

***Waltham City Council Minutes of the meeting of September 10, 2012,  
City Council Chambers, 610 Main Street, Waltham***

President Waddick called the joint meeting of the Board of Survey & Planning and the City Council to order at 8:00 PM. City Clerk Rosario C. Malone called the roll for the City Council. Present at roll call were Councillors Brasco, Curtin, Darcy, Doucette, Giordano, LeBlanc, Logan, Marchese, McMenimen, Romard, Rourke, Tarallo, Stanley, Waddick and Vizard. (15). City Clerk Rosario C. Malone called the roll for the Board of Survey and Planning. Present at the roll were M. Justin Barrett, Kathleen Callahan, William Creonte, Jr., John Duffy, S. Anthony DeVitto, and Brian Moroney and (6)

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.

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

**Zone Change – Lake Street**

Councillor Tarallo recused himself due to a conflict of interest.

Councillor Curtin moved to waive the reading of the meets and bounds for the following hearing. On a voice, the motion was adopted.

Due notice having been given, President Waddick opened the public hearing on the petition from Walter E. Ohnemus, III and Richard N. Pizzi, Jr., Trustees of Del Mar Realty Trust, 495 Lincoln Street, Waltham, MA 02451, hereby petition the City Council for:

**AN ORDINANCE AMENDING CHAPTER 21 OF THE GENERAL ORDINANCES OF THE CITY OF WALTHAM ENTITLED “ZONING”.**

CHAPTER 21 of the General Ordinances of the City of Waltham entitled “Zoning District Map” is amended by striking out the designation “Residence A-3” as shown on said map and substituting in place thereof new lines and designation “Business B” insofar as the said map relates to the following described premises.

The locus lies in the Residence A-3 zoning district and the proposed amendment would have the locus zoned entirely Business B. The locus is 3 certain parcels of land situated at After 48 Lake Street, Before 54 Lake Street and Before 11 Nutting Road (parcels to be combined into one Lot upon approval from this Board) in the City of Waltham, County of Middlesex (South), Commonwealth of Massachusetts (Atlas Page 23, Block 10, Parcels 9, 10 and 11) and the property to be rezoned is more particularly described as follows:

Beginning at a point on the westerly side of Nutting Road that is on the northeasterly side of the property, which is the point of tangency along the curve from Lake Street to Nutting Road;

Thence running along Nutting Road South 04°02'31" West a distance of 82.00' feet;

Thence turning and running North 85°57'29" West a distance of 70.82' feet;

Thence turning and running South 04°02'31" West a distance of 13.18' feet;

Thence turning and running North 85°57'29" West a distance of 133.06' feet;

Thence turning and running North 32°13'49" West a distance of 44.97' feet;

Thence turning and running North 50°52'03" West a distance of 71.19' feet;

Thence turning and running North 03°11'01" East a distance of 30.34' feet;

Thence turning and running NORTH 26°55'24" East a distance of 62.01' feet;

Thence turning and running to the left along a curve on Lake Street with a length of arc of 236.80' feet having a central angle of 06°58'22" with a radius of 1945.78' feet;

minutes 9-10-12

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Thence turning and running South 76°56'09" East a distance of 21.67' feet;

Thence turning and running to the right along a curve on Lake Street with a length of arc of 21.20' feet having a central angle of 80°58'40" with a radius of 15.00' feet to said point of beginning.

Containing a total area of 33,805 square feet more or less, to be rezoned from Residence A-3 to Business B.

