

**CITY OF WOBURN
MAY 2, 2017 - 7:00 P.M.
REGULAR MEETING OF THE CITY COUNCIL**

Roll Call

| | |
|-----------|--------------|
| Anderson | Gately |
| Campbell | Higgins |
| Concannon | Mercer-Bruen |
| Gaffney | Tedesco |
| Haggerty | |

VOTED to dispense with the reading of the previous meeting's Journal and to APPROVE, all in favor, 9-0.

Motion made and 2nd to suspend the rules for the purposes of taking the following matter out of order, all in favor, 9-0.

ORDERED Whereas, a majority of voters in the Commonwealth of Massachusetts voted on November 8, 2016 in favor of the ballot initiative known as Question 4 legalizing the recreational use of marijuana; and

Whereas, a majority of the voters in the City of Woburn voted against the ballot initiative known as Question 4 to legalize the recreational use of marijuana (Yes: 10,093 - No: 10,343); and

Whereas, the City Solicitor has advised the City Council in her Memorandum dated March 15, 2017 that a community may limit the number of marijuana establishments, or prohibit them entirely; and

Whereas, it is appropriate for the City of Woburn to consider whether marijuana establishments ought to be allowed;

Now, Therefore, Be it Ordained by the City Council of the City of Woburn that the City Clerk place the following question on the November 7, 2017 municipal election ballot:

Shall the City of Woburn adopt, and shall the Woburn City Council be authorized to enact, the following ordinance amendments:

A. By amending Section 5, Use Regulations, of the Woburn Zoning Ordinance, by adding the following:

“5.9 Marijuana Establishments Forbidden

“The operation of any marijuana establishment, as defined in G.L. c. 94G, § 1, including, without limitation, a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business, is prohibited in all zoning districts of the City. This prohibition shall not apply to the sale, distribution or cultivation of marijuana for medical purposes licensed under Massachusetts Chapter 369 of the Acts of 2012”;

and

- B. By amending Title 5, Business Licenses and Regulations of the Woburn Municipal Code by adding the following:

“Article XVIII - Marijuana Establishments

“Section 5-89 Forbidden

“The operation of any marijuana establishment, as defined in G.L. c. 94G, § 1, including, without limitation, a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business, within the City is prohibited. This prohibition shall not apply to the sale, distribution or cultivation of marijuana for medical purposes licensed under Massachusetts Chapter 369 of the Acts of 2012.”;

Provided further that the Woburn City Council may reasonably vary the form of the said ordinances within the scope of the general public objectives of this authorization.

s/Alderman Anderson, Alderman Campbell, Alderman Higgins,
President Haggerty, Alderman Tedesco, Alderman Concannon,
Alderman Gately, Alderman Mercer-Bruen, Alderman Gaffney

Motion made and 2nd to suspend the rules for the purposes of hearing from the Woburn Substance Abuse Coordinator Rick Jolly, all in favor, 9-0. Appearing was Coordinator Rick Jolly and he stated that the voters of Woburn voted against Question 4 which allows for recreational marijuana, that the city should give the residents a voice on the issue locally, that marijuana is still a Schedule 1 substance under federal law, that there is a higher use of marijuana over cigarettes among teens, that genetically grown marijuana that is available today has 9% to 16% THC when twenty or thirty years ago it was only 2%, that the human brain is not fully developed until age 23 to 25, that teen use of marijuana impacts their development, that people may be able to obtain marijuana in other communities but it is incumbent upon the community to keep these substances

away from teens, that he hopes adults who use marijuana will keep it locked up from their children, that edibles containing marijuana have high levels of THC, that teens used to wait outside package stores and ask people to purchase beer for them, that this may be the situation in the future with teens waiting outside stores for someone to purchase marijuana for them, that 17% of teens become psychologically addicted to marijuana, and that while using marijuana may not lead to heroin use there is no heroin addict who did not use marijuana. Motion made and 2nd to return to the regular order of business, all in favor, 9-0. Motion made and 2nd that the ORDER be ADOPTED, all in favor, 9-0.

Presented to the Mayor: May 4, 2017

s/Scott D. Galvin May 4, 2017

Motion made and 2nd to return to the regular order of business, all in favor, 9-0.

