

*Waltham City Council Minutes of the meeting of Monday,  
December 10, 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, Tarallo, Stanley, Vizard and Waddick.. (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 Logan moved to accept the minutes from November 26, 2012. On a voice vote, the minutes were accepted. Councillor Logan moved to accept the minutes from November 26, 2012 special meeting. On a voice vote, the minutes were accepted.

Councillor Vizard moved to take a resolution out of order. On a voice vote, the resolution was taken out of order. Councillor Vizard moved to act on the resolution commending Morton Isaacson and the Waltham Historical Society on the recently published a book entitled A Ramble Through Waltham's Great Country Road. On a voice vote, the resolution was acted on without committee reference. Councillor Vizard moved to adopt the resolution. On a voice vote, the resolution was adopted.

The Clerk read Rule 29 A

**Public Hearings  
West Street Conduit**

Due notice having been given, President Waddick opened the public hearing on the petition by **NSTAR ELECTRIC COMPANY** petitions for permission to construct a line for the transmission of electricity for lighting, heating, or power under the public way or ways of the City hereinafter specified, and notice has been given and a hearing held on said petition as provided by law.

**West Street: Westerly @ pole 293/9 approximately 1093' ± feet south of Winter Street a distance of about 5'+ feet of conduit.**

President Waddick opened the public hearing to those wishing to speak in favor of the petition. Speaking in favor was Ms. Jacqui Duffy, from Nstar. No one stood in favor. No one spoke or stood in opposition. President Waddick closed that part of the public hearing and opened it to questions from Councillors. Councillor Romard requested plans for the private partition of the project to be supplied to the committee. Councillor Tarallo inquired as to who would be able to use the charging station. Ms. Duffy responded it was only for Verizon. Councillor Logan stated that his committee would try and address the matter at December 17, 2012 Committee meeting. President Waddick closed the public hearing and referred the petition to the Licenses and Franchises Committee.

**Orange Street Conduit**

Councillor Brasco recused himself from the hearing due to a conflict.

Due notice having been given, President Waddick opened the public hearing on the petition by

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**NSTAR ELECTRIC COMPANY** petitions for permission to construct a line for the transmission of electricity for lighting, heating, or power under the public way or ways of the City hereinafter specified, and notice has been given and a hearing held on said petition as provided by law.

**Orange Street: Southerly @ pole 211/11 approximately 118' ± feet west of Moody Street a distance of about 37' ± feet – conduit.**

President Waddick opened the public hearing to those wishing to speak in favor of the petition. Speaking in favor was Ms. Jacqui Duffy from Nstar. No one stood in favor. No one spoke or stood in opposition. President Waddick closed that part of the public hearing and opened it to questions from Councillors. Councillor Rourke had questions on the project as to what was being done. Councillor Rourke inquired about a double / chunk pole on Myrtle Street. President Waddick closed the public hearing and referred the petition to the Licenses and Franchises Committee.

**EXTENDED HOURS**

Due notice having been given, President Waddick opened the public hearing on the petition by Morley Doughnuts, Inc., d/b/a Dunkin Donuts, 85 River Street, Suite 11B, Waltham, MA 02453 (owner/operator of business) and Pompeii Realty Investments Group, LLC and Tedeschi Food Shops, Inc., c/o C-Operations Dept., 14 Howard Street, Rockland, MA 02370 (landlord) and 591-599 Moody Street Trust, P.O. Box 310, Waltham, MA 02454-0310 (property owner), hereby petitions the City Council for Extended Retail Hours under the provisions of Chapter 8 Article XIII for Morley Doughnuts, Inc., d/b/a Dunkin Donuts, 591 Moody Street Waltham to remain open between the hours of 5:00 AM to midnight for the property located at 591 Moody Street, Waltham. The deed for said property is recorded with Middlesex South District Deeds in Book 30403, Page 438-39.

Said property is shown on the city of Waltham Atlas as Map 69, Block 42, Lots 14 and is in a Business A Zoning District.

President Waddick opened the public hearing to those wishing to speak in favor of the petition. Speaking in favor was Philip McCourt, Attorney for the petitioner. Attorney McCourt returned the certified mail certificates. No one stood in favor. No one spoke or stood in opposition. President Waddick closed that part of the public hearing and opened it to questions from Councillors. Councillor Rourke inquired if all the abutters we notified. Attorney McCourt stated they were all notified. President Waddick closed the public hearing and referred the petition to the Licenses and Franchises Committee.

