

*Waltham City Council Minutes of the meeting of April 23, 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 Curtin, Darcy, Doucette, LeBlanc, Marchese, McMenimen, Romard, Rourke, Tarallo, Waddick and Vizard. (11) Councillor Brasco arrived after the call of the roll.

Councillor Curtin requested that the Daisy Troop 65361 lead the City Council in the Pledge of Allegiance. On a voice vote, the request was approved.

Councillor Curtin moved to take a resolution out of order. On a voice vote, the resolution was taken out of order. Councillor Curtin moved to suspend the rules and act on the resolution without committee reference. On a voice vote, the rule was suspended. Councillor Curtin commended Troop 65361 for all their community service. Councillor Curtin moved for approval of the resolution. On a voice vote, the resolution was adopted.

Councillor McMenimen moved to take a resolution commending Ruth Gately for receiving the Woman of the Year Award from the Women's Acton Alliance Committee out of order. On a voice vote, the rule was suspended. Councillor McMenimen commended Ruth Gately for her service to the Community. Councillor McMenimen moved to adopt the resolution. On a voice vote, the resolution was adopted.

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

Councillor McMenimen moved to accept the minutes of the meeting of April 9, 2012. On a voice vote, the motion was adopted and the minutes were accepted.

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

Public Hearing Conduit

Due notice having been given, President Waddick opened the public hearing on the petition of SPC MAIN STREET LLC and D. W. White Construction, Inc. for permission to construct signal conduits and pull boxes under the public way or ways of the City hereinafter specified:

Main Street- 100 feet West of Cutting Lane to Sheridan Street (approximately 900 linear feet) and across Main Street at Border Road (approximately 150 linear feet)
This work is necessary to install the new signal system at the new entrance for the redevelopment of the above referenced project. Property located at 1265 Main Street.

President Waddick asked if anyone present wanted to speak in favor of the petition. Philip McCourt, Attorney for the petitioner, Mr. Edward Shaw, Project Manager, Rick Vallarelli, J & Co. and Kevin Dandrase of TEC spoke and responded to questions from the Councillors. Mr. Paul Pavone of Local 560, 681 Main Street, Waltham spoke in favor, stressing the need for union employment that the project could supply. President Waddick asked if anyone wanted to stand in favor of the petition, four (4) stood in favor. President Waddick asked if anyone wanted to speak in opposition to the petition, their being none. President Waddick asked if anyone wanted to stand in opposition, there being no one President Waddick closed that part of the public hearing and opened it to questions from Councillors. Councillor Romard had questions on the length of time the project would take and the exact location of the project. Councillor Tarallo questioned

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the issues of the traffic light. Attorney McCourt agreed that the light had to be accepted by the City Council before installation could occur. Councillor McMenimen agreed with Councillor Tarallo regarding the traffic light. Councillor McMenimen had concerns regarding the project. Councillor Darcy inquired about conduit opposed to wireless. The answer was the city requested conduit. Councillor Vizard moved to act on the matter without committee reference. Councillor McMenimen inquired why, especially where so many questions were raised. Councillor Vizard had concerns about delaying the project would possibly effect hiring for the projects. The roll was called voting yea for suspension were Councillors Brasco, Curtin, Doucette, LeBlanc, Marchese, Tarallo , and Vizard. Voting nay opposed to the suspension of rules were Councillors Darcy, McMenimen, Romard, and Rourke. The motion was not adopted. The matter was referred to the Licenses and Franchises Committee.

Special Permit

Due notice having been given, President Waddick opened the public hearing on the petition of 8 Newton Street LLC, 130 Rumford Avenue, Suite 21, Newton, Massachusetts 02466; and the Legal Owner of 8 Newton Street & 468 Main Street being Gordon Realty, Inc., P.O. Box 87007-07, Milton Village, Massachusetts 02187-0007, and the Legal Owners of 462 Main Street & 462 Next Main Street being: M&P, LLC; The Harriet G. Goldman Family, LLC; Barbara Gordon Lushman Family LLC; and Kaplan Properties, LLC, all - c/o Harriet G. Goldman Family, LLC, P.O. Box 870007, Milton, Massachusetts 02187 hereby petition the City Council to grant a special permit to allow the use of a drive-thru lane for bank use pursuant to § 3.4, § 3.225, § 3.512 and § 3.635 of the Zoning Ordinance of the City of Waltham as to the following property:

The locus currently consists of four lots known and numbered as 8 Newton Street, 468 Main Street, 462 Main Street and 462 Next Main Street. However, 462 Next Main Street is not included in this Petition in that it is zoned Residential, which does not allow any banking uses. These lots are shown in the “Atlas City of Waltham, Massachusetts” as follows:

- 8 Newton Street - Page 061, Block 012, Lot 0010;
- 468 Main Street - Page 061, Block 012, Lot 0011;
- 462 Main Street - Page 061, Block 012, Lot 0012; and
- 462 Next Main Street - Page 061, Block 012, Lot 0001.

