

**CITY OF WOBURN
SEPTEMBER 15, 2009 - 7:30 P.M.
REGULAR MEETING OF THE CITY COUNCIL**

Roll Call

Denaro	Gonsalves
Drapeau	Mercer-Bruen
Galvin	Raymond
Gately	Wall
Doherty	

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 former Board of Appeals Member Daniel G. Riley who recently passed away.

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

A presentation by representatives of Powers and Sullivan, Certified Public Accountants, 100 Quannapowitt Parkway, Suite 101, Wakefield, Massachusetts 01880 relative to financial reports submitted to the City Council at its Regular Meeting on September 1, 2009 as follows: "City of Woburn, Massachusetts, Report on Examination of Basic Financial Statements, Fiscal Year Ended June 30, 2007", "City of Woburn, Massachusetts, Management Letter, June 30, 2007", "City of Woburn, Massachusetts, Reports on Federal Award Programs, Fiscal Year Ended June 30, 2007," "City of Woburn, Massachusetts, Report on Examination of Basic Financial Statements, Fiscal Year Ended June 30, 2008", "City of Woburn, Massachusetts, Management Letter, June 30, 2008", "City of Woburn, Massachusetts, Reports on Federal Award Programs, Fiscal Year Ended June 30, 2008." Appearing was City Auditor Gerald Surette and he introduced Dick Sullivan from Powers and Sullivan. Mr. Sullivan stated that he is the city's independent auditor, that information in the reports indicate that the city did well during the two year period of 2006 through 2008, that the fund balance increased in dollars and in the percent of the budget, that at the end of 2008 the fund balance with 15%, that the lowest it should be is 5%, that this did not include the \$9,000,000.00 in the Stabilization Account for an additional 8% or a total of 23%, that almost \$20,000,000.00 was spent for capital assets, that this included school buildings, fire department equipment and public works equipment, that \$16,000,000.00 in debt was issued to finance the capital additions, that the city received a Massachusetts School Building Authority payment of \$57,900,000.00 in 2007, that debt service is approximately 4.5% of

the budget, that this is good as there is a capital plan that will be bonded and growth in that amount, that 8% debt service is a good amount as it indicates infrastructure is being maintained, that the asset base is fairly young with 30% depreciated, that the Water and Sewer Enterprise Fund did not have sufficient cash flow until 2007 and 2008 through adjustments in rates and usage, that there were \$4,000,000.00 in water and sewer infrastructure improvements, that the pension fund did better than many communities, that the net assets increased to \$110,000,000.00, that the reports indicate that the city was better off financially at the end of 2008 than at the end of 2006 looking at the balance sheet, that there were no deficiency, material deficiency or material weakness comments in the management letters, that there may be improvements in efficiency, that none of the comments are at the level to cause concern for the City Council but are worth documenting, that a number of journal entries should be documented with supporting documentation, that the GASB Statement 45 will impact the 2009 financial statements, that the city must account for retirement benefits now and must establish a funding scheme to meet those obligations, that this will significantly impact the financial statements, that the deputy auditor position in the office of the City Auditor was critical to the operation of the department, that the numbers have to be right and there is little room for error, and that without the deputy auditor position the city loses this additional review. Motion made and 2nd that the MATTER be REFERRED TO COMMITTEE ON LIAISON and that the City Auditor and representatives of Powers and Sullivan be invited to attend the meeting, all in favor, 9-0.

A request by Alderman Raymond to receive a presentation concerning the topic of wind energy facilities technology. Appearing was Attorney John D. McElhiney, McElhiney and Matson, 607 Main Street, Woburn, Massachusetts 01801 and he stated that this concerns small wind energy facilities, that they are not addressed in the current zoning in the city, that a petition will be brought forward requesting that zoning ordinances be amended to allow the wind energy facilities, and that his client's business is located in the industrial zoning district. Chase Lynch stated that there is an increased awareness of wind energy, that capturing wind energy is a twelve month opportunity although it is not as reliable as other energy sources, that the units come in numerous sizes and types of units, that the unit displayed in the photographs is a unique design, that the units produce a maximum of 1,200 watts and with the typical three units 3,600 watts on a moderately windy day. Mr. Lynch offered photographs to the City Council for review. Motion made and 2nd that the document be received and made part of the record, all in favor, 9-0.

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

MAYOR'S COMMUNICATIONS: None.

PUBLIC HEARINGS:

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 14 Felton Street, 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 for the past year and a half this property has caused concerns for the neighborhood, that the police have responded to the property as well as the building department, that recently the issues have abated, that the matter should be left open to ensure that the improved conditions continue, that the house is in foreclosure and listed for sale, and that the occupant of the house is the owner. Alderman Galvin stated that the listing broker should be notified of the issues. IN FAVOR: Elaine Noonan, 19 Felton Street stated that for the past two years there has been a lot of activity at the property, that there have been tow trucks to and from the site, that there are many auto parts on the property, and that there is trash from the property. Pamela Doherty, 1 Felton Street stated that squatters live on the property, that there is drug paraphernalia, that cars from the locus speed on the street, that the property is a public nuisance, that she believes the occupants have moved, and that the property should be declared a public nuisance. Rose Corleto, 5 Felton Street stated that she lives across the street from the property, that there is unsafe behavior at the property, that the building is an eyesore, that the uncut lawn attracts animals, that there is disorderly behavior at the property, that trash from the property is spilling onto other properties, that there are speeding vehicles on the street, and that the occupants were selling car parts from the property by computer sales. OPPOSED: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON OCTOBER 20, 2009, all in favor 9-0.

On the petition by Alderman Richard Gately concerning the structure or structures located in the City of Woburn, County of Middlesex, Commonwealth of Massachusetts known and numbered as 320 Main Street aka 286 Main Street, Woburn, Massachusetts, commonly referred to as the Woburn Armory, 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 report was received from the Committee on Liaison as follows: "That the public hearing be continued to a Regular Meeting of the City Council in January 2010 for review." Alderman Gately stated that last Thursday a site visit was conducted at the property with Building Inspector Lalumiere, Fire Chief Tortolano, Alderman Gately, the principal owner's of the building, Attorney Joseph Tarby and the owner's contractor, that the city was allowed to enter and inspect the building, that they were on site for approximately two hours, that a list was established of work that must be completed to keep the building safe, that the deterioration of the building inside and out is extensive although repairable, that there were approximately

twenty-six issues identified, that the owner agreed to remedy approximately twelve issues including repairing holes in the exterior of the building, fences being installed, two large trees being removed, drainage systems being cleaned and repaired, a vent pipe being removed, second floor windows being boarded from the inside, and the first floor windows being caged, that the Fire Chief did not want the first floor windows boarded so that a visual inspection can be made from outside the building if there was a fire, that work has started at the site, that this is the owner's "last bite at the apple", and that if these conditions are not met by the January 2010 meeting then he will pursue a tear down order for the property. President Doherty stated that progress reports could be filed with the City Clerk by the Building Department concerning the property. IN FAVOR: Alfio Malone, 138 Arlington Road stated that he is concerned for the neighbors with the condition of the building, and that he would like to see the issues taken care of as soon as possible. Mark Sanborn, 12 Caulfield Road stated that he is a direct abutter, that whenever a meeting is scheduled work is done but otherwise nothing occurs at the property, and that he wants to see the property maintained. John Flaherty, West Street stated that he spoke to the owner of the property, that the owner of the property indicated that he would like to dispose of the property, that a good use of the building would be a volunteer, non-profit youth center, and that the building should be brought into good order. President Doherty stated that this proposed use would be significant for the area. OPPOSED: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON JANUARY 5, 2010, all in favor 9-0.