**FUEL STORAGE**

Due notice having been given, President Waddick opened the public hearing on the petition by Maria Jepsen, Trustee of Waltham Riverview Realty Trust, 43 Anthony Road, Newton, MA 02460 (property owner) hereby petitions the City Council for a fuel storage license for the property located at 186 Riverview Ave., Waltham, MA (formerly known as 184 Riverview Ave.).

The license is for the garaging of six (6) motor vehicles within the commercial warehouse/storage building.

The deed for said property is recorded with Middlesex South District Deeds in Book 59878, Page 532.

Said property is shown on the city of Waltham Atlas as Map 76, Block 17, Lot 9 and is in a Commercial Zoning District.

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

President Waddick opened the public hearing to those wishing to speak in favor of the petition. Speaking in favor was Philip McCourt, Attorney for the petitioner. Attorney McCourt returned the certified mail certificates. One stood in favor. No one spoke or stood in opposition. President Waddick closed that part of the public hearing and opened it to questions from Councillors. Councillor Rourke inquired if all the approvals were received by the Clerk. City Clerk Malone stated that not all the approvals were in as of the meeting. Councillor Rourke requested improved plans and more details on the project. Councillor Marchese wanted the parking outline on the plans clearer. Councillor Tarallo had concerns regarding the plans. President Waddick closed the public hearing and referred the petition to the Licenses and Franchises Committee.

**FUEL STORAGE**

Due notice having been given, President Waddick opened the public hearing on the petition by Atlantic Management, with an address of, 205 Newbury Street, Framingham, owner of the property and Equinix, 76 West Street, Waltham operator of the facility hereby petitions the City Council for a fuel storage license. The project includes installing two new generators, each containing 1,000 gallons of fuel. The total capacity with the existing generator is 3,000 gallons of diesel fuel for property located at 76 West Street, Waltham.

President Waddick opened the public hearing to those wishing to speak in favor of the petition. Speaking in favor was John Thiel, 45 Broadway, NY, NY Mr. Thiel returned the certified mail certificates. President Waddick closed that part of the public hearing and opened it to questions from Councillors. Councillor Romard requested copies of the Building Department approval. President Waddick closed the public hearing and referred the petition to the Licenses and Franchises 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 \$45,000.00 from Unreserved Fund Balance to account #001-151-5400-5760 Law-Claims, Judgment & Settlements.

Referred to the Committee of the Whole

2. Respectfully request the appointment of Maria Kidd of 48 Pine Street, Waltham to the Waltham Housing Authority Board of Commissioners to fill the vacancy of Tenant Representative Clifford Adams.

Referred to the Committee of the Whole

3. Respectfully request the appointment of Robert G. LeBlanc of 44 Curve Street Waltham to the Waltham Housing Authority Board of Commissioners to fill the vacancy of General Representative Michael O' Halloran.

Referred to the Committee of the Whole

4. Respectfully request an appropriation in the amount of \$ 28,742.82 from Unreserved Fund Balance to account # 001-210-5100-5111 Police Salaries (Arbitration Award).

Referred to the Committee of the Whole

5. Respectfully request approval of a loan order for the completion of the Banks School.

Referred to the Long Term Debt Committee

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

6. Respectfully forwarding a draft Development Prospectus for Bank School to be completed.  
Informational materials regarding the Banks School  
Comparable sales for condo in Waltham  
Prototype zone change  
Abutters List  
Various prototype documents  
Referred to the Ordinances and Rules Committee

Licenses are referred to the Licenses and Franchises Committee  
Renewal of Extended Hours Licenses Wendy's International, 806 Main Street, Waltham  
Renewal of Class II Vehicle License for Don's Auto 825 Main Street  
Renewal of Class II Vehicle License for Class II Euro Brokers 22 Common Street  
Renewal of Class II Vehicle License for Prospect Automobiles 143 Prospect Street

**New Business**

Mass Port Letter request Soloman Berhane, 30 Briarwood Lane Marlborough storage of the car, 1058 Main Street.  
Referred to the Licenses and Franchises Committee

Councillor Tarallo moved to act on the time extension without committee reference. On a voice vote, the motion was approved.

200 Moody Street, LLC hereby petitions the City Council for an extension of time to act on a special permit with mutual agreement until March 31, 2013 for property located at 210 Moody Street.

