

Waltham City Council
Executive Session
February 25, 2019

Present: Councillors Darcy, Fowler, Harris, LaCava, LeBlanc, Diane, LeBlanc, Randall, Logan, Mackin, McLaughlin, McMenimen, Nabulime, Romard, Stanley, Vidal and Brasco.
Absent: None.

Also present: City Solicitor Cervone and City Clerk, Robert Waddick.

Councillor Diane LeBlanc questioned City Solicitor Cervone about the purpose of the \$50,000.00 request to hire an appraiser and whether it was to update the appraisal previously obtained. Mr. Cervone explained that an appraiser was needed for litigation. He indicated that the request was not for funding to update the previously obtained appraisal, but to obtain an independent appraisal for litigation purposes. Councillor Diane LeBlanc stated that the Council got a copy of the \$15,000,000.00 appraisal but never saw an updated appraisal prior to voting to take the property. Mr. Cervone stated that the City had provided a copy of its appraisal to the Stigmatine's attorneys but that the Stigmatine's attorneys never provided their appraisal to the City. Councillor Diane LeBlanc asked whether the only current litigation was the City's suit against the Stigmatines. Mr. Cervone answered in the affirmative but pointed out that the current suit is multifaceted and that the Stigmatines have the right bring counterclaims.

Councillor McMenimnen asked Mr. Cervone if the \$50,000.00 will advance the case to which he responded in the affirmative and Councillor McMenimen moved approval.

On the motion, Councillor Vidal asked if there was any chance that more money would be requested in the future and if so whether there would need to be another executive session. Mr. Cervone indicated that he couldn't say whether there would be a future request, but indicated that the matter would need to be discussed in executive session.

Councillor Stanley asked whether the Council was given the previous appraisal to which Mr. Cervone responded that the Council had been given a copy of the \$15,000,000.00 appraisal. Councillor Stanley asked whether the \$50,000.00 for an appraisal was needed because the City had made a mistake in handing over its appraisal to the Stigmatine's attorneys and now needed funding to obtain another appraisal which the City won't share. Mr. Cervone indicated that there was no mistake. He stated that the Stigmatines didn't honor the agreement to share appraisals. Councillor Stanley asked if there was an expectation that that the new appraisal would be more than \$15,000,000.00. Mr. Cervone stated that the Stigmatines have claimed that their appraisal exceeds \$15,000,000.00. He further stated that more than one appraisal would be needed and that he believed that he would be able to procure two appraisals with the \$50,000.00 requested.

Councillor Romard asked when the \$15,000,000.00 appraisal was done to which Mr. Cervone responded that it was done in the late summer or fall of 2016. Councillor Romard asked when the matter would go to trial to which Mr. Cervone responded that he had requested an expedited trial and that it could be as soon as the fall of 2019. Councillor Romard asked whether it was too soon to have another appraisal done. Mr. Cervone responded that it was not too soon to obtain

another appraisal because the appraisal will reflect the value of the property as of the date of the taking which has already occurred. Mr. Cervone stated that the original \$15,000,000.00 appraisal done for the City was updated at the time of the taking. Councillor Romard asked when the update was done to which Mr. Cervone responded, late 2017. Councillor Romard asked what the City paid for the original appraisal to which Mr. Cervone responded, about \$21,000.00. Councillor Romard questioned whether the Mayor of Mr. Cervone was making this request. Mr. Cervone stated that an expert appraiser is needed.

Councillor Nabulime commented that the \$50,000.00 request was high and suggested that the City could go with an updated appraisal and one additional appraisal rather than two additional appraisals.

Councillor Logan asked whether appraisals would be shared if they were low to which Mr. Cervone replied that the City won't share its appraisals if they don't share. Councillor Logan asked if the City would be obligated to turn over all of its appraisals to which Mr. Cervone responded that if the City does not intend to use an appraiser as an expert, that his/her appraisal would not have to be turned over. Councillor Logan then asked whether we are just trying to get the lowest appraisal. Mr. Cervone responded that you can look at it that way but this isn't a simple valuation and it would be nice to have competent people who have dealt with this type of property before and have testified. Councillor Logan then asked why we need two appraisals, to which Mr. Cervone responded that this is \$50,000,000.00 versus \$50,000.00 and that we need an appraiser to go forward.

Councillor Randall LeBlanc asked what would happen to excess funding if the appraisals cost \$18,000.00 each to which Mr. Cervone indicated if the total amount wasn't needed it wouldn't be spent. Councillor Randall LeBlanc asked whether one or two appraisals are needed to which Mr. Cervone responded, two.

Councillor Diane LeBlanc moved to adjourn the Executive session.

Voting in favor: Councillors Darcy, Fowler, Harris, LaCava, LeBlanc, Diane, LeBlanc, Randall, Logan, Mackin, McLaughlin, McMenimen, Nabulime, Romard, Stanley and Vidal.

Opposed: None.

Presiding: Brasco

The Executive Session was adjourned at 11:30 p.m.

Respectfully submitted,

Robert J. Waddick
City Clerk

Approved by the City Council: March 25, 2019

Released by the City Council: January 11, 2021