

**CITY OF WOBURN
SEPTEMBER 19, 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 to take the following matter out of order, all in favor, 9-0.

Petition by Woburn Friends of Hospice, 305 Salem Street, #310, Woburn, Massachusetts 01801 for a Special Event Permit to allow a walk and road race on October 1, 2017 beginning and ending at Woburn Irish American Club, 147 Main Street. Motion made and 2nd that the SPECIAL EVENT PERMIT be GRANTED, all in favor, 9-0.
Presented to the Mayor: September 21, 2017 s/Scott D. Galvin Sept. 21, 2017

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

MAYOR'S COMMUNICATIONS:

On the communication dated August 9, 2017 was received from His Honor the Mayor Scott D. Galvin as follows:

Dear Councilors:

I would like to take this opportunity to inform you of two planning efforts we are embarking on relative to the area near the Anderson Woburn Regional Transit Center (Anderson RTC).

As you know, the area in and around Commerce Way holds great promise for future economic development. The lots east of the rail line and north of Mishawum Road are zoned for a mix of office, retail and industrial uses and the provisions of the Commerce

Way Corridor Overlay District (CWCOD) inject the possibility of residential dwellings as well.

This area has recently proven attractive for residential development. The prospective owners of 120 Commerce Way were the first to exercise the overlay district's residential component, and their special permit will add 293 rental apartments. A recent comprehensive permit decision on a so-called 40B application will add another 200 residential units at 200 Presidential Way.

Is this "enough" housing development in this mixed-use district, or is there capacity and/or desire for more? If there is capacity, should new residential projects be proposed and permitted under the State's Smart Growth legislation (M.G.L. Chapter 40R) or by using the CWCOD Overlay? Has enough thought been given as to how to facilitate use of public transit by the residents of the two new developments mentioned above - and any future residential projects - for their commuting needs?

The future of the Woburn Mall is far from certain. What types of other uses, if any, might be appropriate? Could this site be redeveloped in a significant way without negatively affecting traffic on local roads? Would a mixed-use, residential/retail/office project on the Woburn Mall site re-energize use of Mishawum Station?

During the public meetings associated with the master planning process, a number of shortcomings relative to the infrastructure of Commerce Way were mentioned. How important are those shortcomings to the future of the district? To what extent will they negatively affect or perhaps impede future development? What are the solutions to the problems and how can they be implemented at the lowest cost to the Woburn taxpayer?

To answer these questions, the City has embarked on an effort with the Metropolitan Area Planning Council (MAPC) to conduct a comprehensive study of this area and of the Woburn Mall site in particular over the next six months or so. A natural outgrowth of the earlier master plan study and the aforementioned recent private sector interest, the study will analyze and evaluate existing land uses and various data, gather input from the public and City policy leaders via meetings and a survey, and will assess various market demands. MAPC will then develop recommendations on the subjects of economic development, affordable housing, and transportation connectivity that are essential to achieving the City's vision for the Anderson RTC area generally. It will also draft specific ordinances such as a 40R District for the City's consideration and adoption, should the study's conclusions require them.

A second planning study will also soon begin relative to the industrial area along and near New Boston Street. As you know, the State is planning to construct a replacement bridge over the commuter rail tracks at the current terminus of New Boston Street in 2022 to replace the bridge destroyed in the 1970's. The new bridge will re-establish connections between the New Boston Street industrial area, the Commerce Way district and the industrial park in Wilmington. How will construction impact the businesses along New Boston Street? What benefits will the bridge bring in the mid- to long-term?

Is the existing zoning reflective of what current and future property owners need to ensure the businesses continue to flourish? Are infrastructure improvements needed? Would a pedestrian walkway connecting the Anderson RTC to New Boston Street help those businesses attract and retain employees?

The New Boston Street analysis is expected to take four (4) months to complete. Although the Anderson RTC and New Boston Street studies are largely independent of each other, both will be undertaken at the same time and will involve substantial amounts of public input and public meetings.

Planning Board Director Tina Cassidy will be overseeing both projects on the City's behalf. Please feel free to contact either one of us for additional background and information on either study.

Respectfully, s/Scott D. Galvin, Mayor

Motion made and 2nd that the communication be accepted and made part of the record, all in favor, 9-0. Motion made and 2nd to suspend the rules to hear from Mayor Scott D. Galvin and Planning Director Tina Cassidy on the matter, all in favor, 9-0. Appearing was Mayor Galvin and he stated that the Woburn Mall site has been sold, that this is an opportunity for the city to help develop the property to benefit the city for years to come, that the city has engaged the MAPC to perform long-term planning of the Commerce Way and New Boston Street areas, that the MAPC is completing a study of these areas, that the Woburn Mall site is an ideal location for a M.G.L. Ch. 40R development, that three to four months will be required to complete the study, that he has asked the property owner to work with the city, that it is important to get this development right, that he wants the City Council to work with the Mayor on this matter as well, that he wants to slow the process down, and that there is no need to rush the development or the developer. Planning Director Cassidy stated that the process may take six months for the overall study, that the study takes into account the two M.G.L. Ch. 40B projects that were recently approved, that any development needs to accommodate residents ability to get to work, recreational opportunities and the impact on industrial uses that want to stay in the area, that the Woburn Mall site could be a mixed use development, that the New Boston Street study is smaller and will take three to four months to complete, that the study will review the area as to the character of the businesses and the property in that area, that the city will bring the property owners together for a discussion of the study and concerning the construction of the New Boston Street bridge which is expected to begin in 2021, and that the city wants to know what opportunities or impediments there may be in that area that the city could assist with such as a pedestrian crossing over the railroad tracks from Anderson Station to New Boston Street. Alderman Gately stated that he wanted to know if the same procedures used for the former Kraft site will be employed. Mayor Galvin stated that this will be a study and that he does not expect there to be the same result as at the former Kraft site. Alderman Gately stated that some of the former Kraft site procedures were successful. Mayor Galvin stated that M.G.L. Ch. 40R developments are a growing area of development, that the Anderson Station is underutilized, and that he wants there too be a balance but not too much residential development. Alderman

Mercer-Bruen stated that the Woburn Mall is overdue for upgrades, that she is glad to hear about moving forward with planning but she wants to make certain the city works with the MAPC and MassDOT, that there will be traffic impact in the area, that without the Washington Street bridge being improved the magnitude of work will be difficult, and that she wants to be certain that the public is informed of the process. Planning Director Cassidy stated that they will use the Recreation Department email list, the city website and rely on public media. Mayor Galvin stated that there will be an opportunity for public comment at the MAPC, and he urges the Aldermen to attend the meetings. Alderman Anderson asked whether the MAPC has performed similar work in other communities, and that he does not want policy people making plan without practical experience. President Haggerty stated that the city should utilize MassWorks grants for the development. Motion made and 2nd to return to the regular order of business, all in favor, 9-0.

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

A communication dated September 11, 2017 was received from City Solicitor Ellen Callahan Doucette as follows:

Re: NAI Entertainment v. Woburn City Council

I am requesting the opportunity to meet with the City Council in executive session to discuss the above-captioned zoning appeal on September 19, 2017.

Sincerely, s/Ellen Callahan Doucette

Motion made and 2nd to go into executive session pursuant to M.G.L. Ch. 30A, Sec. 21(3) for the purposes of discussing pending litigation in the matter of NAI Entertainment v. Woburn City Council, ROLL CALL: Anderson – Yes, Campbell – Yes, Concannon – Yes, Gaffney – Yes, Gately – Yes, Higgins – Yes, Mercer-Bruen – Yes, Tedesco – Yes, Haggerty – Yes, Motion Passes. President Haggerty stated that the City Council would reconvene in regular session following the conclusion of the executive session. The City Council removed from the Council Chamber to the Engineering Conference Room at 7:15 p.m. The City Council returned to the Council Chamber at 7:42 p.m. Motion made and 2nd to return to the regular order of business, all in favor, 9-0. President Haggerty stated that the City Council discussed pending litigation in the matter of NAI Entertainment v. Woburn City Council, that the only action taken by the City Council was to vote on a motion that the City Solicitor not agree to have the matter referred to mediation, and that the City Solicitor will proceed with the regular court proceedings concerning the matter.

