

Waltham City Council

Minutes of the Meeting of

October 26, 2015

Council President Marchese called the meeting to order at 7:30PM.

City Clerk Rosario Malone clerked the meeting.

The Clerk called the roll.

Call of the Roll:

Present: Darcy, Fowler, LeBlanc, Logan, Marchese, McLaughlin, McMenimen, O'Brien, Romard, Stanley, Vizard, Giordano, Rourke, Brasco, Waddick

Absent: None

The Clerk recited the Council Prayer, and then President Marchese led all present in the Pledge of Allegiance.

Councillor Giordano asked for a moment of silence for all our military that have served; past and present.

Council Vice President LeBlanc moved to accept the minutes of October 13, 2015. The minutes were approved on a voice vote.

Councillor LeBlanc moved to suspend Rule 8 to take a matter out of order. The motion was adopted on a voice vote. President Marchese asked the Clerk to read the Licenses and Franchises Committees recommendation on the Ginny Hays Resolution. The Clerk read the Order generated from the Resolution ordering that the corner of Main, Linden Street and Ellison Park shall now be known as Virginia "Ginny" Cronin Hays Square and shall have a plaque/marker bearing her name and that reads as stated in the Order. Councillor Vizard rose to a point of parliamentary procedure regarding the necessity of approving both order and a resolution. Councillor Rourke moved that the action of the Committee be the action of the Council and that the Order be adopted. On the motion Councillor LeBlanc and Councillor Waddick spoke in favor. A roll call was requested.

Voting Yea: Councillors Fowler, Giordano, LeBlanc, Logan, McLaughlin, Rourke, Vizard, Darcy, McMenimen, Romard, Brasco, Waddick, and O'Brien.

Voting No: None

Absent: Stanley

By a vote of 13-0 the motion carried and the order was adopted.

Councillor LeBlanc moved to suspend Rule 9 to hear from a non-Council member. The motion was adopted on a voice vote. Elizabeth Noonan, Ginny Hays' daughter, thanked the Council and stated the appreciation she and her family have with the gratitude and honor to have this recognition of their mother.

The Clerk read Rule 86.

The Clerk read the call of the first public hearing:

DSCI LLC, 303 Wyman Street Waltham, MA 02451, not being owners of the property at the corner of Winter Street and Gatehouse Drive Waltham, MA, petition the Waltham City Council for a grant of location for the purpose of installing a new underground conduit for fiber optic cabling. The new conduit will be 33ft in length. This conduit is to provide a path from the Verizon underground manhole system to a utility pole. The new fiber cable will expand DSCI's network to serve telecommunications service to business customers in the Waltham area. The Property near 35 Gatehouse Drive is shown on City of Waltham Atlas Page R029 Block 001, Parcel 0002. The property is in "I" Zoning District.

Jamie Carroll, VP of DSCI of 303 Wyman street in Waltham, the petitioner, spoke in favor of the petition. His company would like to expand their network from Second Ave down Winter Street towards AstraZeneca.

Charles Botto, GM of the Embassy Suites, Winter Street in Waltham spoke in neutral position of petition. He was curious to know about the timing of the project and what the noise impact would be in the neighborhood.

With no one else in support and no one else in opposition and no one in a neutral position on the petition, President Marchese closed this portion of the public hearing and opened the hearing to questions from Councillors.

Councillor Romard asked questions of the petitioner. The petitioner explained that their lease from LightTower Communications is expiring and that they would like to run their own fiber cables. The petitioner stated that construction will be completed in one day, during business hours and that there will not be much interruption to the street. They would like to have work completed by moratorium date of November 15th. Councillor Logan questioned petitioner about legal notice and asked if the work could be done at night based on the DPW Directors recommendations. Councillor Vizard and Councillor Rourke had a few issues with the plans for the traffic and hotel that could be furthered discussed in committee.

There being no further speakers on the matter, President Marchese closed the public hearing and referred the matter to the Licenses and Franchises Committee.

