

September 27, 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, Tarallo, and Waddick (14)

Councillor Logan introduced James Perry, Boys Scout Troop 250. Scout Perry led the City Council in the pledge of allegiance to the flag.

Councillor Tarallo made a motion to accept minutes from September 13, 2010. The motion carried. The minutes were accepted.

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

Public Hearing

WHEREAS, Verizon New England has petitioned for permission to lay and maintain underground conduits and manholes, with the wires and cables to be placed therein, under the public way or ways of the City hereinafter specified, and notice has been given and a hearing held on said petition as provided by law.

Wimbledon Circle : To place 36 feet of 11/4' conduit from P 3 Wimbledon Circle across the street and sidewalk to private property @ 28 Wimbledon Circle, for Fios service.

Due notice having been given, President Brasco opened the hearing and speaking in favor was John Callahan, from Verizon and Peter Mager property owner. 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 Darcy had various question regarding the conduit. Councillor McMenimen had questions and requested that the Engineer Memo be supplied to the representative from Verizon. The memo was supplied during the meeting. Councillor Tarallo requested that Verizon supply to the City Council a list of streets where Fios will be available. Councillor Romard questioned why the conduit was being installed underground. Mr. Callahan responded, that there was no overhead clearance on that road. Councillor Rourke inquired where the gas line was. The response was that the nearest gas line was on Trapelo Road.

Referred to the License & Franchise Committee

FUEL STORAGE

Council President Brasco asked the petitioner to supply the required mail receipts.

Receipts were received by the City Clerk, Rosario C. Malone.

20 Seyon Street, LLC, 333 Newbury Street, Boston MA 02115 as Owner and Watertown Ford, Inc. 625 Pleasant Street Watertown Ma 02472 as operator of the facility, hereby petitions the City Council for a Fuel Storage License for fourteen (14) vehicles. Property located at Lot 106 before 66 Seyon Street

Said property is shown on the City of Waltham Atlas as Map 71, Block 4, Lot 3 and is in Commercial Zone 1 Zoning District.

Due notice having been given, President Brasco opened the hearing and speaking in favor was Alan Melkonian, owner of the property and the attorney for the petitioner. 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. All the following questions and requests were addressed to Alan Melkonian, petitioner. Councillor Marchese asked for details on the retail end of the business, the number of employees and for a detail parking plan. He had various other questions for the petitioner. Councillor Tarallo requested a copy of the letter from the Building Department regarding the by right use. Plans were requested for various phases of the project, parking, landscaping and others. Councillor Logan requested that the Law Department render an opinion regarding the City Council authority in issuing fuel storage. Various other Councillors had questions and requests. All answers are to be provided to the License and Franchise Committee on October 4, 2010.

Referred to the License and Franchise Committee

Extended Hours

Council President Brasco asked the petitioner to supply the required mail receipts.

Receipts were received by the City Clerk, Rosario C. Malone.

Mastoran Corporation, 822 Lexington Street, Waltham and Larry W. Kohler, 3 Stonewall, Lexington MA, Principal hereby petitions the City Council for Extended Retail Hours under the provisions of Chapter 8, Article XIII for Burger King, 881 Moody Street to remain open between the hours of 6:00 AM to 2:00 AM for the property located at 881 Moody Street Waltham. Said property is shown on the City of Waltham Atlas as Map 077, Block 027, Lot 0005 and is in a B Zoning District.

Due notice having been given, President Brasco opened the hearing and speaking in favor were Sheila Stanturo, representative for the petitioner, the Mastoran Corporation. 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. All the following questions and requests were addressed to Ms. Sheila Stanturo.

Councillor Rourke inquired about the percentage of business done during the hours requested. Councillor Rourke also requested reports for the past three years regarding calls or violations from the Health Department, Building Department Engineering Department and Police Department. Also requested was a report from the Treasurer regarding taxes. Councillor Curtin inquired if the noise would be cut down using only one window. Councillor Waddick suggested that the special permits for both Burger King locations be reviewed. The reason why the two applications for extended hours had been withdrawn.

All answers are to be provided to the License and Franchise Committee on October 4, 2010.

Referred to the License and Franchise Committee

Extended Hours

Council President Brasco asked the petitioner to supply the required mail receipts.

All receipts were turned into the City Clerk, Rosario C. Malone.

Mastoran Corporation, 822 Lexington Street, Waltham and Larry W. Kohler, 3 Stonewall, Lexington MA, Principal hereby petitions the City Council for Extended Retail Hours under the provisions of Chapter 8, Article XIII for Burger King, 822 Lexington Street to remain open between the hours of 6:00 AM to 2:00 AM for the property located at 822 Lexington Street Waltham. Said property is shown on the City of Waltham Atlas as Map 23, Block 007, Lot 0004 and is in a B Zoning District.

Due notice having been given, President Brasco opened the hearing and speaking in favor were Sheila Stanturo, for the petitioner. No one stood or spoke in favor. One stood in opposition and that portion of the public hearing was declared closed.