President Waddick opened the public hearing to those wishing to speak in favor of the petition. Speaking in favor were Philip McCourt, attorney for the petitioner, Melissa Rossi, Joseph Rossi, and Carl Zinnell. Attorney McCourt submitted a petition for the record of people for the project. Speaking in opposition were Edmund Tarallo, Annette Reynolds, Jill LePore, Joan Garniss, Mahesh Kotecha, Joseph Kelley, Dean MacLaughlin, Sarah Hankins, Mark Cappadona, Christine Reynolds, Chris Gulla, Gordon Brown, Mrs Rando, Frank Dagle and Marianne Savignano. Joan Garniss submitted a petition from people opposed to the zone change. President Waddick closed that part of the public hearing and opened it to questions from Councillors and members of the Board of Survey. Councillor Logan had concerns regarding traffic and that the area is largely residential. Councillor Vizard was concerned about the spot zoning. John Duffy, member of the Board of Survey requested the reason why it needed to be done. The response was cost. Councillor Marchese concerns were with the notification of neighbors. Councillor Marchese requested the special permit for CVS to be forwarded to all Councillors. William Creonte, Jr., Board Member stated that the Board of Survey and Planning would address the petition on October 3, 2012. President Waddick referred the petition to the Ordinances and Rules Committee.

**Street Opening Bishop Terrace**

Due notice having been given, President Waddick opened the public hearing on the petition for the resurfacing of the private way known as Bishop Terrace to be 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 was Councillor Curtin. Also speaking in favor were Philip Sarkissian, Jim Kearney and Chris White. President Waddick closed that part of the public hearing and opened the hearing to questions from councillors. Councillor Rourke requested an estimate of the cost for the residents. Councillor Romard inquired if the corner lots would be assessed? President Waddick closed the public hearing and referred the petition to the Public Works Committee.

**Street Opening Villa Street**

Due notice having been given, President Waddick opened the public hearing on the petition for Peter Lobo, 84 Villa Street, Waltham, for permission under the provisions of Section 17-25 for the installation of natural gas utilities. The property is numbered 84 Villa Street. All work and resurfacing to be done in accordance with the provisions of said Section 17-25. President Waddick opened the public hearing to those wishing to speak in favor of the petition. Speaking in favor was Peter Lobo, 84 Villa Street. No one stood in favor. President Waddick closed that part of the public hearing and opened it to those wishing to speak in opposition. No one spoke or stood in opposition. President Waddick opened the public hearing to questions from Councillors. Councillor Giordano inquired as to the purpose of the opening. Mr. Lobo's response was it was for changing to gas heat. Councillor LeBlanc informed the City Council minutes 9-10-12

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that she would be authoring a resolution addressing the opening of newly paved streets. Councillor Romard as to the length of the project. Councillor Giordano moved to suspend the rules and act on the petition without Committee reference. On a voice vote, the rules were suspended. Councillor Giordano moved to adopt the order. Councillor Rourke moved to amend the order. On a voice vote, the order was amended. That all the work be done in accordance with Section 17-25 of the General Ordinances of Waltham. On a voice vote, the amendment was adopted. Councillor Giordano moved to adopt the order. On a voice vote, the order was adopted. Order # 31787

**Extended Hours**

Due notice having been given, President Waddick opened the public hearing on the petition for TC Saracen, LLC in care of Saracen Properties, LLC, 2 Oliver Street, 6<sup>th</sup> Floor, Boston, MA 02109 and Work Out World – V Fitness petition to the City Council for Extended Retail Hours under the provisions of Chapter 8 article XIII for 47 Foundry Avenue to remain open for 24 hours. The property is located at 47 Foundry Avenue. The deed for said property with Middlesex South District Deeds in Book 50611 Page 375-383. Parcel ID R071 003 0019. The property is in an Industrial Zone. President Waddick opened the public hearing to those wishing to speak in favor of the petition. Speaking in favor was Joseph Masotta. No one stood in favor. President Waddick closed that part of the public hearing and open it to those wishing to speak in opposition. No one spoke or stood in opposition. President Waddick opened the public hearing to questions from Councillors. Councillor Marchese inquired if the neighbors were notified by the petitioner. They were. Councillor Marchese requested that the receipts be given to the City Clerk. The receipts were turned into the City Clerk. Councillor Marchese requested data from the other locations regarding the number of customers using the gym during the extended hours. Councillor Logan inquired on how the petitioner was made aware of the requirement for extended hours. The petitioner's response was the Building Department and the Police had notified them. Councillor LeBlanc inquired how many members were Waltham residents. The petition will furnish the extract number to the Committee. Councillor LeBlanc also asked for the number of member using the gym between 12:30 AM and 5:00 AM. The response was between 15 to 50 members. Councillor Romard inquired as to the number of other facilities being open the extended hours. The response was 19. Waltham being one of the largest. Councillor Curtin requested authorization from TC Saracen, LLC for permission for the Extended Hours License. President Waddick closed the public hearing and referred the matter to the Licenses and Franchises Committee.