On the petition by Anthony K. Paone, Trustee of Harrison Avenue Realty Trust, 141 Sylvester Avenue, Winchester, Massachusetts 01890 for a special permit pursuant to Sections 5.1.71 and/or 5.1.72, 5.5 and 8.3.2 to finish grading and filling of lot and to utilize same for parking purposes, for rental to other businesses, on a commercial basis at 7 Harrison Avenue. PUBLIC HEARING OPENED. A communication dated September 11, 2009 was received from Edmund P. Tarallo, Planning Director, Woburn Planning Board as follows:

Re: Anthony K. Paone, Trustee of Harrison Avenue Realty Trust – 7 Harrison Avenue – To allow commercial parking lot to serve a use not more than 500' from the use pursuant to Sections 5.1.71, 5.1.72, & 8.3.2 and to allow earth removal and filling of the lot pursuant to Section 5.5

Dear Mr. Campbell and members of the City Council:

At the meeting held on September 8, 2009, the Planning Board voted to forward a favorable recommendation to the City Council on the Special Permit application of Anthony K. Paone, Trustee of Harrison Avenue Realty Trust, to allow commercial parking lot to serve a use not more than 500' from the use pursuant to Sections 5.1.71, 5.1.72, & 8.3.2 and to allow earth removal and filling of the lot pursuant to Section 5.5, subject to the following conditions:

1. That a Special Permit shall be required under the ground water protection district prior to any work commencing under the Special Permits for use and fill, such groundwater protection special permit shall provide a plan that delineates the property information and meet the storm water management requirements required by the City Engineer;
2. That a landscaping plan be submitted to and approved by the Planning Board;
3. That the parking lot shall be limited to 28 parking spaces as shown on the Plan entitled Proposed Parking Lot for 7 Harrison Avenue dated June 22, 2009 revised 7/14/09 and 9/4/09; and
4. That the 28 parking spaces be lined as shown on the Plan entitled Proposed Parking Lot for 7 Harrison Avenue dated June 22, 2009 revised 7/14/09 and 9/4/09.

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

A copy of communication dated September 8, 2009 from Brett F. Gonsalves, Senior Engineer to Edmund Tarallo, Planning Director was received as follows:

Re: Subject: 7 Harrison Avenue – Commercial Parking & Earth Removal & Filling Special Permit – Previous Memo Dated June 8, 2009 – Previous Memo Dated August 4, 2009 – Special Permit Application Dated May 4, 2009 – Plot Plan Dated November 6, 2008 – Proposed Grading Plan Dated August 8, 2008 – Proposed Parking Lot Plan Dated June 22, 2009 – Revised Parking Lot Plan Dated July 14, 2009 – Memo from Applicants Attorney Dated September 4, 2009

This office has reviewed the subject materials for the above referenced project and offers the following comments.

The applicant's attorney has submitted a letter commenting of previous planning board comments from this office.

The department's previous concerns have been addresses with the exception of the groundwater protection, stormwater management requirements and property line information. These items will be addresses during the special permit submission for groundwater protection according to the attorney's letter.

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

A report was received from the Committee on Special Permits as follows: "ought to pass, as amended, with the amendments as follows: 1. The petitioner shall separately apply for and obtain a Special Permit, pursuant to the groundwater protection district ordinance, with compliance with the storm water management regulations, to the satisfaction of the

City Engineer, 2. That all of the conditions set forth in the Planning Board's recommendations shall be incorporated into and become conditions of the Special Permit, 3. That parking would be limited to vehicles not in excess of two ½ tons of gross vehicle weight, 4. That the petitioner will comply with all general ordinances relating to the need to obtain a specific License with respect to any lease of parking spaces three or more in number, 5. This Special Permit shall be reviewable every two years. The petitioner shall submit a written request to renew said Special Permit, and the Special Permit Granting Authority shall act on said renewal request in a timely fashion. Renewals may be granted hereunder without the formal submission of an entirely new special permit application, and without the need for a public hearing unless the Special Permit Granting Authority deems the same necessary with respect to any renewal request, and 6. That a snow removal plan be submitted." Appearing for the petitioner was Attorney John D. McElhiney, McElhiney and Matson, 607 Main Street, Woburn, Massachusetts 01801 and he stated that he had nothing to add. IN FAVOR: None. OPPOSED: None. Motion made and 2nd that the public hearing be closed, all in favor, 9-0. Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, AS AMENDED, with the amendments as follows: 1. That the recommendations of the Planning Board be adopted to the extent that they are not inconsistent with the committee report, and 2. That the word "reviewable" in Condition 5 be stricken and the word "renewable" be inserted in its places, all in favor, 9-0.

On the petition by Atlantic Express Transportation Group, Inc., 280 Salem Street, Woburn, Massachusetts 01801 for a special permit pursuant to Sections 5.1.57b and 7 of the 1985 Woburn Zoning Ordinances, as amended, to allow for the parking of petitioner's commercial vehicles at 280 Salem Street. PUBLIC HEARING OPENED. A communication dated September 11, 2009 from Edmund P. Tarallo, Planning Director, Woburn Planning Board, as follows:

Re: Atlantic Express Transportation Group, Inc. – 280 Salem Street – To allow for the parking of Petitioner's commercial vehicles pursuant to Sections 5.1 (57b) and Section 7

Dear Mr. Campbell and members of the City Council:

At the meeting held on September 8, 2009, the Planning Board voted to forward a favorable recommendation to the City Council on the Special Permit application of Atlantic Express Transportation Group, Inc., to allow for the parking of the Petitioner's commercial vehicles pursuant to Sections 5.1 (57b) and Section 7, subject to the following conditions:

1. That the number of commercial vehicles shall be limited to 50 on the site and shall be provided in accordance with plans dated and revised through 5/9/06 as annotated for this petitioner; and
2. That the Special Permit shall be limited to Atlantic Express Transportation Group, Inc. and is in conjunction with the Special Permit granted to Lenny's Auto Repair, Inc.