Councillor Brasco opened the Public Hearing to questions from Councillors. All the following questions and requests were addressed to Ms. Sheila Stanturo. Councillor Tarallo requested

copies of any decisions regarding the property back to the year built, police reports for the past several years and the reason why the two applications for extended hours had been withdrawn. Councillor Waddick suggested that the special permits for both Burger King locations be reviewed. Councillor Rourke asked for the number of employees and the percentage of business done during the hours requested. Councillor Rourke also requested reports for the past three years regarding calls or violations from the Health Department, Building Department Engineering Department and Police Department. Also requested, was a report from the Treasurer regarding taxes. All answers are to be provided to the License and Franchise Committee on October 4, 2010.

Referred to the License and Franchise Committee

Extended Hours

Council President Brasco asked the petitioner to supply the required mail receipts.

All receipts were turned into the City Clerk, Rosario C. Malone.

Tiki House LTD, Inc. d/b/a Tiki House, 569 Moody Street, Waltham, MA 02453 (owner/operator of business) and Welton D. Brown Nominee Trust, Lorraine Brown and Joseph Melone, Trustees, 550 Moody Street, Waltham, MA 02453 (owner of land), hereby petitions the City Council for Extended Retail Hours under the provisions of Chapter 8 Article XIII for Tiki House LTD, Inc., d/b/a Tiki House, 569 Moody Street, Waltham, MA 02453 to remain open between the hours of midnight to 2:30 AM for the property located at 569 Moody Street, Waltham. The deed for said property is recorded with Middlesex South District Deeds in Book 47550, Page(s) 399-400.

Said property is shown on the City of Waltham Atlas as Map 69, Block 42, Lot 0012

and is in a Business A Zoning District.

Due notice having been given, President Brasco opened the hearing and speaking in favor was Philip McCourt, attorney for the petitioner and Minh Phuoc, Quincy, owner / petitioner. No one stood or spoke in favor. Speaking in opposition was Merrill Griff. That portion of the public hearing was declared closed.

Councillor Brasco opened the Public Hearing to questions from Councillors. All the following questions and requests were addressed to Philip McCourt, Attorney for the petitioner. Councillor Rourke's questions were in regards to employees, how many shifts there and the percentage of business done during those hours on a daily basis, Councillor Waddick's questions regarded what percent of the business was take-out. Councillor Rourke requested police reports

for the past three years. All answers are to be provided to the License and Franchise Committee on October 4, 2010.

Referred to the License and Franchise Committee.

Communications from the Mayor

1- Respectfully request an appropriation of funds in the amount of \$5,000.00 from the stabilization Fund #250-135-7405-3590 to Transportation –Overtime #001-480-5100-5131

These funds will be used to pay overtime for the paint crews to complete street marking for the remainder of the paint season.

Referred to the Finance Committee

2- Respectfully request permission for Mr. Fred Laskey, Executive Director of MWRA to address the City Council regarding MWRA flushing related to their valves which is scheduled for the middle of October. The City's flushing program is also being planned.

Request that Mr. Fred Laskey be invited to the Committee of the Whole on October 4, 2010.

Referred to the Committee of the Whole

3- Respectfully submitting a communication from the Secretary of the Commonwealth, historically, this is a function normally performed by the Legislative branch. So that I may fill out the form, please advise me as to the name of the individual designated to redraw the precincts and any software to be used, and whether or not we request technical assistance from the Secretary.

Council President Brasco formed a new Ad-Hoc Committee, the Re-Districting Committee. The members are Councillor Tarallo, Chair, Councillor Logan and Councillor Curtin.

Referred to the Ad Committee for Re-Districting

4- Respectfully submitting pursuant to City Council Order # 31191 eight (8) draft leases for South Community Center;

Ground Floor

Waltham Family School; Communities United, Inc

Second Floor

Power Program; Toys For Tots; Waltham Garden Club; WATCH CDC; Waltham Philharmonic; Waltham Partnership For Youth.

Refer to the Finance Committee.

Councillor Logan made a motion that the matter be taken from the Finance Committee and referred to the Committee of the Whole. The motion carried and the matter was referred to the Committee of the Whole

Licenses All licenses are referred to the license and franchise committee

Renewal of a Lodging House License for Babu Punnose – 75-83 Prospect Street

Resolutions

Resolution presented by Councillor LeBlanc regarding records retention.

Councillor LeBlanc spoke regarding the resolution and requested that it be referred to the Committee of the Whole.

The resolution was referred to the Committee of the Whole

Resolution presented by Councillor Collura commending **Bernadette Collura Scalese, Cynthia Collura McAvoy, Peter Chauncey Collura, Frank Rocco Collura, Rocco Louis Collura, Jr. and their entire team of family and friends for their participation in the Alzheimer's Association Memory Walk .**

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

New Business

Correspondence from Attorney Robert Connors, Jr. regarding One Moody Street and 702 Main Street, 716 Main Street, 55 Moody Street Special Permit for Drive-thru for an extension of time for a period of two years granted in accordance to Chapter 240 of the Acts of 2010 an Act relative to Economic Development Reorganization.