MAYOR’S COMMUNICATIONS:

ORDERED That the sum of \$892,028.17 be and is hereby appropriated as so stated from Fire/BLS Ambulance Acct #31359-595000 \$892,028.17 to Fire Regular Salary Acct #0122051-511000 \$559,639.06, Fire Ambulance Salary Acct #0122051-511500 \$151,114.32, Fire/Overtime Acct #0122051-513100 \$119,177.36, Fire 16th Man Overtime Acct #0122051-513101 \$30,363.16, Fire/Electric Acct #0122052-521100 \$6,470.07, Fire Ambulance Maintenance Acct #0122254-544300 \$17,334.47, Fire Apparatus Maintenance Acct #0122054-544400 \$7,929.73, Total \$892,028.17

I hereby recommend the above. s/Scott D. Galvin, Mayor

I hereby approve the above. s/Timothy Ring, Chief Fire Department

I have reviewed the above. s/Charles E. Doherty, City Auditor

s/President Haggerty

Motion made and 2nd that the MATTER be REFERRED TO COMMITTEE ON FINANCE, all in favor, 9-0.

ORDERED Be it ordained by the City Council of the City of Woburn that the Mayor be authorized to enter into an Easement and Non-Interference Agreement between the City of Woburn and Industri-plex Site Remedial Site, Bayer Cropscience, Inc. and the U.S. Environmental Protection Agency, their agents and assigns, for the purpose of conducting remedial action and the ensuing operation, maintenance and monitoring of 3 parcels of land identified as 132 Commerce Way; 134 Commerce Way; and 39 Atlantic Avenue, Woburn, pursuant to the Consent Decree entered by the United States District Court in the matter of U.S. v. Stauffer Chemical Co., et al

(Civil Action No. 89-0195-MC) and Commonwealth of Massachusetts v. Stauffer Chemical Co., et al, (Civil Action No. 89-0196-MC).

s/President Haggerty

Alderman Gately stated that this is a final effort with respect to these three parcels, and that he has no issue with the proposal. Alderman Mercer-Bruen stated that the referenced document can be reviewed online. Motion made and 2nd that the MATTER be REFERRED TO COMMITTEE ON INFRASTRUCTURE AND PUBLIC LANDS, all in favor, 9-0.

PUBLIC HEARINGS:

On the petition by Verizon, 900 Chelmsford Street, Tower 3, Floor 4, Lowell, Massachusetts 01851 for a grant of right in a way to install approximately 40 feet of underground conduit on Lowell Street from Pole No. 138/16 located on northerly side to public property (new school) at 39 Wyman Street. PUBLIC HEARING OPENED. A communication dated May 1, 2017 was received from Superintendent of Public Works Jay Duran as follows:

Subject: Verizon – Lowell Street

Pursuant to the request from Verizon for a grant of right in Lowell Street to install approximately 40 feet of conduit from Pole # 138/16, I have no objection to the grant being approved by the City Council. Verizon should coordinate all work with Eversource, the architect for the Hurld-Wyman School and with the DPW. The contractor should clearly mark all utilities on the ground prior to the work being performed. The conduit should be installed directly from the final pole locations and the road and sidewalk restored to DPW specifications.

Please feel free to call with any questions or concerns.

Appearing for the petitioner was Everette Bryan, Rights of Way Engineer and he stated that this will provide service to the new Hurld-Wyman School, that the petitioner agrees with the recommendations of the Superintendent of Public Works, and that he understands that a police detail may have to be assigned to the location. PUBLIC COMMENTS: None. Motion made and 2nd that the public hearing be closed, all in favor, 9-0. PUBLIC HEARING CLOSED. Motion made and 2nd that the GRANT OF RIGHT IN A WAY be APPROVED, AS AMENDED with the conditions as follows: 1. That the recommendations of the Superintendent of Public Works be adopted as conditions of the grant of right in a way, and 2. That if the Superintendent of Public Works deems it necessary, police details shall be provided by the petitioner, all in favor, 9-0.

Presented to the Mayor: May 4, 2017

s/Scott D. Galvin May 4, 2017

On the petition by Cabot, Cabot & Forbes, LLC, 185 Dartmouth Street, Suite 402, Boston, Massachusetts 02116 for special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Section 23.4.2 for a special permit to allow restaurant and retail uses on ground floor (9,390 square feet) with multifamily residential housing within the six stories above (289 units) with 462 total parking spaces including surface spaces to serve the retail and residential clubhouse areas and a structured parking facility wrapped by residential units at 120 Commerce Way. PUBLIC HEARING OPENED. A communication dated May 2, 2017 was received from Attorney Mark Salvati, 10 Cedar Street, Suite 26, Woburn, Massachusetts 01801 as follows:

Re: 120 Commerce Way

Dear President Haggerty and Council,

Please continue the above matter until your next regular meeting in order to provide the Special Permit Committee with additional information.