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 for the petitioner was Attorney Joseph R. Tarby, III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 and he stated that this property was going to be converted into recreational facility, that the petitioner was awarded the school bus contract, that they are looking to relocate to Salem Street in the space formerly occupied by Winning Auto, that forty buses will be parked overnight, that seventeen buses servicing Woburn, five buses serving Wakefield, three METCO buses, ten additional buses for after school activities and five space buses, that there will be no repairs on the premises, that a traffic review of the traffic flow was conducted, that the Planning Board recommended a limit of fifty vehicles, that Lenny's Auto Repair took ten out of the original one hundred vehicles granted to Winning Auto, that limit of fifty vehicles consists of the forty buses and the ten vehicles for Lenny's Auto Repair, and that Winning Auto is out of business at the location and vacated the premises. Attorney Tarby offered a memorandum dated September 10, 2009 to the City Council for review. Motion made and 2nd that the document be received and made part of the record, all in favor, 9-0. Attorney Tarby offered a letter dated September 15, 2009 to the City Council for review. Motion made and 2nd that the document be received and made part of the record, all in favor, 9-0. Eric B. Eby, P.E., 139 market Street, Amesbury, Massachusetts 01913 stated that he is a special traffic engineer, that he visited the site last week, that he conducted site observation and traffic count, that there is sufficient capacity for ninety buses to make a left turn on Salem Street in the morning, that there is capacity for 130 bus left hand turns on Salem Street in the afternoon, that the posted speed limit is 35 m.p.h., that vehicles generally travel 35 m.p.h. to 40 m.p.h. in the area, that there is not a lot of turning traffic in the area, and that the buses can make it safely in and out of the site at peak hours. John McCarthy, Fiore Bus Service, Inc. stated that Fiore Bus is the original operating company for the city which received the contract for bus service in the 1990s, that Altantic Express Transportation Group, Inc. purchased Fiore Bus Service, Inc. around 2001, that Atlantic Express is the parent company, that the subsidiaries operate independently, that some locations allows "park out" of vehicles at the drivers' homes if space is available, that this is determined by the local manager, and that he will review parking of buses in the city. Alderman Raymond stated that the petitioner is a good tenant in its current location, and that the petitioner keeps its property clean and orderly. Alderman Gately stated that there is more than enough room for forty buses at the location, that the petitioner's vehicles are parked in various places around the city between shifts which causes issues on narrow streets such as those in the south end of the city, that full size buses should not be parked on residential streets in the city, and that he is not concerned with the minibuses on the city streets but is concerned with the full size buses parking on city streets. Alderman Mercer-Bruen stated that the City Council should consider a condition that the buses cannot be parked in residential areas of the city. Alderman Drapeau stated that there should be some flexibility where parking is not an issue and the parking makes it convenient for the bus company employees. IN FAVOR:

Michael Mulrenan, 937 Main Street stated that he supports the petition. OPPOSED: None. Motion made and 2nd that the public hearing be closed, all in favor, 9-0. Motion made and 2nd that the SPECIAL PERMIT be GRANTED, AS AMENDED with the amendments as follows: 1. That the recommendations of the Planning Board be adopted as conditions of the special permit, 2. That the name "Atlantic Express Transportation Group, Inc." be stricken as the petitioner and the name "Fiore Bus Service, Inc." be inserted in its place, and 3. That the petitioner will work with the City of Woburn to address issues of buses parking in residential areas and remedy any issues accordingly, all in favor, 9-0.

On the petition by Fabio A. de Souza, 12 Sheridan Street, Woburn, Massachusetts 01801 for a special permit pursuant to Section 5.1.44 of the 1985 Woburn Zoning Ordinances, as amended, to allow auto repair at 235 Salem Street. PUBLIC HEARING OPENED. A communication dated September 11, 2009 was received from Edmund P. Tarallo, Planning Director as follows:

Re: Fabio A. de Souza – 235 Salem St. – To allow an automobile and truck repair garage pursuant to Section 5.1.44

Dear Mr. Campbell and members of the City Council:

At the meeting held on September 8, 2009, the Planning Board voted to forward a favorable recommendation to the City Council on the Special Permit application of Fabio A. de Souza, to allow an automobile and truck repair garage pursuant to Section 5.1.44, subject to the following conditions:

1. That the state plumbing code be complied with prior to occupancy of the building; and
2. That the parking spaces be lined as shown on the Plan provided to the Planning Board.

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 for the petitioner was Edwardo DeOliveira and he stated that a grease trap must be installed, that the petitioner is working with the landlord to install a grease trap, and that digging will begin at the premises to install the grease trap. Alderman Mercer-Bruen stated that this is a good business in the current location. IN FAVOR: None. OPPOSED: None. Motion made and 2nd that the public hearing be closed, all in favor, 9-0. Motion made and 2nd that the SPECIAL PERMIT be GRANTED, AS AMENDED with the conditions as follows: 1. That the recommendations of the Planning Board be adopted as conditions of the special permit, and 2. That the special permit shall be granted to Fabio A. de Souza only and shall not be transferable, all in favor, 9-0.

On the petition by Quincy Woburn LLC, 66 Long Wharf, Boston, Massachusetts 02110 for a special permit pursuant to Sections 7.3 and 9 of the 1985 Woburn Zoning Ordinances, as amended, to allow for the alteration of the existing alignment of a portion of Normac Road and the reconstruction thereof to allow for additional flood storage and drainage improvements within the Floodway and Flood Plain District at 31 Olympia Avenue, 15, 20 and 23 Normac Road. PUBLIC HEARING OPENED. Appearing for the petitioner was Attorney Joseph R. Tarby, III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 and he stated that the property is located in the I-P zoning district, that a special permit is required for work in the flood plain overlay district, that there are approximately three acres of land, that there are three commercial warehouse buildings associated with the property, that the buildings are between 17,000 square feet in area and 170,000 square feet in area, that the petitioner purchased the property two years ago, that the petitioner will install additional flood storage and drainage improvements, that the Planning Board continued its review until October 6, 2009, that the matter went through a peer review process in the Conservation Commission, and that an Order of Conditions is expected to be issued by the Conservation Commission this week. Attorney Tarby offered a memorandum dated September 10, 2009 to the City Council for review. Motion made and 2nd that the document be received and made part of the record, all in favor, 9-0. Richard O'Connell, President, R.J. O'Connell & Associates, 80 Montvale Avenue, Stoneham, Massachusetts 02180 stated that he is the design engineer for the project, that there are two buildings located on the west side of the Aberjona River and one building on the other side of the river, that to the north of the property is Interstate Route 95/128, that to the west of the property is the B&M railroad tracks, that the property was constructed in 1963, that development in the area has allowed the flood plain to rise, that the area floods during heavy rains and the petitioner is looking to ameliorate this with increased flood storage, that the petitioner will add underground storage where possible, that there will be no development of the parcel except for parking lot and drainage improvements, that the project will be in compliance with current Massachusetts Storm Water Management regulations, that only four catch basins are currently on the total site, that the storm drains currently are not tied into anything and this will be corrected, that there are no current development plans, and that tenants have been unwilling to locate at the property with the flooding conditions. IN FAVOR: None. OPPOSED: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON OCTOBER 6, 2009, all in favor 9-0.

On the petition by President Charles Doherty to amend the 1985 Woburn Zoning Ordinances, as amended, by establishing a new Section 23 entitled Commerce Way Corridor Overlay District as set forth in the petition. PUBLIC HEARING OPENED. A communication dated September 11, 2009 was received from Edmund P. Tarallo, Planning Director, Woburn Planning Board as follows:

Re: Alderman Charles Doherty, Alderman Darlene Mercer-Bruen, and Alderman Michael Raymond – Zone Change – New Section Commerce Way Corridor Overlay District

Dear Mr. Campbell and Members of the City Council:

At the Planning Board meeting held on September 8, 2009, the Board voted to forward a favorable recommendation to the City Council regarding the creation of the new Commerce Way Overlay District as modified by the June 12, 2009 Draft.

If you have any questions or concerns regarding this matter, please feel free to contact me.