On a motion by Councillor Tarallo, the matter was referred to the Ordinance & Rules Committee.

Correspondence from Attorney Robert Connors, Jr. regarding One Moody Street and 702 Main Street, 716 Main Street, 55 Moody Street Special Permit for intensity of use (FAR) for a period of two years in accordance to Chapter 240 of the Acts of 2010 an Act relative to Economic Development Reorganization for an extension of time.

The matter was referred to the Ordinance & Rules Committee

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 October 15, 2010.

On a motion by Councillor Tarallo to act without committee reference the motion carried. Councillor Tarallo moved approval of the extension of time. The roll was called. Voting yea were Councillors Collura, Curtin, Darcy, Giordano, LeBlanc, Logan, McMenimen, Romard, Rourke, Tarallo and Waddick.

Order # 31426 was adopted.

Committee reports

License & Franchise Committee recommends:

That the request for a Mass. Port Letter for Paul Sarkisian, 59 Irving St. be Granted

On a motion by Councillor Logan the Mass Port letter was granted.

That the request for a Mass. Port Letter for Suran Mkhitarian, 37 Middlesex Circle be granted.

On a motion by Councillor Logan the Mass Port letter was granted.

Long Term Debt Committee recommends

That the Community Preservation Committee application regarding the CPA grant for the City Hall roof be approved. On a motion by Councillor Curtin that the action of the Committee be the action of the Council. Councillor Darcy requested that the roll be called. Voting yea were Councillors Collura, Curtin, Darcy, Giordano, LeBlanc, Logan, McMenimen, Romard, Rourke, Tarallo and Waddick. Absent from the roll call were Councillors Marchese and Marcou. Absent from the meeting was Councillor Stanley.

Order # 31425 was adopted.

Committee of the Whole Recommends:

That the appointment of Lawrence R. Mehl, 59 Lincoln Street, Waltham, MA as Registrar of Voters for a term expiring April 2013. Mr. Mehl will fulfill the vacancy due to the retirement of Republican Party Registrar Winifred Kilday be confirmed.

On a motion by Councillor Waddick that the action of the Committee be the action of the Council, the roll was called. Voting yea were Councillors Brasco, Collura, Curtin, Darcy, Giordano, LeBlanc, Logan, McMenimen, Romard, Rourke, Tarallo, and Waddick. Absent from the roll call were Councillors Marchese and Marcou, Absent from the meeting was Councillor Stanley.

The appointment was confirmed.

That the appointment of Gordon LaSane, 7 Exchange Court, Suite B, Waltham, as an Associate Member of the Zoning Board of Appeals for a term ending January, 2011. Mr LaSane will fill the vacancy created by Glenna Gelineau's appointment as a Regular Member.

On a motion by Councillor Waddick that the action of the Committee be the action of the Council, the roll was called. Voting yea were Councillors Brasco, Collura, Curtin, Darcy, Giordano, LeBlanc, Logan, McMenimen, Romard, Rourke, Tarallo, and Waddick. Absent from the roll call were Councillors Marchese and Marcou, Absent from the meeting was Councillor Stanley.

The appointment was confirmed.

That the request regarding the matter of the care and custody of the former North Branch Library being transferred to the School Committee (6-9-2009) be placed on file.

On a motion by Councillor Waddick that the action of the Committee be the action of the Council, Councillor McMenimen made a motion for an explanation why the matter was being filed. Councillor Tarallo explained that the matter was being file due to the retirement of Dr. Azai and Mr. Graceffa and that the new Superintendent could resubmit the matter.

On a motion by Councillor Curtin, the matter was filed.

Finance Committee Recommends:

Acceptance of two gifts in the amount of \$4,309.00 from MASSCOP Local 161 and \$4,309.00 from MASSCOP Local 161A for the purpose of two commercial treadmills for the Al Jones Fitness Center at the Police Station be adopted.

On a motion by Councillor Curtin that the action of the Committee be the action of the Council, the motion carried.

Order # 31423 was adopted.

Acceptance of the Federal Stimulus Grant from the U. S. Department of Energy in the amount of \$630,500.00. This grant will be used to fund a 305 kilowatt Photovoltaic project at the Municipal Center be adopted.

On a motion by Councillor Curtin that the action of the Committee be the action of the Council, the motion carried.

Order # 31424 was adopted.

Adjourned

September 13, 2010 Accepted Minutes

President Paul J. Brasco opened the joint meeting of the Waltham City Council and the Board of Survey and Planning, 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) The roll for the Board of Survey and Planning was called by City Clerk Rosario C. Malone, present at the roll were Board Members M. Justin Barrett, Kathleen Callahan, William Creonte, Chair, John Duffy, Brian Moroney and Mila Tarallo. Absent at the meeting was S. Anthony DeVito.

Councillor Tarallo motioned for a Moment of silence for Mr. Joseph Casazza, father of the City Engineer Stephen Casazza, the motion carried. A moment of silence was given.