Thank you and please call with any questions.

Very truly yours, s/Mark J. Salvati

Motion made and 2nd that the communication be received and made part of the record, all in favor, 9-0. PUBLIC COMMENTS: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON JUNE 6, 2017, all in favor, 9-0.

On the petition by Minast, LLC, 11 Presidential Way, Woburn, Massachusetts 01801 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, to modify a special permit dated January 9, 2014, as modified by decisions dated October 29, 2015 and August 11, 2016 to allow for the deletion or modification of Condition 3 of the Decision relative to mitigation at Lot 1, Presidential Way. PUBLIC HEARING OPENED. Appearing for the petitioner was Attorney Joseph R. Tarby, III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 and he stated that the petitioner is concerned that this matter was not fully vetted in committee, that he asks that the matter remain in committee for review, and that the public hearing be continued. PUBLIC COMMENTS: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON JUNE 6, 2017, all in favor, 9-0.

On the petition by Burbank LLC, 16 Highland Street, Woburn, Massachusetts 01801 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Section 7.3 to allow alteration of a nonconforming structure and use (three family dwelling) by razing existing structure and replacing with a new three family dwelling at 25 Hawthorne Street. PUBLIC HEARING OPENED. A report was received from the Committee on Special

Permits as follows: “ought to pass, as amended, with the conditions as follows: 1. Cut and cap existing utilities; 2. Any landscaping has to be lower than three (3) feet; and 3. Any damage to Central Street must be repaved curb to curb.” PUBLIC COMMENTS: None. Alderman Mercer-Bruen stated that the petitioner said the units would be for sale as condominiums as opposed to rental units, that she wants this fact reflected in the record that the units will be for sale and not rental units, that she understands that it is difficult to make this a condition of the special permit, that in the long run this new work will likely be better for the neighborhood than rehabbing the current structure, that the setbacks on the new structure are more conforming than the current structure, and that she has talked with the abutters about the proposal. Alderman Concannon stated that reviewing this was a close call, that after analysis the facts indicate the proposal is a better outcome than the nonconformity, that the proposal will not be more detrimental than the current conditions, that when the building is completed the conditions will be less detrimental, and that he will support the petition as being in the best interests of the neighborhood. Motion made and 2nd that the public hearing be closed, all in favor, 9-0. Motion made and 2nd that the SPECIAL PERMIT be GRANTED, AS AMENDED with the conditions as follows: 1. That the conditions recommended in the committee report be adopted, as further amended, as conditions of the special permit, and 2. That Condition 2 be amended to read as follows: “2. Any landscaping has to be lower than three (3) feet within the front yard setback”, all in favor, 9-0.

On the petition by President Haggerty, Alderman Higgins, Alderman Anderson, Alderman Gately, Alderman Tedesco and Alderman Campbell to amend 1985 Woburn Zoning Ordinances, as amended, section 8.3 as follows: 8.3 Off Street Parking Facilities Required - Off street parking facilities shall be provided on the same lot with the principal use, except that: 1. Within any R3, R4, Business, Mixed Use, Industrial, or Office Park district, the City Council, by Special Permit, may allow the parking facility requirements to be met on a lot separate from the use to be served, if such facilities are located within five hundred (500) feet of the use to be served, and if the City Council finds that suitable arrangements, such as ownership, long term lease or easement, have been made to assure the permanent provision of the parking facilities; 2. Within the B-D District, municipal parking facilities may be substituted for the required off street parking for non-residential uses, if such facilities are located within five hundred (500) ft. of the use to be served; 3. Within the B-D District, the City Council, by Special Permit, may allow municipal parking facilities to substitute for the required off street parking for residential uses under this Section if it imposes, as a condition of approval, the non-waivable fee required by Section 8.3.4 below and makes the following findings: 1. That the municipal parking facilities are located within five hundred (500) feet of the use to be served; 2. That the proposed combination of on-site, off-street parking spaces and municipal parking spaces is available and adequate to serve the proposed development; and 3. That reliance on municipal parking facilities will not create an undue burden on the municipal parking facilities. 4. If a Special Permit is granted to allow municipal parking facilities to substitute for required off-street parking for residential uses in the B-D District, it shall be conditioned on the payment of a fee equal to Seventy Five Hundred Dollars (\$7,500) for each space in a municipal parking facility that substitutes for a