According to the Zoning Map of the City of Waltham these lots are zoned as follows:

- 8 Newton Street, 468 Main Street, 462 Main Street are located in a Business A Zoning District; and
- 462 Next Main Street is located in a Residence A-4 Zoning District.

President Waddick asked if anyone present wanted to speak in favor of the petition. Robert E. Connors Jr, Attorney for the petitioner spoke in favor. Also speaking in favor were Constance Stubbs, 466 Main Street and Paul Pavone of Local 560, 681 Main Street, Waltham spoke in favor, stressing the need for union employment the project could supply. President Waddick asked if anyone wanted to stand in favor of the petition, their being none. President Waddick asked if anyone wanted to speak in opposition to the project their being none. President Waddick asked if anyone to stand in opposition to the petition. They're being none. President Waddick closed that part of the public hearing and open it to questions from Councillors. President Waddick declared that he attended a meeting with the abutters and the petitioner and had formed no opinion. Councillor Marchese declared that he attended a meeting with the

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abutters and the petitioner and had formed no opinion. Councillor Marchese, as Ward Councillor had several questions and requests to be supplied to the Ordinances and Rules Committee. Councillor Marchese thanked Attorney Connors for petitioner interaction with the abutters. Councillor Marchese questions were regarding traffic flow, the building closeness to the street, landscaping, dumpster pickup, snow removal and the status of the adjacent property. Councillor Vizard questioned the number of Boards the petition had approvals from. He also was concerned about the Main Street entrance and exit. Councillor Tarallo inquired as to the height of the building. Attorney Connor's answer was that it was thirty-one (31) feet + or - . Councillor LeBlanc concerns were hour of operation especially with a drive-thru ATM and the number of employees. Councillor Curtin concerns were with the lighting of the drive-thru. He also inquired as to who the tenant was. Attorney Connor's stated it was Brookline Bank, and that they would be the only tenant. Councillor Doucette felt the project had taken the residents and community into consideration. Councillor Romard had concerns about the lighting of the parking lot and area around the building and inquired as to the use of the adjacent lot and if the petitioner would maintain it. Attorney Connor's responded it would be maintained. Councillor McMenimen's concerns were with the traffic flow at the corner. Attorney Connors stated he would supply the Ordinances and Rules Committee with responses for the May 7, 2012 meeting. President Waddick closed the Public Hearing and referred the petition to the Ordinances and Rules Committee.

SPECIAL PERMIT

Due notice having been given, President Waddick opened the public hearing on the petition of 1019 Trapelo LLC, Tachien Yu, manager, 675 VFW Parkway #128, Chestnut Hill, MA 02467 hereby petitions the City Council for a Special Permit to allow the construction and operation of a retail building which will contain a bank with a single drive-through window and two (2) fast food facilities (a coffee shop and an Asian fusion takeout restaurant) on the property known as 1019 Trapelo Road. The Special Permit is pursuant to the provisions of Section 3.5, subsections 3.512 and Section 3.620 and 3.635. Also to allow the reduction of parking spaces required by allowing said reduction under the provisions of Section 5.92. The property is shown in Atlas Page 014, Block 005, Lot 0007. The property is in a Business A Zoning District.

President Waddick asked if anyone present wanted to speak in favor of the petition. Speaking in favor was Philip McCourt, Attorney for the petitioner. Also, speaking in favor was Paul Pavone, of Local 560, 681 Main Street, Waltham spoke in favor, stressing the need for union employment the project could supply. Richard Ghazary 985 Trapelo Rd # 10, Ryan Hoyt, 149 Brown Street, Dan Yu, 675 VFW Pkwy all spoke in favor. President Waddick asked if anyone wanted to stand in favor of the petition, their being none. President Waddick asked if anyone wanted to speak in opposition to the project. Han Xing-Ee, 1032 Trapelo Road, Gregg Merlino, 72 Kingston Road, Harmon Jordan, 66 Kingston Road. President Waddick asked if anyone wanted to stand in opposition to the petition. They're being none. President Waddick closed that part of the public hearing and opened it to questions from Councillors. Councillor Darcy, as Ward Councillor declared that he attended a meeting with the abutters and the petitioner and had formed no opinion. Councillor Tarallo had concerns about the height of the building, and zoning under FAR. Councillor LeBlanc declared that she attended a meeting with the abutters and the petitioner and had formed no opinion. Councillor LeBlanc's concern was traffic impact . Councillor Curtin inquired about parking and the effect of decreasing the number of spaces. Attorney McCourt agreed to address all the questions rise at the hearing and give the

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responses to the Ordinances and Rules Committee by the May 7, 2012 meeting. President Waddick closed the Public Hearing and referred the petition to the Ordinances and Rules Committee.