A communication dated August 31, 2017 with attachment was received from His Honor the Mayor Scott D. Galvin as follows:

Re: Affordable Housing and Certification under Woburn's Housing Production Plan

Dear Councilors:

It is my genuine please to inform you that the State's Department of Housing and Community Development has certified that the City of Woburn is in compliance with its recently-adopted Housing Production Plan (HPP).

With this designation, the City has achieved so-called "safe harbor" with respect to future comprehensive permit applications filed under M.G.L. Chapter 40B. While HPP certification will not preclude the filing of 40B applications per se, it will give the City far greater control over any that might be submitted. A copy of the official certification letter is attached for your information.

Achievement of this very important milestone was made possible only by the hard work of many, most notably that of the Zoning Board of Appeals members who labored for many months to process the two most recent affordable housing applications that made this certification possible.

The City's HPP certification is already in effect and will remain in place until August 3, 2019. Based on current data, Woburn's affordable housing percentage has now increased to 8.74%.

I look forward to working with you, my staff and the community at large over the next two years exploring and implementing ways to attain the 10% threshold required by M.G.L. Chapter 40B on our own terms and in a manner that is best for our community.

Thank you for your role in making this happen.

Respectfully, s/Scott D. Galvin

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

PUBLIC HEARINGS:

On the petition by NStar Electric Company dba Eversource Energy for grant of right in a way to install one guy pole in Lake Terrace southwesterly side approximately 496 feet southeast of Lake Avenue approximately 24 feet southeast of pole 475/4 and to install one pole 475/4-S. PUBLIC HEARING OPENED. A communication dated September 18, 2017 was received from Jacqueline Duffy, Right of Way Agent, Eversource, 101 Linwood Street, Somerville, Massachusetts 02143 as follows:

Re: Lake Terrace, Woburn – W.O. #2231252

Gentlemen:

NSTAR Electric Company d/b/a Eversource Energy respectfully requests to remove its Utility Petition dated August 11, 2017 from the hearing dated September 19, 2017 for the following location: Lake Terrace

If I can be of any further assistance, please contact me.

Very truly yours, Jacqueline A. Duffy, Right of Way Agent

A communication dated September 15, 2017 was received from Superintendent of Public Works John Duran as follows:

Subject: NStar Electric Company d/b/a Eversource Energy- Lake Terrace

Pursuant to NSTAR d/b/a Eversource request to replace a guy wire with a guy pole at the end of the existing roadway on Lake Terrace. This appears to be required for safety purposes for the new multi-use pathway under construction by the Town of Winchester from the Winchester line to the end of Lake Terrace. I recommend approval of this petition as shown to preserve public safety.

Please feel free to call me with any questions or concerns on this matter.

Motion made and 2nd that the communications 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 closed, all in favor, 9-0. PUBLIC HEARING CLOSED. Motion made and 2nd that the MATTER be GIVEN LEAVE TO WITHDRAW WITHOUT PREJUDICE, all in favor, 9-0.

On the petition by Verizon New England Inc. for a grant of right in a way in Salem Street as follows: 1. Place approximately 73 feet of underground conduit from manhole no. 35/142 to jointly-owned pole no. 191/64, 2. Place one (1) new manhole no. 35/141 on southerly side to replace existing manhole that must be removed due to bridge construction over MBTA tracks, 3. Place approximately 205 feet of underground conduit from manhole no. 35/141 in a southerly direction across MBTA bridge to existing underground conduit on southerly side of bridge, 4. Place one (1) hand-hole at jointly-owned pole no. 191/52 on northerly side, 5. Place approximately 216 feet of underground conduit from manhole no. 35/140 on southerly side at intersection with Wood St. to jointly-owned pole no. 191/47 on northerly side at intersection with Wildwood Drive, and in Pine Street place approximately 20 feet of underground conduit from old jointly-owned pole no. 175/3 to new relocated pole no. 175/3. PUBLIC HEARING OPENED. A

communication dated September 15, 2017 was received from Superintendent of Public Works John Duran as follows:

Subject: Verizon – Salem Street

Pursuant to Verizon's request for a grant of right in a way on Salem Street and Pine Street, I offer the following as a recommendation for approval. This work appears to be necessary as part of the Mass DOT Salem Street Bridge reconstruction project.

The work on Salem Street starts approximately at the corner of Wood Street with underground conduit being installed from manhole 35/140 easterly approximately 216 feet along the sideline of the existing road and thence turning perpendicular across Salem Street (northerly) across Salem Street to a newly relocated pole 175/3 at the corner of Wildwood. I recommend approval of this portion of the petition with the condition that the trench is restored by milling and inlaying with 2 inches of bituminous concrete for a width of 10 feet to the edge of the roadway. This should prevail for any other crossings involved across Salem Street. I would further recommend that this work be performed at night from 7 PM to 5 AM due to traffic concerns which will be significant.

The second portion of this petition is mainly in the Mass DOT layout and will be affected by the new construction. I recommend approval as this will assist Mass DOT in expediting all utility related matters related to the bridge reconstruction. Restoration will be dictated by the Mass DOT plans. All work performed in the Woburn owned section and should be restored to DPW standards and specifications and limits of restoration to be field determined as necessary and practical. We are actively working with National Grid on their portion of the project so that bridge construction can begin as timely as possible.

Mass Dot has met with the Police, Fire, DPW and the Engineering Department(s) on this project. It is critical that this correspondence continue to allow for emergency access as well as day to day traffic flow in the area. I do not anticipate any issue on this matter going forward. However, this is clearly our top priority for public safety.

Please feel free to call me with any questions or concerns on this matter.

Motion made and 2nd that the communication be accepted and made part of the record, all in favor, 9-0. Appearing for the petitioner was Everette Bryan, Right of Way Engineer, Engineering and Data Solutions and he stated that the petitioner will place conduit on Salem Street and Pine Street, one new handhole and one new manhole on Salem Street to accommodate new bridge construction by MassDOT, that the petitioner will require a minimum of one week to install the conduit and handhole, that it may take up to two weeks to install the manhole, that he did not have the opportunity to review the recommendations of the Superintendent of Public Works, that he would need to consult with the petitioner before agreeing to the conditions proposed by the Superintendent of Public Works, that the double pole situation is a multiuse pole, that the petitioner is the lowest utility on the pole and therefore the last to be removed, that he cannot speak to this

issue directly but knows this is an issue over a large area and that this is a priority project. Alderman Mercer-Bruen stated that the Superintendent of Public Works recommended work be performed at night, and that she understands that the petitioner's representative will meet with the petitioner regarding the hours of construction but this is unlikely to change the requirement that the work be performed at night. Alderman Gately stated that if this petition was not part of the bridge project he would deny the permit, that the petitioner will not deal with the double poles in the city despite repeated demands by the city to do so, and that the petitioner is usually the last utility on the double poles which holds up correcting the issues. 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 amendments as follows: 1. The recommendations of the Superintendent of Public Works shall be adopted as conditions of the grant of right in a way, all in favor, 9-0.

Presented to the Mayor: September 21, 2017 s/Scott D. Galvin Sept. 21, 2017

On the petition by National Grid for grant of right in a way to replace 400 feet of 2 inch low pressure bare steel with 6 inch plastic in Woburn Parkway from Pleasant Street to 9 Woburn Parkway. PUBLIC HEARING OPENED. A communication dated September 13, 2017 was received from Sean Kilcullen, Supervisor, Gas Operations, National Grid, 170 Medford Street, Malden, Massachusetts 02148 as follows:

Subject: Grant of Location – Woburn Parkway

I need to cancel the Grant of Location request made by National Grid to do a gas project on Woburn Parkway. The National Grid Engineering department has decided not to move forward with the project at this time because the street is newly paved and would require a curb to curb grind and inlay to restore. I've attached the Grant of Location Document for the cancelled project to this email.

