

**CITY OF WOBURN
JANUARY 21, 2014 - 7:00 P.M.
REGULAR MEETING OF THE CITY COUNCIL**

Roll Call

Anderson	Gaffney
Concannon	Gately
DiTucci	Mercer-Bruen
Drapeau	Raymond
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 hear from the School Department regarding the Order for capital projects, all in favor, 9-0. Appearing was Superintendent of Schools Mark Donovan and Director of Facilities David Dunkley. Director Dunkley stated that there is a proposal to make improvements to the exterior entrances including adding card swipes at playground doors and adding intercoms outside at some schools, that in some schools the secretary can see people outside the door but cannot hear them, that some parking lots will be repaved, that there was a bid to pave parking lots last summer but the bid fell through, and that the Linscott School playground and parking lot would be targeted. Alderman Drapeau stated that if funds are not expended in a fiscal year in which they are appropriated the funds were supposed to revert to the General Fund, and that the City Auditor report indicates that funds appropriated on June 19, 2012 are available but the original vote did not authorize the funds to be available after the fiscal year. Superintendent Donovan stated that at times funds are approved for a project but the actual work cannot be completed until summer months which is a new fiscal year. Director Dunkley stated that furniture from the Clapp School was distributed to other schools however there is always a need for additional new furniture, that some of the school telephone systems are antiquated, and that the department intends to enhance 911 service to the schools so that the exact location within the school building from where a 911 call originates can be identified. Superintendent Donovan stated that the department wants to improve wi-fi service in the schools, and that the MCAS is going to be changed in a manner which will required online access. Director Dunkley stated that there will be repairs at the Altavesta School and an additional \$30,000.00 in funding is requested, that the department wants to obtain storage sheds to move snowblowers and lawnmowers out of the schools and into proper storage areas, that the BMS software is to be upgraded at the Reeves School, that the Reeves School BMS system which controls the heating system is fourteen years old but the software is no longer supported, and that a domestic hot water heater is needed at the Kennedy Middle School for the spring and fall months rather than turn on the large boilers which is not efficient. Alderman Anderson stated that

the June 19, 2012 appropriation was to be expended or encumbered by June 30, 2013, and that to the extent that the School Department is relying on the availability of those funds then the department will have to come to the City Council for an additional appropriation. Director Dunkley stated that only the Reeves School hearing system would be upgraded, that Johnson Controls no longer supports the Reeves School heating system software, and at the other schools the heating system software is supported by Honeywell. Alderman Drapeau stated that it is better to have system uniformity so that city employees working on the system develop expertise on that system rather than having a number of different systems. Alderman Mercer-Bruen stated that the school buildings must be maintained, that the time line should be pushed forward for the projects, and that the sidewalks at the Kennedy Middle School need to be repaired. Director Dunkley stated that the sidewalks at the Kennedy Middle School are on the School Department capital plan, and that the school buildings are very secure but the department wants to make the exteriors of the buildings more secure. Motion made and 2nd to return to the regular order of business, all in favor, 9-0.

MAYOR'S COMMUNICATIONS:

ORDERED That the sum of \$22,000.00 be and is hereby transferred from the Cemetery Interest Fund to the following accounts: \$2,000.00 to Building Maintenance #0149054-543000, \$15,000.00 to New Equipment #0149058-586600. \$5,000.00 to Over-Time #0149051-513100

I hereby approve the above: William E. Kerns, Chairperson
I hereby recommend the above: s/Scott D. Galvin, Mayor
I have reviewed the above: s/Gerald W. Surette, City Auditor

s/President Haggerty

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

ORDERED That the amount of \$30,374.19 be and is hereby appropriated from Unreserved Fund Balance Acct #01-356000 \$30,374.19 to Planning/Sick Leave Buy Back Acct #0117251-515400 \$30,374.19 – Purpose: Retiring Planning Director

I hereby recommend the above: s/Scott D. Galvin, Mayor
I have reviewed the above: s/Gerald W. Surette, City Auditor

s/President Haggerty

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

PUBLIC HEARINGS:

Motion made and 2nd that the public hearing be held on the following two matters collectively, 8 in favor, 0 opposed, 1 abstained (Concannon abstained).

On the petition by Lytron Realty Corp. and Lytron Incorporated to amend the Woburn Zoning Map for the parcels of land known as 73 Dragon Court containing approximately 5.3 acres of land; 41 Dragon Court containing approximately .52 acres of land; 39 Dragon Court containing approximately 1.31 acres of land; Dragon Court, Lot 1 containing approximately .28 acres of land and Dragon Court, Lot 2 containing approximately .28 acres of land, as shown on Assessors Map 16 Block 02 Lot 02, Map 16 Block 02 Lot 04, Map 16 Block 02 Lot 05, Map 16 Block 02 Lot 06 and Map 16 Block 02 Lot 07 from the R-2/I-P zoning district to the I-P zoning district. PUBLIC HEARING OPENED. A communication dated January 9, 2014 was received from Attorney Joseph R. Tarby, III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: (1) Lytron realty Corp./Lytron Incorporated Petition to Amend Zoning Map and (2) Lytron Incorporated Petition to Amend Zoning Ordinance

Dear Mr. Campbell:

I respectfully request that the City Council public hearings on the above matters presently scheduled for January 21, 2014 be continued to the City Council meeting on February 4, 2104. If you need any further information, please contact me. Thank you.

Very truly yours, s/Joseph R. Tarby, III

Motion made and 2nd that the communication be accepted, 8 in favor, 0 opposed, 1 abstained (Concannon abstained). IN FAVOR: None. OPPOSED: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON FEBRUARY 4, 2014 AND THAT THE MATTER BE REFERRED TO COMMITTEE ON ORDINANCES, all in favor, 9-0.

