

**City Council  
Meeting Minutes  
October 13, 2015**

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Council President Marchese called the meeting to order at 7:32PM.

President Marchese made some announcements to the council. There were bowties for everyone to wear at the Salvation Army's Paint the Town Red Gala that is being held on Saturday October 17<sup>th</sup> at the new Vistaprint Office.

Happy birthday announcement to Councillor LeBlanc and Janice Marchese.

Waltham Historical Society is hosting a tour on the Tick Tock Trolley on October 17<sup>th</sup>. Former Councillor Duffy will be driving the trolley. Limited seating is available.

**Attendance:**

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

**Absent:** Brasco, Waddick

City Clerk Rosario Malone clerked the meeting.

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

Councillor McMenimen asked for a moment of silence and spoke of Bob Stanton, Waltham resident and former City Councillor who has recently lost his hard fought battle with cancer.

Council Vice President LeBlanc moved to accept minutes from September 28, 2015. Minutes were approved by a voice vote.

The Clerk read Rule 86.

Councillor LeBlanc stood and referenced her affiliation with the Our Lady's church and had disclosed her role on the Board of Our Lady's Parish and feels she may vote impartially and to the best of her ability if there are any votes that may be taken.

Councillor McMenimen also rose and stated her affiliation as a parishioner at Our Lady's Parish and noted she could vote impartially and to the best of her ability shall a vote be taken.

Councillor Stanley stood and questioned why we were hearing this zoning amendment again. The Council had initially discussed the matters relating to this zone change in May of 2015. Unfortunately the 90 days to vote on the matter had passed. We are restarting the process.

The Clerk read the first public joint hearing.

AN ORDINANCE AMENDING CHAPTER 21 OF THE GENERAL ORDINANCES OF THE CITY OF WALTHAM ENTITLED "ZONChapter 21 of the General Ordinances entitled "Zoning District Map", as most recently amended, is hereby further amended by striking out the designation "Residence A2 (RA2)" as shown on said map and substituting in place thereof new

lines and designation "Conservation/Recreation (CR)" insofar as the said map relates to the following described premises:

The locus is that certain parcel of land known as "939 Trapelo Road" containing 1.426 acres of land more or less, identified in the "Atlas, City of Waltham, Massachusetts 1988" as Map 15, Block 1, Lot 1, with improvements located thereon, situated at the northeasterly corner of Trapelo Road and Bow Street in the City of Waltham, County of Middlesex, Commonwealth of Massachusetts, and more particularly described as follows:

A parcel of land bounded southerly by Trapelo Road, formerly called North Street, westerly by Bow Street, and northwesterly, northerly and easterly by land of the City of Waltham, and identified as "Lot 2" on a plan entitled "Plan of Land in Waltham & Lexington (Middlesex Co.) Mass.," surveyed for Geraghty & Miller, dated December 2, 1996, Plan No. 379 of 1997, Book 27228, Page 430, and being the same premises conveyed to the County of Middlesex by deed of the Roman Catholic Archbishop of Boston, a corporation sole, dated December 8, 1959, and recorded with the Middlesex South District Deeds, Book 9512, Page 539, and further being the same premises conveyed to the Roman Catholic

Archbishop of Boston by deed of James J. Baxter, dated August 12, 1930, and recorded with the Middlesex South District Deeds, Book 5488, Page 281.

Councillor George Darcy of 93 Hobbs Road, Waltham spoke in favor of the petition.

Three people stood in favor of the petition.

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.

Survey and Planning Board Member Brian Moroney asked the questions of what will happen to the rectory on the property once the zone change is passed.

Councillor Darcy noted it would be grandfathered in.

There were no further speakers on the matter.

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

President Marchese called a one minute recess.

The second public hearing was read by the Clerk.

#### Public Hearing

KW Waltham LLC, Ara Aftandilian, Manager, PO Box 394, Topsfield, MA 01983, Petitioner, and RMD Trust, Jay J. Lander & Rhea M. Roazen, Trustees, 44 Falmouth Road, Weston, MA 02493, Owner of Property, hereby petition the City Council for a Special Permit pursuant to the provisions Article 3, Section 3.5, subsections 3.512 and 3.617 to allow the construction of a hotel and other site improvements, and, an increase in intensity of use for said hotel with the required parking on the property located at 135 Second Avenue, Waltham, Massachusetts Atlas Page 39, Block 1, Lot 2.

The building will have a total FAR (floor area ratio) of 0.68.

The property is in a Commercial Zoning District.

Phillip McCourt Esq., attorney representing KW Waltham LLC spoke in favor of the petition.

