

APPROVED  
4-27-15  
GJM

## City Council Meeting 4/13/2015

### Minutes

President Marchese called the meeting to order at 7:30pm. The President started the meeting with two public service announcements regarding the CPC hearing Tuesday and the School redistricting hearing Wednesday.

Clerk Malone called the roll for both the Council and the Board of Survey and Planning. All members of the Council were present and Chairman Creonte was the only person absent from the Board. Councillor Giordano asked for a moment of silence for our troops around the world. Councillor McMenimen moved to table the minutes of the last meeting.

Councillor McLaughlin moved to suspend the rules to take a matter out of order. The Clerk read the Resolution regarding Pee Wee AA1 Hockey congratulating them on their State Championship. Councillor McLaughlin detailed the team's season and many accomplishments. Coach Luke Stanton and League President Mark Hickey thanked the City Council for its support of the rink and the hockey program.

Councillor Giordano asked for suspension of the rules to present two Resolutions. The Clerk read the Resolutions for Luke Fournier and Thomas Deptula regarding an incident at Luke's home that Dispatcher Deptula and Luke shared a common bond in a 911 call that culminated in the perpetrators arrest. Both were given a standing ovation by everyone in the Chamber.

Clerk Malone read rule 29A, and called the first public hearing:

#### **Zoning Amendment**

An Ordinance amending Chapter 21 "ZONING" Article Five entitled "Parking Requirements" Section 5.2 entitled "Off-street parking requirements," Subsection 5.21 entitled "Table of Off-street parking requirements" is hereby amended by adding after the words "Industrial, Manufacturing establishments and laboratory spaces, as defined herein" the following "and animal shelters as defined by section 3.226D"

Councillor Logan spoke for the change. He explained the history behind the need for the change. Mrs. Schreiber from the Cat Connection expressed her support. No one spoke in opposition. Councillor Romard asked about any effect on existing shelters. Councillor Darcy thanked the Council for its continued support on the shelter. Councillor McMenimen also asked about unintended effects on existing shelters. There was no rebuttal. The Board of Survey and Planning will hear the matter on May 6<sup>th</sup>. The matter was referred to the Rules and Ordinances Committee.

The Clerk called the second Public Hearing:

#### **Special Permit**

Second Avenue Hotel LLC as Petitioner and 256 Second Realty Trust as Owner hereby petition the City Council of the City of Waltham to grant a special permit for an increase in Floor Area

Ratio (FAR) to 1.09 pursuant to § 3.511 (Intensity of Use Special Permit) and § 3.521 (Table of FAR) of the Zoning Ordinance.

As part of this intensity of use special permit, the Petitioner and Owner also request pursuant to § 3.513 (Additional Special Permits) that the City Council grant special permits in accord with the following sections of the Zoning Ordinance:

- § 3.4 (Table of Uses), § 3.512 (Special Permits for Use), and § 3.617 (Hotel Special Permit) – To allow a hotel to be constructed, used and maintained on the locus.

The subject premises are shown in the “Atlas City of Waltham, Massachusetts” as follows:

- 256 Second Avenue being shown as Atlas: Page 39, Block 2, Lot 7.

The above property is located entirely in a Commercial Zoning District.

The Petitioner in this matter and its address is:

- Second Avenue Hotel LLC, c/o Christine Thomas, 285 Commandant’s Way, Chelsea, Massachusetts 02150.

The Owner of the property and its address is:

- 256 Second Realty Trust, c/o 256 Second Management, LLC, 250 First Avenue, Suite 200, Needham, Massachusetts 02494.

Attorney Robert E. Connors Jr. spoke for the Petitioner. He detailed the history of the site and went through the business lineage of the developer. He presented a proposal for a 100 room Marriott Residence Inn.

Additionally speaking in favor were Paul Pavone Labor’s Local 560, Kevin Kelly, Floyd Noonan, and Jeff Morin all from Carpenter’s Local 275. No one spoke or stood in opposition. Six people stood in favor of the project. Councillor Romard, the Ward Councillor, questioned Christine Thomas the Hotel owner regarding the use of the Hotel for Long Term, State supported, temporary housing. The answer was No. The Councillor questioned Paul Finger, Landscape Architect, regarding the buffer zone, trash pickup, parking and snow storage.

