

Committee of the Whole

Minutes of the Meeting

February 1, 2021

Held remotely on ZOOM

1. Vice-President McMenimen called the meeting to Order at 8:00pm.
2. Vice-President McMenimen requested that a roll call be taken to record the attendance for the meeting. The COW Clerk called the roll – President Brasco, Councillors Darcy, Dunn, Durkee, Harris, LaCava, LaFauci, LeBlanc, Mackin, McLaughlin, O'Brien, Paz, Stanley, Vidal, and Vice-President McMenimen were all present remotely.
3. Councillor McLaughlin moved to approve the minutes of the COW meeting held on January 19, 2021. The motion was adopted on a voice vote and the minutes of the January 19, 2021 meeting were approved.
4. A resolution concerning the MBTA plan presented to the Waltham Traffic Commission effecting multiple bus stops in the community was submitted by Councillor McLaughlin and several other Councillors (McMenimen, Dunn, Harris, Mackin, O'Brien, Durkee, Paz and LaFauci). Vice-President McMenimen asked the Clerk to read the resolution. Councillor McLaughlin moved to hear from the Traffic Engineer, J. Michael Garvin, MBTA reps, Natasha Vance & Robert Guptil, and Sandra Clary of McMahan Associates. The motion was adopted on a voice vote. Upon questions from Councillor McLaughlin, Mr. Garvin explained that both the Traffic Commission and the MBTA have joint jurisdiction over bus stop locations. Ms. Vance and Mr. Guptil explained the MBTA accessibility program that is intended to benefit residents by improving operations and accessibility to service. Ms. Vance explained the financial commitment of the MBTA and the project was at 30% design. Ms. Vance also stated that citizen input would be solicited and considered in the final design when it goes back to the Traffic Commission. Ms. Clary gave a PowerPoint presentation detailing the specific locations to be impacted and the future location changes under a phased approach. Ms. Clary also identified several locations to be eliminated and/or consolidated based upon ridership. Councillor McLaughlin cited two locations in Ward 4 that would be impacted and asked for consideration in upgrading rather than moving the existing locations. Councillors Darcy, Mackin and Paz asked several questions about stop locations impacted in their wards. Councillor Darcy spoke of the need to increase, not eliminate, stops, Councillor Mackin asked about the timeline and Councillor Paz asked about the High Street/Newton Street stops. Councillor O'Brien asked if there would be an appeal or reconsideration process if there were concerns by residents about the plan and received an affirmative response. Councillor McLaughlin stated the Traffic Commission would be held on February 18 and encouraged other Councillors to attend. Councillor McLaughlin moved to file the resolution. The motion was adopted on voice vote and the resolution was filed.
5. A resolution concerning the creation of affordable housing was submitted by Councillor LeBlanc and several other Councillors (O'Brien, Stanley, Vidal, Harris, Durkee, Dunn and LaFauci). Councillor LeBlanc spoke on the resolution and explained the impact of deed

restrictions and then ability to market properties to qualified persons. Councillor Harris spoke of her long-time advocacy for affordable housing and its impact is citywide, requiring a multi-faceted approach. Councillor LeBlanc moved to request the Housing Director, Robert Waters, be available to attend a COW meeting to discuss the matter. The motion was adopted on voice vote. Councillor LeBlanc moved to place the resolution on the table. The motion was adopted on a voice vote and the resolution was tabled.