Sincerely, s/Edmund P. Tarallo, Planning Director

A report was received from the Committee on Ordinances as follows: “ought to pass, as amended, with the amendments as follows: 1. That the Order be amended to conform to the Zoning Ordinance Review Committee Draft dated June 12, 2009 as further amended herein, 2. To add in Section 5.1.h the words “except for a supermarket” after the words “individual retail establishment” and before the words “in the CWCOD”, 3. To add in Section 5.2.a after the words “See Section 11.11” the following “, also consistent with the map defining areas for multi-family housing”, 4. To add in Section 5.2. before the words “Accessory Uses by Right” the letter “A”, 5. To add in Section 5.2.A.e the words “including overnight parking as described in Section 8.9 below” after the words “lots and buildings”, 6. To strike Section 5.2.A.g in its entirety and insert in its place the following “Kiosks permitted by right in all areas except within parking fields; the square foot area of the kiosk shall not be counted toward the total permitted floor area. One kiosk per 10,000 square feet of ground-level leasable space”, 7. To strike from Section 5.4 the following (TBD by ZORC)”, 8. To add in the third paragraph of the first paragraph in Section 7.0 the words “or separated by a private or public right of way of less than 65 feet,” after the words “purposes of financing”, 9. To add a fourth sentence to the first paragraph of Section 7.0 as follows “However, no two parcels may be more than 500 feet apart”, 10. To add after Section 7.0.k a new paragraph as follows “At the time of Site Plan Review or Special Permit, the City Council may grant a special permit for relief from the Dimensional Regulations set forth herein”, 11. To add a new Section 8.9 Overnight Vehicle Parking as follows “The following shall be permitted by right to provide the following overnight parking, provided that all vehicles permitted are licensed in the City of Woburn” followed by Table 1 as follows:

Table 1 – Overnight Vehicle Parking Allowed By Right (1)(2)

<u>Use</u>	<u># Vehicles Allowed By Right</u>	<u>Comment</u>
<u>Hotel Rental Car Service</u>	<u>10</u>	<u>Can be increased by 100% if contained within a garage.</u>

<u>Service Use</u>	<u>4 vehicles per 1,000 gsf</u>	<u>Typical uses such as “Zoots”, cleaning company, etc.</u>
<u>Professional Uses</u>	<u>4 vehicles per 1,000 gsf</u>	<u>Typical uses such as a surveyor, engineer, government agency, etc.</u>
<u>Supermarket or Retail</u>	<u>4 vehicles per 30,000 gsf</u>	

- (1) Truck vehicle is defined as a trailer and cab.
- (2) Other vehicle overnight parking uses may be allowed by Special Permit.

Alderman Galvin stated that he is concerned with some of the allowed uses, that he is in favor of office and research as by-right uses and allowing building up to ten stories in height will be beneficial to the city, that opening this to retail will result in retail along the whole corridor, that this is an open invitation for large scale retail uses, that the conceptual plan phase does not prevent a project from moving ahead even with a negative report from the conceptual plan committee, that there are no checks and balances, that an up to 150,000 square foot retail plaza can be built, that if the project meets the greatly reduced dimensional requirements then the by-right projects of retail and restaurants can be developed even if the conceptual plan is rejected, that there is no special permit required for the retail use, that this is the first meeting at which the City Council has received any data, that he is in support of the concept of promoting research, office, biotech uses and increases in the height of buildings but is not in support of retail uses, that the proposal will tax police and fire services and possibly the schools, that no residents have been coming in support of this proposal, that there is sufficient retail at both ends of Commerce Way, that in the middle of these two retail areas should be office and research uses, and that there are no incentives for office uses but there are incentives for retail uses. President Doherty stated that the intent is not to have large box retail uses, that it is an effort to balance office, residential and retail uses, that there is a concept phase and then the special permit phase before the project can be developed, that the intent is to create an opportunity for white collar jobs as opposed to warehouse style uses, that the areas around the train station are conducive to residential use and a special permit is required and further the residential will only be allowed in those areas as permitted on the map, that during the map review the areas will be defined, that in other communities areas for particular uses are defined, that there has to be a mixed use retail process, that there have been two committee meetings on this matter, that the residential use is not a main component, that a corridor of residential uses is not what is desired, that there is a four percent mitigation clause, and that the Planning Board will have site review of the project. Alderman Mercer-Bruen stated that retail is a major component of the concept, that this is an underutilized area, that this encourages office uses by providing the surrounding retail uses, that she supports the ordinance, that the ordinance is important for the future of the city, that high end retail is desirable, and that offices may come to the area but if campus settings with retail is developed the offices will come. Alderman Raymond stated that he attended approximately fifteen meetings concerning this proposal, that this is an important piece of legislation, and that he will support the matter. Alderman Gately stated that this was an area with nothing fifteen years ago, that it was junk containing contaminated fill, and that this ordinance is excellent for the city.

Alderman Gonsalves stated that there is a plan to encourage campus style projects with fewer curbcuts, and that she supports the ordinance. IN FAVOR: Joseph R. Tarby, III, Esquire, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn stated that he represents KGI Properties as ground lessor of 83 Commerce Way and National Development as owner of property along Commerce Way, that he has attended numerous Zoning Ordinance Review Committee, Planning Board and City Council meeting concerning this matter, and that this is one of the most progressive pieces of legislation introduced by the city in his many years appearing before the boards, and that he recommends a language correction regarding kiosks to resolve conflict between Section 5.2 and 5.3. His Honor the Mayor Thomas L. McLaughlin stated that he supports the proposed ordinance, and that this is a comprehensive and innovative approach to develop this area. A communication dated September 10, 2009 was received from Paul J. Meaney, Executive Director, Woburn Business Association, Ten Tower Office in favor of the Ordinance. OPPOSED: None. Motion made and 2nd that the public hearing be closed, all in favor, 9-0. Motion made and 2nd that the Order be amended as follows: 1. That Section 5.3.f regarding kiosks be deleted, 2. That the definition for Multi-family under Section 11.0 be stricken and replaced with the following "TBD", all in favor, 9-0. Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, AS FURTHER AMENDED HEREIN, 8 in favor, 1 opposed (Galvin opposed).

Presented to the Mayor: Sept. 18, 2009 s/Thomas L. McLaughlin Sept. 23, 2009

CITIZEN'S PARTICIPATION: None.

COMMITTEE REPORTS:

COMMITTEE ON LIAISON:

Relative proposed settlement of a claim for an alleged release of gasoline at 117 Pleasant Street on April 26, 2004, committee report was received as follows: "That the offer of settlement contained in a letter dated May 21, 2009 from the attorney for Pen Fuel Co., Inc. be accepted." Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.

Presented to the Mayor: Sept. 18, 2009 s/Thomas L. McLaughlin Sept. 23, 2009

NEW PETITIONS:

A communication dated September 11, 2009 was received from Attorney Joseph R. Tarby, III, Esquire, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: Minor Modification to Special Permits Granted to Koffler/GID Woburn LLC and Chair 5 Restaurants-Woburn LLC d/b/a Qdoba Mexican Grill,

300 Mishawum Road, Woburn, Massachusetts

Dear Mr. Campbell:

Please be advised that I represent Koffler/GID Woburn LLC and Chair 5 Restaurants-Woburn LLC d/b/a Qdoba Mexican Grill (the "Petitioners"). On September 16, 2008, your office issued a Landowner's Decision and Notice of Special Permit allowing for: (1) a further amended site plan; (2) an additional 6,665 square feet of gross floor area more or less; (3) a reduction in the required parking; and (4) parking on a lot separate from the Woburn Mall property (the "Decision").