Councillor McMenimen motioned to take a resolution out of order, the motion carried. Councillors McMenimen, Brasco and Marchese presented a resolution regarding the 40th Anniversary of the Marist Hill Nursing Home. Councillor McMenimen moved to hear from an off Committee member, the motion carried. The City Council heard from Carolyn Fenn.

Councillor McMenimen moved for approval without Committee reference, the motion carried. The Resolution was adopted

Accepting minutes from August 2, 2010

On a motion by Councillor Tarallo to accept the minutes with edits. The motion carried and the minutes were accepted.

The City Clerk, Rosario Malone read Rule 29 A

Joint Hearing for a Zone Change

Notice is hereby given that the City Council and the Board of Survey and Planning will hold a Public Hearing in the Council Chamber at City Hall, 610 Main Street, Waltham MA, on Monday, September 13, 2010 at 8:00 P.M. on the following application:

IN THE YEAR TWO THOUSAND TEN

On the application of Sachem Realty, Co., 846 Lexington Street, Suite 6, Waltham, MA 02452, hereby petition the City Council for:

AN ORDINANCE AMENDING CHAPTER 21 OF THE GENERAL ORDINANCES OF THE CITY OF WALTHAM ENTITLED "ZONING".

CHAPTER 21 of the General Ordinances of the City of Waltham entitled "Zoning District map" is amended by striking out the designation "Commercial as shown on said map and substituting in place thereof new lines and designation "Business B" insofar as the said map relates to the following described premises.

The locus lies in a Commercial zoning district and the proposed amendment would have the locus zoned entirely Business B. The locus is that certain parcel of land with the improvements located thereon situated at 135 Lexington Street, in the City of Waltham, County of Middlesex (South), Commonwealth of Massachusetts (Atlas Page 51, Block 008, Parcel 28) and is more particularly described as follows:

A certain parcel of land with the buildings thereon, situated in said Waltham and being shown as Lot 2 on a plan entitled "Plan of Lands in Waltham, Mass belonging to B.C. Ames Co., Rowland H. Barnes & Co., Civil Engineers, dated June 1, 1960, recorded with Middlesex South Registry of Deeds Book 9619 Page 601, and bounded:

Beginning at a point on the North side of the property, thence running Northeasterly along the North side of the property

Northerly by land now or formerly of the Boston and Maine RR (North 85 27'10" East a distance of) Two Hundred Forty-Four and 98/100 (244.98) feet;

Easterly by land now or formerly of said railroad (South 08 40'20"West a distance of) Ten and 70/100 (10.70) feet;

Northerly again by land now or formerly of said railroad (North 87 16'16"East a distance of) One Hundred Twenty-One and 71/100 (121.71) feet;

Easterly by land now or formerly of Carlson's Garnetting Mills, Inc. (South 05 39'40"West a distance of) Eighty-Five and 00/100 (85.00) feet;

Northerly again by land now or formerly of Carlson's Garnetting Mills, Inc. (North 84 20'20"West a distance of) Thirty and 00/100 (30.00) feet;

Easterly by land of owners unknown (North 05 39'40"East a distance of) Twenty and 00/100 (20.00) feet;

Southerly by Summer Avenue Thirty and 00/100 (30.00) feet;

Southerly by land now or formerly of Maria A. Baderacco, in three courses, (North 84 20'20"West a distance of) Seventy and 00/100 (70.00) feet, (South 72 12'00"West a distance of) Fifty-Six and 38/100 (56.38) feet and Eight and 87/100 (8.87) feet;

Southerly by land now or formerly of Waltham Realty Trust (South 80 37'10"West a distance of) One Hundred Sixty-Nine and 87/100 (169.87) feet;

Westerly by other land now or formerly of said B.C. Ames Co. (North 09 22'50"West a distance of) Nineteen and 56/100 (19.56) feet;

Southerly by other land now or formerly of said B.C. Ames Co. (South 80 52'10"West a distance of) Forty-Two and /100 (42.88) feet;

Westerly by other land now or formerly of said B.C. Ames Co. (North 05 35'00"West a distance of) One Hundred Twenty-Two and 36/100 (122.36) feet (to said point of beginning).

Containing a total area of 41,973 square feet more or less (by instrument survey) to be rezoned from Commercial to Business B.

Due notice having been given, President Brasco opened the hearing and speaking in favor was Philip McCourt attorney for the petitioner and Roberto Pandolfi, owner of the property. 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 and Members of the Board of Survey and Planning. Councillor Waddick addressed various questions to the petitioner's attorney Mr. McCourt and the petitioner Roberto Pandolfi. Requests were made. Other Councillors asked questions pertaining to the Zone Change and that all information is supplied to the City Council and to the Board of Survey and Planning. The next meeting of the Board of Survey will be October 6, 2010. The Ordinance & Rules Committee will address the Zoning Amendment on October 18, 2010.

Referred to the Ordinance and Rules Committee

Council President Brasco declared a two minute recesses, then the City Council reconvened the regular council meeting.

