

**Waltham City Council Minutes of the meeting of Tuesday, May 29, 2012,
City Council Chambers, 610 Main Street, Waltham**

President Waddick 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, Curtin, Darcy, Doucette, Giordano, LeBlanc, Logan, Marchese, McMenimen, Romard, Rourke, Stanley, Tarallo, Waddick and Vizard. (15)

The Clerk read the Council prayer, and then the President led the City Council in the Pledge of Allegiance.

Councillor Giordano requested a moment of silence for our men and women in the armed services serving around the world. A moment of silence was observed.

Councillor Brasco requested that the minutes from May 14, 2012 be accepted as amended. On a voice vote, the minutes were accepted.

Councillor Tarallo moved to take a resolution out of order and act on the resolution without committee reference. On a voice vote, the resolution was taken out of order. Councillor Tarallo introduced Peggı Iebba, Sonja Wadman, Lillian Saantangelo, Scott Shurr, Mona McGean Sarah Hankins and Glenn Perrin. Councillor Tarallo commended them on all their hard work on the Fourth Annual Waltham Riverfest. Councillor Tarallo moved to adopt the resolution. On a voice vote, the resolution was adopted.

The Clerk read rule 29A for the upcoming public hearings.

President Waddick explained the necessary step for resurfacing private ways.

Public Hearing

Due notice having been given, President Waddick opened the public hearing on the petition for the resurfacing of the private way known as Brennan Avenue, to be resurfaced in accordance with the provisions of Section 17-80 of the General Ordinance of the City of Waltham, with betterments to be assessed.

President Waddick opened the public hearing to those wishing to speak in favor of the petition. Speaking in favor were Councillors Brasco and Darcy. Ms. Ellen Simich also spoke in favor. Twelve stood in favor. President Waddick closed that part of the public hearing and opened the public hearing to those wishing to speak in opposition. No one spoke or stood in opposition. President Waddick closed that part of the public hearing and opened the public hearing to questions from Councillors. Councillors Curtin, McMenimen and LeBlanc had various question on the assessments on the betterments. President Waddick closed the public hearing and referred the matter to the Public Works Committee

Public Hearing

Due notice having been given, President Waddick opened the public hearing on the petition for the resurfacing of the private way known as Midland Drive (private section only), to be resurfaced in accordance with the provisions of Section 17-80 of the General Ordinance of the City of Waltham, betterments to be assessed.

President Waddick opened the public hearing to those wishing to speak in favor of the petition. Speaking in favor were Councillors Brasco and Darcy. Twelve stood in favor. President

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Waddick closed that part of the public hearing and opened the public hearing to those wishing to speak in opposition. No one spoke or stood in opposition. President Waddick closed that part of the public hearing and opened the public hearing to questions from Councillors. Councillors Romard inquired if there would be any warranties on the work done. Councillors Brasco and Darcy said they would investigate that matter further. President Waddick closed the public hearing and referred the matter to the Public Works Committee.

Public Hearing

Due notice having been given, President Waddick opened the public hearing on the petition for the resurfacing of the private way known as Mountain Road, to be resurfaced in accordance with the provisions of Section 17-80 of the General Ordinance of the City of Waltham, with betterments to be assessed.

President Waddick opened the public hearing to those wishing to speak in favor of the petition. Speaking in favor were Councillors Brasco and Darcy. Twelve stood in favor. President Waddick closed that part of the public hearing and opened the public hearing to those wishing to speak in opposition. No one spoke or stood in opposition. President Waddick closed that part of the public hearing and opened it to questions from Councillors. President Waddick closed the public hearing and referred the matter to the Public Works Committee

Public Hearing

Due notice having been given, President Waddick opened the public hearing on the petition for the resurfacing of the private way known as Plympton Ave, to be resurfaced in accordance with the provisions of Section 17-80 of the General Ordinance of the City of Waltham. Betterments to be assessed.

