

**CITY OF WOBURN
FEBRUARY 20, 2007 - 7:30 P.M.
REGULAR MEETING OF THE CITY COUNCIL**

Roll Call

Ciriello	Gately
Denaro	Galvin
Drapeau	Gonsalves
Dwyer	Mercer-Bruen
Doherty	

Motion made and 2nd that Joyce M. Gray be named Clerk of City Council Pro-Tem in the absence of the Clerk of City Council, all in favor, 9-0.

I do solemnly swear that I will bear true faith and allegiance to the Commonwealth of Massachusetts and will support the constitution thereof as Clerk of City Council Pro-Tem, so help me God.

I do hereby accept the position of Clerk of City Council Pro-Tem, to act in this capacity for the purpose of the City Council meeting of February 20, 2007, and do hereby promise to act in accordance with statutes and ordinances to the best of my ability.

Joyce M. Gray

Sworn before me this 20th day of February, 2007.

Charles E. Doherty
President Woburn City Council

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

The City Council observed a moment of silence in memory of Lewis Ferullo who was appointed by the City Council to the Woburn Recreation Commission and who served over fifty consecutive years in the position and in memory of Thomas Jones who was the former Director of the Woburn Recreation Department and both of whom passed away.

MAYOR'S COMMUNICATIONS: None.

PUBLIC HEARINGS:

On the petition by National Development Acquisitions LLC, c/o National Development of New England, 2310 Washington Street, Newton Lower Falls, Massachusetts 02462 to further amend the Zoning Map of the City of Woburn as follows: By amending the present zoning district of a certain parcel of land containing approximately 5.00 acres of land at 112 Commerce Way identified on Woburn Assessors' Map 10, Block 01, Lot 02 from the IP-2 zoning district to the B-I zoning district. PUBLIC HEARING OPENED. A communication dated February 14, 2007 was received from Attorney Joseph R. Tarby III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: Proposed Zoning Map Amendments for 112 Commerce Way, Woburn, MA

Dear Mr. Campbell:

Due to the fact that the feasibility study requested by Alderman Bruen and Ed Tarallo, Planning Director in connection with this Petition will not be available by Tuesday, February 20, 2007, I respectfully request that the public hearing on this matter be further continued to the City Council meeting scheduled for March 6, 2007. If you need any further information, please contact me. Thank you.

Very truly yours, s/Joseph R. Tarby III

IN FAVOR: None. OPPOSED: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON MARCH 6, 2007, all in favor 9-0.

On the petition by Nodraer Realty Corporation, 120 Commerce Way, Woburn, Massachusetts 01801 to further amend the Zoning Map of the City of Woburn as follows: By amending the present zoning district of a certain parcel of land containing approximately 3.42 acres of land at 120 Commerce Way identified on Woburn Assessors' Map 10, Block 01, Lot 03 from the IP-2 zoning district to the B-I zoning district. PUBLIC HEARING OPENED. A communication dated February 14, 2007 was received from Attorney Joseph R. Tarby III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: Proposed Zoning Map Amendments for 120 Commerce Way, Woburn, MA

Dear Mr. Campbell:

Due to the fact that the feasibility study requested by Alderman Bruen and Ed Tarallo, Planning Director in connection with this Petition will not be available by Tuesday, February 20, 2007, I respectfully request that the public hearing on this matter be further

continued to the City Council meeting scheduled for March 6, 2007. If you need any further information, please contact me. Thank you.

Very truly yours, s/Joseph R. Tarby III

IN FAVOR: None. OPPOSED: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON MARCH 6, 2007, all in favor 9-0.

On the petition by Thomas J. Flanagan, 344 Lexington Street, Woburn, Massachusetts 01801 for a special permit pursuant to Section 5.1.11b of the 1985 Woburn Zoning Ordinances, as amended, to allow teaching, training students, adults in basic trade and craft business skills at 238 Lexington Street. A communication dated February 12, 2007 was received from Brett F. Gonsalves, Senior Engineer, as follows:

Subject: 238 Lexington Street – Special Permit
Special Permit Application Dated January 7, 2006
Plan Dated June 2, 2004

This office has reviewed the submitted waiver request for the above referenced project and offers the following comments.

