

Waltham City Council
Minutes of Executive Session
December 9, 2019

President Brasco called the Executive Session to order at 9:21 p.m.

Present: Councillors Darcy, Fowler, Harris, LaCava, Diane LeBlanc, Randy LeBlanc, Logan, Mackin, McLaughlin, McMenimen, Nabulime, Romard, Vidal and Brasco. Also present: Mayor Jeanette A. McCarthy, City Solicitor John Cervone, Assistant City Solicitors Patricia Azadi and Michelle Learned, City Auditor Paul Centofanti and City Clerk Robert Waddick.

Council President Brasco presented a summary of the mediation that occurred on December 5, 2019 between the City and the Stigmatines and commended the Mayor and the Law Department for their hard work. He further reported that the result of the mediation was that the parties reached a settlement figure of \$29,000,000.00. Since the City had already paid the Stigmatines \$18,000,000.00, the proposed settlement would require the City to pay an additional \$11,000,000.00.

Mayor McCarthy provided a letter to the Clerk dated December 9, 2019 which referenced a Memorandum of Understanding. A copy of the letter is attached hereto as Exhibit 1. The Mayor provided a copy of a Memorandum of Understanding to the Councillors present, which the Councillors took time to read. A copy was not provided to the Clerk. The Mayor indicated that she would be providing two additional communications.

The Mayor summarized the history of the negotiations with the Stigmatines and answered questions posed by Councillors. She stated that the proposed settlement requires a one-time payment to the Stigmatines with no interest, no relocation payment or payment for sacramentals. She thanked Council President Brasco for his assistance in the mediation. The Mayor also thanked the Law Department for doing a wonderful job. She noted that the proposed settlement is subject to the approval of the City Council.

The Mayor then responded to questions from Councillors Diane LeBlanc, McLaughlin, Mackin and Logan. Councillor Logan then moved approval of the Memorandum of Understanding.

On the motion, Councillors McMenimen, Fowler, Randy LeBlanc, Romard, Nabulime, Harris, Diane LeBlanc, and Darcy made comments or asked questions of the Mayor, to which the Mayor responded.

Councillor Darcy moved the question. Roll call required.

In Favor: Darcy, Fowler, Harris, LaCava, Diane LeBlanc, Randy LeBlanc, Logan, Mackin, McLaughlin, McMenimen, Nabulime, Romard and Vidal.

Opposed: None.

Absent: Stanley.

Presiding: Brasco.

Motion passed 13-0-1.

On the motion for approval, roll call required.

In Favor: Darcy, Fowler, Harris, LaCava, Diane LeBlanc, Randy LeBlanc, Logan, Mackin, McLaughlin, McMenimen, Nabulime, Romard and Vidal.

Opposed: None.

Absent: Stanley.

Presiding: Brasco.

Motion passed 13-0-1.

The next communication presented by the Mayor included a proposed loan order in the amount of \$11,000,000.00. The communication requested that the matter be given a first reading. A copy of the communication is attached as Exhibit 2.

Councillor Logan moved to give the loan order a first reading. Roll call required.

In Favor: Darcy, Fowler, Harris, LaCava, Diane LeBlanc, Randy LeBlanc, Logan, Mackin, McLaughlin, McMenimen, Nabulime, Vidal and Brasco.

Opposed: Romard.

Absent: Stanley.

Motion passed 13-1-1.

The final communication from the Mayor requested the City Council to transfer the care, custody and control of Parcels R 033 002 0019, R 033 002 019A and R 033 002 019B known as 554 Lexington Street and 75R Lincoln Street and 111R Lincoln Street, (+/-) 46.063 acres to the Waltham School Committee and the Waltham School Department for educational use and purposes associated with educational use. A copy of the communication is attached hereto as Exhibit 3.

Councillor Fowler moved approval of the request. Roll call required.

In Favor: Darcy, Fowler, Harris, LaCava, Diane LeBlanc, Randy LeBlanc, Logan, Mackin, McLaughlin, McMenimen, Nabulime, Vidal and Brasco.

Opposed: Romard.

Absent: Stanley.

Motion passed 13-1-1.

Councillor Diane LeBlanc moved to adjourn. Roll call required.

In Favor: Darcy, Fowler, Harris, LaCava, Diane LeBlanc, Randy LeBlanc, Logan, Mackin, McLaughlin, McMenimen, Nabulime, Romard, Vidal and Brasco.