President Waddick opened the public hearing to those wishing to speak in favor of the petition. Speaking in favor were Councillors Brasco and Darcy. Twelve stood in favor. President Waddick closed that part of the public hearing and opened the public hearing to those wishing to speak in opposition. No one spoke or stood in opposition. President Waddick closed that part of the public hearing and opened it to questions from Councillors. President Waddick closed the public hearing and referred the matter to the Public Works Committee

SPECIAL PERMIT

Due notice having been given, President Waddick opened the public hearing on the petition of Waltham Ventures, LLC, 119 Bare Hill Road, Boxford, MA 01921 and Chipotle Mexican Grill of Colorado LLC, 1401 Wynkoop St. Suite 500 Denver Colorado for Special Permit pursuant to Sections 3.5 and 3.620 of the Zoning Ordinance of the City of Waltham to operate a Fast-Food Establishment, as defined by Section 3.229, under the name Chipotle Mexican Grill. The proposed 2,333 sq. ft. restaurant is to have 41 seats with 235 sf of “unseated Public Floor Area. A Fast Food Establishment is allowed by Special Permit in the Business B Zoning District.

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 and to property 1006 Main Street, and to property 1022 Main Street is Waltham Ventures, LLC, u/d/t dated March 22, 2012.

President Waddick opened the public hearing to those wishing to speak in favor of the petition. Speaking in favor was Joseph Connors, Attorney for the petitioner. Also speaking in

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favor were Margaret Bailey, 37 Weston Street, Waltham; Kevin Dandrage 65 Glenn St., Lawrence; and Keith Bettencourt, 142 Crescent Street, Brockton. President Waddick closed that part of the public hearing and opened the public hearing to those wishing to speak in opposition. Speaking against the project was Jennifer Patton, 39 Caldwell Road, Waltham. President Waddick asked if anyone wanted to stand in favor of the petition. Two stood in favor. President Waddick asked if anyone wanted to stand in opposition to the petition. One stood opposed to the petition. President Waddick closed that portion of the public and open it to questions from Councillors. Councillor Marchese had several questions. Councillor Marchese inquired if there would be other fast food applications for the site. Attorney Connors stated there would be. Councillor Marchese continued with various questions and requested that the answers to be furnished to the Ordinances and Rules committee. Councillor Logan requested a list of the members of the LLC. Councillor Logan requested that a traffic study be supplied. Councillor Tarallo requested a full set of plans and a current traffic report. Councillor Giordano inquired if there was outside seating. Attorney Connors responded that there would be. Councillor Darcy requested a scale be added to all the plans. Councillor LeBlanc inquired about the hours of operation, the response was that they would be open from 11:00 AM to 10:00 PM, 7 days a week. Due to the lack of the required traffic report and other requested information, President Waddick recessed the public hearing until June 11, 2012.

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 Waddick as indicated below:

1. Respectfully request acceptance of a gift of \$10,285.00 through a 2012 Edward Byrne Memorial JAG (Justice Assistance Grant) Program. This grant requires no matching funds from the City of Waltham.

Referred to the Finance Committee

2. Respectfully request the appointment of Robert J. Waters, Jr., of 501 Lexington Street, Waltham as Housing Supervisor, formerly Housing Director, for a three-year term

Referred to the Committee of the Whole.

3. Respectfully request that Chapter 6, Section 6-173 (3), be amended from ten members who shall hold the office of captain to eleven, one of whom will be Captain Training / Admin and that Chapter 14, Section 14-2 (5), be changed from sixteen sergeants to seventeen sergeants to reflect the FY13 budget appropriation request.

Referred to the Ordinances and Rules Committee.

4. Respectfully request a gift from Watertown Savings Bank in the amount of \$2,000.00. This will help cover the cost for the city – sponsored Waltham Works volunteer project.

Referred to the Finance Committee

5. Respectfully request the acceptance of two separate grants from the Massachusetts Emergency Management Agency (MEMA). The first grant is the FFY2012 HMEP grant in the amount of 2,532.33. The second is the FFY2010 EMPG grant in the amount of \$ 22,000.00

Referred to the Finance Committee

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6. Respectfully request the acceptance of a gift of off-site infrastructure improvements from SPC Main Street LLC.