required off-street parking space. The City Council shall not have the authority to vary or waive the fee, either in whole or in part, for any project. The payment of a fee shall not act as a guarantee that future tenants of the residential development shall be entitled to the reservation or designation of a parking space or spaces. All such fees shall be deposited in a separate "Downtown Parking Enhancement Fund" to be established in the City Treasury and administered by the Treasurer/Collector. Funds deposited in this account shall only be used for costs incurred by the City in acquiring, designing, constructing and/or reconstructing land and facilities that increase the supply of parking within the B-D District. Expenditure of funds from this account shall only be authorized by a 2/3 vote of the City Council. PUBLIC HEARING OPENED. A communication dated April 27, 2017 was received from Tina P. Cassidy, Planning Board Director, Woburn Planning Board as follows:

Re: Zoning text amendments relative to Section 8.3 of the Woburn Zoning Ordinance (establishment of Downtown Parking Improvement Fund)

Dear Councilors:

At a meeting of the Woburn Planning Board held on Tuesday, April 11, 2017, members of the Planning Board voted 5-0-1 (Bolgen, Turner, Edmonds, Callahan, Donovan in favor, Doherty in opposition, Ventresca absent) to recommend adoption of the above-referenced proposed zoning amendment, as drafted.

Please feel free to contact me if you have any questions relative to the Planning Board's vote.

Respectfully, s/Tina P. Cassidy, Planning Board Director

Motion made and 2nd that the communication be received and made part of the record, all in favor, 9-0. PUBLIC COMMENTS: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON JUNE 6, 2017 AND THAT THE MATTER BE REFERRED TO THE COMMITTEE ON ORDINANCES, all in favor, 9-0.

CITIZEN'S PARTICIPATION: None.

COMMITTEE REPORTS: None.

NEW PETITIONS:

Petition by Cellco Partnership d/b/a Verizon Wireless for a grant of right in a way pursuant to M.G.L. Ch. 166, §§22 and 25A to install and maintain wireless equipment and all sustaining and protecting fixtures on an existing utility pole #120/3 located on a

public way near 8 Dickie Road. Motion made and 2nd that the MATTER be REFERRED TO PUBLIC HEARING, all in favor, 9-0.

COMMUNICATIONS AND REPORTS:

A communication dated April 13, 2017 was received from Charles O'Connor, Parking Clerk, Police Headquarters, 25 Harrison Avenue as follows:

Council Members,

In accordance with Massachusetts General Laws Chapter 90, Section 20½ I am submitting the following parking ticket report. Figures cited below are for the Month of Jan. 2017 to March 2017: Number of violations issued 268, Numbers of violations paid 125, Number of violations outstanding 138, Amount collected and submitted to Collectors Office \$16,646.00, Parking fines referred to the Handicap Commission \$5,600.00.

There is a backlog of 1,635 unpaid tickets dating from January 2004 to December 2016. A 21 day late notice is sent to vehicle owners who have not paid the fine. After 28 days, if the fine still has not been paid, that information is forwarded to the Registry of Motor Vehicles for administrative action.

Respectfully submitted, s/Charles O'Connor, Parking Clerk

Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE, all in favor, 9-0.

UNFINISHED BUSINESS OF PRECEDING MEETING:

On the Order to amend Title 2, Article CCVII, Section 2-180 relative to the base salary of the License Commission. Motion made and 2nd that the matter be taken from the table, all in favor, 9-0. Motion made and 2nd that the ORDER be ADOPTED, AS AMENED with the amendment as follows: "That the words Licensing Commission be amended to read License Commission", 8 in favor, 1 opposed (Concannon opposed), 0 absent.

Presented to the Mayor May 4, 2017 and ten days having elapsed without same being approved, said Order became effective without his signature on May 16, 2017.

APPOINTMENTS AND ELECTIONS: None.