It would appear that the proposed will be used as school or educational facility. The applicant should check with the building department to determine if the structure would need to conform to ADA requirements due to a change in use.

The plot plan shows locations of two parking spaces with an optional third space. The parking configuration should be designed so that there is sufficient space for vehicles entering and exiting not to impede traffic on Lexington Street.

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

A communication dated February 16, 2007 was received from Edmund P. Tarallo, Planning Director as follows:

Re: Thomas J. Flanagan – 238 Lexington St. – To occupy existing building for a private school

Dear Mr. Campbell and Members of the City Council:

At the Planning Board meeting held on February 13, 2007, the Board voted to forward a favorable recommendation to the City Council on the Special Permit request to occupy an existing non-conforming building for a private school at 238 Lexington Street with the following conditions:

1. That the petitioner shall provide a revised parking plan such that no space will have to back onto Lexington Street and all spaces shall be in compliance with the Woburn Zoning Ordinance.
2. That the number of students shall be limited to no more than 5 at any one time.

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

Sincerely, s/Edmund P. Tarallo, Planning Director

Appearing was the petitioner Thomas J. Flanagan and he stated that he wanted to open a school, that it is a good location and close to his home, and that he has the new parking plan that was requested. Mr. Flanagan offered a copy of the parking plan to the City Council for review. Motion made and 2nd to accept the new parking plan and make part of the record, all in favor, 9-0. Teresa Bottoni, 59 Crawford Street, Arlington, Massachusetts, owners of the property at 238 Lexington Street stated that if it has to be made handicapped accessible she could put in a ramp, that there is a back entrance that could be used, that if Mr. Flanagan had a student that is handicapped he could make arrangements to meet at the student's home. Alderman Drapeau stated that he had spoken with Mr. Flanagan and thinks this will be a good fit for the area and that Mr. Flanagan has good credentials. Alderman Gonsalves questioned if the property was handicapped accessible and if not could it be made so and whether one of the parking spaces be widen for a handicapped van without causing backup on Lexington Street. Alderman Gately stated that there is room in the back to park a handicapped van. Alderman Denaro stated that the building department would require the building to be in compliance with the ADA before any permits are issued. IN FAVOR: None. OPPOSED: None. Motion made and 2nd that the public hearing closed, all in favor, 9-0. Motion made and 2nd that the SPECIAL PERMIT be GRANTED as AMENDED, with the amendments as follows: 1. That the recommendations of the City Engineer and Planning Board be made conditions of the special permit, all in favor 9-0.

COMMITTEE REPORTS:

POLICE AND LICENSE:

On the petition by Abdulla H. Nasser dba AACO Travel and Taxi to increase the number of taxi cabs permitted from one (1) to two(2), committee report was received "ought to pass with a limit of two (2) taxi cabs". Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.

Presented to the Mayor: Feb. 22, 2007 s/Thomas L. McLaughlin Feb. 22, 2007

On the petitions for renewal of First Class Motor Vehicles Sales Licenses by Azure Dynamics US Inc., C.N. Wood Company, Inc., and Woodco Machinery, Inc., 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: February 22, 2007

Woodco Machinery, Inc. s/Thomas L. McLaughlin February 22, 2007 -

Azure Dynamics US Inc. and C.N. Wood Company, Inc. s/Thomas L. McLaughlin February 26, 2007

On the petitions for renewal of Second Class Motor Vehicle Sales Licenses by Robert P. Fucarile dba Classic Auto Sales, New Boston Auto Exchange, O’Rourke’s Service Stations, Inc., Tracey M. Batten dba Tracy’s Auto Sales, and Richard Cail dba Winn Street Motor Sales, 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: February 22, 2007

New Boston Auto Exchange, O’Rourke’s Service Station, Inc., Tracey’s Auto Sales and Winn Street Motor Sales s/Thomas L. McLaughlin February 23, 2007 –

Classic Auto Sales s/Thomas L. McLaughlin February 26, 2007

FINANCE:

On the Order to appropriate the sum of \$1,500,000.00 from Stabilization Fund to Demolition of Old Reeves Elementary School, committee report was received “ought to pass”. Alderman Galvin stated that tearing down the old Reeves School is poor planning for two reasons, that the first reason is that when the Archstone appeal is completed there will be 200 more students, that the Hurld School and Clapp School cannot accommodate that many new students, that the building did need some work, that in committee it was stated that the building needed a new roof and heating system but no quotes were obtained for the work, that the building cannot be in that bad of shape when it was used three years ago during the construction of the White School, that the second reason is that the city has three more schools that have to be rebuilt, that the students will have to move somewhere during construction, that this is not the right time to take down the building, and that there is a larger responsibility to the whole city. Alderman Drapeau stated that he does not think that there will be 200 new students from the Archstone development and if needed the city can always add on to the new Reeves School. Alderman Ciriello stated that there is too much speculation about what schools will be rebuilt, that in the meantime the city will have to maintain the old Reeves School, and that the School Committee provided zero funding for the building this year. Alderman Gately stated that problems with the old Reeves School is not just the roof and heating system but also asbestos abatement, electrical systems, doors and windows, that the city would have to staff the property and provide heat to the building, that the building is not worth the price of these repairs, and that the new Reeves School was built with the understanding that the understanding that the old building would be torn down. Alderman Galvin stated that the city will have a better idea in July 2007 as to whether it will be in a position to build new

schools. Alderman Drapeau stated that the School Committee voted to turn the old Reeves School over to the city, that it is no longer of any use to the School Committee and that it will be up to the School Committee to place all of the students if the Archstone appeal is approved. Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 8-1 (Galvin opposed).

Presented to the Mayor: Feb. 22, 2007 s/Thomas L. McLaughlin Feb. 23, 2007

CITIZEN'S PARTICIPATION:

Petition by Christopher Bortlik, 59 Harold Avenue, Woburn to address the City Council under Citizen's Participation Time relative to sound barriers along Toure 128 and Route 93 in Woburn. Motion made and 2nd that the MATTER be REFERRED TO THE REGULAR MEETING OF THE CITY COUNCIL ON MARCH 6, 2007, all in favor, 9-0.

NEW PETITIONS:

Petition by Edmund F. Wall, 4 Waite Avenue, Burlington, Massachusetts 01803 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Section 5.5.56 Note 15 to construct a single family home with garage within, approximately 420 square feet of garage area at 7 Sherman Place Court . Motion made and 2nd that the MATTER be REFERRED TO PUBLIC HEARING, all in favor, 9-0.

COMMUNICATIONS AND REPORTS:

A communication dated February 13, 2007 with attachments was received from Steven M. Paris, Building Commissioner as follows:

Re: Passenger Transportation Terminal

I have reviewed the City of Woburn's Zoning Ordinance (WZ) in particular, the definition for "Passenger Transportation Terminal" and based on its wording, could advise the Council that it somewhat reflects the proposed use of the property at Bucci Way and Holton Street. But, I must also mention that back in July of 2003 the former City Solicitor, Thomas Lawton supplied a memo (see attached) to Ed Tarallo that gave his opinions on the commercial parking lot that was being proposed at Holton Street. That said, maybe what the Council could consider is to ask the City's legal staff to opinion on the definition of a "Passenger Transportation Terminal", the memo of Thomas Lawton and the proposed at Bucci Way and Holton Street.

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

A communication dated February 8, 2007 was received from Gerald LeBlanc, Chairperson, Architectural Access Board, One Ashburton Place, Room 1310, Boston, Massachusetts 02108 relative to the necessity of constructing sidewalks that comply with regulations of the Commonwealth. Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE, all in file, 9-0.

A copy of a communication dated January 11, 2007 to Mayor Thomas L. McLaughlin from Shawni Littlehale, Director, Pioneer Institute for Public Policy Research, 85 Devonshire Street, 8th Floor, Boston, Massachusetts 02108 announcing the Better Government Competition. Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE, all in file, 9-0.

