

Waltham City Council
Executive Session
May 10, 2021

City Council President Brasco called the Executive Session to order at 9:23 p.m.

City Councillors present in Chamber: Darcy, Dunn, Durkee, Harris, LaCava, LaFauci, McLaughlin, McMenimen, O'Brien, Paz, Vidal and Brasco.

City Councillors present via Zoom: Mackin and Stanley.

City Councillor Recused: LeBlanc.

Others Present: Mayor Jeanette McCarthy, Assistant City Solicitor Luke Stanton, Asst. City Clerk Joseph Vizard and City Clerk Robert Waddick.

The Mayor and Attorney Stanton were before the Council to discuss the request in her communications dated May 6, 2021 and May 10, 2021. The May 10, 2021 communication included a draft copy of a Purchase and Sale Agreement between the City of Waltham and the Commonwealth of Massachusetts acting through the Trustees of the University of Massachusetts for the property at 240 Beaver Street, Waltham also identified as the UMass Field Station (the "Property"). Said communications along with the draft Purchase and Sale Agreement are attached hereto collectively as Exhibit 1.

The Mayor and Attorney Stanton summarized the provisions of the Purchase and Sale Agreement and briefed the Council on the negotiations that had occurred with the Commonwealth regarding the acquisition of the Property. Attorney Stanton explained that the purchase price takes into consideration the City's obligation to perform environmental remediation on the property. He stated that remediation will be required with respect to a small amount of PCBs in an area of the Property where dumping had occurred and another area of the Property used for storage in which chromium and lead were found. Both the Mayor and Attorney Stanton emphasized that the City will not be acquiring the land across the street from the Property that Attorney Stanton described as polluted.

Councillor Darcy questioned the accuracy of the property description in the Purchase and Sale Agreement and suggested that the description include the address of 240AF Beaver Street as well as 240 Beaver Street. Attorney Stanton pointed out that he would have to present any changes to the Purchase and Sale Agreement suggested by the Council to the Commonwealth.

Councillor Darcy stated that the Council's Order with respect to authorizing the purchase of the Property should specify that the uses of the Property be restricted to farming, open space and recreation.

The Mayor pointed out that the City is bound by the language in the legislation which governs the sale of the Property to the City (Chapter 209 of the Acts of 2020) and that the Council should not adopt an Order with language that is inconsistent with the legislation.

Councillor Darcy made the following motion: That the City Council authorize the Mayor to sign a purchase and sale agreement with the Commonwealth of Massachusetts acting through the Trustees of the University of Massachusetts to acquire the property located at 240 Beaver Street, Waltham, MA for farming, open space and recreation.

The Mayor read portions of Chapter 209 of the Acts of 2020 relating to the uses of the Property permitted by the legislation.

Councillor Durkee questioned Attorney Stanton with respect to the environmental remediation required by the City.

Councillor McLaughlin stated that the legislation should be referenced in an Order adopted by the Council approving a purchase and sale agreement rather than the language proposed by Councillor Darcy, since the legislation controls the uses of the Property. Councillor McLaughlin moved the question (Councillor Darcy's motion).

Roll Call:

In favor: Dunn, Harris, Durkee, LaCava, LaFauci, McLaughlin, McMenimen, O'Brien, Paz, Stanley and Vidal.

Opposed: Darcy and Mackin.

Recused: LeBlanc.

Presiding: Brasco.

Motion approved 11-2

On Councillor Darcy's motion: That the City Council authorize the Mayor to sign a purchase and sale agreement with the Commonwealth of Massachusetts acting through the Trustees of the University of Massachusetts to acquire the property located at 240 Beaver Street, Waltham, MA for farming, open space and recreation.

Roll Call:

In favor: Darcy and Mackin.

Opposed: Dunn, Harris, Durkee, LaCava, LaFauci, McLaughlin, McMenimen, O'Brien, Paz, Stanley and Vidal.

Recused: LeBlanc.

Presiding: Brasco.

Motion failed 2-11

Councillor McLaughlin made the following motion: That the City Council authorize the Mayor to sign a purchase and sale agreement consistent with Chapter 209 of the Acts of 2020 with the Commonwealth of Massachusetts acting through the Trustees of the University of Massachusetts to acquire the property located at 240 Beaver Street, Waltham, MA.

Councillor Stanley spoke in favor of the motion stating that the Council should follow the Mayor's direction on the matter.

Councillor Vidal questioned Attorney Stanton with respect to the Title 5 matter in the Purchase and Sale Agreement.

On the motion made by Councillor McLaughlin: That the City Council authorize the Mayor to sign a purchase and sale agreement consistent with Chapter 209 of the Acts of 2020 with the Commonwealth of Massachusetts acting through the Trustees of the University of Massachusetts to acquire the property located at 240 Beaver Street, Waltham, MA.

Roll Call:

In favor: Darcy, Dunn, Harris, Durkee, LaCava, LaFauci, Mackin, McLaughlin, McMenimen, O'Brien, Paz, Stanley and Vidal.

Opposed: None.

Recused: LeBlanc.

Presiding: Brasco.

Motion approved 13-0

President Brasco asked Attorney Stanton if the Council needed to vote in open session to which Attorney Stanton replied in the negative.

Councillor McMenimen moved to table the matter.

Roll Call:

In favor: Darcy, Dunn, Harris, Durkee, LaCava, LaFauci, Mackin, McLaughlin, McMenimen, O'Brien, Paz, Stanley and Vidal.

Opposed: None.

Recused: LeBlanc.

Presiding: Brasco.

Motion approved 13-0

Councillor McMenimen moved to adjourn.

Roll Call:

In favor: Darcy, Dunn, Harris, Durkee, LaCava, LaFauci, Mackin, McLaughlin, McMenimen, O'Brien, Paz, Stanley and Vidal.

Opposed: None.

Recused: LeBlanc.

Presiding: Brasco.

Motion approved 13-0

President Brasco declared the executive session adjourned at 10:40 p.m.

Respectfully submitted,

Robert J. Waddick

City Clerk

May 12, 2021

Minutes Approved: May 24, 2021 Approved for Release: May 23, 2021