On the petition by Lytron Incorporated to amend the 1985 Woburn Zoning Ordinances, as amended, as follows:

Be it Ordained by the City Council of the City of Woburn that the 1985 Woburn Zoning Ordinances, as amended, be further amended by revising the following:

- Section 5.1, line 72, Table of Use Regulations shall be amended by replacing the “_” with “P” in the R-2 Zoning District and inserting: Note 26 under the heading: “Notes; Other Sections”
- Amend Section 5 Notes to 5.1 Table of Use Regulations by adding the following note:

26. Accessory parking facilities in an R-2 Zoning District for use in an IP Zoning District shall be subject to the following conditions:

- a) No portion of the parking facility may be located within 100 feet of an immediate abutting property used for residential purposes;
 - b) Except for the following, the Buffer Requirements set forth in Section 5.7 are not applicable:
 - i. The buffer zone may be used to calculate the Minimum Useable Open Space percentages required in Section 6.1;
 - ii. The buffer zone may be used for driveways, useable open space, walkways and landscaped areas; and
 - iii. The perimeter of the parking facility shall contain a screen of evergreen plantings at least ten (10) feet from the edge of a road except for entrances and exits and any portion of the parking facility abutting a highway. Such evergreen plantings shall not be less than three (3) feet in width and six (6) feet in height at the time of occupancy of the parking facility and shall thereafter be maintained by the owner so as to maintain a dense screen year round. Other alternative screening devices may be permitted by Special Permit where topography, soils or other conditions make the planting or maintenance of such a hedge impractical.
 - c) The parking facility shall comply with the requirements of Section 8.4, 8.5 and 8.6; and
 - d) The City Council shall also impose such additional conditions of those specified in this Ordinance as it finds reasonably appropriate to safeguard the neighborhood or otherwise serve the purposes of this Ordinance, including but not limited to the following: Screening, buffers, or planting strip, fences, or walls, as specified by the Council; modification of the exterior appearance of the structure; method and time of operation, or extent of facilities; regulation of number and location of drives, accessways, or other traffic features, and off-street parking or loading, or other special features beyond the minimum required in the Ordinance.
- Section 8.3 shall be amended by adding a new paragraph as follows:

3. Within any R2 district, the City Council by Special Permit pursuant to the requirements of Section may allow accessory parking facilities for a use in the IP Zoning District on a lot separate from the use to be served provided such facilities immediately abut the use to be served in the IP Zoning District and are owned by the user of the parking facilities.

A communication dated January 9, 2014 was received from Attorney Joseph R. Tarby, III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: (1) Lytron realty Corp./Lytron Incorporated Petition to Amend Zoning Map and (2) Lytron Incorporated Petition to Amend Zoning Ordinance

Dear Mr. Campbell:

I respectfully request that the City Council public hearings on the above matters presently scheduled for January 21, 2014 be continued to the City Council meeting on February 4, 2104. If you need any further information, please contact me. Thank you.

Very truly yours, s/Joseph R. Tarby, III

Motion made and 2nd that the communication be accepted, 8 in favor, 0 opposed, 1 abstained (Concannon abstained). IN FAVOR: None. OPPOSED: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON FEBRUARY 4, 2014 AND THAT THE MATTER BE REFERRED TO COMMITTEE ON ORDINANCES, all in favor, 9-0.

On the petition by Linear Retail Woburn #1 LLC, 5 Burlington Woods Drive, Burlington, Massachusetts 01803 for special permits pursuant to 1985 Woburn Zoning Ordinances, as amended, Sections 5.1.29, 5.1.63A, 7.3, 8.2.5 and 12 to allow for the alteration of an existing non-conforming structure to allow for: 1. Approximately 9,250 square feet of existing space presently occupied by one retail tenant to be divided into three (3) tenant spaces: Tenant A containing approximately 2,600 square feet more or less of gross floor area; Tenant B space containing approximately 2,500 square feet more or less of gross floor area; and Tenant C space containing approximately 4,150 square feet more or less of gross floor area; 2. A fast food restaurant in the Tenant A space with an outdoor seasonal seating area; 3. A drive thru for Tenant B space (bank); 4. A reduction in the required parking space from 171 parking spaces to 148 parking spaces; 5. Alteration of nonconforming signage; and 6. That Condition 1 to the Landowner's Decision and Notice of Special Permit dated February 20, 2011 be amended by deleting the reference to the Plan of Record and replace with the plan entitled "Site Plans for 299 Mishawum Road, Woburn, MA 01801" dated November 30, 2013 prepared for Linear Retail Woburn #1 LLC, Five Burlington Woods Drive, Burlington, MA 01803 by Allen & Major Associates, Inc., all at 299 Mishawum Road. PUBLIC HEARING OPENED. A

communication dated January 8, 2014 was received from Attorney Joseph R. Tarby, III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows

Re: Special Permit Petition of Linear Retail Woburn #1 LLC – 299 Mishawum Road, Woburn, Massachusetts

Dear Mr. Campbell:

As you know I represent Linear Retail Woburn #1 LLC on the above-referenced matter. Due to the unavailability of our traffic consultant to attend the Planning Board meeting on January 7, 2014, we continued the Planning Board's review of the Special Permit Petition to its next meeting on January 28, 2014. As a result, I respectfully request that the City Council Public Hearing on this matter presently scheduled for January 21, 2014 be continued to the City Council meeting on February 4, 2014. If you need any further information, please contact me. Thank you.

Very truly yours, s/Joseph R. Tarby, III

Motion made and 2nd to receive the communication and make it part of the record, all in favor, 9-0. IN FAVOR: None. OPPOSED: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON FEBRUARY 18, 2014 AND THAT THE MATTER BE REFERRED TO THE COMMITTEE ON SPECIAL PERMITS, all in favor 9-0.