Special Permit

Due notice having been given, President Waddick opened the public hearing on the petition of PD Winter Street, LLC with an address c/o Jan Machnik, Davis Marcus Partners, 930 Winter Street, Waltham, Massachusetts 02451 hereby petitions the City Council to grant a special permit for an increase in Floor Area Ratio (FAR) to 0.4038081 pursuant to § 3.511 and § 3.521 of the Zoning Ordinance of the City of Waltham as to the following locus.

The locus is known and numbered as 850 Winter Street, 910 Winter Street and 920-930-940 Winter Street and is shown in the “Atlas City of Waltham, Massachusetts” as follows:

- Page 019, Block 001, Lot 0001-001 – 910 Winter Street and 920-930-940 Winter Street; and
- Page 019, Block 001, Lot 0001-002 – 850 Winter Street.

The above properties are all located entirely in a Limited Commercial Zoning District. President Waddick asked if anyone present wanted to speak in favor of the petition. Robert E. Connors Jr, Attorney for the petitioner spoke in favor. Also speaking in favor were Paul Pavone of Local 560, 681 Main Street, Waltham spoke in favor, stressing the need for union employment the project could supply. Jane Williams and David Cameron also spoke in favor. President Waddick asked if anyone wanted to stand in favor of the petition, They’re being none. President Waddick asked if anyone wanted to speak in opposition to the project They’re being none. President Waddick asked if anyone wanted to stand in opposition to the petition. They’re being none. President Waddick closed that part of the public hearing and opened it to questions from Councillors. Councillor Romard, as Ward Councillor requested that information requested be supplied to the Ordinances and Rules Committee for the May 7, 2012 meeting. President Waddick closed the Public Hearing and referred the petition to the Ordinances and Rules Committee.

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 an appropriation in the amount of \$ 70,00.00 from Unreserved Fund Balance to account 001-630-5400 Recreation Conservation Trust. The financial commitment is necessary from the City of Waltham to the Commonwealth of Massachusetts Conservation Trust for the anticipated seasonal (June 25 through August 26, 2012) expenses for the Connors Memorial Pool.

Referred to the Finance Committee

2. Respectfully request permission to surplus the two easements together identified described as “ Common Passageway for Benefit of Lots A and F” on Plan of Land dated June 12, 1928. Late file communication:

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Councillor Tarallo moved to accept the late file communication. On a voice vote, the late file was accepted.

Respectfully submit clarification regarding the two easements. That after a physical view of the location entitled the "Common Passageway" the surplus would be a (10' portion) of the "Common Passageway" since that currently provides access to the City's parking lot.

Referred to the Ordinances and Rules Committee

Licenses All license are referred to the License and Franchises Committee

Tabled 4-9-12

THAT THE SUM OF \$1,320,000 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 \$1,320,000 UNDER THE PROVISIONS OF MASSACHUSETTS 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.

WATER – Meters (Commercial Phase) \$ 1,320,000

Councillor Doucette moved to take the matter off the table. On a voice vote, the loan order was taken off the table. Councillor Doucette moved for a second and final reading.

The roll was called. Voting yea were Councillors Brasco, Curtin, Darcy, Doucette, LeBlanc, Marchese, McMenimen, Romard, Rourke, Tarallo, and Vizard. By a 11 to 0 vote, the Loan Order had a second and final reading. Order # 31702

New Business

Northland One Moody Realty, LLC of 2150 Washington Street, Newton, Massachusetts petitions the City Council for an extension of time to commence work for one (1) year from October 13, 2012 to October 13, 2013 and the time to complete work under the special permit Order # 31198 for FAR be extended for two (2) years from the commencement of such work with mutual agreement with the City Council. Property located at One Moody Street and 702 Main Street, 716 Main Street, 55 Moody Street.

Councillor Marchese moved to act on the time extension without committee reference. On a voice vote, the motion was adopted. The roll was called. Voting for the time extension were Councillors Brasco, Curtin, Darcy, Doucette, LeBlanc, Marchese, McMenimen, Romard, Rourke, Tarallo, and Vizard. By an 11 to 0 vote, the order was granted. Order # 31707

Northland One Moody Realty, LLC of 2150 Washington Street, Newton, Massachusetts petitions the City Council for an extension of time to commence work for one (1) year from October 13, 2012 to October 13, 2013 and the time to complete the work under the special permit Order # 31197 Drive – thru Lanes be extended for two (2) years from the commencement of such work with mutual agreement with the City Council Property located at One Moody Street and 702 Main Street, 716 Main Street, 55 Moody Street.