The Petitioners are seeking a modification to the Decision as follows:

1. The deletion of Condition 21 which states:

"Prior to receiving from the City a Certificate of Occupancy for Qdoba, the Applicant shall provide to the City a written instrument (such as an easement recorded at the Registry of Deeds) providing the Applicant with the long-term right to use and maintain for parking purposes, the approximately 9,078 square feet area directly west of the mall property and adjacent to the Halls Brook Retention Area. This area is designated for nineteen (19) parking spaces as shown on Sheet C-1 of the plans prepared by Griffin Engineering Group, LLC, and dated August 7, 2008."

and

2. The approval of a modified Condition 21 which states as follows:

"Until such time as the Petitioner provides to the City, a written instrument (such as an easement recorded at the Registry of Deeds), providing the Applicant with the long-term right to use and maintain for parking purposes, the approximately 9,078 square feet area directly west of the mall property and adjacent to the Halls Brook Retention Area, it will be prohibited from leasing 3,000 square feet of gross floor of the Woburn Mall property ("Prohibited Lease Area") as depicted on the plan entitled "Lease Prohibition Plan, Woburn Mall – Woburn Mass. Prepared By: KGI Properties, September 11, 2009" ("Prohibited Lease Area Plan"). The area to be used for parking is designated for nineteen (19) parking spaces as shown on Sheet C-1 of the plans prepared by Griffin Engineering Group, LLC, and dated August 7, 2008.

The Petitioner may reassign the Prohibited Lease Area, but may not reduce the area to less than 3,000 sf, by submitting a revised Prohibited Lease Area Plan for record purposes. Upon transmittal of the written instrument providing the Applicant with the long term right to use and maintain the 9,078 sf for parking purposes, the lease prohibition for the area identified in the then current Prohibited Lease Area Plan shall be eliminated.”

According to representatives of Koffler/GID Woburn LLC, at the time of the special permit application, the owner of the “parking area” had agreed to enter into a lease agreement for the lease of the nineteen (19) parking spaces pending receipt of a lease agreement. The property owner has now indicated that it does not wish to enter into such an agreement at this time. As a result, the Petitioners cannot comply with Condition 21 of the above-referenced special permit.

The parking requirement with the Outparcel Building is 1,350 spaces. The approved site plan provides 1,354 spaces, nineteen of which are located on the lot in question. Without fifteen of the nineteen spaces, the Petitioners will not be able to meet the parking requirements. Therefore, in order to remain in compliance, the Petitioners have requested the above minor modification. The net result is the same. Until such time as the Petitioners are able to obtain the agreement from the property owner, Koffler/GID Woburn LLC will agree to a modification condition prohibiting it from leasing 3,000 square feet within the Woburn Mall property.

I am enclosing a copy of the page from the approved site plan showing the parking on the parking area as well as the Lease Prohibition Plan. If you have any questions, please contact me. Thank you.

Very truly yours, s/Joseph R. Tarby III

Motion made and 2nd to suspend the rules for the purposes of hearing from Attorney Joseph Tarby, all in favor, 9-0. Attorney Tarby stated that the petitioner has an outparcel building with tenants ready to occupy shortly, that this minor modification will take 3,000 square feet from the Woburn Mall and not rent that amount of space until the additional parking spaces are made available, that there are fifteen parking spaces at issues, and that this will have a net result of having the correct parking by taking 3,000 square feet out of leasable mall property. Alderman Denaro stated that there is too much paperwork to keep track of with this proposal, that the City Council should modify the special permit by reducing the required parking as necessary, and that the petitioner is a few spaces short in a major complex. Charles Irving of KGI Properties stated that this will be 3,000 contiguous square feet, and that there is currently 5,000 square feet of area not rented. Motion made and 2nd to return to the regular order of business, all in favor, 9-0. Motion made and 2nd that the MINOR MODIFICATION BY DELETING THE

CURRENT CONDITION AND INSERTING A NEW CONDITION 21 be APPROVED, all in favor, 9-0.

COMMUNICATIONS AND REPORTS:

A communication dated September 3, 2009 with attachments was received from Joanne Collins, Director, Woburn Council on Aging along with the minutes of the August 2009 meeting of the Council on Aging and the Director's report for the month of August 2009. Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE, all in favor, 9-0.

A communication dated September 3, 2009 was received from Brian W. Riley, Kopelman and Paige, P.C., concerning amendments to the Conflict of Interest Law. Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE, all in favor, 9-0.

A copy of a communication dated September 2, 2009 to His Honor the Mayor Thomas L. McLaughlin was received from City Clerk William C. Campbell on behalf of the Woburn City Council requesting that the Superintendent the Department of Public Works make necessary repairs to the sound system in the Council Chamber. Alderman Drapeau stated that the sound and climate conditions in the Council Chamber should be addressed by the Mayor with plans to resolve the issues. Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE, all in favor, 9-0.

A copy of a communication dated September 4, 2009 was received from Theresa Murphy, Conservation Administrator, Woburn Conservation Commission regarding concerns with the sound system and the climate control system in the Council Chamber. Alderman Drapeau stated that the sound and climate conditions in the Council Chamber should be addressed by the Mayor with plans to resolve the issues. Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE, all in favor, 9-0.

A copy of a communication dated September 4, 2009 to Alderman Mercer-Bruen was received from Dennis Gordon, Kraft Foods, Woburn Plant Manager, Hill Street, Woburn, Massachusetts 01801 as follows:

Re: Update from Kraft Foods on Plant Odor Issues

Ms. Mercer-Bruen:

Kraft Foods met with the City Council's Kraft Foods Committee on August 19 to provide an update on Kraft's extensive odor remediation efforts at our Woburn plant. The

Committee had additional questions and concerns and invited Kraft to return to provide another update.

In order to provide the committee with a meaningful update that addresses the concerns of the community, Kraft Foods would like to propose that we provide an update to the City on a quarterly basis. This will provide the committee with an ongoing communication from Kraft, and at the same time allow us to continue to sample a variety of solutions and work with the appropriate agencies. We respect the time of the committee, and feel that a quarterly update from Kraft Foods at Woburn would be productive.

Best Regards, s/Dennis Gordon, Kraft Foods, Woburn Plant Manager

Alderman Mercer-Bruen stated that representatives of Kraft will be invited in two weeks to a meeting for an update as discussed and that the committee will move forward with that meeting. 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 Be it Ordained by the City Council of the City of Woburn that the 1985 Woburn Zoning Ordinances, as amended, be hereby further amended as follows:

By inserting in Section 2 Definitions the following definitions:

“Nacelle: The frame and housing at the top of the wind turbine tower that encloses the gearbox and generator and protects them from the weather.

Rotor: The blades and hub of the wind turbine that rotates during the energy conversion operation.

Wind Turbine: A device that converts kinetic energy of the wind into rotational energy used to generate electrical power. A wind energy conversion device typically consists of a rotor, nacelle, and tower.

Wind Monitoring or Meteorological ("test" or "met") Tower: A temporary tower used for supporting anemometer, wind vane, and other equipment to

assess the wind resource at a predetermined height above the ground, erected as part of a wind-energy facility feasibility process.

Wind Turbine Height: The height of a wind turbine measured from natural grade to the tip of the rotor blade at its highest point, or blade-tip height.

Rated Nameplate Capacity: The maximum rated output of electric power production equipment. This output is typically specified by the manufacturer with a “nameplate” on the equipment.

Roof Top Wind Energy Facility: No more than two (2) roof-mounted systems designed to supplement other electricity sources as an accessory use to existing principle buildings or facilities, wherein the power generated is used primarily for on-site consumption having a total rated capacity of 10 kW or less.

Large Wind Energy Facility: All equipment, machinery and structures utilized in connection with the conversion of wind to electricity except small wind energy facilities. This includes, but is not limited to, transmission, storage, collection and supply equipment, substations, transformers, service and access roads, and one or more wind turbines.

