

Waltham City Council
Minutes of the Meeting of November 28, 2011
City Council Chambers, Waltham City Hall

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, McMenimen, Romard, Rourke, Stanley, Tarallo and Waddick. (14)

Councillor Giordano requested a moment of silence for the Troops.

Councillor Waddick requested a moment of silence for Marge Gallagher. Councillor Waddick praised Marge Gallagher for all her dedication to the City.

Councillor Curtin moved to have the council packet delivered to Councillor-elect Vizard.

Councillor Logan moved to accept the minutes from, November 14, 2011. The motion prevailed and the minutes were adopted on a voice vote.

The Clerk read rule 29 A

Public Hearing

Due notice having been given, President Brasco opened the public hearing on the petition of Sheikh, Inc and Tedeschi's #426 hereby petition the City Council for Extended Retail Hours under the provisions of Chapter 8 article XIII for 591 Moody Street, to remain open between the hours of 4:00 A.M. to 6:00 A.M. for the property located at 591 Moody Street.

President Brasco asked if anyone present wanted to speak in favor of the petition. Elias Abi-Elias, petitioner spoke in favor of the petition. Speaking against the petition was Oscar LeBlanc, 26 Juniper Hill Road, Waltham. President Brasco closed the public hearing and opened it to questions from Councillors. Councillor Rourke had several questions as Ward Councillor such as how long the business has been open. Mr. Elias Abi-Elias response was since 1983. Councillor Rourke asked what time did the store open. Mr Elias Abi-Elias stated he arrives at 4:30 AM. Councillor Logan inquired as to the ownership of the business. Mr. Elias Abi-Elias response was he had the franchise for Tedeschi #426. Councillor Romard inquired as to the cleaning of the parking lot. Mr. Elias Abi-Elias response was he had his employees clean at least three times a day. Councillor McMenimen inquired as to ownership of the property. Mr. Elias Abi-Elias response was Mr. Gordon. Councillor Darcy inquired about the parking. Mr. Elias Abi-Elias response was it was shared. Having no other question, the petition was referred to the Licenses and Franchises Committee.

Special Permit

Recessed to November 28, 2011

Due notice having been given, President Brasco opened the public hearing on the petition of Hilltop 110 Bear Hill LLC, 1575 Tremont Street PH 2, Boston MA, 02120 hereby petitions the Waltham City Council to find that the property owner is in compliance with the conditions imposed in the previous City Council special permits affecting the property. Alternatively, without waiving any rights, request that the City Council modify or amend the existing special

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permits, as necessary and solely as they relate to the property owner, or issue a new special permit under Section 3.5 of the Ordinance with respect to proposed landscaping flanking the existing tower compound on property owned by the property owner to address concerns with respect to Section 10.374 of the Ordinance. All proposed landscaping would be located only on property owned by the property owner immediately adjacent to the existing fenced compound. Five (5) trees are proposed on property to the North side of the compound, and six (6) trees are proposed to the East side of the compound. All proposed trees will be setback ten (10) feet from the existing fence compound with trees spaced at 20-feet on-center. The property is located at 110 Bear Hill Road (Atlas Map R048, Block 001, Lot 0016), and the proposed landscaping is shown on the Plans submitted by the petitioner which are specifically incorporated by reference. President Brasco asked if anyone present wanted to speak in favor of the petition. Philip McCourt and Jack Mula attorneys for the petitioner spoke in favor of the petition. No one spoke in opposition to the petition. President Brasco closed the public hearing and opened it to questions from Councillors. Councillor Romard as Ward Councillor expressed his concerns for the land. Councillor Tarallo requested copies of the Interim Agreement, all special permits and plans issued for property. Councillor Tarallo also inquired about any subdivisions and curb cut that have been issued. Councillor Giordano had concerns about the trees. Also requests would be forwarded to the members of the City Council. The petition was referred to the Ordinances and Rules Committee.

Special Permit

Due notice having been given, President Brasco opened the public hearing on the petition of Savin Foods USA, Inc., 77 Sterling Road, East Hartford, Connecticut 06108, as Petitioner, and 110 Lexington Street Company, LLC, 4272 RFD Sunshine Lane, Long Grove, Illinois 60049, as Owner, hereby petition the City Council to grant a special permit for a fast food establishment pursuant to § 3.620 and § 3.512 of the Zoning Ordinance of the City of Waltham. The locus is known and numbered as 110 Lexington Street (a/k/a 112 Lexington Street) and is shown in the "Atlas City of Waltham, Massachusetts - 1988" as follows: Page 51, Block 7, Lot 5. The property is located in a Business A Zoning District. The legal owner of the land is 110 Lexington Street Company, LLC, 4272 RFD. President Brasco asked if anyone present wanted to speak in favor of the petition. Michael Connors, attorney for the petitioner spoke in favor of the petition. Speaking in opposition to the petition were Anna Cuttone Meliones, 16 James Street, Waltham, Patricia Chadbourn, 175 Summer Street, Waltham and Oscar LeBlanc, 26 Juniper Hill Road. Two stood in opposition. President Brasco closed the public hearing and opened it to questions from Councillors. Councillor Tarallo excused himself due to a conflict of interest. Councillor Curtin was President Pro tem. Councillor Waddick spoke as Ward Councillor. Councillor Waddick had several concerns. Some of the concerns were traffic in an already gridlocked area, secondly concern regarding delivery trucks and their size. The third concern was the curbs cuts. Councillor Logan had several questions the number of employees and if Savin Food had other locations, what permitting was required from those communities? Councillor Romard asked about signage, if other locations were investigated crosswalk issues. Councillor LeBlanc suggested a neighborhood meeting. Councillor Doucette inquired about the location and pick-up times for dumpsters. Councillor Darcy requested the name of the property owner. Attorney Michael Connor said the City Council would be supplied answers to all the questions. The petition was referred to the Ordinances and Rules Committee.