Councillor Darcy asked about the Inn Keepers License for alcohol and were any design changes anticipated.

Councillor Logan asked about the calculation done for the parking using 100 rooms and a bar. He further questioned the present ownership structure. He asked for a sign plan and the dates of the traffic counts. Further that the Traffic Commission report that speaks to a crosswalk verses sidewalk be resolved. Lastly would there be a shuttle van available for guests.

Councillor McMenimen pointed out a typographical error in the address of the petitioner. The Councillor went through the Engineers comments with the petitioner.

Councillor Darcy asked that the petitioner's attorney look into an outstanding order of conditions (316-659) for the site and report on the status.

The matter was referred to the Rules and Ordinances Committee.

The Clerk called the Third public hearing:

**Special Permit**

As joint custodian of city property, the Mayor petitions the Waltham City Council for an Increased Intensity of Use Special Permit for 948 Main Street, Waltham, MA. The legal owner is the City of Waltham. The current zone is Business B. The provisions of the Zoning Ordinance involved are: Sec. 3.4 Table of Uses, Sec. 3.618 Multi Family Dwelling; Sec. 3.5 Special Permits; and Sec. 3.521 Table of Floor Area Ratios (FAR)

Mayor McCarthy spoke for the petition. The Mayor read her communication into the record as follows:



# City of Waltham

Jeannette A. McCarthy  
Mayor

RECORDED  
2015 APR 13 P 4: 01  
CITY OF WALTHAM  
CITY CLERK'S OFFICE

April 13, 2015

TO: The City Council  
RE: Second Public Hearing – 948 Main Street

Dear Councillors:

On September 18, 2014, as co-owner of city property, I filed a Special Permit for 948 Main Street, Waltham. The public hearing was held on October 27, 2014.

I believe on February 5, 2015, the Council received a revised Draft Order reviewed by Assistant City Solicitor Patricia Azadi.

Due to publication issues within with your department, I was advised that a second public hearing was necessary. Therefore, I requested an extension for a second public hearing to be held on April 13, 2015 and a decision filed by the City Council with Clerk's Office by April 28, 2015.

I respectfully ask you to approve an Order. When the appeal period expires, the City will be able to proceed with a sale/disposition process.

Sincerely,

Jeannette A. McCarthy  
JAM/ns

610 Main Street • Waltham, Massachusetts 02452 • (781) 314-3100 • Fax (781) 894-9581

The Mayor renewed her petition and explained she will seek the highest value for the taxpayer.

Councillor Stanley had questions regarding the letter. The Mayor shared her thoughts.

Councillor Romard asked why the petition was listed with the mayor and City Council listed as co-owner and ultimately will the Council get to vote. How much has been spent so far and are all 24 units ready to go. All units are ready. 3.5 Million spent. The Council will vote and in real estate matters executive and legislative branches co-own.

Councillor Stanley asked if the trust fund money needed to be paid back. The Mayor responded that it has already been paid back.

Councillor O'Brien asked about the Gym if sold where would voting take place. Mayor is trying to work out an arrangement to still use it.

Councillor Fowler asked the amount to cover the loan. 3.5 million

Councillor Brasco Asked if the Gym was sold is a variance then needed. Mayor is working out options.

Matter was referred to the Ordinances and Rules Committee.

The Clerk called the fourth public hearing:

### **Special Permit**

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 fast food facility (Asian fusion takeout restaurant – comprising approximately 1,025 square feet) within an existing commercial/retail building 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. This is a reduction in size of said fast food facility (Asian fast food restaurant) previously granted for said building. It is a modification of the original Special Permit (Order No. 32094) for the locus

The property is shown in Atlas Page 014, Block 005, Lot 0007. The property is in a Business A Zoning District.

Attorney Philip E. McCourt spoke for the petitioner. He is renewing his petition. No one else spoke in favor. Ms. Hann of 1032 Trapelo Road spoke against because of the traffic and the trash.

Councillor Darcy checked that there are no changes and that the petitioner will clean the site daily and install remote door openers for handicapped access.

Matter was referred to the Ordinances and Rules Committee.