Thanks, Sean Kilcullen, Supervisor, Gas Operations

Motion made and 2nd that the communications 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 closed, all in favor, 9-0. PUBLIC HEARING CLOSED. Motion made and 2nd that the MATTER be GIVEN LEAVE TO WITHDRAW WITHOUT PREJUDICE, all in favor, 9-0.

On the petition by C&C Realty Trust, Fred J. Cotreau and John J. Canney, Jr., Trustees, 64 Chestnut Street, Wakefield, Massachusetts 01880 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Sections 5.5 and 5.1.43 to allow for 2800 cubic yards of fill and for outside storage of building materials and equipment at 6 Draper Street. PUBLIC HEARING OPENED. The Planning Department report received at the June 6, 2017 Regular Meeting reads as follows:

Re: Planning Department comments on special permit application for 6 Draper Street/C&C Realty Trust

Dear Council:

The Planning Department has reviewed the above-referenced petition, which seeks authorization of a previous activity via special permit, pursuant to Sections 5.5 (for the earth removal or filling) and 5.1 (43) (for the open or outside storage of new or used building materials or equipment) of the Woburn Zoning Ordinance (WZO). Although not noted on the engineer-certified plot plan provided, the property is located in the Industrial General (I-G) zoning district, which allows the aforementioned uses by City Council special permit.

The Petitioner is seeking authorization to maintain storage of 2,800 cubic yards of fill onsite, which is greater than the amount of fill already onsite according to the engineering estimate noted in the application (2,628 cubic yards). However, a description of the building materials and equipment to be stored onsite are not indicated in the application, nor is the proposed storage location of the equipment depicted on the plot plan. This raises three potential issues relative to parking requirements and storage. If the applicant intends to utilize the existing pavement for storage purposes, it may: 1) impact on the number available off-street parking spaces required for the current 2-story building use, 2) complicate access through the pre-existing, relatively narrow (as little as 15' wide) drive aisles, and 3) conflict with any onsite snow storage.

Planning staff have determined, via Geospatial Information System (GIS) review and plot plan measurements, that the Petitioner's building conforms to WZO setback requirements, as noted in Section 5.7.2. An 8-ft. wall or solid fence does not appear to surround the area of material storage, as required by Note 6 to Section 5.1 (43), although a review of GIS does reveal that a natural tree buffer lays between this parcel and easterly residential properties. The presence of this buffer may help to allay screening concerns, depending where onsite materials and equipment will be stored.

A review of environmental mapping on the City's GIS system reveals that the parcel does not fall within a local floodplain, Groundwater Protection District, or an area of contaminated soils. However, the plot plan indicates, and the Conservation Commission Administrator has confirmed, that this parcel falls within 150' of a wetland boundary line, and is also within 200' of a riverfront area. As such, both would trigger jurisdictional review by the Commission. In addition, because Commission approval has not yet been sought, a final plan and attached permit conditions would have to be reconciled between the Council and the Commission.

Although the information necessary to completely review this application was not fully provided, Planning staff recommend consideration of the following as minimum conditions of approval should the Council ultimately approve the application:

1. That the Plan of Record be modified to indicate the proposed locations of equipment to be stored, the zoning designation of the property, and onsite snow storage (if applicable);
2. That the Plan of Record for this Petition shall be “Existing Parking Plan 6 Draper Street, Woburn, MA,” Scale 1”=20’; Prepared by Alan Engineering, LLC, 288 Littleton Road, Suite 31, Westford, MA 01886; Dated May 9, 2017; Revised _____;”
3. That if snow is to be stored onsite, a plan for such storage shall be filed with the Building Commissioner.

Please feel free to contact me if you have any questions relative to this recommendation.

Respectfully, s/Dan Orr, City Planner/Grant Writer

Appearing for the petitioner was Attorney Mark Salvati, 10 Cedar Street, Suite 26, Woburn, Massachusetts 01801 and he stated that according to the Building Commissioner outside storage by the petitioner does not require a special permit, that the petitioner’s engineer estimated that 2,800 cubic yards of fill was bought onto the site, that he has not been able to engage an engineer to study the fill as of this time, that it is difficult to get someone to certify the stability of the fill after the fact, that the fill has been in place for ten years, that the Conservation Commission has not been petitioned yet as it seemed best to obtain the special permit first, that everything shown on the plan is currently on site and is all that will be on site, that all but one tenant has moved from the site, that Ronchetti Masonry will be the only tenant and the petitioner will also be on site, and that the petitioner is willing to allow the Building Commissioner into the building to verify that there are no tenants. Attorney Salvati offered a plan entitled “On Site Storage Plan, 6 Draper Street, Woburn, MA” dated September 18, 2017 prepared by ALAN Engineering, LLC for the record. Motion made and 2nd that the document be received and made part of the record, all in favor, 9-0. Alderman Anderson stated that if the special permit is granted it could be amended to reflect 2,628 cubic yards of fill. Alderman Gately stated that it is important to know the type of material stored and site and how deep the fill is, that soil sample, Conservation Commission review and the stability of embankment are issues that must be resolved, that the other special permit petition pending for this property cannot be resolved until this matter is concluded, that the matter should be referred to the Conservation Commission, and that he wants soil sample documentation from three or four locations on the property, whether there is a plan for solidifying the embankment and a discussion with the Conservation Commission. Alderman Mercer-Bruen asked whether the Building Commissioner had been on site to verify all the tenants are gone and if not whether he would be allowed to do so. PUBLIC COMMENTS: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON OCTOBER 17, 2017 AND THAT THE MATTER BE REFERRED TO THE COMMITTEE ON SPECIAL PERMITS, all in favor, 9-0.

On the petition by Ronchetti Masonry, 6 Draper Street, Woburn, Massachusetts 01801 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Sections 5.5 and 5.1.43 to allow: 1. Outside storage of building materials and equipment, 2. Accessory storage trailers, and 3. Accessory parking of commercial vehicle, at 6 Draper Street. PUBLIC HEARING OPENED. The Planning Department report received at the September 5, 2017 Regular Meeting reads as follows:

Re: Planning Department comments on special permit application for 6 Draper Street/Ronchetti Masonry

Dear Council:

The Planning Department has reviewed the above-referenced petition, which seeks a special permit pursuant to Sections 5.5 and 5.1 (43, 57a, and 57b) of Woburn Zoning Ordinance (WZO) to authorize outside storage of building materials and equipment, the placement of accessory storage trailers on site, and the accessory parking of commercial vehicles, respectively. The property is located in the Industrial General (I-G) zoning district, which allows the aforementioned uses by City Council special permit.

Planning staff considers this application to be inadequate in its current form:

- The 8.5" x 11" black and white copy of a GIS-based map submitted with the application is not suitable for the purpose of this review. It shows a general quarter-mile or so area around the site but doesn't identify the subject property. It provides no information as to existing conditions on the site in question, nor does it provide any of the basic information the Council will need to consider the special permit request (i.e. identification of areas on the property where the proposed building materials, storage trailers and commercial vehicles would be stored).
- It lacks critical site and zoning-related information necessary to determining whether the proposed uses will conform to zoning. For instance, it is important to know exactly where the commercial vehicles will be stored on site, since there is a prohibition on the daytime parking of commercial vehicles within 70' of the nearby R-2 zoning district (Section 5.7.6.).

Planning staff recommends the applicant be required to provide an engineer-certified plot plan (preferably an updated version submitted with the yet-to-be decided petition at this property by C&C Realty Trust to authorize storage of 2,800 cubic yards in order to identify the scope and location of proposed building materials and equipment, storage trailers, and commercial vehicle storage.