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Communications from the Mayor

1. Respectfully submit two easement reviews by the Law Department.
Referred to the Committee of the Whole

2. Respectfully submit the vote of the Waltham School committee regarding submission of the Statement of Interest to the Massachusetts School Building Authority regarding Waltham High School.

Councillor Curtin requested that the matter be acted on without Committee reference.

Councillor Tarallo opposed the motion. Councillor Tarallo requested that the Superintendent of Schools or her representative be invited to attend the next meeting of the Committee of the Whole.

The State of Interest was referred to the Committee of the Whole.

Licenses All Licenses are referred to the License and Franchises Committee

Renewal of Class II Motor Vehicle License for 128 Used Auto Parts & Sales Inc. 40 Green Street.

Renewal of Class III Motor Vehicle License for 128 Used Auto Parts & Sales Inc. 40 Green Street.

NEW BUSINESS

Communication from Attorney Deborah A. Sawin regarding the Estate of Barbara Risdon-Adams.

Referred to the Finance Committee

COMMITTEE REPORTS

Licenses and Franchises Committee

The Licenses and Franchise Committee recommended that the Second Hand Dealers License for Compustar Inc., 565 Moody Street with restrictions be granted.

Councillor Logan moved that the action of the Committee be the action of the Council. On a voice vote, the license was granted.

The Licenses and Franchise Committee recommended that the Second Hand Dealers License for Drin Jewelers, 965 Main Street be placed on file.

Councillor Logan moved that the action of the Committee be the action of the Council. On a voice vote, the application was placed on file.

The Licenses and Franchise Committee recommended that the renewal of Extended Hours for Wendy's, 806 Main Street be granted.

Councillor Logan moved to have the Extended Hours petition recommitted. On a voice vote, the matter was recommitted.

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The Licenses and Franchise Committee recommended that Nstar be granted permission for conduit as follows.

Russell Street - Northwesterly @ pole 246/16 approximately 170' ± feet east of South Street. 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 permission was granted. Order # 31640

The Licenses and Franchise Committee recommended that Nstar be granted permission for conduit as follows.

Winter Street - Northerly @ pole 301/63 approximately 300' ± feet west of Second Avenue. A distance of about 14' ± feet – conduit

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

On a voice vote, the permission was granted. Order # 31639

Committee of the Whole

The Committee of the Whole recommended that the re-appointment of Paul Maillet of 160 Hardy Pond Road, Waltham, as a constable be confirmed.

Councillor Tarallo moved that the action of the Committee be the action of the Council. The roll was called. Voting yea were Councillors Collura, Curtin, Darcy, LeBlanc, Giordano, LeBlanc, Logan, McMenimen, Romard, Rourke, Stanley, Tarallo and Waddick. By a 13 to 0 vote the appointment was confirmed.

The Committee of the Whole recommended that the appointment of Janet Lee of 135 Midland Drive, Waltham, to the board of Cemetery Commissioners to fill the vacancy created by the resignation of Edwina Cox be confirmed.

Councillor Darcy moved that the action of the Committee be the action of the Council. The roll was called. Voting yea were Councillors Collura, Curtin, Darcy, LeBlanc, Giordano, LeBlanc, Logan, McMenimen, Romard, Rourke, Stanley, Tarallo and Waddick. By a 13 to 0 vote the appointment was confirmed.

Ordinances and Rules Committee

The Ordinances and Rules Committee recommended that Arsenault Realty Trust, of 15 Church Street, Waltham, Massachusetts 02452, and Bell Atlantic Mobile of Massachusetts Corporation, Ltd., d/b/a Verizon Wireless, c/o Daniel D. Klasnick, Duval, Klasnick & Pastel LLC of 10 Cedar Street, Suite 17, Woburn, Massachusetts 01801 be granted by the City Council a Special Permit pursuant to Sections 3.512, 10.521(b), 10.531(b) and 10.56 of the City of Waltham Zoning Ordinance, to modify, install, operate and maintain Wireless Communication Equipment on the façade and rooftop of the existing building located on the property at 699-709 Moody Street (Atlas Map R077, Block 010, Lot 0010), Councillor Tarallo 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, LeBlanc, Logan, McMenimen, Romard, Rourke, Stanley, and Tarallo. By a 12 to 0 vote the special permit was granted.

Order # 31645

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The Ordinances and Rules Committee recommended that General Ordinance Amendment Amending Chapter 23 of the General Ordinances of the City of Waltham entitled “DELAYED DEMOLITION,” ARTICLE I entitled “PRESERVATION OF HISTORICALLY SIGNIFICANT BUILDINGS” be given a first reading.

Councillors McMenimen and Curtin excused themselves due to a conflict of interest, the age of their homes. Councillor Logan questioned the reason.

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

The Ordinances and Rules Committee recommended that the communication from SS & G, 945 Moody Street be forwarded to the City Council with a recommendation for a new public hearing.

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

On a voice vote, the recommendation was approved.

Finance Committee

The Finance Committee recommended that the City Council approve acceptance of a grant through the Executive Office of Public Safety and Security State 911 Department in the amount of \$150,307.00 for the State 911 Department Support and Incentive Public Safety Answering Point (PSASP) Grant- FY2012.

Councillor Curtin moved that the action of the Committee be the action of the Council.

On a voice vote, the order was adopted. Order # 31642

The Finance Committee recommended that the City Council approve the acceptance of a grant through the Executive Office of Public Safety and Security State 911 Department in the amount of \$36,751.00 for the State 911 Department Training Grant – FY 2012.

Councillor Curtin moved that the action of the Committee be the action of the Council.

On a voice vote, the order was adopted. Order # 31641

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