The Clerk called the fifth public hearing:

**Special Permit**

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 modification of certain conditions in the existing Special Permit grant (Order No. 32094) to eliminate the requirement for screening of rooftop mechanicals and to allow trash pick-ups on Saturdays in relation to the existing commercial/retail building on the property known as 1019 Trapelo Road. The Special Permit modification is pursuant to the provisions of Section 3.5, subsections 3.512 and Section 3.552. All other conditions of said Special Permit to remain the same.

The property is shown in Atlas Page 014, Block 005, Lot 0007. The property is in a Business A Zoning District.

Attorney Philip E. McCourt spoke for the petitioner. He is renewing his petition. No one else spoke in favor or against.

Councillor Darcy asked to confirm that the abutters were notified. They were.

Matter was referred to the Ordinances and Rules Committee.

The Clerk called the sixth public hearing:

**Special Permit**

Captain's Row Realty Trust, Frederick S. Camerato and Jesse C. Camerato, Trustees, 340R River Street, Newton, MA 02465 hereby petition the City Council for a Special Permit to allow the use of a portion of the existing commercial building and a portion of the property's parking lot for the storage of trucks, vans and buses. Said activity to take place on the property known as 215 Lexington Street. The Special Permit is pursuant to the provisions of Section 3.5, subsections 3.512 and Section 3.645. The property previously received a special permit for a portion of the property and building to be used for the sales of used vehicles.

The property is shown in Atlas Page 051, Block 02, Lot 22. The property is in a Commercial Zoning District.

Attorney Philip E. McCourt spoke for the petitioner. He is renewing his petition. No one else spoke in favor or against.

Councillor Waddick asked about the oversize vehicles being stored and will a condition be added to restrict. The answer was affirmative.

Matter was referred to the Ordinances and Rules Committee.

## Communications from the Mayor

The Mayor respectfully requests funding in the total amount of \$17,201 to purchase two multi-task copy machines for the Engineering/Water/Sewer Department. Matter was referred to the Finance Committee

The Mayor respectfully requests an appropriation in the amount of \$50,398 from Unreserved Fund Balance to account #001-192-5200-5245 Maintenance/Repair to Buildings. These funds will be used for the emergency snow removal from the roofs of several City buildings. The expenses were incurred on several dates between the period of February 21, 2015 to March 6, 2015. Matter was referred to the Finance Committee

The Mayor respectfully requests acceptance of a grant in the amount of \$83,432 from the Executive Office of Elder Affairs to be used by the Council on Aging for several programs that benefit senior citizens. Matter was referred to the Finance Committee

The Mayor respectfully requests an appropriation in the amount of \$1,789,000 from Unreserved Fund Balance to the following accounts.

#001-421-5100-5131 Snow – Overtime	\$ 285,000
#001-421-5200-5276 Snow – Rental of Trucks/Equipment	\$1,176,000
#001-421-5200-5531 Snow – Salt & Sand	\$ 260,000
#001-421-5200-5532 Snow – Plows & Blades	\$ 37,000
#001-421-5200-5245 Snow – Bldg & Grounds Repair	\$ 31,000

These funds will be used to pay for the additional snow plowing and removal expenses incurred to date during fiscal year 2015.

Matter was referred to the Finance Committee

## Resolutions

Councillor Logan submitted a Resolution regarding Arbor Day. Rules were suspended to act on this without Committee reference. Resolution was adopted on a voice vote.

Councillor Logan submitted a Resolution regarding Earth Day. Rules were suspended to act on this without Committee reference. Resolution was adopted on a voice vote.

Councillor Logan submitted a Resolution regarding snow removal from the River Walk and an accompanying request for DCR to send a representative to the next available Committee of the Whole Meeting. Request was adopted on a voice vote, and Resolution went to the Committee of the Whole.

Councillor Logan submitted a Resolution regarding the wooden dock at the Moody Street Bridge, and an accompanying request for DCR to send a representative to the next available Committee of the Whole Meeting. Request was adopted on a voice vote, and Resolution went to the Committee of the Whole.

Councillors Waddick and Brasco submitted a Resolution regarding the evaluating the Council Committee structure. Councillor Logan objected as to similar work being done on rules in Ordinances and Rules Committee. Chair ruled the matter was properly before the Council and referred it to the Ordinances and Rules Committee.