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 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 designed to resemble vent pipe chimneys colored to match the existing building architecture, with two (2) antennas being installed in each canister which will both extend to a height of 65'3" above ground level; four (4) antennas mounted to a proposed 11'6" x 20' equipment shelter designed to resemble a common building penthouse on the rooftop which will extend 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 for E-911 compliance.

Due notice having been given, President Brasco opened the hearing. Councillor Tarallo requested to be heard. Councillor Tarallo stated that the special permit was not properly before the City Council due to errors in the advertising furnished by the petitioner's Attorney, Daniel D. Klasnick. The petitioner's Attorney submitted a request for withdrawal of the special permit without

prejudice. The roll was called. Voting yea for the withdrawal were Councillors Collura, Curtin, Darcy, Giordano, LeBlanc, Logan, Marchese, McMenimen, Romard, Rourke, Stanley, Tarallo and Waddick.

The withdrawal order was adopted. Order # 31422

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 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; a 11'6" x 30' equipment shelter to be placed on a steel frame and painted to match existing penthouse and HVAC units; cable trays on sleepers; a diesel 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.

Due notice having been given, President Brasco opened the hearing. Councillor Tarallo requested to be heard. Councillor Tarallo stated that the special permit was not properly before the City Council due to errors in the advertising furnished by the petitioner's Attorney, Daniel D. Klasnick. The petitioner's Attorney submitted a request for withdrawal of the special permit without prejudice. The roll was called. Voting yea for the withdrawal were Councillors Collura, Curtin, Darcy, Giordano, LeBlanc, Logan, Marchese, McMenimen, Romard, Rourke, Stanley, Tarallo and Waddick.

The withdrawal order was adopted. Order # 31421

Public Hearing Recessed from August 2, 2010. Councillor Tarallo moved to accept a late file communication for withdrawal without prejudice from the petitioner's Attorney Scott Lacey for both 39 Sachem Street and 144 Moody Street. The late file communication was accepted. The roll was called to adopt the order of withdrawal without prejudice voting yea were Councillors Collura, Curtin, Darcy, Giordano, LeBlanc, Logan, Marchese, McMenimen, Romard, Rourke, Stanley, Tarallo, and Waddick.

The withdrawal order was adopted. # 31420

Petitioners, MetroPCS Massachusetts LLC, 285 Billerica Road, Chelmsford, MA 01824; Crown Castle, tower owner, and Interstate Tower Communications, Inc., property owner, hereby petition the Waltham City Council for a special permit pursuant to Sections 3.512, 3.621, and 10.53 of the City of Waltham Zoning Ordinance, to install, operate and maintain a wireless communication facility on and next to the existing 200-foot tall tower located on the property located at 39 Sachem Street (Atlas Map R033, Block 001, Lot 0005), including six (6) wireless communications panel antennas mounted at a height of 105' above ground level. The Petitioners also propose to install up ancillary cabinets within and next to an equipment shelter located within the existing fenced compound. A small Global Positioning System (GPS) antenna, which is necessary for E911 compliance, will be mounted to the cable bridge within the existing fenced compound. The proposal is shown the Plans submitted by the Petitioners.

Special Permit

Public Hearing Recessed from August 2, 2010. The roll was called to adopt the order of withdrawal without prejudice voting yea were Councillors Collura, Curtin, Darcy, Giordano, LeBlanc, Logan, Marchese, McMenimen, Romard, Rourke, Stanley, Tarallo, and Waddick.

The withdrawal order was adopted. # 31419

Petitioners, MetroPCS Massachusetts LLC, 285 Billerica Road, Chelmsford, MA 01824 and 144 Moody Street, LLC, property owner, hereby petition the Waltham City Council for a special permit pursuant to Sections 3.512, 3.621, 10.52 and 10.53 of the City of Waltham Zoning Ordinance, to install, operate and maintain a wireless communication facility on the existing building located on the property located at 144-146 Moody Street (Atlas Map R060, Block 027, Lot 0002), including six (6) wireless communications panel antennas mounted to the façade of the Building and painted to match same. The Petitioners also propose to install up to ancillary cabinets within an equipment room located in the basement of the building, a small doghouse and condenser on the rooftop concealed behind the parapet. A small Global Positioning System (GPS) antenna, which is necessary for E911 compliance, will be mounted to the equipment installed on the rooftop and will be concealed by the parapet. The proposal is shown the Plans submitted by the Petitioners.

Communications from the Mayor

1. Respectfully request acceptance of \$4,309.00 from MASSCOP Local 161 and \$4,309.00 from MASSCOP Local 161A for the purpose of two commercial treadmills for the Al Jones Fitness Center.

Referred to the Finance Committee

2. Respectfully submitting the amended Betterment Order for Mt. Walley Road per City Council request. On a motion by Councillor Tarallo to act without committee reference, the motion carried. Councillor Rourke stated that the Public Works Committee was in agreement with the adoption of the order. Councillor McMenimen requests a roll call, the roll was called. Voting for the adoption of the Betterment Order were Councillors Collura, Curtin, Darcy, Giordano, LeBlanc, Logan, Marchese, McMenimen, Romard, Rourke, Stanley, Tarallo and Waddick.