As noted in the Planning Office's comment letter dated June 1, 2017 submitted for the C&C Realty petition at this property, if the current applicant intends to utilize the existing pavement for storage purposes, it may: 1) impact on the number available off-street parking spaces required for the current 2-story building use, 2) complicate access through

the pre-existing, relatively narrow (as little as 15' wide) drive aisles, and 3) conflict with any onsite snow storage. This becomes even more of a concern with two concurrent special permits for outside storage at the same property. In addition, as previously noted, an 8-ft. wall or solid fence does not appear to surround the area of material storage, as required by Note 6 to Section 5.1, although the existing natural tree buffer lays between this parcel and easterly residential properties may help to allay screening concerns, depending where onsite materials and equipment will be stored.

Also as noted in our June comment letter, a review of environmental mapping on the City's GIS system reveals that the parcel does not fall within a local floodplain, Groundwater Protection District, or an area of contaminated soils. The site is however within 150' of a wetland boundary line and within 200' of a riverfront area. As such, both would trigger jurisdictional review by the City's Conservation Commission. In addition, because Commission approval has not yet been sought, a final plan and attached permit conditions would have to be reconciled between the Council and the Commission.

Finally, the Planning Department recommends that the submitted plan show the areas proposed for snow storage. Although submission of snow storage plans are sometimes deferred until after the Special Permit decision, we recommend in this case that the plan include that information now for review, given the extent to which outside areas, including parking areas, are proposed for storage-related uses.

Although the Planning Department's thorough review is obstructed by the lack of essential information, Planning staff recommends the Council consider imposing at least the following as conditions of approval should it ultimately vote to approve the application:

1. That the plot plan submitted on behalf C&C Realty for this parcel be modified to indicate the proposed locations of materials, vehicles, equipment and storage trailers intended for the tenant of Ronchetti Masonry, as well as onsite snow storage (if applicable); and
2. That the Plan of Record for this Petition shall be "Existing Parking Plan 6 Draper Street, Woburn, MA," Scale 1"=20'; Prepared by Alan Engineering, LLC, 288 Littleton Road, Suite 31, Westford, MA 01886; Dated May 9, 2017; Revised _____;" and

Please feel free to contact me if you have any questions relative to this recommendation

Respectfully, s/Dan Orr, City Planner/Grant Writer

Motion made and 2nd that the communication be received and made part of the record, all in favor, 9-0. Appearing for the petitioner was Attorney Mark Salvati, 10 Cedar Street, Suite 26, Woburn, Massachusetts 01801 and he stated that the outside storage is sufficiently screened, that there is a material storage area and containers, that the commercial vehicle will be parked at the back portion of the lot, that two of the storage

containers have been on site for five years and the other storage containers have been on site for a couple of years, that these are the petitioner's storage containers, that the building is used by Advanced Welding and Design and the petitioner's small office, that there is scaffolding and the petitioner's equipment in the storage trailers, that the petitioner accesses the storage trailers over gravel, and that the petitioner would want the storage trailers to remain on site for at least a year. Attorney Salvati offered a plan entitled "On Site Storage Plan, 6 Draper Street, Woburn, MA" dated September 18, 2017 prepared by ALAN Engineering, LLC for the record. Motion made and 2nd that the document be received and made part of the record, all in favor, 9-0. Alderman Anderson stated that the storage containers likely will not be allowed to remain on the site for more than a year. Alderman Mercer-Bruen stated that she wants documentation as to the timeline of a plan to remove the storage containers, and that the storage containers are already four years in violation of the ordinances and have to be removed. PUBLIC COMMENTS: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON OCTOBER 17, 2017 AND THAT THE MATTER BE REFERRED TO THE COMMITTEE ON SPECIAL PERMITS, all in favor, 9-0.

On the petition by Luis Cortorreal, 27 Salem Street, Apt. 1B, Woburn, Massachusetts for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Section 5.1.29 to allow a fast food restaurant at 446 Main Street. PUBLIC HEARING OPENED. The Planning Department report received at the September 5, 2017 Regular Meeting reads as follows:

Re: Planning Department comments on special permit application for 446 Main Street/Luis Cortorreal

Dear Council:

The Planning Department has reviewed the above-referenced Special Permit application which requests permission to operate a fast food restaurant (5.1 [29]) at the above-referenced location. The property is zoned Downtown Business (B-D) and therefore such use is permitted by City Council Special Permit, subject to Site Plan review requirements (Section 12). No exterior construction is proposed in connection with this application. Instead, re-configuration/renovation of interior space is proposed.

Planning staff offers the following questions and comments for the Council's consideration:

- The proposed use (RESTAURANT, FAST FOOD) requires both a special permit in accordance with Section 5.1(29) of the Zoning Ordinance as well as site plan review in accordance with Section 12 (see Notes to Section 5.1, Table of Use Regulations). The application references the required special permit but does not specifically request site plan review/approval.

- Unless authorized by a subsequent Special Permit, the hours of operation of this establishment must be 6:00 a.m. to 11:00 p.m. in accordance with Note 16 to Section 5.1, Table of Use Regulations.
- Section 8.3 allows, by right, commercial enterprises to rely on municipal off-street parking lots to meet the parking requirements of the zoning ordinance (e.g. no special permit is needed). Although the application is silent on the issue of parking, it is presumed that the business will rely on the Walnut Hill parking lot to provide parking for employees and customers. (Note the site will also be within 500' of the planned parking lot at Campbell and Union Streets when it is constructed.)

Planning staff recommends the applicant submit a site plan as part of the application that includes a locus plan as an inset that notes the off-street lot locations. The site plan can serve as documentation that the property is in fact within 500' of one (or two) municipal off-street lot(s) and the purpose of the following paragraph.

- The issue of trash storage and its regular pickup seems particularly important given that food will compose a significant portion of the business's trash. The application indicates there is a small Dumpster in the rear of the store that will be used by the restaurant to safely store the refuse and prevent health issues. It is not clear whether the Dumpster is adequately sized for the task, especially if it will be shared by other businesses on the property. A site plan should be submitted which identifies the location of the Dumpster that will be used by this business and the plan could be referred to the Fire Department for review and comment, since the Fire Department is the entity charged with regulating Dumpsters in accordance with Title 8, Article VII, Section 8-17 of the Woburn Municipal Code (general regulations for Dumpsters).
- This establishment appears to have access to an area at the rear of the building (via a driveway from Main Street) that is currently a combination of open space and parking. Will the proposed fast-food restaurant have any use of this parking area at the back of the building, either for employees of this business or (though unlikely) its customers?
- The application indicates that there is a rear access door that will be used by employees and deliverymen to load and unload stock and foodstuffs. Will delivery trucks drive to the rear of the building via the driveway, or will delivery trucks park on Main Street and goods walked to the rear access door by employees? If goods will be offloaded on Main Street because the narrow driveway precludes truck access, the Council should include a condition in any approval prohibiting delivery-related activities from interfering with use of the sidewalk by pedestrians (i.e. blocking the sidewalk with boxes or dolly ramps). There should also be a condition prohibiting stock and foodstuffs from being delivered through the front door, in order to further lessen the possibility/extent of sidewalk conflict. The Council should also consider restricting/limiting the hours of deliveries to those that are outside of peak pedestrian times, if in fact deliveries will be made via a truck parked on the street.

If members of the Council have any questions or concerns regarding the foregoing, please feel free to contact me.

Respectfully, s/Tina P. Cassidy, Planning Director

A communication dated September 18, 2017 was received from Brett F. Gonsalves, Senior Engineer, Engineering Department as follows:

Subject: 446 Main Street Fast Food Special Permit – Special Permit Application Dated August 10, 2017

This office has reviewed the special permit application for the above referenced and offer the following comments.

The applicant has submitted a special permit application for a fast food restaurant. The accompanying plan shows the layout of the restaurant and seating configuration.