The call of the second public hearing was read by the Clerk:

DSCI LLC, 303 Wyman Street Waltham, MA 02451, not being owners of the property at the corner of Winter St and Second Ave Waltham, MA, petition the Waltham City Council for a grant of location for the purpose of installing a new underground conduit for fiber optic cabling. The new conduit will be 24ft in length. This conduit is to provide a path from the Verizon underground manhole system to a utility pole. The new fiber cable will expand DSCI's network to serve telecommunications service to business customers in the Waltham area.

The Property near 71 2nd Ave is shown on City of Waltham Atlas Page R030, Block 004, Parcel 0001. The property is in "C" Zoning District.

Jamie Carroll, VP of DSCI of 303 Wyman street in Waltham, the petitioner, spoke in favor of the petition. He said his company would like to expand their network from into the manhole system at said location.

Charles Botto, GM of the Embassy Suites, Winter Street in Waltham spoke in neutral position of petition. He was curious to know about timing of project and what the noise impact would be in the neighborhood. He would like work not to continue after 9:00pm.

With no one else in support and no one else in opposition and no one in a neutral position on the petition, President Marchese closed this portion of the public hearing and opened the hearing to questions from Councillors.

Councillor Romard asked how the petitioner was going to divert traffic at this location and the hours he planned to be there? Councillor Romard asked the petitioner to bring a list of customers that would benefit from this service to the committee meeting. He also asked the petitioner to bring the details of the traffic plan and the right hand turn distance from island to manhole cover to the committee meeting.

There being no further speakers on the matter, President Marchese closed the public hearing and referred the matter to the Licenses and Franchises Committee.

The call of the third public hearing was read by the Clerk:

Comcast Cable Inc. hereby respectfully requests your consent to the locations of distribution cable hereinafter described for the transmission and distribution of communication signals in and under the following public streets, lanes, highways, and places of the City of Waltham and of the conduit, equipment, governed manholes and other structures, fixtures and appurtenances designed or intended to protect or operate said distribution cables and accomplish the objective of said company: and the digging up and opening the ground to lay or place same: Placement of approx. 261' 1-4" conduit from P100/1 Felton St to pole location (Carter St.) opposite side from 3 Carter St. Waltham

As soon as the call of the hearing was read, Councillor Logan rose to a Point of Order. He noted that the notice of the public hearing was deficient in that it referenced the wrong address. The application and the attached sketch, both submitted by the petitioner, also had the wrong address. The property identified in all three (3) as "3 Carter Street" is actually 95-107 Moody Street. Due to the deficiency in the notice the matter was not properly before the City Council, and President Marchese ruled it out of order. There was no representative from Comcast to answers any questions.

Communications from Mayor

1. An appropriation in the amount of \$2,241 from account #232-480-3590-3590 Parking Meter-Unreserved Fund Balance to account #232-480-5800-6441 Parking Meter-Pay by Space Parking Machines. The funds will be used to purchase nine (9) M900 Card Reader Upgrade kits for the pay by space machines.
President Marchese referred this request to the Finance Committee.
2. Acceptance of a gift in the amount of \$2,500 from the Digital Federal Credit Union to be used by the Fire Department towards programs that make a difference in our community.
President Marchese referred this request to the Finance Committee.
3. Acceptance of a gift in the amount of \$2,500 from the Digital Federal Credit Union to be used by the Police Department towards programs that make a difference in our community.
President Marchese referred this request to the Finance Committee.

Application for License and Permits

1. Renewal for extended hours - Wendy's Properties, LLC – 806 Main Street
President Marchese referred this request to the Licenses & Franchises Committee.
2. Renewal for extended hours – Monell Enterprises, Inc. 821 Main St (gas station)
President Marchese referred this request to the Licenses & Franchises Committee.