Opposed: None

Absent: Stanley

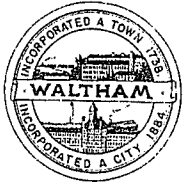
Motion passed 14-0-1

President Brasco declared the Executive Session adjourned at 11:15 p.m. and the Council returned to open session.

Respectfully submitted,
Robert J. Waddick,
City Clerk
December 11, 2019

Approved by the City Council: December 23, 2019
Released by the City Council: January 11, 2021

EXHIBIT 1



City of Waltham

Jeannette A. McCarthy
Mayor

Confidential Pending Litigation - Executive Session Matter

December 9, 2019

TO: The City Council
RE: Confidential Document

Dear Councillors:

Enclosed please find a copy of a confidential Memorandum of Understanding authorized to be distributed to the City Council.

The City attorneys and I are available to answer any questions you may have about this document in Executive Session.

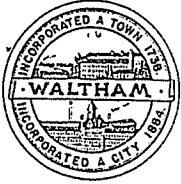
Sincerely,

Jeannette A. McCarthy

JAM/tbm

cc: John B. Cervone, Esq.
Michelle Learned, Esq.

EXHIBIT 2



City of Waltham

Jeannette A. McCarthy
Mayor

December 9, 2019

TO: The City Council
RE: Loan Authorization

Dear Councillors:

I respectfully request approval of the enclosed bond authorization in the amount of \$11 million dollars. I respectfully request that the City Council give the matter a first reading tonight. Enclosed is an analysis of the time requirements for the bond authorization.

The City Solicitor and Asst. Solicitor, City Auditor and I are available to answer any questions you may have regarding this request.

Sincerely,

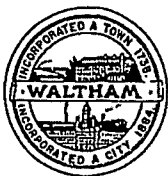
Jeannette A. McCarthy

JAM/tbm

encl.

John Cervone, Esq.

Michelle Learned, Esq.



CITY OF WALTHAM IN THE CITY COUNCIL

610 Main Street Waltham Massachusetts 02452

Order # _____

Ordered:

THAT A SUM, NOT TO EXCEED \$11,000,000, BE APPROPRIATED FOR THE LAND ACQUISITION OF THE STIGMATINE PROPERTY, CONSISTING OF THREE PARCELS (+/- 46.063 acres) (R 033 002 0019, R 033 002 019A, and R 033 002 019B) KNOWN AS 554 LEXINGTON STREET, 75R LINCOLN STREET, and 111R LINCOLN STREET, AND ASSOCIATED COSTS RELATED THERETO. THE PURPOSE OF THE INTENDED ACQUISITION IS EDUCATIONAL USE AND PURPOSES ASSOCIATED WITH EDUCATIONAL USE. TO RAISE THIS APPROPRIATION, THE TREASURER, WITH THE APPROVAL OF THE MAYOR, IS AUTHORIZED TO BORROW A SUM, NOT TO EXCEED \$11,000,000, UNDER THE PROVISIONS OF MASSACHUSETTS GENERAL LAWS, CHAPTER 44, SECTION 7 OR ANY OTHER BORROWING AUTHORITY.

ANY PREMIUM RECEIVED BY THE CITY UPON THE SALE OF ANY BONDS OR NOTES APPROVED BY THIS ORDER, LESS ANY SUCH PREMIUM APPLIED TO THE PAYMENT OF THE COSTS OF ISSUANCE OF SUCH BONDS OR NOTES, MAY BE APPLIED TO THE PAYMENT OF COSTS APPROVED BY THIS ORDER IN ACCORDANCE WITH MASSACHUSETTS GENERAL LAWS, CHAPTER 44, SECTION 20, THEREBY REDUCING THE AMOUNT AUTHORIZED TO BE BORROWED TO PAY SUCH COSTS BY A LIKE AMOUNT.

FIRST READING:

PUBLICATION:

SECOND READING:

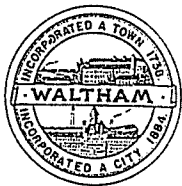
READ AND ADOPTED:

APPROVED:

\$11 Million – Loan Authorization Approval Timeline

- December 9, 2019 Original request to CC
- December 9, 2019 CC – First reading approval
- 10 day publication period prior to second reading – publication start date
December 19, 2019
- December 16, 2019 Committee review & approval
- January 13, 2020 CC – Second reading approval
- 20 day referendum period ending February 2, 2020
- February 3, 2020 Funding available

EXHIBIT 3



City of Waltham

Jeannette A. McCarthy
Mayor

December 9, 2019

TO: The City Council
RE: Care, Custody and Control

Dear Councillors:

Pursuant to Massachusetts General Laws Chapter 40, Section 15A, I respectfully request that the City Council transfer the care, custody and control of Parcels R 033 002 0019, R 033 002 019A and R033 002 019B known as 554 Lexington Street, 75R Lincoln Street and 111R Lincoln Street, (+/-) 46.063 acres to the Waltham School Committee and Waltham School Department for educational use and purposes associated with educational use.