It appears that there are no exterior utility service changes, however, since the applicant is seeking a special permit for a fast food restaurant, they will need to comply to Section 18 of the Woburn Zoning Ordinance.

The applicant will need to submit a development impact statement, outlining any impacts associated with the proposed project. The applicant is also subject to mitigation and would need to submit a breakdown of the construction costs.

It is recommended that the applicant schedule a meeting with the city engineer to discuss the mitigation and how it will be applied to the project.

The applicant will need to submit a Non-Residential Sewer calculation worksheet to determine the II/Mitigation calculation for the proposed use based on Title V requirements. This calculation worksheet can be submitted prior to issuance of a building permit.

Once the requested information has been submitted, this office will complete its review.

If you have any questions concerning this information, do not hesitate to contact this office.

Motion made and 2nd that the communications be received and made part of the record, all in favor, 9-0. Appearing for the petitioner was Attorney Thomas W. Lawton, Lawton & Lawton, LLC, 4 Bennett Street, Woburn, Massachusetts 01801 and he stated that the petitioner wants to locate a fast food restaurant at the property, that a special permit issued in 2007 for a massage therapy use at the location, that the petitioner will remodel the interior of the building with no exterior changes, that there will be no impact on the water, sewer or drainage, that parking requirements would be met through the zoning code by using the municipal parking within 500 feet of the property, that the Walnut

Street parking lot is within 500 feet of the property and there will be a new parking lot across the street from the property at the Strand Theatre parking lot which is being developed, that this will be the petitioner's first fast food business, that there is a parking lot at the rear of the building with three dedicated parking spaces for the petitioner, trash receptacles and a dumpster, that the petitioner would be willing to accept a non-transferability condition, that the hours of operation are anticipated to be 9:00 a.m. to 9:00 p.m. seven days a week, that there is an alley way which a small truck could use to make deliveries at the back of the building, that with deliveries in a larger vehicle the petitioner would have to make arrangement for off hour deliveries, that the petitioner initially did not believe he would use the whole interior of the site, that the petitioner is working with the Building Commissioner to determine a certain number of tables to avoid the necessity for additional access or restrooms, that the petitioner believes the business will be limited to forty seats, that the petitioner can wheel the trash receptacles to the front of the building to be emptied, that the petitioner will have more frequent trash pick-up because of the size of the trash receptacle, that if there was a large dumpster in the back of the building it would be difficult to get a trash truck into the parking lot, that the petitioner's employees will use the parking in the rear of the building, that the petitioner anticipates three employees at this time who are mostly his family members, that the development impact statement has not been completed, that the petitioner spoke to the Engineering Department, Board of Health and the Building Commissioner, that the petitioner has no objection to requiring his employees to park in the rear parking lot, and that there are ten parking spaces in the rear lot but the petitioner has a lease for only three dedicated parking spaces. Attorney Lawton offered copies of documents and photographs to the City Council for review. Motion made and 2nd that the documents and photographs be received and made part of the record, all in favor, 9-0. Alderman Gately stated that the deliveries will have to be early in the day to avoid interfering with foot traffic and vehicles going through the center. Alderman Anderson stated that the City Council needs to know how many parking spaces the petitioner will need, and that this information is needed to determine whether the parking requirements can be accommodated in the municipal parking lot. Alderman Concannon stated that the petitioner should meet with the City Engineer about the development impact statement. Alderman Campbell stated that there could be a condition that the employees use the rear parking lot. 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 SPECIAL PERMIT be GRANTED, AS AMENDED with the conditions as follows: 1. That the hours of operation shall be between 9:00 a.m. and 9:00 p.m. seven days per week; 2. That a steel dumpster shall be used for refuse at all times; 3. That the special permit shall be granted to Luis Cortorreal only and shall not be transferable; 4. That the exterior at the rear of the building shall not be used for outside storage and shall be kept clean at all times; 5. That there shall be no deliveries between 4:00 p.m. and 6:00 p.m.; 6. That all employees shall first park in the three parking spaces at the rear of the building; and 7. That the petitioner shall comply with any rodent control plan required by the Board of Health, all in favor, 9-0.

On the petition by Alderman Campbell and President Haggerty to further amend the 1985 Woburn Zoning Ordinances, as amended, as follows: By amending Section 5, Use Regulations, of the Woburn Zoning Ordinances, 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 Chapter 369 of the Acts of 2012. PUBLIC HEARING OPENED. A communication dated September 14, 2017 was received from Tian P. Cassidy, Planning Board Director, Woburn Planning Board as follows:

Re: Proposed zoning text amendment to prohibit, city-wide, marijuana establishments that are unrelated to medical purposes

Dear Council:

The Planning Board conducted a public hearing on the attached proposed zoning amendment at its meeting on September 13, 2017.

Following the public hearing and subsequent Board discussion, members of the Planning Board voted 3-2 (Ventresca, Turner, Callahan in favor, Bolgen and Doherty against) to recommend adoption of the proposed measure.

If you have any questions relative to the Planning Board's deliberations or recommendation, please do not hesitate to contact me.

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. Alderman Campbell stated that the Planning Board has questions about the Order, that on September 5, 2017 the City Council voted to prohibit the operation of recreational marijuana establishments in the city, that the Mayor signed the Order into law on September 7, 2017, that the City Solicitor believes that amending the zoning ordinances in this way would clear up any ambiguity, that this is the intention of the ordinance, and that this ordinance will not prohibit medical marijuana. 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 ORDER be ADOPTED, all in favor, 9-0.

Presented to the Mayor: September 21, 2017 s/Scott D. Galvin Sept. 21, 2017

On the petition by Alderman Mercer-Bruen concerning the structure or structures located in the City of Woburn, County of Middlesex, Commonwealth of Massachusetts known and numbered as 135 Montvale Road, Woburn, Massachusetts, for the purposes of determining whether said structure or structures are a public nuisance, a nuisance to the

neighborhood, a dilapidated or dangerous building or other structure, as said terms are used in Massachusetts General Laws Ch. 139, Sec. 1, and if so, enter an order adjudging it to be a nuisance to the neighborhood, or dangerous, and prescribing its disposition, alteration or regulation. PUBLIC HEARING OPENED. Alderman Mercer-Bruen stated that property has been cleaned and looks better, that if there are no objections from the public the City Council can forgo further action on this matter, that the Building Commissioner is satisfied as well, and that she expects the property owner will continue to maintain the property. PUBLIC COMMENTS: Fred Perrault appeared and stated that he is the property owner, that he apologized for allowing the property to get into that condition, that he works at locations throughout the state, that he thought the property was being maintained by a landscaper, that he did not know about the issue until he received the letter, that there was not trash on the property but an accumulation of leaves, that 38 bags of leaves were removed from the property, that his mail goes to a post office box and he may have overlooked mail to his house, that the situation will not occur again, that the house has been vacant for eleven years, that he is in the process of applying for a demolition permit and seeking a building permit to construct a new house, that this was his father-in-law's house, that he purchased the house from the family, that he could not decide whether to rehabilitate the building or construct a new building, that the interior of the house needs a lot of updating, and that he hired a land surveyor to prepare a certified plot plan and then he can plan on what can be built on the lot. Richard Greene, 145 Montvale Road stated that the house has been vacant for eleven years, that the house was always kept up, that the grass was three feet high when it was cut, and that the neighbors were concerned about the house. Alfred Waller, 141 Montvale Road stated that the house was maintained until the last couple of years, that he is concerned about rodents and the accumulation of leaves on the site, that he wants assurances the leaves will be cleaned up in a timely manner, that there are a lot of rabbits and groundhogs in the area, and that any new house should be limited to a single family house. Motion made and 2nd that the public hearing be closed, all in favor, 9-0. PUBLIC HEARING CLOSED. Motion made and 2nd that the MATTER be PLACED ON FILE, all in favor, 9-0.