3. Renewal for extended hours – Dunkin Donuts – 591 Moody Street
President Marchese referred this request to the Licenses & Franchises Committee.
4. Renewal for extended hours - Dunkin Donuts – 859 Main Street
President Marchese referred this request to the Licenses & Franchises Committee.
5. Renewal for extended hours – New Dragon Chef – 677 Moody Street
President Marchese referred this request to the Licenses & Franchises Committee.
6. Second Hand Motor Vehicles (Class 2)- Absolute Auto Sales – 50 River Street
President Marchese referred this request to the Licenses & Franchises Committee.
7. Second Hand Motor Vehicles (Class 2) Route 60 Motors Inc. – 96 Linden Street
President Marchese referred this request to the Licenses & Franchises Committee.
8. Second Hand Motor Vehicles (Class 2) Fuller Motors Inc. 215 Lexington Street
President Marchese referred this request to the Licenses & Franchises Committee.

Committee Reports

Public Works Committee

The Public Works Committee recommended that the petition of 96 Linden Street Realty Trust to excavate a street under Section 17-25 of the General Ordinances, to install underground utilities in front of 96 Linden Street, be approved with the following conditions:

- 1) The temporary patch of the trench must settle for at least 90 days before final resurfacing.
- 2) The final resurfacing shall be done curb to curb, 20 feet wide, with all seams infrared processed.
- 3) The CPW Director shall have final review.

Councillor Vizard moved that the action of the Committee be the action of the Council.
The motion was adopted on a voice vote and the petition was approved.

Licenses and Franchises

The Licenses and Franchises Committee recommended that the application for renewal of the Class II Motor Vehicle License for Boston Muffler, 251 Lexington Street, be approved.
Councillor Rourke moved that the action of the Committee be the action of the Council.
The motion was adopted on a voice vote and the renewal was approved.

The Licenses and Franchises Committee recommended the renewal of extended hours for Burger King, 881 Moody Street, with existing conditions (Open until 2:00am and a volume control to be placed on external speaker) be approved.
Councillor Rourke moved that the action of the Committee be the action of the Council.
The motion was adopted on a voice vote and the renewal was approved.

The Licenses and Franchises Committee recommended that the request for a MassPort Letter of Chukwunanu Nzeka be approved.
Councillor Rourke moved that the action of the Committee be the action of the Council.

The motion was adopted by a voice vote and the request was granted.

The Licenses and Franchises Committee recommended a grant of location on West Street per the petitioner's plan dated 10-7-2015 be approved.

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

The motion was adopted on a voice vote and the grant of location was approved.

Committee of the Whole

1. The Committee of the Whole recommended that the Nathaniel at Banks Square Condominium bid on unit 200 (affordable unit), in the amount of \$200,000.00, be approved.
Councillor LeBlanc moved that the action of the Committee be the action of the Council.
On the motion Councillor Stanley spoke on the matter.
The Clerk called the roll:
Voting Yea: Councillors Fowler, Giordano, LeBlanc, Logan, McLaughlin, O'Brien, Rourke, Vizard, Darcy, McMenimen, Brasco, Waddick, and Marchese
Voting No: Councillors Romard and Stanley
By a vote of 13-2 the motion was adopted and the matter was approved.
2. The Committee of the Whole recommended the Nathaniel at Banks Square Condominium bid on unit 202, in the amount of \$291,201.00, be approved.
Councillor LeBlanc moved that the action of the Committee be the action of the Council.
The Clerk called the roll:
Voting Yea: Councillors Fowler, Giordano, LeBlanc, Logan, McLaughlin, O'Brien, Rourke, Vizard, Darcy, McMenimen, Brasco, Waddick, and Marchese
Voting No: Councillors Romard and Stanley
By a vote of 13-2 the motion was adopted and the matter was approved.
3. The Committee of the Whole recommended the Nathaniel at Banks Square Condominium bid on unit 203, in the amount of \$247,000.00, be approved.
Councillor LeBlanc moved that the action of the Committee be the action of the Council.
The Clerk called the roll:
Voting Yea: Councillors Fowler, Giordano, LeBlanc, Logan, McLaughlin, O'Brien, Rourke, Vizard, Darcy, McMenimen, Brasco, Waddick, and Marchese
Voting No: Councillors Romard and Stanley
By a vote of 13-2 the motion was adopted and the matter was approved.
4. The Committee of the Whole recommended the Nathaniel at Banks Square Condominium bid on unit 204, in the amount of \$278,400.00, be approved.
Councillor LeBlanc moved that the action of the Committee be the action of the Council.
The Clerk called the roll:
Voting Yea: Councillors Fowler, Giordano, LeBlanc, Logan, McLaughlin, O'Brien, Rourke, Vizard, Darcy, McMenimen, Brasco, Waddick, Marchese
Voting No: Councillors Romard and Stanley
By a vote of 13-2 the motion was adopted and the matter was approved.
5. The Committee of the Whole recommended the Nathaniel at Banks Square Condominium bid on unit 205, in the amount of \$285,000.00, be approved.
Councillor LeBlanc moved that the action of the Committee be the action of the Council.