Enclosed please find MSBA Project Advisory 45. Since no department was designated, Law Department advises that no declaration of surplus is required.

The City Solicitor, Asst. Solicitor, and I are available to answer any questions you may have regarding this request.

Sincerely,

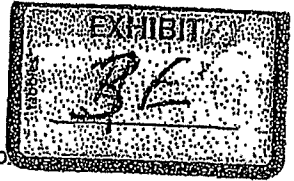
Jeannette A. McCarthy

JAM/tbm

encl.

John Cervone, Esq.

Michelle Learned, Esq.



Massachusetts School Building Authority

Funding Affordable, Sustainable, and Efficient Schools in Partnership with Local Communities

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Project Advisory 45, March 2017

MSBA Requirements for Land Use

The MSBA occasionally receives questions regarding land use considerations and restrictions to development and how they might affect project approvals, costs, schedule, and cash flow. This project advisory serves to clarify the MSBA's position regarding a District's use of an existing site, or potential alternate site that includes restrictions to development. Some examples of land use challenges that may impact a project include:

- Article 97 Park Land Restrictions
- Eminent Domain or Purchase of land
- Easements
- Local zoning approvals
- Wetland and/or conservation commission approvals

At the Preliminary Design Program phase, all site options should be presented with potential development restrictions identified, and all potential development and site issues identified by the conclusion of the Preferred Schematic Report phase. The MSBA requires a summary of the process undertaken to identify all potential issues and steps that are to be taken to resolve them. An updated project schedule that includes dates of anticipated approvals (e.g. Article 97 approvals) and key steps to gaining full ownership, control, and exclusive use of the land is also required in the Preferred Schematic Report submitted to the MSBA for review.

Upon submission of the District's Schematic Design Submittal, it is preferred that the District have ownership, full control, and access of the site. However, should there be outstanding issues that are in the process of being resolved and that are mapped out to the satisfaction of the MSBA, staff will forward a conditional Project Scope and Budget recommendation to MSBA Board of Director's for its consideration. The recommendation will be conditional upon the District obtaining full ownership, control, and exclusive use of the proposed project site. The MSBA will not sign a Project Funding Agreement and will not reimburse the District for any costs incurred beyond the Feasibility Study Agreement without all land use issues being resolved.

Any further questions should be directed to the MSBA Project Coordinator assigned to the project.

* MSBA APPLICATIONS

- Enrollment Projection
- Maintenance and Capital Planning
- OPM Report
- Pro-Pay Reimbursements

* YOUR STATEMENT OF INTEREST



Massachusetts General Laws Annotated
Part I. Administration of the Government (Ch. 1-182)
Title VII. Cities, Towns and Districts (Ch. 39-49a)
Chapter 40. Powers and Duties of Cities and Towns (Refs & Annos)

M.G.L.A. 40 § 15A

§ 15A. Transfer of land; procedure

Currentness

Whenever a board or officer having charge of land, including land acquired for playground purposes pursuant to the provisions of section fourteen of chapter forty-five, but excluding land acquired for park purposes, constituting the whole or any part of an estate held by a city or town within its limits for a specific purpose shall determine that such land is no longer needed for such purpose, whether such land was acquired before or after the effective date of this section and whether acquired by eminent domain, purchase, gift, devise or otherwise, such board or officer shall forthwith give notice of such determination to the city council of the city or the board of selectmen of the town. At any time after the receipt of such notice, the city council of the city by a two thirds vote of all its members, in the case of a city having a city manager, with the approval of said city manager, and in the case of other cities, with the approval of the mayor, or the town by a two thirds vote at a regular or special town meeting, may transfer the care, custody, management and control of such land to the same or another board or officer of the city or town for another specific municipal purpose, any provision of general or special law to the contrary notwithstanding; provided, that no such transfer shall be valid if it is in violation of any term or condition of the title of the city or town to such land.