Councillor Curtin moved to take the Mayor's communication out of order regarding the following.

**4.** Respectfully request acceptance of the Library Services and Technology Act (LSTA) grant in the amount of \$7,500.00. These funds will be used towards the purchase of new books and supplies for improved displays and reading guides.

Councillor Curtin moved to suspend the rules and act on the matter without committee reference. On a voice vote, the rules were suspended. Councillor moved to adopt the request. On a voice vote the order was adopted. Order # 31788

**Special Permit**

**Recessed from 6-25-12**

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Due notice having been given, President Waddick opened the public hearing on the petition from Sprint, 1 International Blvd, Mahwah, NJ and Stonybrook Holdings, 130 Turner St. Waltham, MA 02453. Hereby petition the Waltham City Council for a special permit pursuant to Sections 3.512, 3.621, and 10.56 of the City of Waltham Zoning Ordinance, to modify, operate and upgrade a wireless communication facility on the existing building located on the property located at 130 Turner Street (Atlas Map 0074, Block 005, Lot 019), including replacing six (6) wireless antenna with (6) new wireless antennas mounted on existing rooftop and painted to match same. The Petitioners also propose to replace one (1) ancillary cabinets with one (1) new cabinets located inside the existing equipment room in the basement of the building, install nine (9) RRH mounted behind the wireless antenna, install one (1) Fiber Distribution Box mounted to existing equipment room wall. Replace a small Global Positioning System (GPS) antenna, which is necessary for E911 compliance. The proposal is shown on the Plans submitted by the Petitioners, which are incorporated herein by reference. President Waddick opened the public hearing to those wishing to speak in favor of the petition. There being none. Councillor Tarallo inquired if the petitioner had notified the Assistant City Clerk. Assistant City Clerk Ritcey had no communication from the petitioner. Councillor Tarallo moved to continue the hearing until September 24, 2012. On a voice vote, the hearing was continued until September 24, 2012.

**Special Permit**

**Recessed from 6-25-12**

Due notice having been given, President Waddick opened the public hearing on the petition Sprint, 1 International Blvd, Mahwah, NJ and Pinnacle Towers, Inc. Sarasota, FL. hereby petition the Waltham City Council for a special permit pursuant to Sections 3.512, 3.621, and 10.56 of the City of Waltham Zoning Ordinance, to modify, operate and upgrade a wireless communication facility on the existing building located on the property located at 39 Sachem Street (Atlas Map R0033, Block 001, Parcel 0005), including replacing three (3) wireless antenna with (6) wireless antennas mounted to the Lattice Tower and painted to match same. The Petitioners also propose to replace two (2) ancillary cabinets with two (2) new cabinets locates on existing steel dunnage, install nine (9) RRH mounted to the wireless antenna on the tower, install one (1) Fiber Distributions Box mounted to ice bridge supports. Replace a small Global Positioning System (GPS) antenna, which is necessary for E911 compliance. The proposal is shown on the Plans submitted by the Petitioners, which are incorporated herein by reference. President Waddick opened the public hearing to those wishing to speak in favor of the petition. There being none. Councillor Tarallo inquired if the petitioner had notified the Assistant City Clerk. Assistant City Clerk Ritcey had no communication from the petitioner. Councillor Tarallo moved to continue the hearing until September 24, 2012. On a voice vote, the hearing was continued until September 24, 2012.

**Communications from 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 a transfer of funds in the amount totaling \$ 120,300.00 to fund the collective bargaining agreement between the City and Middle Managers Union for the period July 1, 2010 to June 30, 2013.