The Clerk called the roll:

Voting Yea: Councillors Fowler, Giordano, LeBlanc, Logan, McLaughlin, O'Brien, Rourke, Vizard, Darcy, McMenimen, Brasco, Waddick, and Marchese

Voting No: Councillors Romard and Stanley

By a vote of 13-2 the motion was adopted and the matter was approved.

6. The Committee of the Whole recommended the Nathaniel at Banks Square Condominium bid on unit 207, in the amount of \$302,605.00, be approved. Councillor LeBlanc moved that the action of the Committee be the action of the Council. The Clerk called the roll:
Voting Yea: Councillors Fowler, Giordano, LeBlanc, Logan, McLaughlin, O'Brien, Rourke, Vizard, Darcy, McMenimen, Brasco, Waddick, and Marchese
Voting No: Councillors Romard and Stanley
By a vote of 13-2 the motion was adopted and the matter was approved.
7. The Committee of the Whole recommended the Nathaniel at Banks Square Condominium bid on unit 303, in the amount of \$266,792.00, be approved. Councillor LeBlanc moved that the action of the Committee be the action of the Council. The Clerk called the roll:
Voting Yea: Councillors Fowler, Giordano, LeBlanc, Logan, McLaughlin, O'Brien, Rourke, Vizard, Darcy, McMenimen, Brasco, Waddick, and Marchese
Voting No: Councillors Romard and Stanley
By a vote of 13-2 the motion was adopted and the matter was approved.
8. The Committee of the Whole recommended the Nathaniel at Banks Square Condominium bid on unit #302 be placed on file. Councillor LeBlanc moved that the action of the Committee be the action of the Council. The motion was adopted on a voice vote and the matter was placed on file.
9. The Committee of the Whole recommended that an appropriation of funds in the amount of \$100,000 from the Stabilization Fund to Law – Judgements, Claims, and Settlements #001-151-5400-5760 be approved. Councillor LeBlanc moved that the action of the Committee be the action of the Council. The motion was adopted on a voice vote and the appropriation was approved.
10. The Committee of the Whole recommended than an appropriation in the amount of \$1,200,000 of CPA funds, partly from the available balance of the CPA-Open Space Budget Reserve with the remaining amount from the CPA Undesignated Budget Reserve, to account #246-172-5800-7914 CPA-Demolition of 20 buildings at the Fernald be approved. These funds will be used for the demolition of twenty non-historical buildings on the CPA funded portion of the Fernald property. Councillor McMenimen recused herself from the proceedings, due to her physical proximity of her home to the Fernald property, in order to avoid a conflict of interest. Councillor LeBlanc moved that the action of the Committee be the action of the Council. On the motion Councillor Stanley spoke in opposition to the appropriation. Councillor Darcy spoke in favor of the appropriation. A roll call was requested.
Voting Yea: Councillors Fowler, Giordano, LeBlanc, Logan, McLaughlin, O'Brien, Rourke, Vizard, Darcy, Brasco, Waddick, and Marchese

Voting No: Councillor Stanley
Recused: Councillor McMenimen

By a vote of 12-1 the motion was adopted and the matter was approved.

Finance Committee

The Finance Committee recommended that the gift of NARCAN, from the Newton-Wellesley Hospital to the Health Department, for the use of the Waltham Fire Department be approved.