CITIZEN'S PARTICIPATION: None.

COMMITTEE REPORTS:

FINANCE:

On the Order to appropriate the sum of \$100,000.00 from Stabilization Fund Acct to 455 Main Street Parking Lot Acct, committee report was received "ought to pass". Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.

Presented to the Mayor: September 21, 2017 s/Scott D. Galvin Sept. 21, 2017

PUBLIC SAFETY AND LICENSES:

On the petition by Checker Cab of Woburn, Inc. for a new Livery License for two vehicles, committee report was received “ought to pass”. Motion made and 2nd that the MATTER be LAID ON THE TABLE, all in favor, 9-0. Motion made and 2nd that a communication be sent to the petitioner requesting that the additional documents be filed before the City Council meeting on October 3, 2017, all in favor, 9-0.

On the petition by Sams Liv Express LLC for a new Livery License for three vehicles, committee report was received “ought to pass, as amended, with the condition as follows: Limited to two (2) livery vehicles.” Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.

Presented to the Mayor: September 21, 2017 s/Scott D. Galvin Sept. 21, 2017

On the petition by KPS Bhatti Inc. for a new Livery License for one vehicle, committee report was received “ought to pass”. Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.

Presented to the Mayor: September 21, 2017 s/Scott D. Galvin Sept. 21, 2017

SPECIAL PERMITS:

On the petition by West Woburn Development Corporation, 498 Lexington Street, Woburn, Massachusetts 01801 requesting a determination that the water pump station with an exterior measurement of 17 feet by 27 feet is in substantial compliance with the special permit issued January 9, 2003 and modified by the special permit issued April 13, 2017, committee report was received “That the plan entitled ‘Landscape Plan, Winning Farm Pump Station, 498 Lexington Street, Woburn’ dated 1-24-2017, revised 8-31-2017 prepared by Commonwealth Engineering Inc. and the plan entitled ‘The Village at Winning Farm, Woburn, Massachusetts, Pump Station Locus and Building Envelope Plan’ dated 1/11/17 and revised 8/31/17 prepared by Commonwealth Engineering denoting the pump station to be 17 feet by 27 feet be accepted as in substantial compliance with the special permit issued January 9, 2003 and modified by the special permit issued April 13, 2017.” Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.

NEW PETITIONS:

Petition by Lionano Inc., 1 Broadway, 14th Floor, Cambridge, Massachusetts 02142 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Section 5.1.41 to allow a research and testing laboratory at 195 Presidential Way. Motion made and 2nd that the MATTER be REFERRED TO PUBLIC HEARING, all in favor, 9-0.

Petition by 36 Cabot Road LLC, 36 Cabot Road, Woburn, Massachusetts 01801 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Sections 5.1.30b, 5.1.42, 9 and 12 to allow construction of new building containing approximately 49,600 square feet of gross floor area more or less for 1. Wholesale establishment, warehouse and distribution use (approximately 17,360 square feet of gross floor area, more or less), 2. Office use (approximately 24,800 square feet of gross floor area, more or less), and 3. Light manufacturing use (approximately 7,440 square feet of gross floor area, more or less), at 32 Cabot Road. Motion made and 2nd that the MATTER be REFERRED TO PUBLIC HEARING, all in favor, 9-0.

COMMUNICATIONS AND REPORTS:

A communication dated September 5, 2017 was received from Joanne Collins, Director, Woburn Council on Aging along with a copy of the Director's Report and the minutes of the Council on Aging meeting for the month of August 2017. Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE, all in favor, 9-0.

A communication dated September 13, 2017 with attachment was received from City Solicitor Ellen Callahan Doucette as follows:

Re: Amendment of Section 11.3(11) of the WZO

I am submitting for the City Council's consideration and action, a proposed amendment of Section 11.3(11) of the Woburn Zoning Ordinance ("WZO") the adoption of which, would bring the provision in compliance with M.G.L. c.40A, §6.

Section 11.3(11) places a six (6) month limitation on the use of special permits (issued prior to first publication of the public hearing held on a zoning amendment which may prohibit the use authorized by the special permit). The six (6) month limitation is at odds with M.G.L. c.40A, §6 which provides that; "[s] zoning ordinance or by-law shall provide that construction or operations under a building or special permit shall conform to any subsequent amendment of the ordinance or by-law unless the use or construction is commenced within a period of not more than 12 months after the issuance of the permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable."

To further explain, general and zoning ordinances or bylaws may not conflict with enabling legislation of general application. See, *David v. Bd. of Appeals of Reading*, 333 Mass. 657, 661 (1956); *Bartlett v. Bd. of Appeals of Lakeville*, 23 Mass.App.Ct. 664, 671 (1987) and cases cited therein. Additionally, the protections afforded to nonconforming uses under c.40A, §6 are and have been characterized as, "prescribing certain minimum tolerances which must be afforded to nonconforming uses". *Nichols v. Board of Zoning Appeal of Cambridge*, 26 Mass.App.Ct. 631, 633, (1988), quoting from *Inspector of Bldgs. of Burlington v. Murphy*, 320 Mass. 207, 209 (1946). In other words, §6 provides

the “floor” for the protection of nonconforming uses, and local authorities are permitted to provide additional protections for nonconforming uses, if they choose to do so. See, *Chilson v. Zoning Bd. of Appeals of Attleboro*, 344 Mass. 406, 411 (1962). Local zoning ordinances and bylaws may not however, be more restrictive. For instance, the WZO could provide that construction under the special permit must commence within 18 months or 2 years after issuance of the special permit, but they may not reduce that time limitation to less than 12 months.

Alternatively, as Section 11.3(11) simply parrots a portion of c.40A, §6, it could be deleted.

In a related matter, recent legislation has authorized the expansion of the time frame for exercising rights under a special permit from two (2), to three (3) years. This expansion is not automatic however, but is left to the discretion of the individual cities and towns should they wish to amend their zoning ordinances or bylaws to expand this time period. See, Section 11.2(10) of the WZO.

Thank you for your attention to the above. Please do not hesitate to contact me if you have any additional questions.

Sincerely, s/ Ellen Callahan Doucette

Attached thereto was the following Order:

ORDERED Be it Ordained by the City Council of the City of Woburn that Section 11, Special Permits and Variances, 11.3 Procedures for Special Permits, subparagraph 11, be amended by deleting “six (6) months” and replacing same with “twelve (12) months”.

s/Alderman Anderson (per request)

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

A communication dated September 13, 2017 with attachments was received from City Solicitor Ellen Callahan Doucette as follows:

Re: Order Authorizing Mayor - Donations/Easements – Montvale Avenue Project

Submitted herewith is a proposed Order the first part of which, would authorize the Mayor to execute the Certificate of Donation for easements over City property for the Montvale Avenue road widening project. A copy of the Certificate of Donation is attached hereto.

The second part of the proposed Order will authorize the Mayor to accept on behalf of the City of Woburn any Certificates of Donation or Grant of Easements related to the project. At present, there is only one such donation (314-318 Montvale Avenue). The approval of this Order would facilitate the completion of documents which must be submitted to MassDOT for this project.

Please let me know if there are any questions regarding this Order.

Sincerely, s/Ellen Callahan Doucette

Attached thereto was the following:

ORDERED Be it Ordained by the City Council of the City of Woburn that the Mayor be and is hereby authorized to execute on behalf of the City of Woburn the Certificate of Donation for the following permanent and temporary easements for the Montvale Avenue Reconstruction and Widening project: E-13; TE-1, TE-2, TE-25, TE-28 & TE-43 as shown on the plan entitled “Plan of Road in the City of Woburn, Mass. showing location of Easements for the purpose of Reconstructing Montvale Avenue for the City of Woburn Scale 20 feet to the Inch” which is recorded in the Middlesex South Registry of Deeds as Plan no. 807 of 2017; and further, that the Mayor be and is hereby authorized to accept on behalf of the City of Woburn all Certifications of Donation and grants of permanent and temporary easements from the property owners identified on the Order of Taking, recorded with said deeds in Book 69889, Page 39 which easements are shown on said Plan.

s/President Haggerty

Alderman Haggerty stated that this will allow the city to move forward with the Montvale Avenue widening project. Motion made and 2nd that the ORDER be ADOPTED, all in favor, 9-0.