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 time extension was granted. Order # 31837

Councillor Tarallo moved to act on the time extension without committee reference. On a voice vote, the motion was approved.

Waltham Ventures, LLC, 119 Bare Hill Road, Boxford, MA and Panera, LLC, 3630 South Geyer Road, Sunset Hills, MO hereby petitions the City Council for an extension of time to act on a special permit with mutual agreement for properties located at 1030 Main Street until March 31, 2013.

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 time extension was granted. Order # 31838

Councillor Tarallo moved to act on the time extension without committee reference. On a voice vote, the motion was approved.

Trustees of Zee Em Trust II, Owner, and Boston Properties Limited Partnership, Petitioner, both with an address of Boston Properties Limited Partnership, 800 Boylston Street, Suite 1900, Boston, MA 02199 hereby petitions the City Council for an extension of time to act on a special permit with mutual agreement for properties located at 470, 486, and 504 Totten Pond Road until February 28, 2013.

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 time extension was granted. Order # 31840

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

Councillor Tarallo moved to act on the time extension without committee reference. On a voice vote, the motion was approved.

Chipotle Mexican Grill of Colorado, LLC petitions the City Council for permission for an extension of time to act on a special permit with mutual agreement for properties located at 1030 Main Street until February 28, 2013

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 time extension was granted. Order # 31839

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

Councillor Tarallo moved to act on the time extension without committee reference. On a voice vote, the motion was approved.

Waltham Ventures, LLC, 119 Bare Hill Road, Boxford, MA 01921 and Mass Burgers Waltham, LLC d/b/a Five Guys Hamburgers & Fries, 211 Main Street, Natick, MA is granted permission by the City Council for an extension of time to act on a special permit with mutual agreement for properties located at 1030 Main Street until March 31, 2013.

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 time extension was granted. Order # 31841

**AN ORDINANCE AMENDING THE ZONING CODE OF THE GENERAL ORDINANCES OF THE CITY OF WALTHAM.**

The General Ordinances of the City of Waltham, Part III (Zoning Code), Article III(Establishment of Districts), Section 3.4(Table of Uses), Part 4, is amended by striking out the entry "N" ("Not permitted") for "Farm Stands" (listed under the Agriculture heading and in the definition of uses in Section 3.263) in Conservation/Recreation (C/R) districts and substituting in its place "Y" ("Permitted use as of right").

President Waddick set the joint hearing date for January 14, 2013 Councillor Darcy moved to table the amendment on the City Council floor.

**Resolutions**

Councillor Romard presented a resolution on marijuana dispensaries.  
Referred to the Ordinances and Rules Committee.

**Community Preservation Committee**

The Clerk read the following communications from the Community Preservation Committee and each, in turn, was referred to the appropriate committee or the rules were suspended by President Waddick as indicated below:

The Community Preservation Committee recommended that the City Council approved the application from the Waltham Housing Authority for 101 Prospect Street.  
Referred to the Long Term Debt Committee

The Community Preservation Committee recommends that the City Council approved the application from Councillor Marchese for the appraisal of 287 AFT Grove Street. Councillor Marchese moved to suspend the rules and act on the recommendation without committee reference. On a voice vote, the rules were suspended. Councillor Marchese moved to approve

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

the recommendation. The roll was called. Voting yea were Councillors Brasco, Curtin, Darcy, Giordano, LeBlanc, Logan, Marchese, McMenimen, Rourke, Stanley, Tarallo, Tarallo, and Vizard. Voting nay was Councillor Romard. By a 13 to 1 vote the order was adopted. Order # 31845

Councillor Marchese moved to accept the late filing. On a voice vote, the recommendation was adopted.

The Community Preservation Committee recommended that the City Council Order for a CPA grant for an Appraisal of 287 AFT Grove Street in the amount of \$1,600.00 be rescinded. Marchese moved to suspend the rules and act on the recommendation without committee reference. On a voice vote, the rules were suspended. Councillor Marchese moved to approve the recommendation. On a voice vote, the order was adopted. Order # 31846

**Committee Reports**

**Licenses and Franchises Committee**

License & Franchise recommended that the Mass. Port Letter for Mohamed Darradji be granted.

Councillor Logan moved the action of the committee be the action of the City Council .  
On a voice vote, the Mass Port Letter was granted.

License & Franchise recommended that the Extended Hours for W.O.W 47 Foundry Ave. be granted.

