

## COMMITTEE OF THE WHOLE

### Minutes of the Meeting

May 15, 2017

1. Vice-President Logan called the meeting to Order at 8:00 pm.
2. Vice-President Logan requested that a roll call be taken to record the attendance for the meeting. The Clerk called the roll – Councillors Brasco, Darcy, Fowler, Giordano, D. Leblanc, R. LeBlanc, Marchese, McLaughlin, McMenimen, O'Brien, Romard, Rourke, Vidal, Waddick and Logan were present.
3. President LeBlanc moved to place the minutes of the May 1, 2017 meeting on the table. The motion was adopted on a voice vote and the minutes were tabled.
4. A resolution concerning a planned outage by Eversource in the Moody Street area was sponsored by President LeBlanc, Vice-President Logan and Councillor Rourke. Councillor Rourke moved to suspend the rules to hear from Wires Inspector, Tim Kelly, Eversource representative, Jack Lopes and Downtown Waltham Partnership representative, Lisa Lorgeree. The motion was adopted on a voice vote. Mr. Lopes explained the planned outages were scheduled for 6/5, 6/12, 6/26 and 7/10 between the hours of midnight to 8:00am. Mr. Lopes also distributed a handout of the plan to all Committee members. Mr. Lopes further explained that Eversource will work with the City and the downtown business owners, including having a contingency plan. Councillor Rourke moved to place the matter on the table. The motion was adopted by a voice vote and the resolution concerning a planned outage by Eversource in the Moody Street area was tabled.
5. A motion to take the matter of the Mayor's request seeking authority from the City Council for land acquisitions for traffic, bridge, road and sidewalk improvements at Route 117/Main Street Bridge/Stow Street/Third Avenue Signal from the table was adopted on a voice vote. President LeBlanc moved to suspend the rules to hear from the Traffic Engineer, Michael Garvin. The motion was adopted on a voice vote. Mr. Garvin distributed a handout to all Committee members that contained several maps of the proposed changes to the areas. Mr. Garvin answered questions from President LeBlanc, Councillors O'Brien, Fowler, Romard, Rourke and McMenimen concerning the traffic impacts, possible traffic mitigation from the developers, federal/state highway approvals, Banks Square impacts, neighborhood impacts and the management of the project. Since another matter with members of the public waiting in the audience, Councillor Darcy moved to table this matter. The motion was adopted on a voice vote and the matter of the land acquisitions for the traffic improvements was tabled.

6. President LeBlanc moved to take the matter of the Mayor's communication concerning the approval of a taking order for the Stigmatine property (2/13/2017) from the table. The motion was adopted on a voice vote. Councillor McMenimen questioned if the new docket item concerning the School Committee's recommendation for the Stigmatine property as the preferred site for the new Waltham High School (5/8/2017) should be taken up first. President LeBlanc moved to table the matter since it would be taken up at the 6/5/2017 COW meeting with the Mayor and Superintendent invited to appear. The motion was adopted on a voice vote and the matter concerning the School Committee's recommendation for the preferred site for the new Waltham High School was tabled. President LeBlanc moved to suspend the rules to hear from the Stigmatine Fathers' attorney, Adam Paton. The motion was adopted on a voice vote. President LeBlanc moved to suspend the rules to hear from the Stigmatine Fathers' representative, Father Robert White. The motion was adopted on a roll call vote – 13 in favor (Brasco, Fowler, Giordano, D. Leblanc, R. LeBlanc, Marchese, McLaughlin, McMenimen, O'Brien, Romard, Rourke, Vidal & Waddick), 1 present (Darcy) and Logan presiding. President LeBlanc asked and Attorney Paton answered the following questions: Has the agreement expired? – "Yes"; Have negotiations continued? – "No"; Is the Stigmatine property for sale? – "No". Attorney Paton spoke about the adverse impact to the Stigmatine Fathers if the City were to pursue a taking of the property. President LeBlanc stated if the City did not take the property it will be sold to a 40B developer. Attorney Paton answered with an emphatic – "NO"! Attorney Paton stated if the City were to offer the \$24 million value, the Stigmatine Fathers would turn it down. Attorney Paton stated the Mayor has treated the Stigmatine Fathers horribly, including threatening them with immediate expulsion and the City should deny the taking order and issue an apology to the Stigmatine Fathers. President LeBlanc stated her commitment to a new Waltham High School, but did not want to take someone else's property. President LeBlanc stated the City should work on the Fernald site for the Waltham High School project; it was dismissed too quickly. President LeBlanc moved to deny approval of the Mayor's taking order for the Stigmatine property. On the motion, Councillor McMenimen moved to suspend the rules to hear from the City Solicitor, John Cervone. The motion was adopted on a voice vote. Councillor McMenimen asked Solicitor Cervone to address and comment on the remarks of Attorney Paton. Solicitor Cervone dismissed and refuted the statements made by Attorney Paton and stated he would speak only to the facts of what has been going on concerning the acquisition of the Stigmatine property. Solicitor Cervone provided the timeline and the sequence of events that have occurred since January 2016, including a recitation of the documents that supported the City's position. Councillor McMenimen asked Attorney Paton to provide a copy of their \$25.4 million appraisal to which Attorney Paton responded that the appraisal was only done in the face of the threat of the Mayor to take the property, the property is not for sale and he will not share the appraisal with the City. Councillor McMenimen moved to request that Attorney Paton provide the Committee with a copy of the \$25.4 million appraisal. The motion was adopted on a voice vote. Councillor McMenimen moved to request Attorney