Referred to the Finance Committee

7. Respectfully request the acceptance of a gift of sewer improvements from SPC Main Street LLC.

Referred to the Finance Committee

8. Respectfully request the approval of Easement Relocation Agreement and Plans SPC will construct a new City sewer at its sole cost and expense at 1265 Main Street, Waltham.

Referred to the Finance Committee

9. Respectfully request the approval of the Maintenance Agreement to be attached thereto and incorporated by reference to the Easement Relocation Agreement at 1265 Main Street, Waltham.

Referred to the Finance Committee

Late file communication from the Mayor

The Council received a late filed communication from the Mayor regarding the appointment of the new Traffic Engineer. Councillor Tarallo moved to accept the late file communication. On a voice vote, the late file communication was accepted. The Mayor respectfully requests the City Council to confirm the appointment by the Traffic Commission. This is being submitted through the Mayor because the Mayor's assent is necessary in order to put someone on the payroll. The Traffic Commission respectfully requests the appointment of Mr. J. Michael Garvin, 4 Kristin Drive, North Chelmsford for City Council confirmation.

Referred to the Committee of the Whole

Licenses All license are referred to the Licenses and Franchises Committee

Tabled on the City Council floor 5-14-12

An Ordinance Amendment Chapter 10 of the General Ordinances of the City of Waltham, entitled "OFFENSES—MISCELLANEOUS," ARTICLE IV entitled "REGISTERED SEX OFFENDER RESTRICTIONS," Section 10-73 entitled "Other restrictions and prohibitions" having had a first reading is before the City Council for a second reading.

Councillor Tarallo moved to take the ordinance amendment off the table. On a voice vote the ordinance was taken off the table. Councillor Tarallo moved that the matter be given a second reading. On a voice vote the matter was approved for second reading. Councillor Tarallo then moved to suspend the rules in order to give the matter a third and final reading. The motion for suspension was adopted on a voice vote. Councillor Tarallo then moved that the matter be given a third and final reading. The roll was called. Voting yea were Councillors Brasco, Curtin, Darcy, Doucette, Giordano, LeBlanc, Logan, Marchese, McMenimen, Romard, Rourke, Stanley, Tarallo and Vizard. By a 14 to 0 vote, the ordinance was adopted. Order # 31724

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Mass Port Requests

Richard Martin Bykuleka, 115 South Street, Waltham requests a Mass Port Letter.
Referred to the Licenses and Franchises Committee

Ronald Mwebe, 35 Middlesex Road # 8, Waltham requests a Mass Port Letter.
Referred to the Licenses and Franchises Committee

Resolutions

Councillor LeBlanc presented a resolution regarding hiring a planning director.
Referred to the Ordinances and Rules Committee.

Committee Reports

Licenses and Franchises Committee

The Licenses and Franchises Committee recommended that the petition of NSTAR ELECTRIC COMPANY and VERIZON NEW ENGLAND, INC to relocate one pole at **Main Street– Southerly side at and westerly from Prospect Hill Road** be approved as amended. Councillor Logan moved that the action of the committee be the action of the Council. On a voice vote, the motion carried and the order was adopted. Order # 31720

The Licenses and Franchises Committee recommended that the petition of NSTAR ELECTRIC COMPANY and VERIZON NEW ENGLAND, INC for permission for the following

Weston Street;

Northwesterly side approximately 125 ' feet southwest of Elm Ave

Install one (1) new pole 294/5

Remove one (1) pole

Northwesterly side 401' feet southwest of Elm Ave

Install one (1) new pole 294/9

Remove one (1) pole As Amended

be approved as amended.

Councillor Logan moved that the action of the committee be the action of the Council.