6. A recommendation to allocate CPA funds for the construction of affordable housing units at the Armory property at 34 Sharon Street was submitted by the Community Preservation Committee (CPC). Councillor Darcy moved to hear from the Mayor, Assistant City Solicitor Patricia Azadi and Housing Director Robert Waters. The motion was adopted on a voice vote. Councillor Darcy asked if 8 or 10 votes were needed to approve the CPC application. Attorney Azadi stated the question needed to be researched. Councillor Darcy asked questions about the amount the City could pay for the property. Attorney Azadi stated it could not be more than the appraised value based on the "as of right" use. Councillor Darcy asked if the amount requested by the CPC could be lowered. Attorney Azadi stated the answers to the question needed to be researched. Councillor Darcy asked if the applicant could go back to the CPC to revise their application. Attorney Azadi stated the CPC rules would apply. Councillor Darcy asked the number of affordable units short of the 10% threshold. Mr. Waters stated it was about 100 units and that number reflected the inclusion of the current three projects. Councillor Darcy asked if the appraisal could be seen, to which the Mayor responded in the negative and to refer to her communication to the City Council dated January 20, 2021. Councillor Darcy moved to request the COW Clerk to schedule a site visit, advertise it as a public meeting, contact the owner to get permission for the public to attend and to invite the Mayor and Housing Director. On the motion, Councillor Stanley asked if the CPC application could be approved with the condition the applicant get zoning approval to construct 23 affordable units. Attorney Azadi stated there would need to be some form indicating ownership or a purchase & sale agreement before the zoning issue could be addressed. Councillor Stanley spoke about other CPC applications and Attorney Azadi stated that agreements were put in place to articulate the conditions for the use of the CPA funds. Vice-President McMenimen interjected that the motion is to conduct a site visit. Also, on the motion, Councillor Vidal questioned the safety of the building structure for a site visit. The original motion of the site visit from Councillor Darcy was approved on voice vote. On the motion, Councillor Mackin stated she contacted the Department of Revenue, Division of Local Services and learned that an appropriation request only requires a majority (8) votes. Councillor Vidal asked the Mayor to speak on the matter. The Mayor stated the CPC is the capital improvement program of the City Council and her role is only to sign the agreement to administer the funds. The Mayor stated the CPC rules indicate the applicant needs ownership and an "as of right" appraisal of the property. The Mayor suggested the application go back to CPC for review. The Mayor stated she had previously advised WATCH of need to obtain an "as of right" appraisal. The Mayor emphatically stated her support for using the Armory for affordable housing, but the CPC application needs to be corrected for the Mayor to sign the agreement. The Mayor stated that the "as of right" appraisal is different than a "sales approach" appraisal. The Mayor spoke of her communications addressed to Daria Gere of WATCH and to the City Council where she stated her concerns about the information lacking

from the CPC application and the need of the applicant to comply. The Mayor again stressed that in addition to the approval of the City Council of the CPC application an agreement is created and only the Mayor is a signatory. The Mayor recommended the application be returned to the CPC, emphasizing that she is trying to get it right by working out the details. The Mayor explained the agreement controls the use of the CPA funds and needs to be properly done by the rules of the CPC and State statutes. Councillor Vidal asked questions about the process going forward with the CPC application, to which the Mayor said there are two parties involved – the CPC and the petitioner. The Mayor spoke of the need of an agreement between the property owner and the applicant that is separate from the City's involvement. The Mayor reiterated her role is to administer the funds and only the Mayor can sign the agreement. Councillor Vidal asked other procedural questions, to which Vice-President McMenimen speculated about how the matter could be tabled. The Mayor interjected that what is before the Committee is an appropriation request. The Mayor stated that if the appropriation request is approved, the Mayor is not able to sign the agreement since the requirements of the CPC application and State statutes were not met. Councillor Vidal stated with this information he intends to make a motion. As a point of information, Councillor LeBlanc asked the Mayor what are the options for the City Council. The Mayor stated Attorney Azadi could respond to his question. Councillor LeBlanc stated the City Council could (1) Vote to send the application back to CPC; (2) Vote no on the application and does it go back to the CPC; (3) Vote yes, the Mayor would veto and it would go back to the CPC. Attorney Azadi stated that she has not researched the question. Attorney Azadi informed the Committee stated if there was a defect in the application it would go back to CPC for correction and was not sure if the matter stayed on the Council floor. Councillor Vidal asked follow up questions of Attorney Azadi about the time needed to research the matter. Attorney Azadi stated the easiest way is to have the CPC reconsider its recommendation and to get the documentation it needs to have. Councillor Vidal moved to send the CPC a letter to review the recommendation and if necessary, to revise or amend the application. On the motion, Councillor Paz stated this was under the assumption that the applicant did not abide by the requirement of an appraisal and questioned the Mayor's objection to the appraisal that was obtained by the applicant. The Mayor responded that the petitioner's appraisal was based on the "sales approach" although the zoning has not been changed. The Mayor stated that WATCH knows of her support for the project, but it must be done properly as it is taxpayers' money. The Mayor again emphatically stated her inability to sign the agreement without the process being followed correctly and her sole objective is to get it done right. Upon a follow question from Councillor Paz, the Mayor stated it's a technical question for an appraiser and where two appraisers disagree, the solution is to get a third appraisal or with permission have the two appraisers reconcile their differences. On the motion, Councillor Stanley stated this action would kill the project. Councillor Stanley asked Attorney Azadi if the Council approves the appropriation and the Mayor vetoes the approval, can the Council override the Mayor's veto. Attorney Azadi stated she would need to research it. Councillor Stanley asked a follow up question about implicit approval after ten days under the City Charter. Attorney Azadi responded since the matter is under a specific state statute (CH44B), she was not sure the City Charter applies. Councillor Stanley moved to hear from Jennifer Van Campen. Councillor Vidal interjected there is currently a motion on the floor. Vice-President McMenimen ruled Councillor Stanley's motion was out of order. Councillor