The order was adopted.

Order # 31418

Public Works Committee recommends

That the original order submitted by the Mayor on August 2, 2010 be placed on file.

Councillor Rourke moved that the original order be placed on file. The order was filed.

3 Respectfully request the appointment of Lawrence R. Mehl, 59 Lincoln Street, Waltham, MA as Registrar of Voters to fulfill the retirement of Winifred Kilday.

Referred to the Committee of the Whole

Licenses

New Business

Recommendation from the Community Preservation Committte regarding the CPA grant for the City Hall Roof.

Referred to the Long Term Debt Committee

Abatement of Assessment for 14 Augustus Road, Waltham by owners Lisa Gay and Carol Globiana.

Referred to the Finance Committee

Julian C. Heney, 11 Hammond Street Apt # C, petitions the City Council for a Mass Port Letter

Referred to the License & Franchise Committee

Paul Sarkisian, 59 Irving Street, Waltham, petitions the City Council for a Mass Port Letter.

Referred to the License & Franchise Committee

Suren Mkhitarian, 37 Middlesex Cir Apt 21, Waltham petitions the City Council for a Mass Port Letter

Referred to the License & Franchise Committee

Resolutions

Resolution presented by Councillors Brasco and Collura regarding sidewalks in the down town areas of the city with a request.

Referred to the Economic and Community Development Committee

Resolution presented by Councillor Collura regarding advertising signs on lawns

Referred to the Economic and Community Development Committee

Committee Reports none

On a motion to Adjourn, the motion carried.

Adjourned 10:45 PM

August 2, 2010

The special 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, Marchese, Marcou, McMenimen, Romard, Rourke, Stanley, Tarallo, and Waddick (14)

Councillor Curtin requested a moment of silence for Dr. Lyons.

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

Fuel Storage Hearing

John Generoso, 511 Totten Pond Road, Waltham, as applicant and Motiva Enterprises LLC, 520 Allen Avenue, Bldg. #2, Providence RI as owner, hereby petitions the City Council to grant a fuel storage license to allow the removal of (3) single walled, existing 10, 000 gallon tanks and to be replaced with (2) new double walled fiberglass 15, 000 gallon tanks. The new tanks will be configured as (1) 15,000 gallon tank and split tank (1) 8000 gallons for gasoline / 7000 gallons diesel tank. The total fuel storage capacity will remain the same at 30,000 gallons. Property located at 511 Totten Pond Road

Being shown in the City Atlas as Map Book 10784 Page 277 Parcel ID R031-004-0001

Due notice having been given President Brasco opened the hearing and speaking in favor was Joseph Connors, 404 Main Street, Waltham, Attorney, John Generoso, 511 Totten Pond Road, Waltham, petitioner and Anthony Guba, 414 Benefit Street, Pawtucket, RI, Engineer for the project No one stood in favor – no one stood or spoke in opposition.

Councillor Brasco opened the Public hearing to questions from the Councillors.

Councilor Curtin submitted copies of the State Bill to extend time on licenses § 173 granted between 8/15/2008 and 8/15/2010.

Councillor Brasco requested all receipts from the abutter notices.

Councillor Collura stated that she felt no conflict of interest even though she is distantly related to the Generoso's.

Various questions were addressed to the petitioner and answered.

Councillor Brasco referred the matter to the License & Franchise Committee

Special Permit

Petitioners, MetroPCS Massachusetts LLC, 285 Billerica Road, Chelmsford, MA 01824; Crown Castle, tower owner, and Interstate Tower Communications, Inc., property owner, hereby petition the Waltham City Council for a special permit pursuant to Sections 3.512, 3.621, and 10.53 of the City of Waltham Zoning Ordinance, to install, operate and maintain a wireless communication facility on and next to the existing 200-foot tall tower located on the property located at 39 Sachem Street (Atlas Map R033, Block 001, Lot 0005), including six (6) wireless communications panel antennas mounted at a height of 105' above ground level. The Petitioners also propose to install up ancillary cabinets within and next to an equipment shelter located within the existing fenced compound. A small Global Positioning System (GPS) antenna, which is necessary for E911 compliance, will be mounted to the cable bridge within the existing fenced compound. 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 Scott Lacey, petitioner attorney – No one stood or spoke in opposition that portion of the public hearing was declared closed.

Councillor Brasco opened the Public hearing to questions from the Councillors

Councillor Tarallo had questions directed to Attorney Lacey.

Councillor Tarallo made a request that the Law Department review the ad and other issues to see if the matter was properly before the City Council.

On a motion by Councillor Tarallo to continue the hearing until September 13, 2010 pending the Law Department review of the questions, the motion carried.