Small Wind Energy Facility: All equipment, machinery and structures utilized in connection with the conversion of wind to electricity which is located at a residential property. This includes, but is not limited to, storage, electrical collection and supply equipment, transformers, service and access roads, and no more than two wind turbines of which more than 50% of the electricity generated by the wind turbine or turbines shall be consumed on site. Each wind turbine shall not have a rated nameplate capacity of greater than 60 kW.

Net metering: The difference between the electricity supplied to a customer over the electric distribution system and the electricity generated by the customer’s small wind energy system that is fed back into the electric distribution system over a billing period.

Shadow flicker: The visible flicker effect of the rotating blades of the wind turbine casting shadows on the ground and nearby structures causing a repeating pattern of light and shadow.

Tower: The monopole, guyed monopole or lattice structure that supports the rotor and nacelle.”

By inserting in Section 5 Use Regulations, Section 5.1 Table of Use Regulations the following:

“xx. Wind Monitoring or Meteorological ("test" or "met") Tower: under R-1, R-2, R-3, R-4, B-N, B-H, B-D, B-I, I-P, IP-2, I-G, S-1, O-P, and OP-93 and O-S shall be “P” requires a special permit under Notes: other sections it shall state “Section 22”.

“xx. Roof Top Wind Energy Facility: under R-1, R-2, R-3, R-4, and S-1 shall be “P” requires a special permit; under O-S, B-N, B-H, B-D, B-I, I-P, IP-2, I-G, O-P, and OP-93 shall be “*”not a permitted use under Notes: other sections it shall state “Section 22”.

“xx. Large Wind Energy Facility: under R-1, R-2, R-3, R-4, S-1 and O-S shall be “*” not a permitted use; under B-N, B-H, B-D, B-I, I-P, IP-2, I-G, O-P, and OP-93 shall be “P” requires a special permit under Notes: other sections it shall state “Section 22”.

“xx. Small Wind Energy Facility: under R-1, R-2, R-3, R-4, and S-1 shall be “P” requires a special permit; under O-S, B-N, B-H, B-D, B-I, I-P, IP-2, I-G, O-P, and OP-93 shall be “*”not a permitted use under Notes: other sections it shall state “Section 22”.

By adding a new Section 24 entitled “Wind Energy Facilities”

1. Purpose and Intent

The purpose of this section is to promote the safe, effective and efficient use of wind energy facilities in appropriate locations, while protecting the public’s health, safety and welfare. In addition, this ordinance provides a special permit process for the construction and operation of Wind Energy Facilities and to provide standards for the placement, design, construction, monitoring, modification and removal of Wind Energy Facilities that address public safety, minimize impacts on scenic, natural and historic resources of the city and provide adequate financial assurance for decommissioning.

The intent of this section is to recognize that wind energy is an abundant, renewable and non-polluting energy resource and that its conversion to electricity will reduce our dependence on nonrenewable energy resources and decrease the air and water pollution that results from the use of conventional energy sources. Wind energy facilities also enhance the reliability and power quality of the power grid, reduce peak power demands and help diversify the state’s energy supply portfolio.

2. Wind Monitoring or Meteorological ("test" or "met") Tower
No wind monitoring or meteorological tower shall be erected, constructed, installed, or modified without first obtaining a special permit from the City Council. No Special Permit shall be granted unless the City Council determines that all such wind energy facilities shall be constructed and operated in a manner that minimizes any adverse visual, safety, and environmental impacts and that the proposed wind monitoring or meteorological tower complies with the Special Permit criteria under Section 11 of the Woburn Zoning Ordinance and:

- (a) the specific site is an appropriate location for such use;
- (b) the use will not adversely affect the neighborhood;
- (c) no nuisance will be created by the use;

In order to make such determinations, the City Council may retain a technical expert/consultant to verify information presented by the applicant. The cost for such a review will be at the expense of the applicant pursuant to G.L. c. 44, § 53G as may from time to time be amended.

The wind monitoring or meteorological tower shall comply with the following requirements:

a. Setbacks

Wind monitoring or meteorological towers shall comply with the building setback requirements of the zoning district in which they are located. Additionally, wind monitoring or meteorological towers shall be set back a distance of at least 1.5 times the overall height of the tower from the nearest property line. Any supporting structure including guy wires shall not be located closer to any property line or street line than the distance equal to the minimum building setback required for the zoning district in which the tower is located.

b. Height

Wind monitoring or meteorological towers shall comply with the height requirements of the zoning district which the tower is located, unless the City Council grants a Special Permit after determining that a height in excess of that required in the zoning district is required to accomplish the proposed purpose of the tower. In order to make such determinations, the City Council may retain a technical expert/consultant to verify information presented by the applicant. The cost for such a review will be at the expense of the applicant pursuant to G.L. c. 44, § 53G as may from time to time be amended.

c. Time limit

A special permit for a wind monitoring or meteorological tower shall be limited to no more than eighteen months after construction has commenced.

3. Roof Top Wind Energy Facility

No Roof Top Wind Energy Facility shall be erected, constructed, installed or modified without first obtaining a Special Permit from the City Council. No Special Permit shall be granted unless the City Council determines that all such Roof Top Wind Energy Facilities shall be constructed and operated in a manner that minimizes any adverse visual, safety, and environmental impacts and that the proposed Roof Top Wind Energy Facility complies with the Special Permit criteria under Section 11 of the Woburn Zoning Ordinance and:

- (a) that the facility is in an appropriate location for such use;
- (b) that the use will not adversely affect the neighborhood;
- (c) that no nuisance will be created by the use;

In order to make such determinations, the City Council may retain a technical expert/consultant to verify information presented by the applicant. The cost for such a review will be at the expense of the applicant pursuant to G.L. c. 44, § 53G as may from time to time be amended.

- (a) General Requirements. All roof top wind energy facilities shall conform to the following:
 - (1) No more than two (2) roof top wind energy facilities per site;
 - (2) The power generated is for on-site consumption only; and
 - (3) The combined total rated nameplate capacity shall be 10 kW or less.
- (b) Connection to the power grid. Approval of roof top wind energy facilities neither permits nor denies access to the power grid. However, no roof top wind energy facility shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. No roof top wind energy facility that is interconnected with the electric system may be put in operation prior to execution of an Interconnection Agreement with the local electric utility. Off-grid systems shall be exempt from this requirement.
- (c) Height. The height for the Wind Energy Facility, Roof Top turbine shall not exceed ten (10) feet. The height for the Wind Energy

Facility, Roof Top turbine is measured from the point of attachment to the roof to the highest point of the turbine rotor or tip of the turbine blade when it reaches its highest elevation.

- (d) Special permit application. No Roof Top Wind Energy Facility, shall be constructed unless a Special permit has been issued to the owner of the property. The Special permit application shall contain the following additional information:
 - (1) The Special permit application shall contain the following: narrative describing the proposed wind energy facility, the proposed total rated capacity of the wind energy facility, the proposed number, types and height of Roof Top Wind Energy Facilities to be constructed.
 - (2) Other relevant information may be reasonably requested by the City Council to ensure compliance with the requirements of this Ordinance.