Presented to the Mayor September 21, 2017 and ten days having elapsed without same being approved, said Order became effective without his signature on October 3, 2017.

UNFINISHED BUSINESS OF PRECEDING MEETING: None.

APPOINTMENTS AND ELECTIONS: None.

MOTIONS, ORDERS AND RESOLUTIONS:

RESOLVED Whereas the City of Woburn is cleaning and relining water lines on Montvale Road and the surrounding streets, and whereas flooding has been a recurring issue in this area,

Be it Resolved by the City Council of the City of Woburn that the Department of Public Works provide a plan to connect the existing drywells to the main drain line on Pine Street to alleviate the flooding issues and that the Committee on Infrastructure and Public Lands meet in mid-October 2017 with the Superintendent of Public Works and the City Engineer to review the plan.

s/Alderman Mercer-Bruen

Motion made and 2nd that the RESOLVE be ADOPTED, all in favor, 9-0.
Presented to the Mayor September 21, 2017 and ten days having elapsed without same being approved, said Resolve became effective without his signature on October 3, 2017.

RESOLVE That His Honor the Mayor direct the Superintendent of Public Works to place two flashing speed limit signs in front of the Altavesta Elementary School located at 990 Main Street.

s/Alderman Tedesco

Alderman Tedesco stated that he has received a number of complaints from constituents since school was back in session, that there is significant traffic and commercial traffic in this area, that the signs help reduce speed of vehicles, and that the matter will also be reviewed by the Traffic Commission. Motion made and 2nd that the RESOLVE be ADOPTED, all in favor, 9-0. Motion made and 2nd that a copy of the resolution be forwarded to the School Committee and the Traffic Commission, all in favor, 9-0.
Presented to the Mayor: September 21, 2017 s/Scott D. Galvin Sept. 21, 2017

Motion made and 2nd to take the following three matters collectively, all in favor, 9-0.

RESOLVED Whereas, upon petition of the City of Woburn duly authorized by an Order adopted by the City Council and approved by the Mayor on April 6, 2016, the General Court approved Chapter 200 of the Acts of 2016 entitled “An Act for authorizing the temporary use of the Clapp elementary school property in city of Woburn for civic purposes”; and

Whereas, Section 1 of such act requires that the Clapp elementary school and the adjacent lower parking lot shall be vacated on or before July 15, 2017 and the Clapp elementary school has been vacated; and

Whereas, Section 1 of such act further requires in pertinent part as follows: "...any building thereon shall be demolished and the land shall be restored to its natural state and utilized solely for recreational and park uses not later than October 15, 2017..."; and

Whereas, the City Council appropriated the sum of \$550,000.00 for the purpose of demolition of the Clapp elementary school;

Now, Therefore, Be it Resolved that His Honor the Mayor take all steps necessary and required to execute the legislative action of the City Council and the General Court with respect to the demolition of the Clapp elementary school and restoring the land to its natural state by October 15, 2017, all as set forth in Chapter 200 of the Acts of 2016.

s/Alderman Campbell and Alderman Gately

Alderman Gately stated that the city is in the midst of trying to get the Clapp School building demolished, that he reached out to the Mayor after the Boys and Girls Clubs timely vacated the space, that there should have been an RFP prepared for the demolition, that he has called the Mayor several times about the process, that the matter is being stonewalled, that the Purchasing Agent was told not to prepare the RFP, that the Special Act says nothing about the development of a playground, that this is relative to the demolition of the building and restoration of the land, that the matter has been before the City Council three times, that the matter will not be put off again this time, and that if these Resolves and Order are not acted upon the matter will be taken to another level. Alderman Campbell stated that in August 2017 she asked the Purchasing Agent to move forward with the RFP for the demolition of the Clapp School and he said that he would be happy to do so, that she contacted the Purchasing Agent a couple of weeks later and said the Mayor told him not to go forward with the RFP and "to put it on the back burner," that she met with the Mayor regarding the issue, that the city is supposed to demolish the school in accordance with the Special Act adopted in April 2016, that the plans for a park are not approved, that there is no correlation between the demolition of the building and the construction of a park, that the Special Act stated that the building is to be demolished and the land be restored which means planting grass, that the Governor and the Mayor both signed the Special Act and the Order, that the Mayor said the city received one grant for a playground but is waiting for notice of another grant at the end of October 2017, that she told the Mayor there is no correlation between the demolition of the building and the construction of a park and that should would have to move forward with filings before the City Council, that the Mayor stated that she could do so but that he will not sign anything that comes to his desk on this matter, that it is unfortunate that this matter be before the City Council once again, that the City Council agreed to let the Boys and Girls Club use the building, that the Boys and Girls Club used the building, there were no issues and they left, that she is now asking the City Council to support the action to enforce the Special Act and the Order, and that she is asking the City Solicitor to advise what steps must be taken to ensure that the building be demolished as required.

Alderman Anderson stated that Mayor said he does intend to go forward with the demolition of the building and the construction of a park, that the Mayor wants to do this as one project as it will be more economical, that it is not right to vote on these matters, that the City Council should ask the Mayor to come before the City Council to address the issue, that be opposed an Attorney General investigation of the matter, that this is premature, and that he is totally against these matters. Alderman Higgins stated that the City Council should invite the Mayor to a meeting to speak on the record, that the City Council needs to know his intentions, and that if it is a matter of a couple of weeks and it will save money then she believes that the city should wait. Alderman Concannon stated that he supports the Resolves and the Order, that he has heard mention of prior deals of which he was not part that may have been breached, that in the case in which he participated the City Council wrestled with the issue for a while, that a deal was struck, that the Special Act is not in the lease ambiguous, that there was plenty of time to prepare an RFP, that he would like to hear from the Mayor, that the reality is the building is to be demolished by October 15, 2017 and that better happen or the City Council will break their promise, and that he is willing to have the Mayor in to determine how the building will be demolished by October 15, 2017 but the building has to come down. Alderman Campbell stated that she is willing to have the Mayor before the City Council however there was an agreement in April 2016 and a deal struck to demolish the building by October 2017, that moving forward with these Resolves and Order have nothing to do with having the Mayor speak to the City Council, that the intention of the Resolves and Order is for the work to begin, that it is time for the City Council to stick by this action, that this is the deal, that this is what was passed, that she is willing to hear from the Mayor but let the Mayor know the City Council is willing to stand by the laws that were passed, and that she would support having the Mayor come before a committee of the City Council. Alderman Gately stated that if the process to demolish the building took place as it should have been then a demolition permit would almost be ready for issuance, that it will take at least thirty days for the bid process, that this cannot be done by October 15, 2017, that the Mayor should have started the process when he knew it should have been started, that the Mayor should have informed the City Council earlier of his intentions, that money has been appropriated for the demolition and the building is still standing, and that this first became an issue eight years ago when the new Goodyear School was to be built. Alderman Anderson wants to remove “including but not limited to consulting with the Attorney General of the Commonwealth,” from the Order. President Haggerty stated that the Special Act is as clear as day and it is time to act. Motion made and 2nd that the Order be amended by deleting the words “including but not limited to consulting with the Attorney General of the Commonwealth,”, all in favor, 9-0. Motion made and 2nd that the RESOLVES AND ORDER be ADOPTED, all in favor, 9-0.

Presented to the Mayor September 21, 2017 and ten days having elapsed without same being approved, said Resolve became effective without his signature on October 3, 2017.