On a voice vote, the order was adopted. Order # 31721

The Licenses and Franchises Committee recommended that the petition of NSTAR ELECTRIC COMPANY and VERIZON NEW ENGLAND, INC for installing conduit at **Main Street: Southwest@ pole 183/109 approximately 130' feet east of Eddy Street a distance of about 9' ± feet - conduit As Amended**

be approved as amended.

Councillor Logan moved that the action of the committee be the action of the Council.

On a voice vote, the order was adopted. Order # 31719

Long Term Debt Committee

The Long Term Debt Committee recommended that the sum of \$325,000 be appropriated for water improvements; that to meet this appropriation the Treasurer, with the approval of the mayor, is authorized to borrow the sum of \$325,000 under the provisions of Massachusetts

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General Laws, Chapter 44, Section 8; That the Treasurer, with the approval of the Mayor is authorized to borrow all or a portion of such amount from the Massachusetts Water Resources Authority (MWRA) and in connection therewith to enter into a loan agreement and/or security agreement with the MWRA with respect to such loan; that the Mayor is authorized to contract for and expend any Federal, State or other available aid for the project, including any grant related to such project from the MWRA. Councillor Stanley moved the action of the committee be the action of the City Council. The loan order was given a first reading.

The Long Term Debt Committee recommended that Community Preservation Committee (CPC) FY 2013 Administrative Budget be approved as amended. Councillor Stanley moved the action of the committee be the action of the City Council. On a voice vote, the order was adopted. Order # 31722

Ordinances and Rules Committee

The Ordinances and Rules Committee recommended that the General Ordinance Amending Fuel Storage Licenses be given a first reading. Councillor Tarallo moved the action of the committee be the action of the City Council. The General Ordinance Amendment amending Fuel Storage License was given a first reading.

The Ordinances and Rules Committee recommended that Hilltop 110 Bear Hill LLC, 1575 Tremont Street PH 2, Boston MA, be grant by the Waltham City Council a special permit for properties located at 110 Bear Hill Road. Councillor Marchese moved to recommit the special permit. On a voice vote, the special permit was recommitted.

The Ordinances and Rules Committee recommended that Waltham City Council authorize the surplus of and abandonment of the interior 8' easement "for benefit of Lots A and F" shown on the plan dated June 12, 1928 for such amount and upon such terms as the Mayor shall consider proper and authorize the Mayor issue a release deed for said easement. Further more, that since value of said easement is less than \$ 25,000 that said abandonment should be done without a public RFP process.

Councillor Tarallo moved the action of the committee be the action of the City Council. The roll was called. Voting yea were Councillors Brasco, Curtin, Darcy, Doucette, Giordano, LeBlanc, Logan, Marchese, McMenimen, Romard, Rourke, Stanley, Tarallo, and Vizard. By a 14 to 0 vote, the order was adopted. Order # 31742

Finance Committee

The Finance Committee recommended that the City Council accept the FFY 2012 Traffic Enforcement Grant in the amount of \$ 6,600.

The grant will be disbursed in two mobilizations. One mobilization will be the "Click It or Ticket" for the period May 14, 2012 through June 3, 2012. The second mobilization will be the "Drive Sober or Get Pulled Over" for a period August 15, 2012 through September 3, 2012. Councillor Curtin moved the action of the committee be the action of the City Council. On a voice vote, the order was adopted. Order # 31717

Finance Committee – Budget

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Finance Committee recommended that the City Council re-authorizes three department revolving accounts under the provisions of Massachusetts General Laws, Chapter 44, Section 53e ½ for the City Clerk, Council on Aging and Recreation Department.

Councillor Curtin moved the action of the Committee be the action of the City Council. The roll was called. Voting yea were Councillors Brasco, Curtin, Darcy, Doucette, Giordano, LeBlanc, Logan, Marchese, McMenimen, Romard, Rourke, Stanley, Tarallo, and Vizard. By a vote of 14 to 0 vote, the order was adopted. Order # 31718

Finance Committee recommended that the City Council sum of \$66,699.00 be approved to the account designated in the budget schedule to fund the School Department budget for fiscal year 2013 and said amount to be assessed in the Revenue of 2013.

