

COMMITTEE OF THE WHOLE

Minutes of the Meeting

June 5, 2017

1. Vice-President Logan called the meeting to Order at 8:00 pm.
2. Vice-President Logan requested that a roll call be taken to record the attendance for the meeting. The Clerk called the roll – Councillors Brasco, Darcy, Fowler, Giordano, D. LeBlanc, R. LeBlanc, Marchese, McLaughlin, McMenimen, O'Brien, Romard, Rourke, Vidal, Waddick and Logan were present.
3. President LeBlanc moved to place the minutes of the May 15, 2017 meeting on the table. The motion was adopted on a voice vote and the minutes were tabled.
4. President LeBlanc moved to take the minutes of the meetings held on April 3, April 18 and May 1 from the table. The motion was adopted on a voice vote. Vice-President Logan explained there had been some minor format changes to the minutes and he had requested the Assistant City Clerk to provide the marked up copy and the clean copy of each set of minutes to the COW. Councillor McMenimen asked the Clerk to send an electronic copy in addition to the hard copy that had already been provided. President LeBlanc moved to approve the minutes of the COW meeting of April 3, 2017. The motion was adopted on a voice vote and the minutes were approved. President LeBlanc moved to approve the minutes of the COW meeting of April 18, 2017. The motion was adopted on a voice vote and the minutes were approved. President LeBlanc moved to approve the minutes of the COW meeting of May 1, 2017. The motion was adopted on a voice vote and the minutes were approved.
5. A request was received from the Mayor to confirm the appointment of Susan Piantedosi, 1114 Main Street, Waltham as a member of the Waltham Board of Health. Councillor Giordano spoke favorably of the candidate, including her background and long years of experience as an Inspector in the Health Department. Councillor Giordano moved to confirm the appointment of Susan Piantedosi to the Waltham Board of Health. The motion was adopted on a voice vote and the appointment of Susan Piantedosi to the Waltham Board of Health was recommended for confirmation.
6. A resolution proposing the City of Waltham attempt to negotiate the purchase/sale of the development rights or conservation and/or open space easement on the Stigmatine property was sponsored by Vice-President Logan and several other Councillors (President D. LeBlanc, Fowler, Romard, O'Brien, Vidal, Rourke, Waddick, Giordano, Marchese, McLaughlin & Brasco). Vice-President Logan asked President LeBlanc to take the Chair so that he could speak on the resolution. Vice-President Logan stated that the

Stigmatine Fathers made it clear they do not want to sell the property, the property is in the City's Master Plan for open space, people would like assurance of the future development of this property, the City Council does not want to see it developed, how do you get some guarantee and a similar example happened in Milton with the Boy Scouts. Vice-President Logan moved to suspend the rules to hear from the City Solicitor, John Cervone and the Assistant City Solicitor, Pat Azadi. The motion was adopted on a voice vote. Vice-President Logan asked about the various options the City could pursue concerning the Stigmatine property. Solicitor Cervone distributed a handout to the Committee that explained the City's options. Solicitor Cervone stated the City could try to negotiate the sale of the property or take the property. Solicitor Cervone explained some of the complications with identifying the authorized individual(s) who can act on behalf of the Stigmatine Fathers. Vice-President Logan spoke of the specific circumstances concerning the situation in Milton with the Boy Scouts. Solicitor Cervone explained the circumstances may not be similar and the City could only do what the statutes allow. Vice-President Logan questioned Solicitor Cervone about the difference between buying the property versus buying an easement. Solicitor Cervone explained the difference and stated it had been looked at by Assistant Solicitor Azadi and she came to the same conclusion. Vice-President Logan moved to suspend the rules to hear from a representative of the Waltham Land Trust, Marc Rudnick. The motion was adopted on a voice vote. Vice-President Logan questioned Mr. Rudnick about his background and experience negotiating a conservation easement. Mr. Rudnick stated that he had and explained his involvements with several instances. Mr. Rudnick cautioned the Committee that he is not an attorney. Councillor Fowler questioned why this is so complicated, since the Church has sold other properties throughout the State. Solicitor Cervone explained those were under the Archdiocese of Boston and the Stigmatine Fathers are a separate religious order. Assistant Solicitor Azadi explained the authorized individual for the Archdiocese property is the Cardinal. Assistant Solicitor Azadi further explained about the different thresholds and requirements that must be considered under Canon Law. Councillor Darcy spoke about the "transfer of development rights" (TDR) and asked Assistant Solicitor Azadi if she was familiar with it. Councillor Darcy asked additional questions about the changing the zoning of the property and its possible impact on the property value. Assistant Solicitor Azadi explained that a change in zoning could still allow a school use, but a conservation restriction would not allow a school use. Councillor McMenimen read the response the COW received from Attorney Paton to the request concerning the \$25.4 million appraisal and the wish to "carve out" any portion of the property. Councillor McMenimen asked several questions of Solicitor Cervone and Assistant Solicitor Azadi about the best way for the City to proceed. Solicitor Cervone stated (1) a negotiated sale, (2) a sale with a lease back or (3) taking when the property is sold. Solicitor Cervone explained the importance and need to have clear ownership of the property so as to avoid any title issues. Councillor Waddick commended Vice-President Logan for his well-intentioned proposal and creativity to preserve the property. Councillor

Waddick asked questions of Assistant Solicitor Azadi about the legal process and the enabling statutes governing this type of transaction. Councillor Randy LeBlanc asked Solicitor Cervone if he had any special recommendations. Solicitor Cervone stated the Stigmatine Fathers have not told us what they want and we could propose anything to see if they are willing to discuss. Councillor McLaughlin asked Solicitor Cervone if he knew the cost of the conservation restriction. Councillor Brasco stated this was supposed to be a friendly taking and the City's appraisal was \$15 million. Assistant Solicitor Azadi clarified the City had offered \$18 million. Councillor O'Brien stated that an eminent domain taking could take years in litigation. Assistant Solicitor Azadi stated that would only be for damages, not ownership. Vice-President Logan stated that there would be obstacles to pursuing a conservation restriction but they are not insurmountable. Assistant Solicitor Azadi explained the State has a model agreement that could be followed and ensure a guarantee into perpetuity. Assistant Solicitor Azadi further explained the State model agreement contained a list certain conditions that would need to be considered for inclusion/exclusion. Vice-President Logan moved to request the Law Department provide the COW with a list of provisions or conditions, as mentioned by Attorney Azadi, that should be included in any conservation restriction that may be proposed by the resolution at hand, that are in addition to those contained in the State model agreement and those to choose from the State model agreement. The motion was adopted by a voice vote and the request was approved. Vice-President Logan moved to place the matter on the table. The motion was adopted by a voice vote and the matter was tabled.

7. A motion to adjourn was adopted on a voice vote, and the Chair declared the Committee adjourned at 10:00pm.

Paul G. Centofanti – Clerk to the Committee of the Whole