Special Permit

Petitioners, MetroPCS Massachusetts LLC, 285 Billerica Road, Chelmsford, MA 01824 and 144 Moody Street, LLC, property owner, hereby petition the Waltham City Council for a special permit pursuant to Sections 3.512, 3.621, 10.52 and 10.53 of the City of Waltham Zoning Ordinance, to install, operate and maintain a wireless communication facility on the existing building located on the property located at 144-146 Moody Street (Atlas Map R060, Block 027, Lot 0002), including six (6) wireless communications panel antennas mounted to the façade of the Building and painted to match same. The Petitioners also propose to install up to ancillary cabinets within an equipment room located in the basement of the building, a small doghouse

and condenser on the rooftop concealed behind the parapet. A small Global Positioning System (GPS) antenna, which is necessary for E911 compliance, will be mounted to the equipment installed on the rooftop and will be concealed by the parapet. 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 Scott Lacey, petitioner attorney's – No one stood or spoke in opposition that portion of the public hearing was declared closed.

Councillor Brasco opened the Public hearing to questions from the Councillors

Councillor Marchese had questions directed to Attorney Lacey.

Councillor Tarallo made a request that the Law Department review the ad and other issues to see if the matter was properly before the City Council.

On a motion to continue the hearing until September 13, 2010 pending the Law Department review of the questions, the motion carried. .

Communications from the Mayor

1. Respectfully request the appointment of Gordon LaSane, 7 Exchange Court, Suite B, Waltham, as an Associate member of the Zoning Board of Appeals to fill the vacancy created by Glenna Gelineau's appointment as a Regular Member.

Referred to the Committee of the Whole

2. Respectfully request an appropriation in the amount of \$7,103.04 from Stabilization Unreserved Fund Balance to Account 001-151-5760 Law Dept – Judgments this amount will be used to satisfy a Middlesex Court Judgment.

Councillor Curtin moved to act without Committee reference the motion carried and the order was adopted.

Order # 31411

3. Respectfully request a transfer of Capital Improvement funds totaling \$ 26,313.00 for the elevator at the police station to cover the cost of change orders pertaining to unforeseen conditions discovered during excavation.

Trans from

Building – Teen Center # 310-192-2007-6265 \$ 6,313.00

Building – Incinerator Demolition #310-192-2009-6910 \$20,000.00

Transfer to:

Building – Police Elevator #310-192-2007-6243 \$ 6,313.00

Police – Police Elevator #310-192-2009-6243 \$20,000.00

Referred to the Long Term Debt Committee

4. Respectfully submit the CPC recommendation date July 13, 2010 regarding the CPA grant for the City Hall Roof.

Referred to the Long Term Debt Committee

Councillor McMenimen asked for clarification. The City Clerk explained the matter was informational.

5. Respectfully submit a license, and not a conveyance of any permanent rights or interest regarding a real estate matter. Executive session possible.

Filed as informational item

6. Respectfully request adopting the betterment order for Mt Walley. The actual cost to each taxpayer / property owner was not voted in the previous order.

Referred to the Public Works Committee

7. Respectfully request that the Building Commissioner and the Waltham Energy Action Committee be permitted to address the Finance Committee at the first meeting in September regarding the grant money tabled for the photovoltaic cells. Grant deadline is September 27, 2010.

Referred to the Finance Committee

Licenses All License referred to the License & Franchise Committee

Renewal of Class II Motor Vehicle License ABKO 97 Linden Street

Order # 31417

That the name for the Handicap Service Commission be changed to the Waltham Disability Commission, having had a first reading, it is before the City Council for a second reading.

On a motion by Councillor Tarallo to give the second reading, the motion carried. Councillor Tarallo move to suspend the rules for a third and final reading. The roll was called for the third reading voting yea were Councillors Collura, Curtin, Darcy, Giordano, LeBlanc, Marchese, Marcou, McMenimen, Romard, Rourke, Stanley, Tarallo and Waddick.

The Ordinance was adopted.

Order # 31414

THAT THE SUM OF \$300,000 BE APPROPRIATED FOR STREET RESURFACING AND/OR SIDEWALK IMPROVEMENTS AND TO RAISE THIS

APPROPRIATION, THE TREASURER, WITH THE APPROVAL OF THE MAYOR, IS

AUTHORIZED TO BORROW THE SUM OF \$300,000 UNDER THE PROVISIONS OF MASSACHUSETTS GENERAL LAWS, CHAPTER 44, SECTION 7, CLAUSE 6

Councillor Tarallo moved to have the list of streets to be done attached. The motion carried.

On a motion by Councillor Curtin to give the second and final reading, The roll was called for a second and final reading voting yea were Councillors Collura, Curtin, Darcy, Giordano, LeBlanc, Marchese, Marcou, McMenimen, Romard, Rourke, Stanley, Tarallo and Waddick.

The Order was adopted.

Order 31415

THAT THE SUM OF \$888,463 BE APPROPRIATED FOR STREET RESURFACING AND/OR SIDEWALK IMPROVEMENTS AND TO RAISE THIS

APPROPRIATION, THE TREASURER, WITH THE APPROVAL OF THE MAYOR, IS

AUTHORIZED TO BORROW THE SUM OF \$888,463 UNDER THE
PROVISIONS OF MASSACHUSETTS GENERAL LAWS, CHAPTER 44,
SECTION 7, CLAUSE 6

Councillor Tarallo moved to have the list of streets to be done attached. The motion carried.