RESOLVED Whereas, upon petition of the City of Woburn duly authorized by an Order adopted by the City Council and approved by the Mayor on April 6, 2016,

the General Court approved Chapter 200 of the Acts of 2016 entitled “An Act for authorizing the temporary use of the Clapp elementary school property in city of Woburn for civic purposes”; and

Whereas, Section 1 of such act requires that the Clapp elementary school and the adjacent lower parking lot shall be vacated on or before July 15, 2017 and the Clapp elementary school has been vacated; and

Whereas, Section 1 of such act further requires in pertinent part as follows: “...any building thereon shall be demolished and the land shall be restored to its natural state and utilized solely for recreational and park uses not later than October 15, 2017...”; and

Whereas, the City Council appropriated the sum of \$550,000.00 for the purpose of demolition of the Clapp elementary school;

Now, Therefore, Be it Resolved pursuant to Title II, Article 1, Sections 2-5 of the 1989 Woburn Municipal Code, as amended, and all other applicable authority, the Purchasing Agent provide a report to the City Council of all actions taken by his office, and if no actions have been taken a narrative of what actions must be taken, with respect to the demolition of the Clapp elementary school and restoring the land to its natural state by October 15, 2017, all as set forth in Chapter 200 of the Acts of 2016.

s/Alderman Campbell and Alderman Gately

See record notes from preceding matter. Motion made and 2nd that the Order be amended by deleting the words “including but not limited to consulting with the Attorney General of the Commonwealth,”, all in favor, 9-0. Motion made and 2nd that the RESOLVES AND ORDER be ADOPTED, all in favor, 9-0.

Presented to the Mayor September 21, 2017 and ten days having elapsed without same being approved, said Resolve became effective without his signature on October 3, 2017.

ORDERED Whereas, upon petition of the City of Woburn duly authorized by an Order adopted by the City Council and approved by the Mayor on April 6, 2016, the General Court approved Chapter 200 of the Acts of 2016 entitled “An Act for authorizing the temporary use of the Clapp elementary school property in city of Woburn for civic purposes”); and

Whereas, Section 1 of such act requires that the Clapp elementary school and the adjacent lower parking lot shall be vacated on or before July 15, 2017 and the Clapp elementary school has been vacated; and

Whereas, Section 1 of such act further requires in pertinent part as follows: "...any building thereon shall be demolished and the land shall be restored to its natural state and utilized solely for recreational and park uses not later than October 15, 2017..."; and

Whereas, the City Council appropriated the sum of \$550,000.00 for the purpose of demolition of the Clapp elementary school;

Now, Therefore, Be it Ordered that pursuant to Title II, Article X, Sections 2-50, 2-51 and 2-52 of the 1989 Woburn Municipal Code, as amended, and all other applicable authority, the City Solicitor shall provide a written opinion to the City Council as to all steps necessary and required for the City to execute the legislative action of the City Council and the General Court in requiring the demolition of the Clapp elementary school and restoring the land to its natural state by October 15, 2017, as set forth in Chapter 200 of the Acts of 2016, and further to take such action as necessary to enforce compliance including but not limited to consulting with the Attorney General of the Commonwealth, and to report her findings and actions to the City Council.

s/Alderman Campbell and Alderman Gately

See record notes from preceding matter. Motion made and 2nd that the Order be amended by deleting the words "including but not limited to consulting with the Attorney General of the Commonwealth," all in favor, 9-0. Motion made and 2nd that the RESOLVES AND ORDER be ADOPTED, all in favor, 9-0.

Presented to the Mayor September 21, 2017 and ten days having elapsed without same being approved, said Order became effective without his signature on October 3, 2017.

ORDERED That the City Engineer meet with the Committee on Infrastructure and Public Lands to review what action has been taken to mitigate the flooding in the area of Columbus Road.

s/Alderman Campbell

Motion made and 2nd that the ORDER be ADOPTED, AS AMENDED with the amendment as follows: That a communication be sent to the City Engineer requesting a copy of any plan drafted to address the issue and copies of all correspondence from the City of Boston regarding the matter, all in favor, 9-0.

Presented to the Mayor September 21, 2017 and ten days having elapsed without same being approved, said Order became effective without his signature on October 3, 2017.

ORDERED Whereas, there presently exists a parcel of land located in the City of Woburn, Massachusetts on West Street and identified on the Assessors Map as parcel 23-05-37; and

Whereas, at the said parcel of land the exterior grounds have excessive overgrowth, dead trees, a rotting fence, and garbage dumped on the grounds;

Now, Therefore, Be It Ordered by the City Council of the City of Woburn that the City Clerk and Clerk of the City Council schedule a public hearing pursuant to Mass. General Laws Ch. 139, Sec. 1, et. seq., and give notice thereof to the owner of said parcel of land, said hearing to be conducted for the purposes of determining whether said parcel of land is a nuisance, a nuisance to the neighborhood, dilapidated or dangerous parcel of land, as said terms are used in Mass. General Laws Ch. 139, Sec. 1, and if so, enter an order adjudging it to be a nuisance to the neighborhood, or dangerous, and prescribing its disposition, alteration or regulation.

s/Alderman Tedesco and Alderman Gately

Motion made and 2nd that the ORDER be ADOPTED and the matter be set up for public hearing, all in favor, 9-0.

Presented to the Mayor September 21, 2017 and ten days having elapsed without same being approved, said Order became effective without his signature on October 3, 2017.

ORDERED That the Committee on Special Permits meet with representatives of Madison Woburn Holdings LLC relative to the review of a special permit issued August 11, 2015 with respect to the requirement of regular updates in letter format to the City Engineer, Department of Public Works, Building Commissioner and the City Council as set forth in Condition 16 of the special permit.

s/Alderman Mercer-Bruen

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

ORDERED That the City Council send a communication to the next meeting of the Traffic Commission requesting the approval and installation of no parking signs at 100 Washington Street, formerly St Joseph's Church, pursuant to Condition 16 of a special permit on May 28, 2015 and as outlined in the special permit conditions, namely no parking between the hours of Monday through Friday 7:00 a.m. to 9:00 a.m. and between the hours of

3:00 p.m. and 7:00 p.m. Further, that a copy of the special permit be attached to the communication.

s/Alderman Mercer-Bruen

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

ORDERED Whereas, a majority of the voters in the City of Woburn voted against the ballot initiative on the 2016 state election ballot to legalize the recreational use of marijuana, known as Question 4, entitled “Legalization, Regulation, and Taxation of Marijuana”; and

Whereas, the General Court adopted Chapter 55 of the Acts of 2017 amending Massachusetts General Laws Chapter 94G, Section 3(a) effective July 28, 2017; and

Whereas, such amendment permits the city of Woburn to prohibit the operation of one or more types of marijuana establishments in the city by adoption of an ordinance; and

Whereas, the city of Woburn adopted an ordinance amending Title 5, Article XVIII, of the 1989 Woburn Municipal Code, as amended, by adding a new Section 5-89 thereby prohibiting the operation of one or more types of marijuana establishments in the city;

Now, Therefore, Be it Ordained by the City Council of the City of Woburn that the vote of the City Council approved by the Mayor effective May 4, 2017 placing a question on the November 7, 2017 municipal election ballot relative to recreational marijuana be and is hereby rescinded.

s/Alderman Campbell and Alderman Tedesco

Alderman Tedesco stated that this Order will remove the ballot question from the November 7, 2017 Municipal Election ballot, and that the question is whether to remove the matter from the ballot or not. President Haggerty stated that he supports removing the matter from the ballot, and that the voters have already been heard on the issue.

Alderman Concannon stated that already spoke on this issue, and that he supports the order. Motion made and 2nd that the ORDER be ADOPTED, all in favor, 9-0.

Presented to the Mayor: September 21, 2017 s/Scott D. Galvin Sept. 21, 2017

President Haggerty recognized Howard R. “Sonny” Johnson on his 90th birthday and wished him well on behalf of the City Council.

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

A TRUE RECORD ATTEST:

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