## **Committee Reports**

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

The Committee of the Whole recommends that the communication regarding Fernald Parcel be placed on file. Councillor LeBlanc moves that the action of the Committee be the action of the Council. Motion was approved on a voice vote.

The Committee of the Whole recommends the request for a 10A Permit for Charles River Canoe & Kayak be granted. Councillor LeBlanc moves that the action of the Committee be the action of the Council. Vote was taken by a call of the roll. All in favor, none opposed

The Committee of the Whole recommends approval of the FY2016 legislative budget as amended. Councillor LeBlanc moves that the action of the Committee be the action of the Council. Councillor LeBlanc moved to amend the budget to add under explanation "Subject to Collective or Impact Bargaining". Amendment was approved 13 in favor to 2 against on a roll call vote. Voting against were Councillors Darcy and McMenimen. Voting in favor were Councillors Romard, Fowler, Vizard, Logan, Giordano, LeBlanc, O'Brien, Stanley, Brasco, Waddick, McLaughlin, Rourke and Marchese.

Main motion was approved 10 in favor to 5 against on a roll call vote. Voting against were Councillors Stanley, McMenimen, Darcy, Romard and Rourke. Voting in favor were Councillors Vizard, Logan, Giordano, LeBlanc, O'Brien, Brasco, Waddick, McLaughlin, Fowler and Marchese.

### **License and Franchises**



The Licenses and Franchises Committee recommends the renewal of a lodging House License for 49-51 Brown Street Councillor Rourke moves that the action of the Committee be the action of the Council. Motion was approved on a voice vote.

#### Finance Committee

The Finance Committee recommends an appropriation of \$225,000 from Unreserved Fund Balance to Fire overtime be approved. Councillor Brasco moves that the action of the Committee be the action of the Council. Motion was approved on a voice vote.

The Finance Committee recommends an appropriation of \$169,900 from Water/Sewer Retained Earnings to Water/Sewer Backhoe be approved. Councillor Brasco moves that the action of the Committee be the action of the Council. Motion was approved on a voice vote.

#### Ordinances and Rules

The Ordinances and Rules Committee recommends a Resolution regarding Marijuana Dispensaries be placed on file. Councillor Logan moves that the action of the Committee be the action of the Council. Motion was approved on a voice vote.

The Ordinances and Rules Committee recommends a Resolution regarding ad-Hoc report to Committee of the Whole be placed on file. Councillor Logan moves that the action of the Committee be the action of the Council. Motion was approved on a voice vote.

The Ordinances and Rules Committee recommends Resolution regarding track changes for new Council Rules be placed on file. Councillor Logan moves that the action of the Committee be the action of the Council. Motion to table by Councillor Darcy took precedence and was approved on a voice vote.

The Ordinances and Rules Committee recommends Resolution regarding new Council Rule for providing copies be placed on file. Councillor Logan moves that the action of the Committee be the action of the Council. Motion was approved on a voice vote.

The Ordinances and Rules Committee recommends Resolution regarding change to rule five be placed on file. Councillor Logan moves that the action of the Committee be the action of the Council. Motion was approved on a voice vote.

The Ordinances and Rules Committee recommends Resolution regarding Council Correspondences be placed on file. Councillor Logan moves that the action of the Committee be the action of the Council. Motion was approved on a voice vote.

The Ordinances and Rules Committee recommends Resolution regarding new rule for roll calls be placed on file. Councillor Logan moves that the action of the Committee be the action of the Council. Motion was approved on a voice vote.

The Ordinances and Rules Committee recommends Resolution regarding overlay area be placed on file. Councillor Logan moves that the action of the Committee be the action of the Council. Motion was approved on a voice vote.

The Ordinances and Rules Committee recommends Resolution regarding agendas and minutes be placed on file. Councillor Logan moves that the action of the Committee be the action of the Council. Motion was approved on a voice vote.

The Ordinances and Rules Committee recommends Resolution regarding orphaned docket items be placed on file. Councillor Logan moves that the action of the Committee be the action of the Council. Motion was approved on a voice vote.

Councillor O'Brien moved to adjourn. Motion was approved on a voice vote.

President Marchese adjourned the Council at 11:34pm

Respectfully submitted,

Thomas J. Curtin

Assistant City Clerk