On the petition by National Grid for a grant of right in a way to install approximately 85 feet of 2 inch plastic main to supply house number 3 Hobson Avenue. PUBLIC HEARING OPENED. A report was received from Superintendent of Public Works John Duran as follows: "I have requested the information stated below from National Grid. I have not received the requested plan update. I recommend that this hearing be continued until the next meeting or until I have obtained the proper information so that I can eliminate the possibility of disturbance to the utilities and the proper restoration to the roadway after the gas main extension." Motion made and 2nd that the communication be received and made part of the record, all in favor, 9-0. Appearing for National Grid was William Trodden and he stated that the service will be extended about 90 feet down Hobson Avenue from Olympia Avenue and will be two to three feet below the surface, that a two inch gas main will be installed, that the petitioner will grind and inlay a patch, that he can review additional plans with the Superintendent of Public Works, that the petitioner will provide gas heat service to the residence, and that the main is stubbed in off of Olympia Avenue to Hobson Avenue. Alderman Mercer-Bruen stated that the Superintendent of Public Works indicated that there was no impact on residents and that he has concerns with the plan, and that she suggests that the matter be continued to allow new plans to be prepared. Alderman Gately stated that a detailed plan of the proposal must be provided to the Superintendent of Public Works for review. IN FAVOR: None. OPPOSED: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON FEBRUARY 4, 2014

AND THAT THE MATTER BE REFERRED TO THE COMMITTEE ON INFRASTRUCTURE AND PUBLIC LANDS, all in favor 9-0.

On the petition by Alderman Drapeau concerning the structure or structures located in the City of Woburn, County of Middlesex, Commonwealth of Massachusetts known and numbered as 4 Pheasant Lane, 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. A communication dated January 21, 2014 was received from Attorney Thomas Lawton, Lawton and Lawton, 4 Bennett Street, Woburn, Massachusetts 01801 as follows:

Re: James Calvey, 4 Pheasant Lane, Woburn, MA 01801, Nuisance

Dear Mr. Clerk:

Kindly continue the above referenced matter for a period of thirty (30) days or at the convenience of the City Council. The owner Mr. Calvey awaits receipt of a "Digsafe" permit number at which time he intends to raze the structure. In light of these facts I believe the issue of "nuisance" will be rendered moot.

Should you have any questions or concerns please do not hesitate to contact this office. I remain

Very truly yours, s/Thomas W. Lawton

A communication dated January 17, 2014 was received from Superintendent of Public Works John Duran as follows:

Subject: 4 Pheasant Lane

The following comments are pursuant to the Nuisance Hearing for 4 Pheasant Lane and what I perceive to be false testimony and assertions made to the City Council on December 17, 2013. I offer the following. The applicant submitted a building permit application with a plan dated November 8, 2012 on November 10, 2012 for a demolition permit. I signed that permit on November 12, 2012. The permit was issued, with appropriate notes for cutting and capping of utilities, which is all that is required by DPW on this matter. Assertions that this process took any longer are simply inaccurate.

The applicant has also submitted an application for a new home with plans of varying house sizes and locations which do not comply with the DPW plan requirements which have been published since January 1, 2012. The applicant and his counsel have been

advised on numerous (10-12 occasions) both verbally and with a redline markup, what needed to be done for permit approval. The applicant has refused to do so.

Under my directions, these plan requirements have been implemented to protect the interest of the City of Woburn. They are specifically aimed to provide clear direction and specifications to avoid water loss and/or contamination to the water supply and undo costs associated with infiltration and inflow into the municipal sewer system. The plans must also depict proper proposed curb cuts for compliance to the zoning code. This is the only zoning related matter for which the Superintendent of Public Works has jurisdiction over. All other matters are strictly the responsibility of the Building Commissioner. Mr. Calvey's assertion otherwise is simply not true.

In addition, the City of Woburn is mandated by an Order of Conditions from DEP to have a Storm Water Management Plan in place for compliance. The DPW's implementation of the storm water mitigation in the building permit process is one measure of achieving compliance. In addition, this measure provides aquifer recharge, mitigates the possibility of flooding to adjacent and down gradient properties and protects against surcharging of the municipal drainage system from additional runoff generated in post-development conditions. Mr. Calvey's statement regarding costs for infiltration systems are grossly exaggerated by over 300 percent. I hope that this clearly describes my position on this matter. Please feel free to contact me directly if you have further questions.

Motion made and 2nd to accept the communication and make it part of the record, 8 in favor, 0 opposed, 1 abstained (Concannon abstained). Alderman Drapeau stated that he does not want another public hearing on this matter, that he wants to ask that demolition of the building be completed within thirty days to allow the property owner time to obtain any necessary permits, that the property owner has had a demolition permit for the property for some time, that the building is a hazard to the area and he wants to eliminate the hazard and nuisance to the neighborhood, that if the intention of the property owner is to tear down the building there has been no communication with the city in this regard since the last public hearing, that the reference to awaiting receipt of a Digsafe permit appears to be a ruse, and that the City Council should move forward with ordering the demolition of the building within thirty days. Alderman Gately stated that the property owner has an active demolition permit for the building, that Digsafe can mark the property within 72 hours, and that the City Council should move forward with ordering the demolition. Alderman DiTucci stated that the Order should include a requirement that the debris from demolition be removed and not left on site. Alderman Anderson stated that the best method of monitoring the situation is to continue the public hearing, that if no action is taken by the property owner within thirty days then an Order can enter with specific findings to order the nuisance, and that the City Council can monitor at that time to ensure the work is completed properly. IN FAVOR: None. OPPOSED: None. Motion made and 2nd that the public hearing be closed, 8 in favor, 0 opposed, 1 abstained (Concannon abstained). PUBLIC HEARING CLOSED. Motion made and 2nd that the building located at 4 Pheasant Lane, Woburn, Middlesex County, Massachusetts ("the Building") be declared 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, that the Building be demolished by the property owner within thirty (30) days of the date of this Order, that all debris resulting from the demolition of the Building be removed in its entirety from the property, that after demolition of the Building the condition of the parcel of land be brought into compliance with local and state regulations, that all openings in the parcel of land caused as a result of the demolition of the Building be filled and leveled, that all utilities to the parcel of land be shut off, and that the parcel of land be made safe, 8 in favor, 0 opposed, 1 abstained (Concannon abstained).