Stanley stated this kills the project and it is a City Council decision and not the executive branch and will not vote to send it back to the CPC. On the motion, Councillor Harris asked several questions of the Mayor to itemize the concerns/facts being discussed this evening in a factual/non-debatable manner. The Mayor responded by listing the things that need to happen, emphasizing the requirement to follow CPC rules and State statute. The Mayor also emphasized the inaction of the current owner to get proper zoning or a 40B application to develop the property. The Mayor stated there are two options (1) file a 40B application using the "as of right" appraisal or (2) get the zoning changed; otherwise, there is no way for the Mayor to release the funding. On the motion, Councillor LeBlanc stated he agreed with the Mayor and we need to be sure we are responsible to taxpayers because of the difference in appraisals. Councillor LeBlanc asked that the motion of Councillor Vidal be amended to rescind and/or resubmit if that is the procedure of the CPC. The motion to amend was approved on a roll call vote of 13 in favor (Brasco, Darcy, Dunn, Durkee, Harris, LaCava, LaFauci, LeBlanc, Mackin, McLaughlin, O'Brien, Paz and Vidal), 1 opposed (Stanley) and McMenimen presiding. Councillor Paz stated we should vote against the motion of Councillor Vidal because we still need answers and make a written request to the Law Department for those answers. Councillor LaCava asked if we can go into executive session with the Mayor and the CPC. Attorney Azadi stated there is no mention of the City's interest in acquiring land, which is a basis for going into executive session. On the motion, Councillor LaCava asked if we approve the motion does it come off the docket; to which the response was yes. On the motion, Councillor O'Brien asked questions about the timeline to receive a response from the CPC and the optics to the public of killing the project, which is not accurate. On the motion, Councillor Mackin stated her reasons for not supporting the motion. On the motion, Councillor Durkee stated his understanding and interpretation of tonight's discussion is the CPC application is not proper and needs to be corrected. Councillor Durkee further stated the Mayor has given detailed reasons why the Mayor cannot approve it. On the motion, Councillor Darcy asked if the matter tabled if the motion passed; to which the response was no. Councillor Darcy expressed concern that his requests for the Law Department to conduct the research to his questions would not be made. On the motion, Councillor Mackin asked if approved would this be a recommendation to the full Council; to which the response was yes. The original motion of Councillor Vidal as amended by Councillor LeBlanc was approved on a roll call vote of 9 in favor (Brasco, Dunn, Durkee, Harris, LaCava, LaFauci, LeBlanc, McLaughlin and Vidal), 3 opposed (Mackin, O'Brien and Paz), 1 voting present (Darcy), 1 absent (Stanley) and McMenimen presiding.

7. A motion by Councillor McLaughlin to adjourn was adopted on a voice vote, and the Chair declared the Committee adjourned at 10:20pm.

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