

December 13, 2010

Waltham City Council

Minutes of the Meeting of December 13, 2010

City Council Chambers, Waltham City Hall

President Brasco called the regular meeting of the Waltham City Council to order at 8:00 PM. 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, Tarallo, and Waddick. (15)

Councillor Waddick moved for a moment of silence for Deanne Coleman Yeulenski and Jonathan Lindsay.

Councillor Logan moved to accept the minutes of the meeting on November 22, 2010 and the Special Meeting of the City Council. On a voice vote the minutes of November 22, 2010 meeting and the November 22, 2010 Special Meeting were accepted.

Councillor Logan moved to suspend the rules to take a resolution out of order. The motion was adopted by a voice vote. Councillors Logan and Collura spoke on the resolution commending Michael Delfino. Councillor Logan moved to suspend the rules and act on the resolution without committee reference. The motion to suspend the rules was adopted on a voice vote. Councillor Logan then moved approval of the resolution and the resolution was adopted on a voice vote.

Public Hearing – Street Opening

Due notice having been given, President Brasco opened the Public Hearing on the petition by the Mayor and the City Engineer for permission, in accordance with Chapter 17, Section 25 of the General Ordinances of the City of Waltham entitled "Excavation of Resurfaced Street," to excavate the roadway for the purpose of installing a "relief" sewer in Lexington Street. This project, located on Lexington Street between Lake Street and the YMCA driveway, will provide a partial solution to the chronic sewer system overflow at Lake Street and Lexington Street.

Speaking in favor was City Engineer Stephen Casazza. No one stood in favor. 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 Councillors. The Councillors had several questions. After questions from Councillors, President Brasco closed the Public Hearing.

Councillor Tarallo moved that the rules be suspended in order to act on this matter without committee reference. The motion was adopted on a voice vote and the matter was opened to the floor for discussion. Councillor Tarallo moved that the order be approved with conditions. The roll was called for approval of the order with conditions. Voting yea were Councillors Collura, Curtin, Darcy, Doucette, Giordano, LeBlanc, Logan, Marchese, McMenimen, Romard, Rourke, Stanley, Tarallo and Waddick. By a vote of 4-0 Order # 31476 was adopted.

Councillor Tarallo moved to suspend the rules to take a matter out of order. The motion was adopted on a voice vote to take the following matter out of order.

2. Respectfully request a transfer of capital improvement funds totaling \$300,000.00 to fund the sewer rehab project on Lexington Street between Lake Street and the YMCA, increasing the sewer pipe from 10" to 18".

From #603-440-2006-7360 Sewer Rehab-General

To #603-440-2006-7395 Sewer Rehab-Lexington Street

Amount \$191,275.00

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

To #603-440-2005-7395 Sewer Rehab Lexington Street

Amount \$108,725.00

Councillor Tarallo moved to suspend the rules in order to act on the request without committee reference. The motion to suspend the rules was adopted on a voice vote. Councillor Tarallo then moved approval of the order. The order was approved by a voice vote. (Order # 31480)

Public Hearing – Fuel Storage

Due notice having been given, President Brasco opened the Public Hearing on the petition by Waverley Oaks, LLC, owner and petitioner, c/o Duffy Properties, LLC, 411 Waverley Oaks Road, Suite 340, Waltham, Massachusetts 02452 to amend an existing fuel storage license by changing the address of an existing stand-by emergency generator from 309 Waverley Oaks Road to 355 Waverley Oaks Road, and adding a fuel storage license for a new 30 space parking garage. Property located at 355 Waverley Oaks Road. Map, Block Lot numbers: R 043 003 0005.

Councillor Brasco disclosed that Attorney Connors also represents Brasco Funeral Home.

Speaking in favor were: Atty. Robert E. Connors, representing the petitioner; Anthony Arpino, 344 Beaver Street, Waltham; and Jim Mestheni, 360 Waverly Oaks Road. No one stood in favor. 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 Councillors. Councillor Curtin had various question. Councillor Tarallo concerns were regarding the necessary easements that might be required. It was requested that all responses be forwarded to the Licenses and Franchises Committee. President Brasco closed the Public Hearing and the matter was referred to the Licenses and Franchises Committee.