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

All were in favor.

The motion was adopted on a voice vote and the matter was approved.

The Finance Committee recommended that the Resolution regarding source funding for city projects be placed on file.

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

All were in favor.

The motion was adopted on a voice vote and the matter was placed on file.

Long Term Debt

The Long Term Debt Committee recommended that the CPC Allocation of estimated FY2016 CPA Surcharge & Auditors "True-Up" of Misc. Funds be approved.

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

All were in favor.

The motion was adopted on a voice vote and the matter was approved.

Ordinances & Rules

The Ordinances and Rules Committee recommended that the proposed Zoning Ordinance Map Amendment for 939 Trapelo Road, as amended, be approved for a First Reading.

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

The motion was adopted on a voice vote and the Amendment was given a First Reading.

Councillor Logan moved to table this matter on the Council floor.

All were in favor.

The motion was adopted on a voice vote and the matter was placed on the table.

The Ordinances and Rules Committee recommended that the application of Jimmy John's Sandwiches, 475 Winter Street, for a change in the provision of a special permit, under section 3.552 of the Zoning Ordinance, be approved.

Councillor Logan moved that the action of the Committee be the action of the Council. On the motion, Councillor Darcy asked the Chairman of the Ordinances and Rules Committee to explain the change in the Special Permit. Councillor Logan responded that the change was only to the location of the bike rack location. Councillor Logan also noted that copies of the Ordinance change should be provided to all Councillors as required by Rule 47.

Councillor Darcy asked to suspend Rule 47 in order to proceed with a vote on the matter. The motion was adopted on a voice vote and Rule 47 was suspended.

On the original motion for approval, the Clerk called the roll.

Voting Yea: Councillors Fowler, Giordano, LeBlanc, Logan, McLaughlin, O'Brien, Rourke, Vizard, Darcy, Brasco, Waddick, Stanley, McMenimen and Marchese

Voting No: None

By a vote of 1-1 the motion was adopted and the change in the provision of the special permit, relative to the location of the bike rack, was granted.

The Ordinances and Rules Committee recommended that the Resolution regarding the Dog Park be placed on file.

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

On the motion, Councillor Darcy spoke on the Resolution and noted that a dog park has been opened in North Waltham.

The motion was adopted on a voice vote and the matter was placed on file.

Unfinished Business and Other Business

1. Asian fast food restaurant at 1019 Trapelo Road request for a change in the conditions of Special Permit #33217A, pursuant to Section 3.552 of the Zoning Ordinance.

President Marchese referred this matter to the Ordinances and Rules Committee.

Councillor Logan stated the following item should have been on Docket, as it was reported out of the Ordinances and Rules Committee with a recommendation for a Second Reading.

“ZOA Parking requirements in the Riverfront overlay district.”

Councillor Logan noted that the matter could not be given a Second Reading that night because ten (10) days had not yet elapsed since it was advertised, and moved that the matter be tabled on the Council floor.

The motion was adopted on a voice vote and the matter was tabled.

Councillor Logan mentioned there was an amended version of the proposal, as approved by the committee, sent out to all Councillors in their Docket packets.

President Marchese announced that, due to the fact that the 90-day clock under Chapter 40A of the Massachusetts General Laws was about to expire on November 3rd, he would be calling a Special Meeting of the Waltham City Council on November 2, 2015, to allow this matter to be given a Second and Third Reading.

Tabled Matters

Tabled from 6/22/2015

Amend Sections 2.2 and 3.1 of the City Charter

Tabled from 10/26/2015

Zoning Map Amendment Ordinance for 939 Trapelo Road

Tabled from 10/13/2015

ADHOC Fitch School Committee – final report

There being no further matters before the City Council, Councillor Darcy moved to adjourn. The motion was adopted on a voice vote.

Council President Marchese declared the meeting adjourned at 8:44PM.

Respectfully submitted by:

Kara Wilson

Executive Assistant of the City Clerk

October 30, 2015

Approved by the City Council: _____