Mr. McCourt also submitted a supplemental package and propped decision.

Ara Aftandilian, 304 Boston Post Road, Wayland spoke in favor of the petition. They are currently proposing a Hampton Inn (Select Service) Hotel. 6 stories/138 rooms.

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.

Councillors Romard, McMenimen, Darcy and Rourke asked questions to the petitioner.

Questions included when will construction commence and the answer was ASAP to approval.

They would like to be open next summer. Mr. Aftandilian stated they would not have any major

construction on Second Ave except a new curb cut. Councillor McMenimen had concerns about storm water and drainage and Councillor Darcy asked to make sure all orders on the conditions were answered. He also asked for automatic doors and bike racks to be added into the conditions if they were not in the proposal already.

Bob Carroll of KW Waltham LLC, PO Box 394 Topsfield, MA, who is the co-manager of this project spoke on the matter. Tim Williams, from Allen & Major Associates, Inc., 100 Commerce Way, Woburn, MA who is he Civil Engineer for petitioner spoke on the matter. Robert Nagey of 101 Walnut Street, Watertown, MA the Traffic Engineer for petitioner also spoke and answered questions on the matter.

There were no further speakers on the matter.

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

### **Public Hearing**

#### **17-25**

The Petitioner, 96 Linden Street Realty Trust, John Severini and Babak Veyssi, Principals with an address of 535 Boylston Street, Brookline, MA 02445 as the owners of the property located 96 Linden Street, Waltham, MA petitions the Waltham City Council for permission under the provisions of Sections 17-25 for the installation of utilities.

The property is 96 Linden Street is shown on the City of Waltham Atlas Page 52, Block 4, Parcel 2 and Page 53, Block 6, Parcel 1. All work is to be done in accordance with the provisions of said Section 17-25.

John Severini, the petitioner, spoke in favor of the petition.

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.

Councillors McLaughlin, Vizard, McMenimen and Rourke asked questions about the petition.

Mr. Severini explained he has already had most of the work completed on the street prior to Linden Street being repaved in recent weeks. Unfortunately National Grid could not complete the gas line before the paving was complete. He has been in communication with our CPW Dept. and the Engineering Dept.

Mr. Severini understands he would have to pave 10 ft. in both directions and curb to curb paving to complete the job properly.

There were no further speakers on the matter.

President Marchese referred the matter to the Public Works Committee.

Councillor LeBlanc moves to suspend Rule 8 to take the Charlotte Smith Resolution out of order. All were in favor.

The Clerk read the Resolution. Councillor LeBlanc spoke on behalf of the Resolution and thanked the family members that were in attendance for coming.

Councillor LeBlanc moved to suspend rule 39 to move the matter and accept the Resolution without committee reference. All were in favor.

The matter was approved by a voice vote.

### **Communications from Mayor**

1. Appropriation of funds in the amount of \$100,000 from the Stabilization Fund to Law – Judgements, Claims and Settlements #001-151-5400-5760.

President Marchese referred this request to the Committee of the Whole.

2. Acceptance of a gift of Narcan from The Newton Wellesley Hospital to the Waltham Health Department.

President Marchese referred this request to the Finance Committee.

### **Application for License and Permits**

1. Renewal Application for extended hours – Burger King – 881 Moody Street  
President Marchese referred this request to the License & Franchise Committee.

2. Secondhand dealers license – Nick Semakuwa - Quality Desiynz LLC – 431 River St.  
President Marchese referred this request to the License & Franchise Committee.

3. Renewal of 2nd hand motor vehicle (Cl. 2) Boston Muffler & Brake 251 Lexington St.  
President Marchese referred this request to the License & Franchise Committee.

### **Presentation of Petitions**

#### **Resolutions**

1. Virginia “Ginny” Hays Square

Councillor LeBlanc, Darcy and Mc McMenimen spoke on behalf of Ginny Hays.

President Marchese referred this request to the License & Franchise Committee.

2. Breast Cancer Awareness 2015

Councillor Giordano spoke on the Resolution. Councillor Giordano moved to suspend rule 39 to move the matter and accept the Resolution without committee reference. All were in favor.

The matter was approved by a voice vote.

3. Condominiums at 218 South Street

Councillor Logan spoke on the resolution.

President Marchese referred this Resolution to the Committee of the Whole.

4. CPA Funds for Affordable Housing

Councillor Darcy spoke on the resolution.

President Marchese referred this Resolution to the Economic and Community Development Committee.