Public Hearing Special Permit

Due notice having been given, President Brasco opened the Public Hearing on the petition by Clear Wireless, LLC, an affiliate of Sprint Wireless Broadband Company, LLC and Nextel Communications of the Mid-Atlantic, Inc., 303 Wyman Street, Waltham, MA 02451; American Tower, 10 Presidential Way, Woburn, MA 01801, and Hilltop 110 Bear Hill LLC, 34 Bear Hill Road, Weston, MA 02493 hereby petition the Waltham City Council for a special permit pursuant to Sections 3.512, 3.621, 10.531(b), 10.55 and 10.56 of the City of Waltham Zoning Ordinance, to modify an existing wireless communication facility and install, operate and maintain wireless communication equipment on the façade of the existing tower located on the property at 110 Bear Hill Road (Atlas Map R048, Block 001, Lot 0016), including seven (7) backhaul antennas pipe-mounted at a height of 96' above ground level. Cabling will connect the antennas to existing equipment located at the base of the tower. The existing wireless communication equipment will remain, including the small Global Positioning System (GPS) antenna, which is necessary for E911 compliance. The proposal is shown on the Plans submitted by the Petitioners.

Councillor Tarallo moved to recess the Public Hearing until December 27, 2010. Councillor Curtin made a friendly amendment, that it be recessed until January 10, 2011. On a voice vote the motion carried as amended. The hearing was recessed until January 10, 2010.

Communications from the Mayor

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

1. Respectfully request an appropriation in the amount of \$7,500.00 from Library State Aid to Account 01-601-5200-5510 Library – Expenses.

Referred to the Finance Committee

2. Respectfully request an appropriation in the amount of \$10,000.00 from Unreserved Fund Balance to Account 001-151-5400-5760 Law Dept. – Claims and Damages. (possible Executive Session)

Referred to the Committee of the Whole

3. Respectfully request the acceptance of a donation from Gordon LeBlanc for \$500.00 for holiday lights.

Referred to the Finance Committee

4. Respectfully request the City Council to accept a grant from the Massachusetts Emergency Management Agency in the amount of \$25, 000.00.

Referred to the Finance Committee

5. Respectfully request the City Council to accept a grant from the Northeast Homeland Regional Advisory Council in the amount of \$29,572.79. Councillor

Tarallo moved to accept the Mayor's communication requesting withdrawal of the grant. The withdrawal was granted on a voice vote.

6. Respectfully request the City Council to accept a gift in the amount of \$60,000.00 from Spectra Energy for repaving an area of Trapelo Road, east of Smith Street, that was required to be excavated to comply with the U.S. Department of Transportation's pipeline safety and maintenance regulations.

Referred to the Finance Committee

7. Respectfully request rescinding the prior Stabilization Fund request for public safety radios. As of this date, the required 20-day statutory appeal period for registered voters commencing from the date of the Loan Order # 31455 (November 8, 2010) has now expired.

Referred to the Long Term Committee

Licenses

All license are referred to the Licenses and Franchises Committee

Renewal of a Lodging House License Dennis Dyer – 403 River Street

Renewal Prospect Auto Sales and Services – 143 Prospect Street – Class II MV

Renewal Chrislins dba Metrowest Motors – 477 Main Street – Class II MV

Renewal RTE 128 Used Auto Parts and Sales, Inc. – 40 Green Street – Class II MV

Renewal RTE 128 Used Auto Parts and Sales, Inc. – 40 Green Street – Class III MV

Renewal of a Lodging House License Michael Cotton – 26 Myrtle Street

Renewal of a Lodging House License Richard Fennelly – 24-26 High Street

Renewal of a Lodging House Stigmatine Fathers – Lexington Street

Tabled Items

The following matter was taken from the Council Floor and acted upon:

THAT THE SUM OF \$102,000 BE APPROPRIATED FOR EQUIPMENT AND TO RAISE THIS APPROPRIATION, THE TREASURER, WITH THE APPROVAL OF THE MAYOR, IS AUTHORIZED TO BORROW THE SUM OF \$102,000 UNDER THE PROVISIONS OF MASSACHUSETTS GENERAL LAWS, CHAPTER 44, SECTION 7, CLAUSE 9. This matter having had a first reading is before the City Council, it was now before the Council for a second and final reading.

