**Referred to the Finance Committee**

3. Respectfully request acceptance of a \$5,000.00 gift to the Waltham Library from the Konstantins J. Guminskis Revocable Trust.

**Referred to the Finance Committee**

4. Respectfully submit a request and vote from the Waltham Retirement Board seeking acceptance of the provisions of Section 27 & 28 Chapter 131 of the Acts of 2010.

**Referred to the Committee of the Whole**

5. Respectfully request an Ordinance establishing either a Personnel Department or Human Resources Department whatever the City Council prefers.

**Referred to the Ordinance and Rules Committee**

6. Respectfully request City Council action to either amend the state enabling legislation or to amend the City's Compensation Ordinance to reflect Traffic Engineering Department, Traffic Engineer and Assistant to the Traffic Engineer.

**Referred to the Ordinance and Rules Committee**

7. Respectfully request acceptance of the Randy D. Jacobs Memorial Scholarship Trust.

**Referred to the Finance Committee**

8. Respectfully request an appropriation in the amount of \$3,500.00 from the Stabilization Fund # 250-135-7405-3590 to City Council Clerk Salary # 001-121-5800-6111. These funds will be used to pay the Executive Assistant to the City Clerk for the extra work required by the changes in the open meeting law.

**Referred to the Finance Committee**

9. Respectfully request an appropriation in the amount of \$ 5,000.00 from the Stabilization Fund # 250-135-7405-3590 to Mayors Office – Appraisal of Land #001-121-5800-6120. These funds were requested by the Committee of the Whole.

**Referred to the Finance Committee**

10. Respectfully request the following financing plan to facilitate the purchase of Police Radios in coordination with the purchase of Fire Communications equipment.

Respectfully request an appropriation from the Stabilization Fund to Account # 001-210-5800-6422 Police Communications System in the amount of \$405,000.00. This will allow the City to place the order on time.

In addition,

Respectfully request the City Council approve the attached Loan Order in the amount of \$405,000.00. This would allow the City to pay back the cost over the useful life of the equipment. The appropriation request from Reserve Funds would be rescinded after the Loan Order is finally approved.

**Referred to the Long Term Debt Committee**

11. Respectfully request the appointment of Robert Glasheen, 97 A Bacon Street Waltham, as a Constable for a term of three years.

**Referred to the Committee of the Whole**

12. Respectfully request acceptance of the City of Waltham's Plan for early Retirement Incentive (ERI ) Program.

## **Referred to the Committee of the Whole**

### **Licenses**

#### **All Licenses to the License and Franchise Committee, which meets at 7:00 PM on October 18, 2010**

Renewal of the following 2011 Lodging House Licenses

Stanley and Leni Bloomenthal	2 Appleton Street 17-19 Chestnut Street
Hurley House	12-14 Lowell Street
Golfo, LLC – Michael Colomba	107 Adams Street
Adams Street Apt. Resource Realty Trust	94 Adams Street
Delaney	124-126 Ash Street Lodging House
Bentley University	175 Forest Street
Mark Leger	10-12 Maple Street
Mark Leger	240 Crescent Street
Christine Pintabone	6 Park Place (Lodging)
Josephine Furdon	38 Floyd Street

#### **Renewal for Class II Motor Vehicles**

Paul's Auto Service, Inc	152 High Street
Newton Street Service	255 Newton Street Class 2
Hull Inc. – Little Foreign Car Garage	50 Thayer Rd
Sideris Automotive	103 Felton St
Euro Auto Brokers	22 Common Street

#### **Renewal for Extended Hours**

Dunkin Donuts 859 Main Street



## **New Second Hand Dealer License**

The Yard Sale Consignment Store

**New Business matters were taken out of order.**

## **Resolutions**

Residential Factor resolution presented by Councillor Tarallo.

On a motion to have the resolution referred to the Special City Council meeting on Monday, November 22, 2010. Councillor Tarallo requested to have all information to the City Council by 11/17/2010. The motion carried the resolution was referred.