Councillor Logan moved the action of the committee be the action of the City Council .  
On a voice vote, the Extended Hours for W.O.W were granted.

License & Franchise recommended that the renewal of a Class II Route 128 Used Auto Parts be granted.

Councillor Logan moved the action of the committee be the action of the City Council .  
On a voice vote, the renewal of the Class II Motor Vehicle License was granted.

License & Franchise recommended that the renewal of a Class III Route 128 Used Auto Parts be granted.

Councillor Logan moved the action of the committee be the action of the City Council .  
On a voice vote, the renewal of the Class II Motor Vehicle License was granted.

License & Franchise recommended that the renewal Extended Hours for Dragon Chef 671 Moody St. be granted.

Councillor Logan moved the action of the committee be the action of the City Council .  
On a voice vote, the Extended Hours for Dragon Chef was granted.

License & Franchise recommended that the renewal Extended Hours for Tedeschi 591 Moody St. be granted.

Councillor Logan moved the action of the committee be the action of the City Council .  
On a voice vote, the Extended Hours for Tedeschi was granted.

License & Franchise recommended that the renewal of ten (10) Lodging House Licenses Bentley University be granted.

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

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

On a voice vote, the 10 Lodging House renewals were granted.

License & Franchise recommends that the renewal of nine (9) Lodging House Licenses 12-14 Lowell St.--- 94 Adams St.--- 6 Park Pl. --- 74 Adams St ---104 Adams St 49-51 Brown St--- 21-23 Pine St --- 403 River St.---.755 Main St. be granted.

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

On a voice vote, the 9 Lodging House renewals were granted.

**Committee of the Whole**

Committee of the Whole recommended that the appointment of Keith MacPherson as Acting Police Chief pursuant to Section 3.5 of the City Charter be confirmed.

Councillor Doucette moved the action of the committee be the action of the City Council .

The roll was called voting yea were Councillors Curtin, Darcy, Doucette, Giordano, LeBlanc, Logan, Marchese, McMenimen, Romard, Rourke, Stanley, Tarallo, Vizard and Waddick. By a 14 to 0 vote, the appointment was confirmed.

**Ordinances and Rules Committee**

Ordinance & Rules recommended that the Comments to Children's Hospital Boston at Waltham 2012 Master Plan Pre- Development Review submission be forwarded to Children's Hospital

Councillor Tarallo moved the action of the committee be the action of the council.

The roll was called voting yea were Brasco, Curtin, Darcy, Doucette, Giordano, LeBlanc, Logan, Marchese, McMenimen, Romard, Rourke, Stanley, Tarallo, and Vizard. By a 14 to 0 vote, the comments will be forwarded to Children's Hospital. Order # 31836

Ordinance & Rules recommended that the PD Winter Street, LLC with an address c/o Jan Machnik, Davis Marcus Partners, 930 Winter Street, Waltham, Massachusetts 02451 be granted. Councillor Tarallo moved the action of the committee be the action of the 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 special permit was granted. Order # 31842

**Finance Committee**

The Finance Committee recommended that the City Council transfer funds totaling \$327,400.00 to fund compensation increase for Non-Union employees for the period July 1, 2011 to June 30, 2013 be approved.

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, LeBlanc, Logan, McMenimen, Romard, Rourke, Stanley, Tarallo, and Vizard. By a 11 to 0 vote the order was adopted. Order # 31844

The Finance Committee recommended that the City Council transfer funds totaling \$11,000.00 to fund the collective bargaining agreement between the City and the School Traffic Supervisors (STS) Union for the period July 2, 2010 to June 30, 2013 be approved.

Councillor Curtin moved the action of the committee be the action of the council

On a voice vote, the order was adopted. Order # 31843

The Finance Committee recommended that the salary rate schedules for the non-union employees commencing July 1, 2011 be given a first reading.

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

Article V of Chapter 2 of the General Ordinances of the City of Waltham entitled  
“Compensation,” as most recently amended, hereby further amend as follows:

**Section 2-30**, Compensation Schedules, contained in the Appendix to the Compensation

Ordinance, as most recently amended, is hereby further amended by deleting the non-union wage and the non- union salary charts as currently contained in the Appendix and substituting in place the new non-union wage and non-union salary charts for Non Union Salary rates for July 1, 2012 be given a first reading

Councillor Tarallo moved to adjourned. On a voice vote, the meeting adjourned at 10:00 PM.