### **Committee Reports**

#### **Public Works**

The Public Works Committee recommends the following gift of easement be approved.

*The City of Waltham accepts as a gift, a 20 ft. by 130 ft. easement upon 2 parcels of land located along the boundary lines of 44 Leitha Drive and 50 Leitha Drive. Said easement is being gifted by Robert N. and Debra A. Martin of 44 Leitha Drive and David and Jennifer DeCola, aka Jennifer Wettergreen of 50 Leitha Drive.*

Councillor Vizard moves that the action of the Committee be the action of the Council.

Roll call was requested.

All in favor: Fowler, Giordano, LeBlanc, Logan, McLaughlin, Rourke, Stanley, Vizard, Darcy, McMenimen, Romard

Opposed: None

Absent: Brasco, Waddick, O’Brien

Motion is adopted.

Councillor Vizard noted that this easement will help with the flooding problem on Leitha Drive.

### **License and Franchise**

1. The License and Franchise Committee recommends the Fuel Storage Permit for 200 Calvary Street be approved.

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

All were in favor.

Motion is adopted by a voice vote.

2. The License and Franchise Committee recommends the Fuel Storage Permit for Cooper Street be approved with the condition that the license would be effected by the pending Zoning Ordinance Amendment regarding parking requirements in the Riverfront Overlay District be approved.

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

On the motion Councillor McMeminen asked for clarification of the condition. Councillor Rourke moves to amend the license to read up to 535 gallons of fuel.

All were in favor.

Motion is adopted by a voice vote.

On the initial motion to approve the Fuel Storage Permit Councillor McMenimen questioned and commented on the efficiency in the timing on this particular permit while other permits take years to pass.

Councillor Darcy and Stanley also commented on the matter.

Councillor McMenimen requested a roll call vote.

All in favor: Fowler, Giordano, LeBlanc, Logan, McLaughlin, O'Brien, Rourke, Stanley, Vizard, Romard

Opposed: Darcy, McMenimen,

Absent: Brasco, Waddick

President Marchese did not vote.

Motion was adopted.

3. The License and Franchise Committee recommends that request of withdrawal without prejudice for the TFS Newco LLC dba Tedeschi Food Shop extended hours at 131 Lexington Street be approved.

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

All were in favor.

Motion is adopted by a voice vote.

4. The License and Franchise Committee recommends that request of withdrawal without prejudice for the TFS Newco LLC dba Tedeschi Food Shop extended hours at 10 High Street be approved.

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

All were in favor.

Motion is adopted by a voice vote.

5. The License and Franchise Committee recommends a grant of location on West Street be approved with the condition upon the petitioner to provide new stamped plans signed off by CPW and paving curb to curb or if possible paving centerline to curb be approved.

Councillor Rourke moves that the action of the Committee be the action Council.  
On the motion Councillor Rourke stated that the petitioner did not fulfill their conditions.  
Councillor Rourke withdrew his recommendation for approval and asked to recommit matter back to the License and Franchisee Committee.

All were in favor.

Motion is adopted by a voice vote.

6. The License and Franchise Committee recommends the renewal of second hand motor vehicles - Pilgrim Auto Body, Inc. be approved.

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

All were in favor.

Motion is adopted by a voice vote.

7. The License and Franchise Committee recommends the renewal of second hand motor vehicles (Class 2) – Pilicy Auto & Yacht Inc. be approved.

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

All were in favor.

Motion is adopted by a voice vote.

8. The License and Franchise Committee recommends the Renewal of second hand motor vehicles (Class 2) – PPA, Inc. be approved.

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

All were in favor.

Motion is adopted by a voice vote.

9. The License and Franchise Committee recommends the Renewal of second hand motor vehicles (Class 2) – DW Enterprise Inc. be approved.

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

All were in favor.

Motion is adopted by a voice vote.

10. The License and Franchise Committee recommends the Renewal of second hand motor vehicles (Class 2) – Sideris Automotive Services, Inc. be approved.

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

All were in favor.

Motion is adopted by a voice vote.

11. The License and Franchise Committee recommends the Renewal of second hand motor vehicles (Class 2) – Colvins Inc. be approved.

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

All were in favor.

Motion is adopted by a voice vote.

12. The License and Franchise Committee recommends the Renewal of second hand motor vehicles (Class 2) - Paul's Auto Service Inc. be approved.

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

All were in favor.

Motion is adopted by a voice vote.

13. The License and Franchise Committee recommends the Renewal of second hand motor vehicles (Class 2) – Newton St. Services, Inc. be approved.  
Councillor Rourke moves that the action of the Committee be the action Council.  
All were in favor.  
Motion is adopted by a voice vote.