On a motion by Councillor Curtin to give the second and final reading, the roll was called for a second and final reading voting yea were Councillors Collura, Curtin, Darcy, Giordano, LeBlanc, Marchese, Marcou, McMenimen, Romard, Rourke, Stanley, Tarallo and Waddick.

The Order was adopted.

Order # 30410

Correspondence from the City Clerk Election Order for the State Primary and State Election

On a motion by Councillor Tarallo to suspend the rules to act without committee reference the motion carried and the order was adopted.

Order # 31412

That 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 an extension of time to act on a Special Permit for property at 50 Bear Hill Road (Atlas Map R57, Block 1, Lot 1A), until October 1, 2010.

Councillor Tarallo moved to suspend the rules and act without committee, the motion carried Councillor Tarallo moves to accept the order for an extension of time.

The roll was called voting yea were Councillors Collura, Curtin, Darcy, Giordano, LeBlanc, Marchese, Marcou, McMenimen, Romard, Rourke, Stanley, Tarallo and Waddick.

The order was adopted.

The Council recessed into Committees

The Council will reconvene to address Committee reports on matter before them.

Committee reports:

Committee of the Whole recommends:

Order # 31416

That AUL for the City incinerator site be approved.

On a motion by Councillor Waddick to approve the order, the roll was called voting yea were Councillors Collura, Curtin, Darcy, Giordano, LeBlanc, Marchese, Marcou, McMenimen, Romard, Rourke, Stanley, Tarallo and Waddick.

The order was adopted.

Long Term Debt recommends:

Order # 31413

That a transfer of Capital Improvement funds totaling \$ 26,313.00 for the elevator at the police station to cover the cost of change orders pertaining to unforeseen conditions discovered during excavation.

Trans from

Building – Teen Center # 310-192-2007-6265 \$ 6,313.00

Building – Incinerator Demolition #310-192-2009-6910 \$20,000.00

Transfer to:

Building – Police Elevator #310-192-2007-6243 \$ 6,313.00

Police – Police Elevator #310-192-2009-6243 \$20,000.00

On a motion by Councillor Curtin the order was adopted.

License and Franchise Committee Recommends:

That a fuel storage license be granted to John Generoso, 511 Totten Pond Road, Waltham as applicant and Motiva Enterprises LLC, 520 Allen Avenue Bldg. #2, Providence RI as owner, for a fuel storage license to allow the removal of (3) single walled, existing 10, 000 gallon tanks and to be replace with (2) new double walled fiberglass 15, 000 gallon tanks. The new tanks will be configured as (1) 15,000 gallon

tank and split tank (1) 8000 gallons for gasoline / 7000 gallons diesel tank. The total fuel storage capacity will remain the same at 30,000 gallons. Property located at 511 Totten Pond Road being shown in the City Atlas as Map Book 10784 Page 277 Parcel ID R031-004-0001

On a motion by Councillor Marchese the license was granted.

Renewal of Class II Motor Vehicle License ABKO 97 Linden Street

On a motion by Councillor Marchese the license was renewed.

That Wen Hui Corp., d/b/a New Dragon Chef, 671 Moody Street (formerly known as 679 Moody Street), Waltham, MA 02453 (owner/operator of business) and Wing C. Ng, 30 Oakland Street, Malden, MA 02148 (owner of land), is granted by the City Council an Extended Retail Hours license under the provisions of Chapter 8 Article XIII for Wen Hui Corp., d/b/a New Dragon Chef, 671 Moody Street (formerly known as 679 Moody Street), Waltham, MA 02453 to remain open between the hours of 1100 AM to 2:30 AM for

The property located at 671 Moody Street (formerly known as 679 Moody Street), Waltham. The deed for said property is recorded with Middlesex South District Deeds in Book 49620, Page(s) 421-423. Said property is shown on the City of Waltham Atlas as Map 77, Block 11, Lot 2 – 003 and is in a Business A Zoning District with conditions.

On a motion by Councillor Marchese the license was granted.

Order # 31408

That NSTAR ELECTRIC COMPANY be granted permission to construct a line for the transmission of electricity for lighting, heating, or power under the public way or ways of the City hereinafter specified, and notice has been given and a hearing held on said petition as provided by law.

West Street: Westerly @ pole 293/10A approximately 1360' \pm feet south of Winter

Street of about 7' \pm feet – conduit.

On a motion by Councillor Marchese the order was adopted.

Order # 31409

That NSTAR ELECTRIC COMPANY and VERIZON NEW ENGLAND, INC is granted permission for joint or identical locations for the erection or construction of poles, a line of wires, and other such fixtures, to be owned and used in common by them upon, along and across the public way or ways of the City hereinafter specified, and notice has been given and a hearing held on said petition as provided by law.

West Street: Westerly side approximately 1360' \pm feet south of Winter Street

Install one (1) new pole 293/10 A

On a motion by Councillor Marchese the order was adopted.

On a motion by Councillor Marchese to adjourn

Motion carried the meeting adjourned at 9:55 PM