

April 25, 2011

President Brasco called the regular meeting of the Waltham City Council to order at 8:00 P.M. 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 requested a moment of silence for Dr. Emma Merola.

Councillor Romard requested a moment of silence for Reverend William Mawhinney.

Councillor Logan moved to accept the minutes of the April 11, 2011 meeting as amended. The motion was adopted on a voice vote. The minutes were accepted as amended.

PUBLIC HEARING

The City Clerk read Rule 29 A

Sale of merchandise on the sidewalk – 315 Moody Street

Due notice having been given, President Brasco opened the Public Hearing on the petition by Syed Y. Raheem, 32 Oliver Street, Framingham, MA, for a “Permit for the erection or maintenance of structures for sale of merchandise” in accordance with Article I of Chapter 17-7 for the property located at 315 Moody Street. Petitioner Mr. Raheem was not present. The Public Hearing was recessed until May 9, 2011.

PUBLIC HEARING

Special Permit – 1006-1022 Main Street

Recessed from January 24, 2011

Due notice having been given, President Brasco opened the Public Hearing on the petition by

Waltham Ventures, LLC, 119 Bare Hill Road, Boxford, MA 01921, Peter J. Morris, Trustee, Main St. Realty Trust, u/d/t dated December 10, 1993, P.O. Box 206, Key Colony Beach, FL 33051, and DPS Waltham Development LLC, 251 Newbury Street, Boston, MA 02115 for a special permit under the provisions of §5.92 of the Ordinance to allow a reduction in the amount of required parking spaces for retail/restaurant use in a Business B Zoning District. The proposed retail/restaurant building shall require up to 279 parking spaces under the Zoning Ordinance. The Petitioners are seeking to reduce the number of required parking spaces to a minimum of 239 parking spaces.

The locus is known and numbered as 1006 Main Street and 1022 Main Street and is shown in the “Atlas, City of Waltham, Massachusetts 1988”, as Map 58, Block 18, Lot 21 and Map 58, Block 18, Lot 18. The property is situated in a Business B Zoning District.

The legal owners of the locus are Peter J. Morris, Trustee, Main St. Realty Trust, u/d/t dated December 10, 1993, P.O. Box 206, Key Colony Beach, FL 33051 as to property at 1022 Main Street, and DPS Waltham Development LLC, 251 Newbury Street, Boston, MA 02115 as to property at 1006 Main Street.

President Brasco recused himself in order to avoid any appearance of a conflict of interest due to his ownership of property nearby. City Council Vice President Waddick read the opinion of the Law Department regarding how to proceed in light of the Mayor having a similar conflict. Due to the possible conflicts, neither Mayor McCarthy nor City Council President Brasco, as abutters to the project, are able to participate in the matter. Under the Rule of Succession, City Council Vice President Waddick shall serve as acting Mayor on the matter. Because Councillor Waddick cannot act as both Mayor and as a member of the Council on the same matter, Councillor Waddick recused himself from the Public Hearing. Councillor Curtin shall serve as City Council President Pro-Tem on the matter. Speaking in favor was Joseph Connors, 404 Main Street, Waltham. No one spoke or stood in opposition and that portion of the public hearing was declared closed. President Pro-Tem Curtin opened the Public Hearing to questions from the Councillors. Councillor McMenimen inquired if a 2/3 vote of the entire Council (10 votes) is still required on the matter in light of the Council being a couple of members short due to recusals. President Pro-Tem Curtin indicated that 10 votes are still necessary for approval. The petitioner was made aware of that fact. Councillor Tarallo addressed the fact that the necessary matters were still unresolved. Attorney Connors requested that the hearing be recessed until May 23, 2011. Councillor Marchese asked Attorney Connors if that would be sufficient time. Attorney Connors responded it was. On a voice vote, the Hearing was recessed until May 23, 2011.

COMMUNICATIONS FROM THE MAYOR

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

1. Respectfully submit a constituent request to amend the current ordinance, which defines a vicious dog without referring to any specific breeds.

Referred to the Ordinances and Rules Committee

2. Respectfully submit constituents request for a blight ordinance. There is a blight ordinance tabled in the Ordinances and Rules Committee. Enclosed is Newton’s Blight Ordinance.