Councillor Curtin moved the action of the committee be the action of the council. The roll was called. Voting yea were Councillors Brasco, Curtin, Darcy, Doucette, LeBlanc, Logan, McMenimen, Romard, Rourke, and Stanley. Voting nay was Councillor Giordano. Abstaining were Councillors Marchese, Tarallo and Vizard. By a 10 to 1 vote, the order was adopted. Order # 31726

Finance Committee recommended that the City Council that the sum of \$87,224. be approved to the accounts designated in the budget schedule to fund the Emergency Management budget for fiscal year 2013 and said amount to be assessed in the Revenue of 2013.

President Waddick recused himself. Councillor Doucette was President pro tem. The roll was called. Voting yea were Councillors Brasco, Curtin, Darcy, Giordano, LeBlanc, Logan, McMenimen, Marchese, Romard, Rourke, Stanley, Tarallo, and Vizard. By a 13 to 0 vote, the order was adopted. Order # 31730.

Finance Committee recommended that the City Council that the sum of \$845,438.00 be approved to the accounts designated in the amount budget schedule to fund the Law Department budget for fiscal year 2013 and said amount to be assessed in the Revenue of 2013.

Councillor Curtin moved the action of the Committee be the action of the City Council. The roll was called. Voting yea were Councillors Brasco, Curtin, Darcy, Giordano, LeBlanc, Logan, Marchese, McMenimen, Romard, Rourke, Stanley, Tarallo, and Vizard. By a vote of 13 to 0 vote, the order was adopted. Councillor Doucette abstained. Order # 31727

Finance Committee recommended that the City Council that an appropriation in the amount of \$336,306.00 Parking Meters budget for fiscal year 2013 be approved.

Councillor Curtin moved the action of the Committee be the action of the City Council. Councillor Logan moved to amend the order by reducing line item #232-480-5200, Parking Meter - Expenses, by \$3,900, from \$78,550 to \$74,650, thus reducing the total appropriation from \$340,206 to \$336,306, and by inserting into the order language to restrict the remaining funds as follows.

That no funds shall be used for the purpose of converting any “pay by space” ticket machines into “pay and display” ticket machines; nor shall any funds be used to replace any” pay by space” ticket system with any other parking payment/ control system, nor shall any funds be used to replace and / or install any “pay and display” ticket machines and / or parking /control system in any municipal parking lot except the Embassy Parking Lot and Deck.

The amendment was adopted on a voice vote.

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From Parking Meter Receipts	\$336,306.00	
To:		
Parking Meter – Salaries	# 232-480-5100	\$200,156.00
Parking Meter – Expenses	# 232-480-5200	\$ 74,650.00
Parking Meter – Equipment & Unusual	# 232-480-5400	\$ 60,000.00
Parking Meter –Uniforms	# 232-480-5500	\$ 1,500.00

The roll was called. Voting to approve the order as amended were Councillors Brasco, Curtin, Darcy, Giordano, LeBlanc, Logan, Marchese, McMenimen, Romard, Rourke, Stanley, Tarallo and Vizard. By a 14 to 0 vote, the order was adopted. Order # 31728

Finance Committee recommended that the sum of \$146,369,318.00 be approved to the accounts designated in the budget schedule to fund the fiscal year 2013 budget and said amount be assessed in the Revenue of 2013.