- (e) Installation and design.
 - (1) All structural, electrical and mechanical components of the wind energy facility shall conform to relevant and applicable local, state and national codes at the time of application.
 - (2) A structural certification of the roof must be completed and submitted with the Special permit application to ensure that the roof is suitable to hold the Roof Top Wind Energy Facility.
 - (3) The Roof Top Wind Energy Facility shall comply with the provisions of the Massachusetts Department of Environmental Protection's ("DEP") Division of Air Quality Noise Regulations (310 CMR 7.10) in effect on August 1, 2009 and any limitations on noise imposed by The City Council.
 - (4) All Roof Top Wind Energy Facilities shall have an automatic braking, governing or feathering system to prevent uncontrolled rotation, over speeding and excessive pressure on the roof, structure, rotor blades and turbine components.
 - (5) The visual appearance of Roof Top Wind Energy Facilities shall at a minimum:
 - a. Be a non-obtrusive color such as white, off-white or gray.
 - b. Shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.
 - c. Shall not display any advertising except for manufactures identification and such identification shall not exceed two square feet in size and furthermore no flags, streamers or decorative item shall be attached to the Roof Top Wind Energy Facility.

4. Small Wind Energy Facility

No Small Wind Energy Facility shall be erected, constructed, installed or modified without first obtaining a Special Permit from the City Council. This subsection applies to Small Wind Energy Facilities no greater than 60 kilowatts of rated nameplate capacity proposed to be constructed after the effective date of this section. This subsection is not intended to cover roof-mounted, building-integrated, building-mounted or architectural wind systems; this subsection only covers stand-alone tower mounted systems. A Small Wind Energy Facility shall only be maintained in compliance with all requirements set forth herein and as described in the Special Permit. No Special Permit shall be granted unless the City Council determines that all such wind energy facilities shall be constructed and operated in a manner that minimizes any adverse visual, safety, and environmental impacts. In order to make such determinations, the City Council may retain a technical expert/consultant to verify information presented by the applicant. The cost for such a review will be at the expense of the applicant pursuant to G.L. c. 44, § 53G as may from time to time be amended.

No Special Permit shall be granted unless the City Council finds, in writing, that the proposed Small Wind Energy Facility complies with the Special Permit criteria under Section 11 of the Woburn Zoning Ordinance and:

- (a) the specific site is an appropriate location for such use;
- (b) the use will not adversely affect the neighborhood;
- (c) no nuisance will be created by the use;
- (d) adequate and appropriate facilities will be provided for the proper operation of the use; and
- (e) the application information submitted is adequate, complete and containing sufficient information for the City Council to consider approving the special permit request. If the City Council finds that the information is not adequate or complete, it may continue the hearing on the application to allow the applicant to submit additional information which may be needed for a decision.

The City Council in issuing a Special Permit for a small wind energy facility may impose reasonable conditions, safeguards and limitations on time and use and may require the applicant to implement all reasonable measures to mitigate reasonably foreseeable adverse impacts of the small wind energy facility. At the discretion of the City Council and if required by the Special Permit, the owner of an small wind energy facility, or other responsible appropriate person, may be required to provide to the building inspector annual certification demonstrating continuing compliance with applicable standards

regarding noise, shadow flicker, structural integrity, air traffic safety, radio emissions safety, or other issues of importance to the purposes of this regulation. Including that the owner of a small wind energy facility, or other responsible appropriate person, may be required to provide to the building inspector annual certification demonstrating continuing compliance with applicable standards regarding noise, shadow flicker, structural integrity, air traffic safety, radio emissions safety, or other issues of importance to the purposes of this regulation. The building inspector may retain a technical expert/consultant to verify information presented by the applicant. The cost for such a review will be at the expense of the applicant pursuant to G.L. c. 44, § 53G as may from time to time be amended.

Small wind energy facility owners and operators shall maintain the small wind energy facility in good condition and provide for the ongoing maintenance in accordance with the conditions of the Special Permit, manufacturer's specifications and governmental regulations for all structural, electrical and mechanical operations to ensure safe operation of the small wind energy facility. Any small wind energy facility found to be unsafe by the Building Inspector shall be repaired or removed pursuant to his direction.

Small Wind Energy Facilities shall comply with the following requirements:

a. Yard Setback Requirements

All small wind energy facilities or wind turbines shall be located in the rear yard of the subject property and shall comply with the building setback requirements of the zoning district in which they are located. Additionally, small wind turbines shall be set back a distance of at least 1.5 times the overall height of the device from the nearest property line. Any supporting structure including guy wires shall not be located closer to any property line or street line than the distance equal to the minimum building setback required for the zoning district in which the facility is located. In addition, guy wires shall not be secured to trees but shall be secured to stationary anchors and located away from trees or other structures that may interfere with the safe operation of the small wind energy facility.

b. Height

No small scale wind turbine shall be higher than 65 feet.

c. Number

The number of small scale wind turbines on any parcel shall not exceed two (2).

d. Visual Impacts

The applicant shall demonstrate through project site planning and proposed mitigation that the small wind energy facility's visual impacts will be minimized for surrounding neighbors and the community. This may include, but not be limited to information regarding site selection, wind generator design or appearance, buffering, and screening of ground mounted electrical and control equipment. Where wind characteristics permit, wind turbines shall be set back from the tops of visually prominent ridgelines to minimize the visual impacts. In addition, all electrical conduits shall be underground, except when the City Council finds that the financial costs are prohibitive.

e. Clearing

Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the small wind energy facility and as otherwise allowed by Special Permit of the City Council.

f. Lighting & Federal Aviation Requirements

There shall be no lighting affixed to a small wind turbine unless such lighting is required by the Federal Aviation Administration (FAA). Small wind turbines shall be built to comply with all applicable Federal Aviation Administration regulations. If lighting is required, the applicant shall provide a copy of the FAA determination to establish the required markings and/or lights for the small wind turbine.

g. Appearance, color, finish

The small scale wind turbine shall be painted a non-reflective color that blends with its surroundings. However, visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of 10 feet from the ground, as approved by the City Council.

h. Signage and advertizing

Signs on small scale wind turbines shall be limited to:

- (1) A sign necessary to identify the owner, provide a 24-hour emergency contact phone number, and warn of any danger and such sign shall not exceed two square feet in size.
- (2) Educational signs providing information about the facility and the benefits of renewable energy and such signs shall not exceed ten square feet in total area.
- (3) Reasonable identification of the manufacturer or operator of the wind energy facility, not to include any advertising display and such sign shall not exceed two square feet in size.

i. Noise

The small scale wind turbine and associated equipment shall comply with the provisions of the Massachusetts Department of Environmental Protection's ("DEP") Division of Air Quality Noise Regulations (310 CMR 7.10) in effect on August 1, 2009, unless the applicant provides written confirmation from DEP that those provisions are not applicable to the proposed facility.

j. Shadow Flicker

Small wind energy turbines shall be sited in a manner that does not result in significant shadow flicker impacts. Significant shadow flicker is defined as more than 30 hours per year on abutting occupied buildings. The applicant has the burden of proving that the shadow flicker will not have significant adverse impact on neighboring or adjacent uses. Potential shadow flicker will be addressed either through siting or mitigation measures.

k. Connection to the power grid

Approval of a small wind energy facility neither permits nor denies access to the power grid. However, no small wind energy facility shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. No small wind energy facility that is interconnected with the electric system may be put in operation prior to execution of an Interconnection Agreement with the local electric utility. Off-grid systems shall be exempt from this requirement.

l. Safety Features

The wind turbine shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of 8 feet above the ground. The minimum distance between the ground and any part of a rotor shall be thirty (30) feet. All wind turbines shall have an automatic braking, governing or feathering system to prevent uncontrolled rotation, overspeeding and excessive pressure on the tower structure, rotor blades and turbine components.