Paton to provide the Committee with exactly how much land the Stigmatine Fathers wish to carve out, using an engineering survey plan, to be allocated for the use of the Stigmatine Fathers. The motion was adopted on a roll call vote of 8 in favor (Brasco, Darcy, Fowler, R. LeBlanc, McLaughlin, McMenimen, Rourke & Waddick), 6 opposed (Giordano, D. LeBlanc, Marchese, O'Brien, Romard & Vidal) and Logan presiding. Councillor Randy LeBlanc asked Attorney Paton if the Stigmatine Fathers would give the City the right of first refusal. Attorney Paton repeated the property is not for sale. Councillor Waddick stated he was open to the acquisition of the property but was morally opposed to a taking. Councillor Waddick questioned the validity of a taking and the public purpose need. Councillor Giordano asked Attorney Paton about the appraisal and who paid for it. Councillor Rourke asked Solicitor Cervone about the taking of the Sanderson Heights property, including the ensuing litigation over the value. Councillor McLaughlin asked questions of Solicitor Cervone about the communication between the City and the Stigmatine Fathers, specifically concerning the relocation of the Stigmatine Fathers if the City acquired the property. Councillor Marchese spoke of his commitment to the new Waltham High School project and was in favor of acquiring the Stigmatine property but the taking of the property would require a compelling reason, especially with the availability of the existing high school site and the Fernald property. Councillor Fowler questioned Attorney Paton about soliciting proposals for the Stigmatine property and in his mind it demonstrated a clear intent of the Stigmatine Fathers to sell the property. Councillor Brasco questioned if the discussion of this matter should be conducted in open session and if it would harm the City's bargaining position. Councillor Brasco questioned if the City's funding grant from the Mass School Building Authority (MSBA) would be impacted. Solicitor Cervone stated the City would only need to show the MSBA that the City owned the property for its preferred site for the new Waltham High School. Councillor Brasco stated he represents all Waltham taxpayers, not just the school children. Councillor Darcy questioned if the City has met its 40B obligation. Attorney Paton responded, "Yes" and Solicitor Cervone responded, "Not sure". Councillor Darcy stated that the acquisition of the Stigmatine property was always included in the City's Master Plan and it needs to be protected. Councillor Darcy stated both the needs of the school children and the needs of the Stigmatine Fathers could be met. Councillor Romard questioned why the Mayor was not in attendance and if a feasibility study for a new Waltham High School on the Stigmatine property had been initiated. Councillor Romard stated the City should pursue other sites such as the Veterans' Fields complex and inquire if Bentley University and/or the Gann Academy is interested in selling. President LeBlanc asked questions of Solicitor Cervone about the legality of taking the land to prevent a 40B development. The original motion of President LeBlanc to deny the Mayor's request to approve a taking order for the Stigmatine property was approved by a roll call vote of 12 in favor of the denial of the taking order (Brasco, Giordano, D. LeBlanc, R. LeBlanc, Marchese, McMenimen, O'Brien, Romard, Rourke, Vidal, Waddick & Logan) and 3 opposed (Darcy, Fowler & McLaughlin).

7. A motion to adjourn was adopted on a voice vote, and the Chair declared the Committee adjourned at 10:50pm.

Paul G. Centofanti – Clerk to the Committee of the Whole