Councillor Stanley moved to give the Loan Order a second and final reading. The motion was adopted on a voice vote. Councillor Stanley moved to adopt the Loan Order. The roll was called. Voting yea were Councillors Collura, Curtin, Darcy, Doucette, Giordano, LeBlanc, Logan, Marchese, McMenimen, Romard, Rourke, Stanley, Tarallo and Waddick.

By a vote of 14-0 the Loan Order was adopted. (Order # 31482)

New Business

Resolutions

A Resolution was presented by Councillors Marchese and Collura regarding the access road for the Francis Cabot Lowell Mill apartments and the Charles River Museum of Industry. Councillor Marchese moved to suspend the rules and act on the resolution without committee reference. The motion to suspend the rules was adopted on a voice vote. Councillor Marchese then moved approval of the Resolution and the resolution was adopted on a voice vote.

Community Preservation Committee

The Community Preservation Committee recommended a time extension to spend for the City Hall Roof Grant. Councillor Tarallo moved to suspend the rules and act on the recommendation without committee reference. The motion to suspend the rules was adopted on a voice vote. Councillor Tarallo then moved approval of the order. The order was approved by a voice vote. (Order # 31481)

The Clerk read the following communications from the Community Preservation Committee (CPC), and each in turn was referred to the appropriate committee by the President as indicated below.

The Community Preservation Committee recommended that the number of members of the Waltham CPC be expanded by, the addition of two at-large members, to a total of seven (7) members.

Referred to the Ordinances and Rules Committee

The Community Preservation Committee recommended approval of the request regarding expert and Administration Assistance.

Referred to the Long Term Debt Committee

Other Requests

Request for permission to re-advertise:

Correspondence from Sachem Realty, Co. 846 Lexington Street, Suite 6, Waltham for permission to re-advertise the request and continue consideration of the zone change for 135 Lexington Street.

Referred to the Ordinances and Rules Committee

Request for an extension of time to act on a special permit:

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 petitioned 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 February 15, 2011.

Councillor Tarallo moved to suspend the rules and act on the request without committee reference. The motion was adopted on a voice vote and the rules were suspended. Councillor Tarallo then moved to grant the time extension. The roll was called. Voting yea were Councillors Collura, Curtin, Darcy, Doucette, Giordano, LeBlanc, Logan, Marchese, McMenimen, Romard, Rourke, Stanley, Tarallo and Waddick. By a vote of 14-0 the time extension was granted. (Order # 31479)

Request for an extension of time to act on a 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 petitioned the City Council for an extension of time to act on a Special Permit for property located at 190 Willow Street (Atlas Map R071, Block 003, Lot 0019) until February 15, 2011.

Councillor Tarallo moved to suspend the rules and act on the request without committee reference. The motion was adopted on a voice vote and the rules were suspended. Councillor Tarallo then moved to grant the time extension. The roll was called. Voting yea were Councillors Collura, Curtin, Darcy, Doucette, Giordano, LeBlanc, Logan, Marchese, McMenimen, Romard, Rourke, Stanley, Tarallo and Waddick. By a vote of 14-0 the time extension was granted. (Order # 31477)

Request for an extension of time to act on a 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 petitioned the City Council for an extension of time to act on a Special Permit for property located at 385-387 Winter Street (Atlas Map R031, Block 001, Lot 0001) until February 15, 2011.

Councillor Tarallo moved to suspend the rules and act on the request without committee reference. The motion was adopted on a voice and the rules were suspended. Councillor Tarallo then moved to grant the time extension. The roll was called. Voting yea were Councillors Collura, Curtin, Darcy, Doucette, Giordano, LeBlanc, Logan, Marchese, McMenimen, Romard, Rourke, Stanley, Tarallo and Waddick. By a vote of 14-0 the time extension was granted. (Order # 31478)

Committee Reports

Licenses and Franchises Committee

The Licenses & Franchises Committee recommended that the Fuel Storage license for Watertown Ford 20 Seyon St. with conditions attached to the license
BE GRANTED. Councillor Logan moved that the action of the Committee be the

action of the Council. The motion was adopted on a voice vote and the license was granted with conditions.