Presented to the Mayor January 23, 2014 and ten days having elapsed without same being approved, said Order became effective without his signature on February 4, 2014.

On the petition by Kohl's Illinois, Inc., N56 W17000 Ridgewood Dr., Menomonee Falls, Wisconsin 53051 for a special permit pursuant to Section 7.3 of the 1985 Woburn Zoning Ordinances, as amended to allow remodeling to building exterior, including adding less than 110 square feet of uninhabited area to the store entrance for cosmetic reasons, adding EIFS to enhance the existing façade, and minor maintenance where needed around the building at 425 Washington Street. PUBLIC HEARING OPENED. A report was received from the Committee on Special Permits as follows: "Ought to pass with the following conditions: 1. That the site plan shall be in accordance with the plan titled "Proposed Site Plan" for Permit 11/27/13 – Exterior, Sheet SP dated 11/01/2013; 2. That all conditions of the original Special Permit granted August 2, 2012 for this locus shall remain in full force and effect unless modified by this Special Permit; 3. That this permit will not serve as approval of any new or modified signs requiring a separate permit from the Building Commissioner; and 4. That a chain and lockbox be installed and signage to prevent trucks from parking overnight in the area behind the building. Said chain and lockbox shall be in effect for the hours of 10:00 p.m. to 6:00 a.m." Appearing for the petitioner was Adam Stein, Manager of Architecture for Kohl's and he stated that he had nothing further to add and that the petitioner agrees to the four proposed conditions. IN FAVOR: None. OPPOSED: None. Motion made and 2nd that the public hearing be closed, 8 in favor, 0 opposed, 1 abstained (Mercer-Bruen abstained). PUBLIC HEARING CLOSED. Motion made and 2nd that the SPECIAL PERMIT be GRANTED, AS AMENDED with the four recommendations of the Committee on Special Permits adopted as conditions of the special permit, 8 in favor, 0 opposed, 1 abstained (Mercer-Bruen abstained).

On the petition by Rosematwo, LLC, 10 Dorrance Street, Boston, Massachusetts 01219 for a special permit pursuant to Sections 8.7.2.10, 5.1.42, 8, 6.1 Note 8, and 12 of the 1985 Woburn Zoning Ordinances, as amended, to allow for the construction of a 10,000 square foot building addition to an existing warehouse facility, including loading docks and parking at 7 State Street. PUBLIC HEARING OPENED. A communication dated January 8, 2014 was received from Erin E. Wortman, City Planner/Grant Writer, Woburn Planning Board as follows:

Re: Rosematwo, LLC – 7 State Street – To allow for a 10,000 square foot building addition and loading docks to the existing warehouse facility pursuant to Sections 8.7.2.10, Section 5.1 Line 42, Section 8 and Section 6.1 Footnote 8.

Dear Mr. Campbell and members of the City Council:

At the Planning Board meeting held on January 7, 2014, the Planning Board voted to send a favorable recommendation to the City Council on the Special Permit application of Rosematwo LLC, regarding the property at 7 State Street to allow for a 10,000 square foot building addition and loading docks to the existing warehouse facility subject to the following conditions:

1. That the Plan of Record shall be “Rosematwo, LLC, Building Expansion, 7 State Street, Woburn, Massachusetts” Sheets C-1.0, C-2.0, C-3.0, C-4.0 and C-4.1 dated 04/08/2013, revised 10/07/2013 and further revised 11/07/2013, prepared by Level Design Group, 249 South Street, Unit 1, Plainville, MA 02762” except as modified by this decision;
2. That a minimum of 32 parking spaces be required for the facility and complies with Section 8 of the Woburn Zoning Ordinance;
3. That any proposed water services require approval from the Department of Public Works;
4. That the petitioner shall comply with any requirements of the Plumbing Inspector with regards to the oil/water separator prior to occupancy;
5. That the applicant’s engineer verify that drainage runoff as a result of the proposed work will not impact the abutting properties to the satisfaction of the Engineering Department prior to issuance of the building permit;
6. That the petitioner show sizes and location of the existing site utilities and utilities on State Street including inverts and rims as appropriate to the satisfaction of the Engineering Department prior to issuance of the building permit; and
7. That the Engineering Department shall review and approve the mitigation cost submitted by the developer prior to the issuance of a building permit.

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

Sincerely, s/Erin E. Wortman, City Planner/Grant Writer

Appearing for the petitioner was Daniel Campbell PE, Principal, Level Design Group, 249 South Street, Unit 1, Plainville, Massachusetts 02762 and he stated that the petition is a request for a special permit due to the building height, to reduce parking to a minimum of 21 parking spaces and a loading dock amendment, that the proposal will reduce the parking spaces from 32 parking spaces to 21 parking spaces based on the use in the building, that there are eight existing parking spaces on site, that there will be 21 parking spaces eleven of which are temporary striped spaces in a paved area, that 32 parking spaces can be provided on the locus, that there is one employee currently in the building, that there may be six to ten employees at the location at full operation, that if additional

parking is needed or there are operational changes then 32 parking spaces can be provided, that the building will be used as a refrigerated warehouse not meant to be occupied by many employees, that there is no office space, that the addition to the building is large but small for a warehouse, that there is a sewer run from an 8 inch pvc pipe which can go down to .004, that the locus is located at the base of a hill, that the hydrant is located on private property and could be made operable if required by the City Council, that there will be no new water service to the building because there are no new bathrooms, that there is no sprinkler system as there is an interior dry fire suppression system, and that the City Engineer approved the proposal. IN FAVOR: None.