UNFINISHED BUSINESS OF PRECEDING MEETING: None.

APPOINTMENTS AND ELECTIONS: None.

MOTIONS, ORDERS AND RESOLUTIONS: None.

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

ORDERED That the sum of \$83,500.00 be and is hereby transferred as so stated from BLS Receipts Acct#31359-595000 \$83,500.00 to Fire Overtime Acct#0122051-513100 \$83,500.00

I hereby approve the above: s/Paul Tortolano, Chief, Fire Department
I have reviewed the above: s/John Danizio, Deputy Auditor
I hereby approve the above. s/Thomas L. McLaughlin, Mayor

s/President Doherty (per request)

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

ORDERED That the sum of \$14,300.00 be and is hereby transferred as so stated from ALS Receipts Acct#31359-595000 \$14,300.00 to Sick Leave Buy Back Acct #0122051-515400 \$14,300.00

I hereby approve the above: s/Paul Tortolano, Chief, Fire Department
I have reviewed the above: s/John Danizio, Deputy Auditor
I hereby approve the above. s/Thomas L. McLaughlin, Mayor

s/President Doherty (per request)

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

ORDERED That the sum of \$75,000.00 be and is hereby transferred as so stated from Ambulance Salaries Acct#0122051-511500 \$75,000.00 to Apparatus Maintenance Acct#0122054-544400 \$20,000.00, Medical Attention Acct#0122054-558103 \$10,000.00, Fuel Oil Acct#0122052-521301 \$4,000.00, Natural Gas Acct#0122052-521300 \$4,000.00, Traffic Signal Maintenance Acct #0122054-544600 \$8,000.00, Electric/Fire Acct#0122052-521100 \$10,000.00, Fire Overtime Acct#0122051-513100 \$19,000.00

I hereby approve the above: s/Paul Tortolano, Chief, Fire Department
I have reviewed the above: s/John Danizio, Deputy Auditor
I hereby approve the above. s/Thomas L. McLaughlin, Mayor

s/President Doherty (per request)

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 1985 Woburn Zoning Ordinances, as amended, be further amended by adding a new Section 11.11 as follows:

PROPOSED AFFORDABLE HOUSING AMENDMENT

11.10 Affordable Housing Requirement

1. Whenever a request under this section for a Special Permit from the City Council seeks approval for the development of Townhouse, Garden, or Elevator apartments as specified under Sections 5.1.3(a) through 3(d), and Section 5.1.4, under the zoning classification for the subject parcel existing, at the time of the request, the City Council shall require as a condition of any such grant of a permit, the provision on site and within the development of affordable housing units equal to ten (10%) percent of the development's total number of dwelling

units. The affordable units to be provided shall be equivalent in size, quality, and characteristics to the other units within the development, including tenure type, i.e., whether the overall development is intended for rental or homeownership. The distribution of unit sizes and determination of occupancy characteristics shall be made by the City Council at the time of granting the special permits.

2. The units required above shall be affordable to persons and households of low and moderate income, in accordance with the guidelines and regulations of the Massachusetts Local Initiative Program (LIP), administered by the Massachusetts Department of Housing and Community Development (DHCD), or a successor program, as they may be promulgated from time to time. The Applicant shall be responsible for preparing a Massachusetts Local Initiative Program, Units Only Application, under the direction of the Mayor or his designee, for execution and submission by the City of Woburn, and to complete all other work and fulfill all other requirements related thereto, to ensure that the units will be considered subsidized low and moderate income units as defined by MGL Ch.40B, Section 20.
3. The Applicant may, with the approval of and at the sole discretion of the City Council, as a condition of any such grant of a special permit, meet the affordable housing requirements by the provision of off-site units within the same ward at a location or locations owned by, or under option to purchase by the petitioner and identified prior to the granting of and included as a condition of the special permit. Said affordable housing shall be equal to 10% of the requested development's total number of dwelling units, and shall meet the requirements of Paragraph 2, above.
4. The Applicant may, under certain circumstances, and with the approval of and at the sole discretion of the City Council, as a condition of any such grant of a special permit, may substitute a cash payment for the provision of some or all of the low and moderate income housing units required under Section 1, above. Circumstances under which a cash payment may be made include, but are not limited to: 1) the lack of shopping, schools, or other facilities near the proposed location, 2) the lack of access to public transportation, or 3) any other condition which at the sole determination of the City Council renders the site inadequate as a site for affordable housing for the benefit of Woburn residents. Such payment shall be equivalent to the present value of the difference between the affordable rent or price as required under Section 2, above, and the projected market rent or price of the units as of the date the application is submitted. The Applicant shall propose an appropriate method for determining the amount of such payment, which shall be approved by the City Council