In any city or town which accepts the provisions of this paragraph, when land is being transferred for the purpose of constructing low and moderate income housing, the vote required of the city council or the town meeting shall be by a majority vote.

Credits

Added by St.1951, c. 798, § 4. Amended by St.1954, c. 105; St.1989, c. 235.

Notes of Decisions (17)

M.G.L.A. 40 § 15A, MA ST 40 § 15A

Current through Chapter 88 of the 2019 1st Annual Session

End of Document

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Executive Session
Waltham City Council
Roll Call

Item: Motion to Move Question

Date: 12/9/19 Yea Nay Abstained Absent

City Council

George A. Darcy III	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
William H. Fowler	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Cathyann Harris	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Joseph P. LaCava	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Diane P. LeBlanc	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Randall J. LeBlanc	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Robert G. Logan	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Kristine A. Mackin	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
John J. McLaughlin	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Kathleen B. McMenimen	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Sharline Nabulime	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Daniel P. Romard	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Thomas M. Stanley	<u> </u>	<u> </u>	<u> </u>	<u>✓</u>
Carlos A. Vidal	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Paul J. Brasco President	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Totals (15)	<u>13</u>	<u> </u>	<u> </u>	<u> </u>

Executive Session
Waltham City Council

Roll Call

Item: Stigmaties' Settlement - Memorandum of Understanding *Approval of*

Date: 12/9/19

Yea

Nay

Abstained

Absent

City Council

George A. Darcy III	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
William H. Fowler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cathyann Harris	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Joseph P. LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Diane P. LeBlanc	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Randall J. LeBlanc	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Robert G. Logan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kristine A. Mackin	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
John J. McLaughlin	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kathleen B. McMenimen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sharline Nabulime	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Daniel P. Romard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Thomas M. Stanley	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Carlos A. Vidal	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Paul J. Brasco President	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals (15)	<u>13</u>	<u> </u>	<u> </u>	<u>1</u>

Executive Session
Waltham City Council
Roll Call

Item: Loan Order \$11,000,000.00 For Land
Acquisition of Stigmatized Property First Reading

Date: 12/9/19 Yea Nay Abstained Absent

City Council

George A. Darcy III	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
William H. Fowler	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Cathyann Harris	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Joseph P. LaCava	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Diane P. LeBlanc	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Randall J. LeBlanc	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Robert G. Logan	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Kristine A. Mackin	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
John J. McLaughlin	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Kathleen B. McMenimen	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Sharline Nabuline	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Daniel P. Romard	<u> </u>	<u>✓</u>	<u> </u>	<u> </u>
Thomas M. Stanley	<u> </u>	<u> </u>	<u> </u>	<u>✓</u>
Carlos A. Vidal	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Paul J. Brasco President	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Totals (15)	<u>13</u>	<u>1</u>	<u> </u>	<u>1</u>

Executive Session
Waltham City Council
Roll Call

Item: Transfer Case Custody Control to
School Committee - 554 Lexington Street

Date: 12/9/19 Yea Nay Abstained Absent

City Council

George A. Darcy III	✓			
William H. Fowler	✓			
Cathyann Harris	✓			
Joseph P. LaCava	✓			
Diane P. LeBlanc	✓			
Randall J. LeBlanc	✓			
Robert G. Logan	✓			
Kristine A. Mackin	✓			
John J. McLaughlin	✓			
Kathleen B. McMenemy	✓			
Sharline Nabulime	✓			
Daniel P. Romard		✓		
Thomas M. Stanley				✓
Carlos A. Vidal	✓			
Paul J. Brasco President	✓			
Totals (15)	<u>13</u>	<u>1</u>		<u>1</u>

EX Session
Waltham City Council
Roll Call

Item: Motion to Adjourn EX Session

Date: 12/9/19 Yea Nay Abstained Absent

City Council

George A. Darcy III	✓			
William H. Fowler	✓			
Cathyann Harris	✓			
Joseph P. LaCava	✓			
Diane P. LeBlanc	✓			
Randall J. LeBlanc	✓			
Robert G. Logan	✓			
Kristine A. Mackin	✓			
John J. McLaughlin	✓			
Kathleen B. McMenemy	✓			
Sharline Nabulime	✓			
Daniel P. Romard	✓			
Thomas M. Stanley				✓
Carlos A. Vidal	✓			
Paul J. Brasco President	✓			
Totals (15)	<u>14</u>			<u>1</u>