OPPOSED: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON FEBRUARY 4, 2014 AND THAT THE MATTER BE REFERRED TO THE COMMITTEE ON SPECIAL PERMITS, all in favor 9-0.

On the petition by David Donovan, 46 Plain Road, Westford, Massachusetts 01886 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended Section 7.6.2 to allow for the reconstruction of the existing non-conforming use and structure (two family) to provide for the construction of a new two family dwelling at 4 Prospect Street. PUBLIC HEARING OPENED. A communication dated January 8, 2014 was received from Erin E. Wortman, City Planner/Grant Writer, Woburn Planning Board as follows:

Re: David Donovan – 4 Prospect Street – To allow for the reconstruction of the existing non-conforming use and structure (two family) to provide for the construction of a new two family dwelling pursuant to Section 7.6.2

Dear Mr. Campbell and members of the City Council:

At the Planning Board meeting held on January 7, 2014, the Planning Board voted to send a favorable recommendation to the City Council on the Special Permit application of David Donovan, regarding the property at 4 Prospect Street to allow for the reconstruction of the existing non-conforming use and structure to provide for the construction of a new two-family dwelling subject to the following conditions:

1. That the Plan of Record shall be “Proposed Plot Plan, #4-6 Prospect Street, Woburn, Massachusetts, Map #51, Block #20, Lot #13”, dated November 19, 2013 and prepared by Land Engineering & Environmental Services, Inc., 130 Middlesex Road, Tyngsboro, Massachusetts, 01879; and
2. That the kennel shown on the site plan be used for personal use only; and
3. That all parking shall be in compliance with Section 8.4

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

Sincerely, s/Erin E. Wortman, City Planner/Grant Writer

Appearing for the petitioner was Attorney Joseph R. Tarby, III, Esquire, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 and he stated that the property is located in the B-D zoning district, that there is no lot size requirement and the locus is 6,000 square feet in area, that 50 feet of frontage is required and the locus has 75 feet of frontage, that no side setback is required and the locus has side setbacks of 15.3 feet and 15.4 feet, that no rear setback is required and the locus has a 14 foot rear setback, that no front setback is required and the locus has a 22 foot setback, that the petitioner proposes to construct a new two-family structure, that the previous two-family residence that was located on the locus was destroyed by fire on July 2, 2012, that the former structure was three stories, that after a fire investigation it was determined that the structure was compromised and not safe and was therefore demolished, that the two-family use was no allowed in the B-D zoning district and therefore both the former structure and the former use were nonconforming, that the petitioner proposes a new 2½ story structure, that there will be a kitchen, dining room, living room and half-bathroom on the first floor, two bedrooms and a bathroom on the second floor and a third bedroom on the third floor, each unit will have separate entrances, that there are other multi-family homes on the street, that the use will not be substantially more detrimental than the former use of the lot, that the use will not cause traffic congestion, that the water and sewer service is sufficient for the proposed use, that the former kennel will not be on the site, and that there will be four parking spaces with two parking spaces for each unit as required under the zoning ordinances. The petitioner David Donovan stated that there will be no kennel on the property, that he will install a white vinyl fence around the locys, that if it is determined that he owns the chainlink fence he will remove the chainlink fence, and that there are three bedrooms for each unit. Alderman Gately stated that this is a great building for that area, that there are multi-family uses in the area, that the project will clean the area, that the kennel cannot be allowed to remain on the premises, that the street will have to be repaired as the street was recently repaved and cannot be left with five trenches, that there is ample parking on the locus, that the porch and deck are good additions to the property, and that he supports approval of the petition. Alderman Anderson stated that the building will be an improvement for the area. IN FAVOR: None. OPPOSED: 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 three Planning Board recommendations, as further amended herein, be adopted as conditions of the special permit, 2. That Planning Board recommendation number 2 be amended to read: "2. That no kennel shall be allowed on the locus.", and 3. That Condition 4 shall be added as follows: "4. The petitioner shall repave Prospect Street from curb to curb for a distance of eighty (80) feet from the northerly property line to the southerly property line as determined by the Superintendent of Public Works.", all in favor, 9-0.

On the petition by Brian Carpentier d/b/a Koffee Kup Bakery, 436 Riverside Avenue, Burlington, Vermont 05401 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Section 5.1.57b to allow for overnight parking of commercial motor vehicles at 10 Micro Drive. PUBLIC HEARING OPENED. A communication

dated January 8, 2014 was received from Erin E. Wortman, City Planner/Grant Writer, Woburn Planning Board as follows:

Re: Brian Carpentier dba Koffee Kup Bakery – 10 Micro Drive – To allow for overnight parking of commercial motor vehicles pursuant to Section 5.1(57b)

Dear Mr. Campbell and members of the City Council:

At the Planning Board meeting held on January 7, 2014, the Planning Board voted to send a favorable recommendation to the City Council on the Special Permit application of Brian Carpentier dba Koffee Kup Bakery, regarding the property at 10 Micro Drive to allow for overnight parking of commercial motor vehicles subject to the following conditions:

1. That the commercial motor vehicles be limited to the 22 spaces marked on the Allen and Major plan dated 02/01/2012 and further stamped received as part of this submission on 11/21/2013 provided that there is sufficient parking spaces under the Woburn Zoning Ordinance to comply with Section 8 of the Ordinance for the use of the building; and
2. That said vehicles shall be registered within the City of Woburn.