14. The License and Franchise Committee recommends the Renewal of extended hours – Tedeschi’s #426 at 591 Moody Street be approved.  
Councillor Rourke moves that the action of the Committee be the action Council.  
All were in favor.  
Motion is adopted by a voice vote.

15. The License and Franchise Committee recommends the Renewal of extended hours – Waltham Fuel at 1335 Main Street be approved.  
Councillor Rourke moves that the action of the Committee be the action Council.  
All were in favor.  
Motion is adopted by a voice vote.

#### **Committee of the Whole**

The Committee of the Whole recommends a portion of the Resolution for 1 Balm Road be it further resolved that the city council request the Community Preservation Committee to use administrative funds to have an appraisal conducted on the said property be approved.  
Councillor LeBlanc moves that the action of the Committee be the action Council.  
All were in favor.  
Motion is adopted by a voice vote

#### **Finance Committee**

The Finance Committee recommends the appropriation of \$17,500 from the stability fund to CPW for handicap ramps be approved.  
Councillor McMenimen moves that the action of the Committee be the action Council.

#### **Long Term Debt**

The Long Term Debt Committee recommends a transfer of capital improvement funds totaling \$28,658.39 to be combined with existing funds of \$1,800 in account Fire-Hybrid Vehicle #310-220-2013-6411 and used towards the purchase of a hybrid vehicle for the Fire Prevention Office be approved.  
Councillor McMenimen moves that the action of the Committee be the action Council.  
All were in favor.  
Motion is adopted by a voice vote

The Long Term Debt Committee recommends an appropriation of funds in the amount of \$24,650 from the Stabilization Fund to account Building – Hybrid Vehicle #001-192-5800-6411 to purchase a hybrid vehicle for the Building Dept. be approved.  
Councillor McMenimen moves that the action of the Committee be the action Council.  
All were in favor.  
Motion is adopted by a voice vote

The Long Term Debt Committee recommends an appropriation of funds in the amount of \$90,000 from the Stabilization Fund to account CPW - Tractor #001-420-5800-6444 to purchase

a tractor with a mower attachment to maintain the Fernald and Mackerel Hill properties be approved.

Councillor McLaughlin moves that the action of the Committee be the action Council.

All were in favor.

Motion is adopted by a voice vote

### **Ordinances & Rules**

1. The Ordinance and Rules Committee recommends the approval of The Nathaniel at Banks Square Condominium bid on unit 200 in the amount of \$200,000.00 (affordable unit) be approved.

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

On the motion Councillor Giordano spoke on the matter. He has asked that we commit the matters regarding all the Banks School Condominium bids to the Committee of the Whole.

Councillor Darcy questioned his request. Councillor Giordano explained he has received communications from a constituent and would like to look into the bidding process.

On the request Councillor Logan asked that the purchasing agent be at the next Committee of the Whole meeting. Councillor Giordano furthered his request that the full selection committee and a representative from the law department be at the next Committee of the Whole meeting.

Councillor's McMenimen, Stanley, Romard, and McLaughlin all spoke on the request.

Councillor Romard asked that letters be sent to the potential buyers explaining there may be a delay in the purchasing process. Councillor Logan rose to a point of order stating the purchasing agent can handle all the communications to the buyers.

All were in favor of the request. Councillor Logan moves that the recommendation of the approval of the Banks School Condominium bids all be committed collectively to the Committee of the Whole.

All were in favor.

Motion was adopted by a voice vote.

Councillor Romard made a motion to have the purchasing agent notify the buyers of the delay in process. Councillor McMenimen rose to a point of order. Councillor Romard withdrew his motion.

2. The Ordinance and Rules Committee recommends the approval of The Nathaniel at Banks Square Condominium bid on unit 202 in the amount of \$291,201.00 be approved.

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

Committed to the Committee of the Whole for review.

3. The Ordinance and Rules Committee recommends the approval of The Nathaniel at Banks Square Condominium bid on unit 203 in the amount of \$247,000.00 be approved.

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

Committed to the Committee of the Whole for review.

The Ordinance and Rules Committee recommends the approval of The Nathaniel at Banks Square Condominium bid on unit 204 in the amount of \$278,400.00 be approved.

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

Committed to the Committee of the Whole for review.

4. The Ordinance and Rules Committee recommends the approval of The Nathaniel at Banks Square Condominium bid on unit 205 in the amount of \$285,000.00 be approved.

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



Committed to the Committee of the Whole for review.