at its sole discretion. Such payments shall be placed in the Affordable Housing Fund, as specified in Paragraph 5, below.

5. An Affordable Housing Fund shall be established in the City Treasury to receive all payments made under this Section, and shall be kept separate and apart from other monies by the City Treasurer. Any moneys in said fund shall be expended only at the discretion of the City Council, with the approval of the Mayor, to support the creation of low and moderate income housing units which meet the requirements of Section 2, above. All moneys which are collected as a result of any contribution to this fund shall be transferred to the principal of said fund, and the City Treasurer shall be the custodian of the fund and shall deposit the proceeds in a bank or invest the same in such securities as are legal for the investment of funds of savings banks under the laws of the Commonwealth of Massachusetts, or in federal savings and loan associates situated in the Commonwealth. Any interest earned thereon shall be credited to and become a part of such fund. Any moneys in the fund shall be expended only by a majority vote of the entire membership of the City Council, with the approval of the Mayor. The cost of acquiring land or property for future affordable housing development by the City of Woburn or one of its public authorities is an allowed expenditure of funds held in the Affordable Housing Fund.
6. In the event that the requirements of this section impose a severe economic hardship on the Applicant, the City Council, may, at its sole discretion, modify the requirements of this Section. Such hardship must be caused by unusual site conditions which substantially increase the cost of development, including: 1) the need to remediate conditions of environmental contamination, 2) the need to preserve an existing structure of significant historic value, 3) the need to preserve a critical area of open space, or 4) a similar site condition which the City Council determines at its sole discretion substantially increases the cost of development. Such modification shall be limited to a reduction in the number of affordable housing units to be provided under this Section, or acceptance of a cash payment less than the full amount specified in Paragraph 4, above, to be placed in the Affordable Housing Fund.
7. In determining the number of units to be provided in accordance with Paragraph 1, above, a fractional unit of .5 or more shall be regarded as a whole unit. When less than a .5 unit is required, the Application may, at the sole discretion of the City Council, satisfy the requirements of this Section by making a cash payment, as specified in Section 4, above.

s/Alderman Gonsalves

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

RESOLVED Whereas, the City of Woburn needs to ensure that sidewalks are safe for children to walk to school after a snow storm, be it resolved that the Woburn Police Department, working with the Department of Public Works and the School Department, enforce Title 12, Section 12-39B of the 1989 Woburn Municipal Code, as amended.

s/Alderman Gonsalves

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

Presented to the Mayor: Feb. 22, 2007 s/Thomas L. McLaughlin Feb. 22, 2007

RESOLVED That a communication be forwarded to the Law Department requesting a written opinion as to whether 1. The plan of improvements for the property located at Bucci Way and Holton Street currently being reviewed by the Planning Board under site plan review requirements provides as shelter for passengers and advise the City Council and the Planning Board whether the use is a passenger transportation terminal requiring a special permit from the City Council and 2. Advise the City Council and the Planning Board as to whether a license is required to operate a commercial parking lot per Title XVII 5-87-88 of the Woburn Municipal Code.

s/Alderman Gonsalves and
Alderman Mercer-Bruen

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

Presented to the Mayor: Feb. 22, 2007 s/Thomas L. McLaughlin Feb. 22, 2007

Motion made and 2nd to ADJOURN, all in favor, 9-0. Meeting adjourned at 8:10 p.m.

A TRUE RECORD ATTEST:

Joyce M. Gray
Assistant City Clerk and
Clerk of the City Council, Pro Tem