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

Sincerely, s/Erin E. Wortman, City Planner/Grant Writer

Appearing for the petitioner was Attorney Joseph R. Tarby, III, Esquire, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 and he stated that the property is located in the I-G zoning district, that a special permit is required for the use, that the property is 7.7 acres in area, that the petitioner will locate in the 89,890 square foot multi-tenanted building on the locus, that there are 263 parking spaces on the locus and 258 parking spaces are required, that the petitioner will park twenty box trucks on the locus, that the petitioner company was founded in 1940 in Vermont, that the petitioner provides a full line of baked goods including breads and rolls, that the petitioner will operate a small distribution center in 4,000 square feet of the building, that the petitioner currently operates on Mishawum Road and need additional room, that the petitioner has no objection to Planning Board recommendation number 1 however the petitioner does object to Planning Board recommendation number 2, that all of the petitioner's vehicles are leased and would not be able to be registered in Woburn, that the petitioner will provide evidence that the vehicles are leased, and that the petitioner does not object to a restriction that the special permit not be transferable. The petitioner Brian Carpentier stated that the company currently has fourteen trucks, that the number of vehicles varies by season and the amount of business, that the entry and exit of vehicles from the property depends upon the towns to which deliveries are made, and that the petitioner is closed Wednesday and Sunday but operates all other days including Saturday. Alderman Gately stated that he has no issues with the proposed parking and has received no

complaints, that this is not a big increase in the use of the property, that he has no issue with the proposal, and that he supports approval of the petition at this meeting. Alderman Mercer-Bruen stated that she wants to be certain that the petitioner's vehicles which operate in Woburn and use the city's streets are registered in Woburn if possible. IN FAVOR: None. OPPOSED: 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 Planning Board recommendations, as further amended herein, be adopted as conditions of the special permit, 2. That Planning Board condition number 2 be amended to read as follows: "2. That petitioner shall offer proof that all vehicles are leased and the evidence of the lease agreements shall be made part of the record and if the vehicles are not leased the vehicles shall be registered within the City of Woburn.", 3. That the special permit shall issue to Brian Carpentier dba Koffee Kup Bakery only and shall not be transferable, all in favor, 9-0.

On the petition by Upland Architects, 250 E. Main Street, Norton, Massachusetts 02766 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Section 5.1.57b to allow Comcast utility vehicles to park overnight on a regular schedule at 9 Forbes Road. PUBLIC HEARING OPENED. A communication dated January 8, 2014 was received from Erin E. Wortman, City Planner/Grant Writer, Woburn Planning Board as follows:

Re: Upland Architects – 9 Forbes Road – To allow for Comcast utility vehicles to park overnight pursuant to Section 5.1.57b

Dear Mr. Campbell and members of the City Council:

At the Planning Board meeting held on January 7, 2014, the Planning Board voted to send a favorable recommendation to the City Council on the Special Permit application of Upland Architects, regarding the property at 9 Forbes Road to allow for Comcast utility vehicles to park overnight subject to the following conditions:

1. That the overnight Comcast utility vehicles be limited to fifteen spaces as shown on the Allen and Major plan dated 10/21/2011 and further stamped received as part of this submission on 11/21/2013 provided that there are sufficient parking spaces under the Woburn Zoning Ordinance to comply with Section 8 of the Ordinance for the use of the building; and
2. That said vehicles shall be registered within the City of Woburn.

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

Sincerely, s/Erin E. Wortman, City Planner/Grant Writer

Appearing for the petitioner was Gary Sadler of Upland Architects and he stated that the petitioner wants to park fifteen vehicles on the locus overnight, that this location will be a tech center for Comcast, that employees will be dispatched out from the site to make repairs, that vehicles will be parked on the locus overnight because the vehicles cannot be brought home by the employees, that the number of parking spaces will be limited to fifteen and will be registered in Woburn which is not an issue, that Comcast can provide proof of ownership or leasing of the vehicles, that the parking area is not fenced in, that this is an open parking lot, that the parking lot is secure in that there is lighting but is not fenced in, that Comcast employees work at the site, that the petitioner does not object to a restriction that the special permit not be transferable, that there are some parking spaces on the locus that were allotted for use by the Lawless car dealership, that the Planning Board did not find the parking by Lawless on the locus as an issue for the petition, that the Lawless vehicles are parked in the northwest section of the property and the Comcast vehicles will be parked on a different side of the locus, and that there is no objection to a condition that the Lawless use not be impacted. Alderman Mercer-Bruen stated that she has no objection to the petition but that she wants the use restricted to Comcast and to not be transferable. Alderman Raymond stated that the Building Commissioner is supposed to review the petition to be certain that there is no conflict in parking on the locus. Alderman Anderson stated that the Lawless use of the lot for parking was to be reduced as other tenants occupied the building, and that the Lawless parking issue should not impact the petitioner but may reduce the parking spaces available to Lawless. IN FAVOR: None. OPPOSED: 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 recommendations of the Planning Board be adopted as conditions of the special permit, and 2. That the special permit shall issue to Comcast only and shall not be transferable, all in favor, 9-0. Motion made and 2nd that a communication be sent to the Building Commissioner asking that the Lawless special permit for parking at 9 Forbes Road be reviewed to ensure compliance with the requirements of the special permit, all in favor, 9-0.

CITIZEN'S PARTICIPATION: None.