Referred to the Ordinances and Rules Committee

3. Respectfully request authorization to accept the Guminskis-Smith Scholarship Fund.

Referred to the Finance Committee

4. Respectfully request the re-adoption of Chapter 60 Section 3C relative to the establishing an education fund.

Referred to the Committee of the Whole

5. Respectfully request acceptance of a gift from the Oliveri Family for a memorial bench on the Waltham Common. This is similar to prior requests for memorial benches on the Common in that the City will make up the difference in the cost of the bench.

Referred to the Finance Committee

LICENSES

Class II Motor Vehicle License for Ace Motor Rental Co., Nicholas Kapanides

Referred to the Licenses and Franchises Committee

NEW BUSINESS

Abatement Petition

Petition for abatement for Felix Selines, ALE: C/O Gulderian, Varujian and Yakut Yesilte Vaujan Gulderian and Yakut Yesilte for property located at 240 Temple Road, Waltham.

Referred to the Finance Committee

RESOLUTIONS

Arbor Day

Resolution presented by Councillor Tarallo regarding 139 th Anniversary of Arbor Day. Councillor Tarallo spoke on supporting efforts to protect trees and woodlands by planting trees to promote the well being of this and future generations. Councillor Tarallo moved to

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 Tarallo moved approval of the resolution. The resolution was adopted on a voice vote.

Health Care Reform Plan Design Authority

Resolution presented by Councillors LeBlanc, Logan, Rourke, and Giordano regarding the “Health Care Reform Plan Design Authority” Councillor LeBlanc spoke on the benefit to tax payers if plan was adopted. Councillor Logan disclosed that he belongs to the City’s Plan. Councillor Tarallo asked that all Councillors be given a copy of the resolution. Councillor Curtin moved that a request be sent to the Law Department for an opinion regarding the City Council supporting Health Care Reform Plan Design Authority and if it will impact the city’s collective bargaining effort.

Referred to the Committee of the Whole

Non-Profit Payment In Lieu of Taxes

Resolution presented by Councillors Brasco and Logan regarding the owners of private non-profit institution being encouraged to voluntary PILOT (Payment In Lieu of Taxes) payments by non-profit property owners. Councillor Logan spoke on the value of the program. Councillor Brasco encouraged the City Council to investigate the feasibility of the program. Councillor Logan moved to have a request sent to the Board of Assessor providing the City Council with a list of all non-governmental / non-religious (i.e. not owned by a recognized religious organization) tax exempt properties in the City of Waltham. On a voice vote, the request was approved. The resolution was referred to the Committee of the Whole.

CPC Application

Resolution presented by Councillors Marchese, Waddick and Collura that the City Council sponsor a CPC (Community Preservation Committee) application for funding to acquire all or a portion of two parcels of land at 462 and 462 Next, Main Street. Councillor Waddick spoke on the benefit of acquiring land for open space and to help with the flow of traffic. Councillor Marchese stressed the need for the purchase of the two parcels of land at 462 and 462 Next Main Street for open space in the downtown area. Referred to the Committee of the Whole.

House Bill 3398

Resolution presented by Councillor Giordano regarding House Bill 3398 An Act Relative to the Disruption of Military Funerals. Councillor Giordano spoke on the resolution recommending that the City Council endorse the passage of the Act. Councillor Giordano 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 Giordano moved approval of the resolution. The resolution was adopted on a voice vote. Councillor Giordano moved a request to send a copy of the resolution to the Waltham’s State Delegation. On a voice vote, the request was approved.

American Legion Post 156

Resolution presented by Councillor Giordano commending American Legion Post 156 on celebrating an appreciation night for Korean Veterans. Councillor Giordano 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 Giordano moved approval of the resolution. The resolution was adopted on a voice vote.

Electronic Filing

Resolution presented by Councillors Doucette and Rourke relative to the Electronic filing and communication of Special Permits Application in addition to hard copy submissions that are currently required by City Council Rules. Councillor Doucette spoke on the benefit to having an electronic information file for special permits and other important information.

Referred to the Policy Committee.

General Ordinance Amendment

Proposed General Ordinance Amendment presented by Councillor Logan amending Chapter 2 of the General Ordinances of the City of Waltham entitled “ADMINISTRATION”, ARTICLE XIV entitled “CONSOLIDATED PUBLIC WORKS DEPARTMENT” Section 2.216, entitled “Public Vehicle Division”.

Referred to the Ordinances and Rules Committee

COMMITTEE REPORTS

LICENSES AND FRANCHISES COMMITTEE

The Licenses and Franchises Committee recommended that WALTHAM FUEL INC. and GLOBAL LLC. be granted permission by the City Council for Extended Retail Hours under the provisions of Chapter 8 article XIII for 1335 Main Street, to remain open between the hours of 6:00 A.M. to 6:00 A.M. (24 hours)for the property located at 1335 Main Street.