That a public hearing be held in accordance with MGL Chapter 369 of the Acts of 1982 and City Council Rule 60 A on Monday, November 22, 2010 at 7:00 PM

in the City of Waltham Council chamber at City Hall relative to classification and the residential factor which shall be used by the Board of Assessors to determine the percentage of the tax levy to be borne by each class of the tax real estate and personal property for the fiscal year 2011. Councillor Tarallo moves to act without committee reference. The motion carried. The roll was called. Voting yea were Councillors Collura, Curtin, Darcy, Giordano, LeBlanc, Logan, Marchese, Marcou, McMenimen, Romard, Rourke, Stanley, Tarallo, and Waddick.

Order # 31441 was adopted.

Resolution for tax amnesty presented by Councillor Tarallo. Request forwarded to the Auditor and Treasurer. 10-14-10. Resolution referred to the Committee of the Whole.

Resolution presented by Councillor Logan purchasing 67 Crescent Street. Request forwarded to the Mayor. 10-12-10 Referred to the Economic and Community Development Committee.

Resolution presented by Councillor Logan regarding problems if sales tax question passes. Request forwarded to the Auditor. 10-14-10 Resolution referred to the Committee of the Whole.

Request by Councillor Darcy to take the resolution regarding Whitney-Farrington House from the Committee of the Whole without committee reference for the purpose of sending it to the Finance Committee. The motion carried, the resolution was referred to the Finance Committee.

### **Committee reports**

#### **License & Franchise Committee recommends:**

##### **Order # 31428**

That the Verizon New England petition for permission to lay and maintain underground conduits for property located at:

Wimbledon Circle : To place 36 feet of 1 1/4' conduit from P 3 Wimbledon Circle across the street and sidewalk to private property @ 28 Wimbledon Circle, for Fios service. Be Granted.

**Councillor Logan moved the action of the Committee be the action of the City Council, the motion carried the order was adopted.**

#### **Committee of the Whole Recommends:**

On a motion by Councillor Waddick to vote on the following leases collectively, the motion carried. Councillor Waddick moved the action of the Committee be the action of the Council. The roll was called voting yea for the leases were Councillors Collura, Curtin, Darcy, Giordano, LeBlanc, Logan, Marchese, McMenimen, Romard, Rourke, Tarallo, and Waddick. Absent from the roll call were Councillors Marcou and Stanley.

That the City Council hereby authorizes the Mayor to sign eight (8) leases for the South Community Center with the following ;

Order # 31436 Waltham Family School, Order # 31435 Communities United, Inc,

Order # 31438 Power Program, Order # 31440 Toys For Tots, Order # 31437 Waltham Garden Club, Order # 31433 WATCH CDC, Order # 31434 Waltham Philharmonic and Order # 31439 Waltham Partnership For Youth. The orders were adopted.

That the May 22, 2006 matter regarding Water Main Work updated by Fred Laskey of the MWRA be placed on file.

**Councillor Waddick moved the action of the committee be the action of the Council. The motion carried and the matter was placed on file.**

#### **Finance Committee Recommends:**

That the sum of \$5,000.00 be appropriated from “Stabilization fund Account # 250-135-7405-3590 to Transportation – Overtime Account # 300-480-5100-5131 be approved

**Councillor McMenimen moved the action of the committee be the action of the Council. The motion carried. Order # 31432 was adopted.**

That the abatement petition from Lisa Gay and Carol Globiana for 14 Augustus Road, Waltham be denied.

On a motion by Councillor McMenimen that the action of the committee be the action of the Council. The roll was called. Voting to deny were Councillors Collura, Curtin, Giordano, LeBlanc, Logan, Marchese, Marcou, McMenimen, Romard, Rourke, Stanley, Tarallo, and Waddick, Councillor Darcy abstained. **Order # 31431** was adopted.

That the abatement petition from Kenneth and Marilyn Elliot for 34 Augustus Road, Waltham be denied.

On a motion by Councillor McMenimen that the action of the committee be the action of the Council. The roll was called. Voting to deny were Councillors Collura, Curtin, Darcy, Giordano, LeBlanc, Logan, Marchese, Marcou, McMenimen, Romard, Rourke, Stanley, Tarallo, and Waddick. Order # 3143 was adopted.

Councillor Tarallo move to adjourned. The motion carried. The City Council adjourned at 10:00 PM.