Councillor Marchese moved to act on the time extension without committee reference. On a voice vote, the motion was adopted. The roll was called. Voting for the time extension were

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Councillors Brasco, Curtin, Darcy, Doucette, LeBlanc, Marchese, McMenimen, Romard, Rourke, Tarallo, and Vizard. By an 11 to 0 vote, the order was granted. Order # 31706

An amendment to the General Ordinances of the City of Waltham to ARTICLE IV., REGISTERED SEX OFFENDER RESTRICTIONS.

Referred to the Ordinances and Rules Committee

Councillor Marchese moved to suspend the rules to go past midnight. The roll was called voting yea were Councillors Brasco, Curtin, Darcy, Doucette, LeBlanc, Marchese, Romard, Rourke, Tarallo, and Vizard. Voting not to go past midnight was Councillor McMenimen. by an 10 to 1 vote, the City Council meeting continued.

Resolutions

Councillor Tarallo presented resolution commending naming a dock at Hardy Pond for Pat DiIeso. Councillor Tarallo commended Pat DiIeso for all her dedication during her life to the city. Councillor McMenimen spoke commending Pat DiIeso as well and moved to suspend the rules and act on the resolution without committee reference. Councillor Curtin objected and invoked Section 2.9 of the City Charter. In accordance with section 2.9, the resolution was tabled on the City Council floor.

Councillor Tarallo presented a resolution regarding Arbor Day. Councillor Tarallo moved to act on the resolution without committee reference. On a voice vote, the resolution was adopted.

Committee Reports

Licenses and Franchises Committee

The Licenses and Franchises Committee recommended that NSTAR ELECTRIC COMPANY and VERIZON NEW ENGLAND, INC be granted permission for the following.

**Milner Street– Northeasterly side approximately 254'± feet north of Ode Street
Install one (1) New Pole 185/O –A**

Councillor Marchese moved the action of the committee be the action of the City Council. On a voice vote, the order was adopted. Order # 31708

The Licenses and Franchises Committee recommended that the Lodging House renewal for 554 Lexington Street be granted with conditions

Councillor Marchese moved the action of the committee be the action of the City Council. On a voice vote, the lodging house license was renewed.

Committee of the Whole

The Committee of the Whole recommended that the \$6,000.00 from the Fitzgerald School fund and \$2,000.00 from Whittemore School fund be placed on file.

Councillor Doucette moved the action of the committee be the action of the City Council. On a voice vote, the communication was placed on file.

The Committee of the Whole recommended that a transfer of \$50,000.00 from Capital Improvements School Phase 2 to Northeast repair gutter damage be placed on file.

Councillor Doucette moved the action of the committee be the action of the City Council. On a voice vote, the transfer was placed on file.

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Ordinances and Rules Committee

Ordinances and Rules Committee recommended that the Mayor is authorized to sign the LIP Proposed Regulatory Agreement for the Watch Factory project as amended be adopted. 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, LeBlanc, Marchese, McMenimen, Romard, Rourke, Tarallo, and Vizard. By a 14 to 0 vote, the order was adopted. Order # 31709

Ordinances and Rules Committee recommended that the Waltham City Council seek a peer review of the Traffic Study for Special Permi Proposal TC Saracen LLC, 36 River Street. pursuant to MGL. Chapter 44 Section 53G at the petitioners expense as required by the Ordinances & Rules Committee.

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, LeBlanc, Marchese, McMenimen, Romard, Rourke, Tarallo and Vizard. By a 11 to 0 vote, the order was adopted. Order # 31705

Finance Committee

The Finance Committee recommended that a transfer of funds totaling \$5,000.00 for the following: From

Police – Medical Boarding Care of Animals	
Account # 001-210-5400-5306	\$5,000.00
To	
Police Safety Equipment	
Account # 001-210-5400-5850-	\$3,500.00
Police Cruiser Equipment	
Account # 001-210-5400-5872	\$1,500.00

Be approved.

Councillor Curtin moved the action of the committee be the action of the City Council. On a voice vote, the order was adopted. Order # 31703

The Finance Committee recommended that a transfer of funds totaling \$10,000.00 for the following: From

Wires – Communication	
Account # 001-245-5100-5246	\$10,000.00
To	
Wires - Wages- PT	
Account # 001-245-5100-5122	\$5,000.00
Wires – Overtime	
Account #001-245-5100-5131	\$5,000.00

Be approved.

Councillor Curtin moved the action of the committee be the action of the City Council. On a voice vote, the order was adopted. Order # 31704

Councillor Marchese moved to adjourn. On a voice vote, the City Council adjourned at 12:25 PM.