Councillor Collura moved that the action of the Committee be the action of the Council. Councillor Logan stated he was against the granting of the License. Councillor Giordano recused himself. The roll was called. Voting yea were Councillors Collura, Curtin, Darcy, Doucette, LeBlanc, Marchese, McMenimen, Romard, Rourke, Stanley, Tarallo, and Waddick. Voting nay was Councillor Logan. On a vote of 12 in favor to 1 opposed, the license was granted with restrictions.

The Licenses and Franchises Committee recommended that NSTAR ELECTRIC COMPANY be granted permission to Parmenter Road - Southeasterly @ pole 685/12 approximately 107' ± feet south of Cambria Road. A distance of about 8' ± feet – conduit Councillor Logan moved that the action of the Committee be the action of the Council. On a voice vote, the order was adopted with restrictions. (Order # 31539)

The Licenses and Franchises Committee recommended that NSTAR ELECTRIC COMPANY be granted permission to install conduit. South Street @ Brandeis University -Northeasterly @ pole 253/43 approximately 807' ± feet southwest of Wheelock Road.

Councillor Logan moved that the action of the Committee be the action of the Council. On a voice vote, the order was adopted with restrictions. (Order # 31538)

ORDINANCES AND RULES COMMITTEE

The Ordinances and Rules Committee recommended that the City Council amend Chapter 2 of the General Ordinances, "Administration" as most recently amended, is hereby amended by adding the following new Article XXXII Tree Commission be given a first reading.

Councillor Tarallo moved the action of the Committee be the action of the Council. Having had a first reading, the Ordinance Amendment was tabled on the City Council floor.

The Ordinances and Rules Committee recommended that an Ordinance Amending Chapter 18 of the General Ordinances of the City Of Waltham Entitled "TAXICABS," Article I entitled "In General ," Section 18-6 entitled "Rates and Charges" be given a first reading

Councillor Tarallo moved the action of the Committee be the action of the Council. Having had a first reading, the Ordinance Amendment was tabled on the City Council floor.

The Ordinances and Rules Committee recommended that the request from the Mayor looking for direction on moving the Benefits from payroll to the Personnel Department. The Committee on a voice vote, voted that the benefits stay in payroll and sent it out to the full council with a recommendation that the Waltham City Council request the City Clerk, send a communication to the Mayor that the Benefits stay in Payroll with no changes.

Councillor Tarallo moved the action of the Committee be the action of the Council.

Councillors LeBlanc, Logan, Tarallo, and Romard had various questions regarding the matter. Councillor Waddick questioned if the matter was properly before the City Council. President Brasco ruled the matter was improperly before the City Council.

FINANCE COMMITTEE

The Finance Committee recommended that the sum of \$14,620.00 be appropriated from "Fund Balance Reserve for Handicap Projects" to the following Accounts :

237-560-2326-5205 "GWARC (HP Access)"	\$2,620.00
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237-560-2327-5205 "Signals (Pine Vale Rd and Prospect Street Riverwalk"	\$12,000.00
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be approved.

Councillor Curtin moved that the action of the Committee be the action of the Council. On a voice vote, the order was adopted. (Order # 31540)

The Finance Committee recommended that the City Council accept Section 18 & 19 of Chapter 188 of the Acts of 2010

Councillor Curtin moved that the action of the Committee be the action of the Council. The roll was called. Voting yea were Councillors Collura, Curtin, Darcy, Doucette, Giordano, LeBlanc, Logan, Marchese, McMenimen, Romard, Rourke, Tarallo and Waddick. On a vote of 13-0, the order was adopted. (Order # 31542)

The Finance Committee recommended that the City Council increase the cost of living (COL) base from \$12,000.00 to \$14,000.00 for retirees be approved.

Councillor Curtin moved that the action of the Committee be the action of the Council. The roll was called. Voting yea were Councillors Collura, Curtin, Darcy, Doucette, Giordano, LeBlanc, Logan, Marchese, McMenimen, Romard, Rourke, Tarallo and Waddick. On a vote of 13-0, the order was adopted. (Order # 31541)

President Brasco requested the wish of the body, which was to adjourn. On a voice vote, the meeting was adjourned at 10:15 PM.