COMMITTEE REPORTS:

FINANCE:

On the Order to transfer the sum of \$75,000.00 from BLS Receipts Acct to Fire Ambulance Salary 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: January 23, 2014 **s/Scott D. Galvin January 23, 2014**

On the Order to transfer the sum of \$3,000,000.00 from Unreserved Fund Balance Acct to Stabilization Fund 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: January 23, 2014 s/Scott D. Galvin January 23, 2014

On the Order to appropriate the sum of \$2,684,500.00 from Unreserved Fund Balance Acct to Various Capital Projects, committee report was received “As to the school expenditures, back for action pending additional information from the School Department; and as to the remaining expenditures, ought to pass provided that any such funds so appropriated that are neither disbursed nor encumbered as of June 30, 2014 shall be returned to the General Fund, that the City Auditor shall provide the City Council with a quarterly accounting of the disbursement of the funds so appropriated and further that the City Auditor shall provide the City Council with an accounting of the funds appropriated pursuant to City Council Order dated June 19, 2012 and confirm that the funds appropriated pursuant to the City Council Order dated June 30, 2013 (with the exception of the DPW/Remedial Yard Work/ACO which was exempted from this requirement) have returned to the General Fund as required by the Order dated June 19, 2012.” Alderman Drapeau stated that he is concerned about the accounting of the previous appropriations received from the City Auditor, that the City Auditor should have informed that School Department that the funds would be sent to the General Fund if the funds were not used or encumbered, that the School Department believes that the funds are available, that the School Department will have to come back to the City Council for these funds that they no longer have, and that there should be notice to departments to expend money or that the funds will return to the General Fund. Motion made and 2nd that the ORDER be ADOPTED, AS AMENDED with the condition as follows: 1. That any funds neither encumbered or disbursed by June 30, 2014 shall revert to the General Fund, all in favor, 9-0. Motion made and 2nd that a communication be sent to the City Auditor to confirm that funds not be expended from previous appropriation of June 19, 2012 have been returned to the General Fund and asking why the funds were indicated as available in the report filed by the City Auditor with the City Council on June 21, 2014, all in favor, 9-0.

Presented to the Mayor: January 23, 2014 s/Scott D. Galvin January 23, 2014

PUBLIC SAFETY AND LICENSES:

On the petition by Murray’s Enterprises, Inc. dba Murray’s Auto & Truck Sales for renewal of a Second Class Motor Vehicle Sales License, 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: January 23, 2014 s/Scott D. Galvin January 23, 2014

PERSONNEL:

On the reappointment of John J. Ryan III as a Member of the Woburn Board of Appeals, 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: January 23, 2014 s/Scott D. Galvin January 23, 2014

On the reappointment of Angela Amato, Eleanor Camillieri, Dorothy Capone, Francis Hancock, Jack Kelly, Barbara Ridley and Doris Stanton as Members of the Woburn Council on Aging, 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: January 23, 2014 s/Scott D. Galvin January 23, 2014

NEW PETITIONS:

Petition by Adria Transportation LLC, 80 Salem Street for a new Livery License. Motion made and 2nd that the MATTER be REFERRED TO COMMITTEE ON PUBLIC SAFETY AND LICENSES, all in favor, 9-0.

Petition by NSTAR Electric Company for a grant of right in a way to install approximately 589 feet of conduit on Liberty Avenue easterly from MH22423 at the intersection of Eastern Avenue and install two new manholes (MH29793 and MH29792). Motion made and 2nd that the MATTER be REFERRED TO PUBLIC HEARING AT THE CITY COUNCIL REGULAR MEETING ON FEBRUARY 18, 2014 and that a communication be forwarded to the petitioner advising that they contact the Woburn Housing Authority about the proposal and that the Woburn Housing Authority be notified of the public hearing, all in favor, 9-0.

Petition by Melanson Development Group, Inc., 5 Robertson Way, Woburn, Massachusetts 01801 for a special permit pursuant to Section 5.1, Note 15 of the 1985 Woburn Zoning Ordinances, as amended, to construct a residential garage in excess of 900 square feet at Lot 11, Wyman Farm Estates, Wyman Street. A communication dated January 21, 2014 was received from Attorney Shaun W. Briere, Mawn and Mawn, P.C., 275 Mishawum Road, 4th Floor, Woburn, Massachusetts 01801 as follows:

Re: Petitioner: Melanson Development Group, Inc., Lot 11, Wyman Farm Estates,
Wyman Street, Woburn

Dear Mr. Campbell:

As you are aware, the above referenced Application for a Special Permit was filed with your office on Thursday, January 16, 2014. After consultation with my client, his architect and the potential homebuyer, the Petitioner respectfully requests that the application be withdrawn without prejudice.

Kindly file same in your usual course and I apologize for any inconvenience. Thank you very much for your assistance in this matter.

Very truly yours, s/Shawn W. Briere

Motion made and 2nd that the MATTER be GIVEN LEAVE TO WITHDRAW WITHOUT PREJUDICE, 8 in favor, 0 opposed, 1 abstained (Concannon abstained).

Petitions by David Pruyne, Robert Pruyne and Stephen Miele for approval of an exemption under M.G.L. Ch. 268A, §20(b) to allow the provision of snowplow services to the city. The following three communications each dated January 21, 2014 were received as follows:

Dear President Richard Haggerty and members of Woburn City Council:

I am unable to attend tonight's City Council meeting regarding my Disclosure by a Municipal Employee of Financial Interest in a Municipal Contract as required by G.L. c. 268A §20(b).

I would like to inform you that my employment as a Woburn Firefighter is my top priority to the City of Woburn. I can assure you that the City of Woburn plowing contract will not interfere with my regular duties as a Woburn Firefighter.

As you can see on the Disclosure notice I have the approval of my appointing authority Timothy Ring, Chief of the Woburn Fire Department.

I would like to ask the Woburn City Council to approve this as well.

If you have any questions regarding this Disclosure you may contact me.

Sincerely, s/David Pruyne

Dear President Richard Haggerty and members of Woburn City Council:

I am unable to attend tonight's City Council meeting regarding my Disclosure by a Municipal Employee of Financial Interest in a Municipal Contract as required by G.L. c. 268A §20(b).