5. The Ordinance and Rules Committee recommends the approval of The Nathaniel at Banks Square Condominium bid on unit 207 in the amount of \$302,605.00 be approved. Councillor Logan moves that the action of the Committee be the action Council. Committed to the Committee of the Whole for review.

6. The Ordinance and Rules Committee recommends the approval of The Nathaniel at Banks Square Condominium bid on unit 303 in the amount of \$266,792.00 be approved. Councillor Logan moves that the action of the Committee be the action Council. Committed to the Committee of the Whole for review.

7. The Ordinance and Rules Committee recommends the Special Permit regarding 46 Bear Hill Road be approved. Councillor Logan moves that the action of the Committee be the action Council. Roll call was requested. All in favor: Fowler, Giordano, LeBlanc, Logan, McLaughlin, O'Brien, Rourke, Stanley, Darcy, McMenimen, Vizard  
Opposed: Romard  
Absent: Brasco, Waddick  
President Marchese did not vote.  
Motion was adopted.

8. The Ordinance and Rules Committee recommends the Zoning Ordinance Amendment effecting parking in the Riverfront Overlay District be approved for a first reading. Councillor Logan moves that the action of the Committee be the action Council. Roll call was requested. All in favor: Fowler, Giordano, LeBlanc, Logan, McLaughlin, O'Brien, Rourke, Stanley  
Opposed: Romard, Darcy, McMenimen, Vizard  
Absent: Brasco, Waddick  
President Marchese did not vote.  
Motion was adopted.  
Councillor Logan requested to recommit back to committee.  
All were in favor.  
Motion was adopted by a voice vote.  
President Marchese called a Special Council meeting to be held on November 2, 2015 at 745pm to discuss this zoning ordinance. The President stated the 90 days to act upon the matter expires on Nov. 3<sup>rd</sup>.

#### **Unfinished Business and Other Business**

1. Jimmy Johns Gourmet Sandwiches – Request to change Special Permit under 3.552  
President Marchese referred this matter to the Ordinances & Rules Committee
2. Recommendation from CPC for appropriation of funds to demolish non historic buildings on the CPA funded portion of the Fernald.  
President Marchese referred this matter to the Committee of the Whole.
3. Letter regarding 751 Main Street/TD Bank Special Permit - Condition F #33111  
President Marchese referred this matter to the Ordinances & Rules Committee

4. Code Enforcement Report (Power Point presentation to be scheduled)  
President Marchese referred the matter to the Long Term Debt Committee.

5. CPC Allocation of estimated FY2016 CPA Surcharge & Auditors Tru Up Misc. Funds  
Referred to the Long Term Debt Committee

### **Tabled Matters**

#### **Tabled from 6/22/2015**

Amend Sections 2.2 and 3.1 of the City Charter

#### **Tabled from 8/3/2015**

Zoning Map Amendment Ordinance for 939 Trapelo Road (First reading 8/3/15)

#### **Tabled from 9/28/2015**

ADHOC Fitch School Committee – final report

Councillor Rourke moved to take the matter off of the table.

All were in favor.

Councillor Rourke spoke on behalf of the ADHOC committee and explained the 4 different proposals the committee believes would be the best scenario for uses.

Councillor Rourke made a motion to accept the report of the ADHOC Fitch School Committee.

President Marchese stated that ADHOC Committee reports do not get to be voted on through the Council as an accepted Council document. As stated in Rule 79 there is no debate shall take place. Councillor Rourke expressed his concern and the importance of having the Committee report voted on.

Councillor Logan rose to a point of order. The loop needs to be closed. The school has been declared surplus and there needs to become kind of culmination or conclusion to what the end result shall be.

Councillor Rourke moved to suspend Rule 79 to be able to debate the Fitch School Committee report. On the motion Councillor Romard stated he cannot support this report based on Rule 79. With the reports recommendation he would really need to accept and think through the information with different eyes and views than to just have the report be more of an informative document.

On the motion Councillor Stanley and Fowler had lots of questions regarding the report.

Councillor Rourke withdrew his motion and moved to table the matter on the Council floor. All were in favor. The matter was tabled on the Council floor.

President Marchese announced that the last day to register to vote is Wednesday October 14, 2015. The City Clerk's office will be open until 8pm.

With no further matters before the City Council, Council President Marchese asked the wish of the council. Councillor Darcy moved to adjourn. The motion was adopted on a voice vote. Council President Marchese declared the meeting closed at 10:24PM.

Respectfully submitted by:

Kara Wilson

Executive Assistant of the City Clerk

October 16, 2015