Councillor Curtin moved that the action of the committee be the action of the City Council

The following motions to amend were made:

Councillor Logan moved to amend the budget by reducing line item 232-480-5241 by \$3,900 and by inserting restrictive language as follows; That no funds shall be used for the purpose of converting any “pay by space” ticket machines into “pay and display” ticket machines; nor shall any funds be used to replace any” pay by space” ticket system with any other parking payment/ control system, nor shall any funds be used to replace and / or install any “pay and display” ticket machines and / or parking /control system in any municipal parking lot except the Embassy Parking Lot and Deck. Councillor Tarallo rose to a point of order, and argued that the \$3,900 on that line was already cut when Councillor Logan’s motion prevailed to cut the Parking Meter Budget, and that this motion was duplicative and unnecessary. The roll was called on the motion to amend. Voting for the cut were Councillors Logan and Romard. Councillors voting against the cut were Councillors Brasco, Curtin, Darcy, Doucette, LeBlanc, Marchese, McMenimen, Rourke, Stanley, Tarallo, and Vizard. By a 2 to 12 vote, the cut was not adopted.

Councillor LeBlanc moved to restore \$5,000.00 Treasurers Land Court. Voting to restore were Councillors Brasco, Curtin, Darcy, Doucette, Giordano, LeBlanc, Logan, Marchese, McMenimen, Romard, Rourke, Stanley, Tarallo and Vizard. By a 14 to 0 vote, the sum was restored.

Councillor Logan moved to cut the funding for Fire Department Training Captain. Voting to cut were Councillors Logan and Vizard. Voting not to adopt the cut was Councillors Brasco, Curtin, Darcy, Doucette, Giordano, LeBlanc, Marchese, McMenimen, Romard, Rourke, Stanley, and Tarallo. By a 2 to 12 vote, the motion to cut did not pass.

Councillor Logan moved to cut the City Assessor grade change of grade 17 to grade 19. Voting to cut the grade change were Councillors LeBlanc, Logan and Romard. Voting for the grade change were Councillors Brasco, Curtin, Darcy, Doucette, Giordano, Marchese, McMenimen, Rourke, Stanley, Tarallo, and Vizard. By a 3 to 11 vote, the funding for grade change was approved.

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Councillor Logan moved to cut the Park and Recreation Director grade change from grade 17 to grade 19. Voting to cut the grade change were Councillors Brasco, Doucette, LeBlanc, Logan, Marchese, Romard, Stanley, and Vizard. Voting for the grade change were Councillors Curtin, Darcy, Giordano, McMenimen, Rourke, and Tarallo. By a 8 to 6 vote, the grade change funding was cut.

Councillor Logan moved to cut the cadet program. Councillors voting to cut were Councillors Logan and Vizard.. Voting not to cut were Councillors Brasco, Curtin, Darcy, Doucette, Giordano, LeBlanc, Marchese, McMenimen, Romard, Rourke, Stanley and Tarallo. By a 2 to 12 the cut was not adopted.

Councillor LeBlanc moved to restore \$2,000.00 for Fire Uniforms. Voting to restore were Councillors Darcy, Doucette, Giordano, LeBlanc, Marchese, McMenimen, Rourke, Stanley, and Tarallo. Voting not to restore the cut were Councillors Brasco, Curtin, Logan, Romard, and Vizard. By a 9 to 5 vote, the \$2,000.00 was restored for Fire Uniforms.

Councillor LeBlanc moved to restore \$2,500.00 for Police Uniforms. Voting to restore were Councillors Darcy, Giordano, LeBlanc, McMenimen, Rourke, Stanley, Tarallo, and Waddick. Voting not to restore the cut were Councillors Brasco, Curtin, Doucette, Logan, Marchese, Romard, and Vizard. By an 8 to 7 vote, the \$ 2,500.00 cut was restored.

Councillor Curtin moved to amend the budget by adding the language only from Councillor Logan's previous motion as follows: That no funds shall be used for the purpose of converting any "pay by space" ticket machines into "pay and display" ticket machines; nor shall any funds be used to replace any "pay by space" ticket system with any other parking payment/ control system, nor shall any funds be used to replace and / or install any "pay and display" ticket machines and / or parking /control system in any municipal parking lot except the Embassy Parking Lot and Deck. The motion was adopted on a voice vote.

A vote was taken on the Budget as amended and the amended Budget was approved.

Councillor Tarallo moved to adjourn. On a voice vote, the City Council adjourned at 11:20 PM.