I would like to inform you that my employment as a Woburn Police Officer is my top priority to the City of Woburn. I can assure you that the City of Woburn plowing contract will not interfere with my regular duties as a Woburn Police Officer.

As you can see on the Disclosure notice I have the approval of my appointing authority Robert Ferullo, Chief of the Woburn Police Department.

I would like to ask the Woburn City Council to approve this as well.

If you have any questions regarding this Disclosure you may contact me.

Sincerely, s/Robert Pruyne

Dear President Richard Haggerty and members of Woburn City Council:

I am unable to attend tonight's City Council meeting regarding my Disclosure by a Municipal Employee of Financial Interest in a Municipal Contract as required by G.L. c. 268A §20(b).

I would like to inform you that my employment as a Foreman with the Woburn Parks Department is my top priority to the City of Woburn. I can assure you that the City of Woburn plowing contract will not interfere with my regular duties as a Foreman with the Woburn Parks Department.

As you can see on the Disclosure notice I have the approval of my appointing authority John Duran III, Superintendent of Public Works.

I would like to ask the Woburn City Council to approve this as well.

If you have any questions regarding this Disclosure you may contact me.

Sincerely, s/Stephen Miele

Alderman Gately stated that granting the exemption has been done for other employees of the city, and that these employees must use a vacation day or personal day if there is a conflict. Alderman DiTucci stated that the petitioner can continue to do snowplow work for the city until this process is concluded, and that she would like to discuss this matter in committee. Alderman Drapeau stated that this is an important issue and that the City Council should perform due diligence in reviewing the request, that he does not like that the individuals are already performing this snowplow work for the city when the requested exemptions have not been approved, that the Conflict of Interest Laws are very specific, that the City Council should look into the cases carefully before approving the exemptions, and that the individuals should not be performing snowplow work for the city before the exemption is approved. Alderman Gaffney stated that two of the individuals just became city employees and were performing the work before their appointments. Motion made and 2nd that the MATTERS be REFERRED TO COMMITTEE ON PERSONNEL, all in favor, 9-0.

COMMUNICATIONS AND REPORTS:

A communication dated January 15, 2014 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 for the month of December 2013. Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE, all in favor, 9-0.

A communication dated January 15, 2014 was received from Joanne Collins, Director, Woburn Council on Aging along with a copy of the Woburn Council on Aging 2013 calendar year annual report. Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE, all in favor, 9-0.

A communication dated January 15, 2014 was received from City Solicitor Ellen Callahan Doucette as follows:

Re: Newly Elected Members – Restrictions on Voting

This memorandum shall serve as a response to the City Council's request for a legal opinion as to which pending matters a newly elected Alderman can vote. A copy of the City Council's request is attached hereto for reference.

The ability of a member of a local board, committee or commission to vote on a matter before it, if that member did not attend all meetings held on the matter (regardless that they had not yet been sworn or were simply absent), depends upon whether the matter to be voted on is adjudicatory in nature rather than legislative or administrative.

I'm sure the members of the City Council are aware of the Massachusetts Appeals Court's decision in *Mullin v. Planning Board of Brewster*, 17 Mass.App.Ct. 139 (1983) where the court held that when a municipal board acts in a judicial or quasi-judicial capacity (that is, adjudicatory), all members of the board who join in the decision must attend the hearing and all subsequent dates thereof if the hearing is continued. A matter is considered to be adjudicatory if the relief requested affects a specific individual or individuals' legal rights, duties or privileges which relief may only be determined after a hearing. Adjudicatory matters which may be pending before the City Council, or which may have been referred to one of its Committees include special permit applications; original license (not renewal) applications and nuisance hearings. If the new City Council member was not sworn when the requisite hearing for those matters was held, he cannot vote on those adjudicatory matters. Other City Council members who may have missed one date of a continued adjudicatory hearing may comply with the so-called "Mullin Rule" by filing a certification of compliance with M.G.L. c.39, §23D.

In contrast, legislative or administrative matters are those which come before the City Council, may or may not require a hearing, but do not affect a specific individual's rights. Examples of legislative or administrative matters are amendments to the Municipal Code, the Zoning Ordinance (Although zoning amendments must comply with the requirements of M.G.L. c.40A, §5 and require a public hearing, zoning amendments affect the public

interest generally and not that of a one or more specific identifiable individuals), the City Council's own Rules or Regulations, license renewals, appropriations, or other Orders or Resolves. The new City Council member may participate in and vote on any of these matters which may be pending before the City Council or in one of its Committees notwithstanding that he was not sworn at the time the matter was filed.

Should the City Council have additional questions or require further assistance regarding this matter, please don't hesitate to contact me.

Very truly yours, s/Ellen Callahan Doucette

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

UNFINISHED BUSINESS OF PRECEDING MEETING: None.

APPOINTMENTS AND ELECTIONS: None.

MOTIONS, ORDERS AND RESOLUTIONS:

ORDERED That the City Council requests the Human Resources Director provide to the Committee on Personnel a copy of the job description and requirements for the City Auditor position. It is also requested that the job descriptions and salaries for similar positions be obtained from several neighboring towns or cities so that a comparison can be made.

s/Alderman DiTucci

Motion made and 2nd that the ORDER be ADOPTED, AS AMENDED with the amendment as follows: 1. That a communication be sent to the Human Resources Director for clarification as to when the position can be advertised as vacant, all in favor, 9-0.

Presented to the Mayor January 23, 2014 and ten days having elapsed without same being approved, said Order became effective without his signature on February 4, 2014.

Motion made and 2nd to ADJOURN, all in favor, 9-0. Meeting adjourned at 8:29 p.m.

A TRUE RECORD ATTEST:

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