The Licenses & Franchises Committee recommended that the renewal of the following Two (2) Class II Motor Vehicle Licenses with restrictions attached to the License **BE GRANTED**:

Ace Motor Sales – (Address)

Waltham Central School Transportation Inc. – (Address)

Councillor Logan moved that the action of the Committee be the action of the Council. The motion was adopted on a voice vote and the licenses were granted with restrictions.

The Licenses & Franchises Committee recommended that the request for a Mass Port Letter for Angelo Girginis **BE GRANTED**. Councillor Logan moved that the action of the Committee be the action of the Council. The motion was adopted on a voice vote and the request for a Mass Port Letter was granted.

The Licenses & Franchises Committee recommended that the renewal of the permit for Extended Hours for New Dragon Chef, 671 Moody Street, with conditions **BE GRANTED**.

Councillor Logan moved that the action of the Committee be the action of the Council. The motion was adopted on a voice vote and the license was granted with conditions.

Long Term Debt Committee

The Long Term Debt Committee recommended that the Community Preservation Committee (CPC) recommendation relative to the 2 Jackson Street parcel be placed on file. Councillor Stanley moved that the action of the Committee be the action of the Council. The motion was adopted on a voice vote and the matter was placed on file.

Economic and Community Development Committee

The Economic and Community Development Committee recommended that the resolution regarding the rededication of Prospect Hill as park land be placed on file.

Councillor Collura moved to have the resolution recommitted. The motion was adopted on a voice and the resolution was recommitted to the Economic and Community Development Committee.

The Economic and Community Development Committee recommended that the resolution regarding Prospect Hill taking Polaroid property be placed on file. Councillor Tarallo moved to have the resolution recommitted. The motion carried on a voice and the resolution was recommitted to the Economic and Community Development Committee.

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The Economic and Community Development Committee recommended that the resolution regarding Block Grant funding be placed on file. Councillor Romard moved the action of the Committee be the action of the Council. The motion was adopted on a voice vote and the resolution was placed on file.

Committee of the Whole

The Committee of the Whole recommended that the reappointment of John Ciaramaglia, 157 Warren Street, Waltham as a constable for a term of three years be confirmed. Councillor Waddick moved that 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, Tarallo and Waddick . By a vote of 15-0 the appointment was confirmed.

Ordinances and Rules Committee

The Ordinances and Rules Committee recommended that the proposed Livery License Ordinance be given a second reading. Councillor Logan moved to have the proposed ordinance recommitted. On a voice vote the matter was recommitted to the Ordinances and Rules Committee.

Finance Committee

The Finance Committee recommended that the sum of \$30,000.00 from Account #237-560-2300-3591 Fund Balance reserve for Handicap Projects to the following accounts

237-560-2315-5205 Police Details \$25,000.00

#237-560-2325-5205 Hardy School (HP access) \$5,000.00

be approved. Councillor Curtin moved that the action of the Committee be the action of the Council. The motion was adopted by a voice vote and the appropriation was approved. (Order # 31475)

The Finance Committee recommended that an appropriation in the amount of \$44,182. from Unreserved Fund Balance to the following account #001-420-5800-6720 Private Way-Mt Walley Road Paving with betterments be approved. Councillor Curtin moved that the action of the Committee be the action of the Council. The motion was adopted by a voice vote and the appropriation was approved. Order #31474

The Finance Committee recommended that the request to accept a grant from the State 911 Public Safety Answering Point and regional and Regional Emergency Communication Center support and incentive grant program in the amount of \$150,307.00 be approved. Councillor Curtin moved that the action of the Committee be the action of the Council. The motion was adopted by a voice vote and the grant was approved. (Order # 31473)

Council President Brasco named Councillor Doucette to the Environmental Committee.

Councillor Logan moved to adjourn. The motion was adopted on a voice vote and the City Council was adjourned at 10:30 PM.