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Referred to the Finance Committee

**2.** Respectfully request the following transfers for Capital Improvement Program accounts to close out the project. Funds in a general account may be transferred to another project upon request and approval.

From 310-410-2013-6411 (Engineering –Hybrid Vehicle)                      \$ 765.00

To 310-410-2013-6400 (Engineering- general)

Reason Vehicle has been received/paid in full to vendor

From 310-410-2010-7110 (Benefit Street – Reconstruction)                      \$ 250,242.10

To 310-410-2007-7100 (Street Reconstruction – General)

Reason Project complete; no addition expenses anticipated

From 310-410-2007-7110 (Washington Street – Reconstruction)                      \$ 1,629.00

To 310-410-410-2007-7100 (Street Reconstruction – General)

Reason Project completed; no addition expenses anticipated.

Referred to the Long Term Debt Committee

**3.** Respectfully request acceptance of the Hazardous Material Emergency Response grant. Grant funds are distributed on a reimbursable basis for expenses associated with the support and operation of a hazardous materials response system.

Referred to the Finance Committee

**4.** Respectfully request acceptance of the Library Services and Technology Act (LSTA) grant in the amount of \$7,500.00. These funds will be used towards the purchase of new books and supplies for improved displays and reading guides.

Communication was taken out of order.

**5.** Respectfully request appropriation of funds in the amount of \$50,000.00 from the Library State Grant # 224-610-1065-5205 to Library Educational Expenses # 001-610-5200-5510. These funds will be used toward the FY2013 educational expenses account budget and to build the e-book collection.

Referred to the Finance Committee

**6.** Respectfully request the following transfers for Capital Improvement Program accounts to close out the project. Funds in a general account may be transferred to another project upon request and approval.

From Sewer Equipment – Backhoe    \$ 723.42

To Sewer Equipment General

Reason Equipment received and paid in full to vendor

From Sewer Equipment – Camera System    \$556.00

To To Sewer Equipment General

Reason Equipment received and paid in full to vendor

From Sewer Equipment Compressor    \$6,999.90

To Sewer Equipment General

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Reason Old generator was located and repaired equipment wasn't needed.

From Drain Improvements Everett Street               \$ 13,170.00  
To Drain General

Reason Project completed; no additional expenses anticipated

From Sewer Improvements Pipe Rehab Various   \$ 119.57  
To Sewer General

Reason Project completed; no additional expenses anticipated

From Sewer Improvements Warrendale               \$ 34,796.79  
To Sewer General

Reason Project completed; no additional expenses anticipated

From Sewer Improvements Warrendale               \$ 1,423.86  
To Sewer General

Reason Project completed; no additional expenses anticipated

Referred to the Long Term Debt Committee

**7.** Respectfully request the following transfers for Capital Improvement Program accounts to close out the project. Funds in a general account may be transferred to another project upon request and approval.

From Equipment Cross Conn Tablet                       \$10.00  
To Equipment General

Reason Item Received/vendor paid in full

From Water Improvement Arcadia Ave               \$148,421.80  
To Water Improvement General

Reason Project completed; no additional expenses anticipated

From Water Improvement Chesterbrook Road   \$170,598.13  
To Water Improvement General

Reason Project completed; no additional expenses anticipated

From Water Improvement Hydrant Program               \$6,395.76  
To Water Improvement General

Reason Project completed; no additional expenses anticipated

Referred to the Long Term Debt Committee

**8.** Respectfully request the City Council's authorization to act on the listed item attached.  
Possible executive session.

Referred to the Committee of the Whole

**9.** Respectfully request approval of an eminent domain taking for certain parcel of land on Main and Newton Streets containing 1,098 square feet more or less.

Referred to the Committee of the Whole

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Renewal of G. Richard & Co., Second Hand Dealers License  
Referred to the License and Franchises Committee

**New Business**

Correspondence from the Zoning Board of Appeals regarding Comprehensive Permit  
Application for Hardy School Lake Street.  
Referred to the Ordinance & Rules Committee or

Councillor Doucette moved to adjourn. On a voice vote, the City Council adjourn at 11:00  
pm.