MOTIONS, ORDERS AND RESOLUTIONS:

ORDERED That in accordance with a precept issued by President of the Massachusetts Senate Stanley Rosenberg by Order of a majority of the Senators and in accordance with Massachusetts General Laws Chapter 54, as amended, the City Clerk is hereby authorized and directed to notify and to warn such of the inhabitants of the City of Woburn as are qualified to vote in Special State Primary Elections to assemble at the polling places in their respective wards as designated herein, on TUESDAY, the TWENTY-SEVENTH DAY OF JUNE, 2017 from 7:00 a.m. to 8:00 p.m., then and there to cast their votes in the Special State Primary Election for the candidates of the DEMOCRATIC, REPUBLICAN AND LIBERTARIAN political parties for the office of STATE SENATOR FOR THE FOURTH MIDDLESEX DISTRICT at the following polling places:

Ward-Precinct Polling Place Location

- 1-1 Joyce Middle School Gymnasium, 55 Locust Street
- 1-2 Joyce Middle School Gymnasium, 55 Locust Street
- 2-1 Shamrock Elementary School Gymnasium, 60 Green Street
- 2-2 Shamrock Elementary School Gymnasium, 60 Green Street
- 3-1 Hurd Elementary School Gymnasium, 75 Bedford Road
- 3-2 Hurd Elementary School Gymnasium, 75 Bedford Road
- 4-1 Wyman Elementary School Auditorium,
Main Street and Eaton Avenue
- 4-2 White Elementary School, 36 Bow Street
- 5-1 Goodyear Elementary School Gymnasium, 41 Central Street
- 5-2 Goodyear Elementary School Gymnasium, 41 Central Street
- 6-1 Altavesta Elementary School Gymnasium, 990 Main Street
- 6-2 Altavesta Elementary School Gymnasium, 990 Main Street
- 7-1 Reeves Elementary School Gymnasium, 240 Lexington Street
- 7-2 Reeves Elementary School Gymnasium, 240 Lexington Street

s/President Haggerty

Motion made and 2nd that the ORDER be ADOPTED, all in favor, 9-0.

Presented to the Mayor: May 4, 2017

s/Scott D. Galvin May 4, 2017

ORDERED That the Committee on Special Permits schedule a meeting to be held in May 2017 to review the special permit issued for the property located at 17R Maywood Terrace and that the property owner be asked to attend the meeting and/or a representative attend the meeting in his place to speak on his behalf.

s/Alderman Mercer-Bruen and Alderman Concannon

Alderman Gately stated that he has been in contact with the property owners, that due to health issues action on the matter has been delayed, that he suggested to the landowner

that he hire an attorney in an effort to address this issue, and that this is a serious issue that must be addressed. Alderman Mercer-Bruen stated that she was not aware of the health issues, that the petitioner has had an attorney at prior meetings, that if the issue is not addressed in May 2017 then it must be addressed no later than June 2017 as this matter has been delayed for a long time, and that the matter must be addressed. Motion made and 2nd that the MATTER be REFERRED TO COMMITTEE ON SPECIAL PERMITS with a meeting to be held at the discretion of the Committee Chair but no later than June 15, 2017, all in favor, 9-0.

ORDERED That a representative of New Creek LLC of 425 Washington Street be invited to attend a meeting of the Committee on Special Permits at a time and time established by the Chair of the Committee on Special permits;

That New Creek LLC provide to the Committee on Special Permits, at least two (2) days in advance of the meeting date, a copy of the proposed signage plan for 425 Washington Street; and

That the proposed signage plan should also include information as to the differences in the size and number of signs in the plan versus what is currently allowed under the Woburn sign ordinance.

s/Alderman Mercer-Bruen

Alderman Mercer-Bruen stated that she wants to see the plan in advance, and that it would be prudent to have the plans for review before the meeting. Motion made and 2nd that the ORDER be ADOPTED, all in favor, 9-0.

Motion made and 2nd to suspend the rules for the purposes of adding a late filed matter to the Order of the Day, all in favor, 9-0.

ORDERED That the Committee on Personnel take the necessary steps to fill the vacancy in the position of Clerk of Committees according to the applicable provisions of the City Charter and the Woburn Municipal Code.

s/President Haggerty

President Haggerty stated that the incumbent moved to the office of the City Auditor, that the City Council wishes her well and that the City Council should move forward with the process. Motion made and 2nd that the ORDER be ADOPTED, all in favor, 9-0.

Motion made and 2nd to return to the regular order of business, all in favor, 9-0.

Motion made and 2nd to ADJOURN, all in favor, 9-0. Meeting adjourned at 7:31 p.m.

A TRUE RECORD ATTEST:

William C. Campbell
City Clerk and Clerk of the City Council