m. Unauthorized access

All related components of the small wind energy facility shall be designed and protected to prevent unauthorized access. Fencing serving this purpose but compatible with the characteristics of the neighborhood may be required by the City Council to control access to a small wind energy facility. In addition, wind turbines and other parts of the facility including all ground-mounted electrical and control equipment shall also be labeled and secured to prevent unauthorized access.

n. Abandonment

1. At such time that a small wind energy facility is scheduled to be abandoned or discontinued, the applicant will notify the building inspector by certified U.S. mail of the proposed date of abandonment or discontinuation of operations.
2. Upon abandonment or discontinuation of use, the owner shall physically remove the small wind energy system within 90 days from the date of abandonment or discontinuation of use. This period may be extended at the request of the owner and at the discretion of the building inspector. "Physically remove" shall include, but not be limited to:
 - a. Removal of the wind generator and tower and related above-grade structures.
 - b. Restoration of the location of the small wind energy facility to its natural condition, except that any landscaping, grading or below-grade foundation may remain in its same condition at initiation of abandonment.
3. In the event that an applicant fails to give such notice, the system shall be considered abandoned or discontinued if the system is out-of-service for a continuous 12-month period. After the 12 months of inoperability, the building inspector may issue a Notice of

Abandonment to the owner of the small wind energy system. The owner shall have the right to respond to the Notice of Abandonment within 30 days from Notice receipt date. After review of the information provided by the owner, the building inspector shall determine if the small wind energy system has been abandoned. If it is determined that the small wind energy facility has not been abandoned, the building inspector shall withdraw the Notice of Abandonment and notify the owner of the withdrawal.

4. If the owner fails to respond to the Notice of Abandonment or if, after review by the building inspector, it is determined that the small wind energy facility has been abandoned or discontinued, the owner of the small wind energy system shall remove the wind generator and tower at the owner's sole expense within 30 days of receipt of the Notice of Abandonment. This period may be extended at the request of the owner and at the discretion of the building inspector. If the owner fails to physically remove the small wind energy system after the Notice of Abandonment procedure, the Building Inspector shall have the authority to enter the owner's property and remove the system at the owner's expense.

5. Large Wind Energy Facility

No large wind energy facility shall be erected, constructed, installed or modified without a special permit from the City Council as provided herein.

a. Special permit

Large scale wind energy facilities shall be subject to the special permit requirements set forth below and must be operated in compliance with said requirements and any further requirements which the City Council may impose upon the special permit, and in a manner that minimizes any adverse visual, safety, and environmental impacts.

The City Council shall act as the special permit granting authority for all applications under this Section. No special permit shall be granted unless the City Council finds in writing that:

- (1) the specific site is an appropriate location for such use;
- (2) the use is not expected to adversely affect the neighborhood;
- (3) there is not expected to be any serious hazard to pedestrians or vehicles from the use;
- (4) no nuisance is expected to be created by the use; and

- (5) adequate and appropriate facilities will be provided for the proper operation of the use.

In granting a special permit under this Section, the City Council may impose reasonable conditions, safeguards and limitations and may require the applicant to implement all reasonable measures to mitigate unforeseen adverse impacts of the wind facility, should they occur.

b. General Siting Standards

(1) Height.

Large Wind Energy facilities shall not be higher than required to make the project economically feasible. The City Council must determine that the height of the facility will not derogate from the intent of this chapter or be detrimental or injurious to the public.

(2) Setbacks

Wind Turbines shall be set back a distance equal to at least 1.5 times the overall height of the wind turbine from the nearest property line and from the nearest private or public way street line. Any supporting structure including guy wires shall not be located closer to any property line or street line than the distance equal to the minimum building setback required for the zoning district in which the facility is located.

c. Design Standards

(1) Color and Finish

The color of the large scale wind energy conversion device shall be subject to final approval by the City Council, although a neutral, nonreflective exterior color designed to blend with the surrounding environment is encouraged.

(2) Lighting

Wind Turbines shall be lighted only if required by the Federal Aviation Administration. Lighting of other parts of a large wind energy facility, such as appurtenant structures, shall be limited to that required for safety and operational purposes and shall be reasonably shielded from abutting properties.

(3) Signage

Signs at a large wind energy facility shall be limited to:

- (a) A sign necessary to identify the owner, provide a 24-hour emergency contact phone number, and warn of any danger and such sign shall not exceed two square feet in size.
- (b) Educational signs providing information about the facility and the benefits of renewable energy and such signs shall not exceed ten square feet in total area.

(4) Advertising

Wind turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the wind energy facility and such sign shall not exceed two square feet in size.

(5) Connections

Reasonable efforts shall be made to locate wires from the wind turbine underground, depending on appropriate soil conditions, shape, and topography of the site or any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

(6) Appurtenant Structures

The City Council may impose reasonable requirements concerning the bulk, height, setbacks, and building coverage of structures appurtenant to a large wind energy facility, as well as parking requirements for such structures. All appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other and shall only be used for housing of equipment for the particular large wind energy facility on the site. Whenever possible, structures should be shielded from view by vegetation and/or located in an underground vault and joined or clustered to avoid adverse visual impacts.

(7) Support Towers

Monopole towers are the preferred type of support for the wind turbines.

d. Safety, Aesthetic and Environmental Standards

All wind turbines shall have an automatic braking, governing or feathering system to prevent uncontrolled rotation, overspeeding and excessive pressure on the tower structure, rotor blades and turbine components.

(1) Unauthorized Access

Wind turbines and structures appurtenant to large wind energy facilities shall be designed to prevent unauthorized access. Fencing serving this purpose but compatible with the characteristics of the neighborhood may be required by the City Council to control access to a large wind energy facility. In addition, wind turbines and other parts of the facility including all ground-mounted electrical and control equipment shall also be labeled and secured to prevent unauthorized access. The wind turbine shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of 8 feet above the ground. The minimum distance between the ground and any part of a rotor shall be thirty (30) feet.

(2) Shadow/Flicker

Wind turbines shall be sited in a manner that minimizes shadowing or flicker impacts. The applicant has the burden of proving that any shadow or flicker effect resulting from the turbine will not have any significant adverse impact on neighboring or adjacent uses either because of the proposed siting of the facility or because of proposed mitigation measures.

(3) Noise

Wind Turbines and associated equipment shall conform to the provisions of the Department of Environmental Protection's ("DEP") Division of Air Quality Noise Regulations (310 CMR 7.10) in effect on August 1, 2009, unless the applicant provides written confirmation from DEP that those provisions are not applicable to the proposed facility.

An analysis prepared by a qualified engineer shall be presented to demonstrate that the proposed facility will be in compliance with these noise standards.

(4) Connection to the power grid

Approval of a large wind energy facility neither permits nor denies access to the power grid.

(5) Utility Notification

No wind energy facility shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

(6) Land Clearing, Soil Erosion, and Habitat Impacts

Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation, and maintenance of the large wind energy facility and is otherwise prescribed by applicable laws, regulations, and ordinances.

(7) Modifications

All material modifications to a large wind energy facility made after issuance of the special permit shall be subject to further special permit approval by the City Council in accordance with this Section.

e. Abandonment or Decommissioning

(1) Removal Requirements

Any large scale wind energy conversion facility which has reached the end of its useful life or has been abandoned shall be removed. When the wind facility is scheduled to be decommissioned, the applicant shall notify the Building Commissioner by certified mail of the proposed date of discontinued operations and plans for removal. The owner/operator shall physically remove the wind facility no more than 150 days after the date of discontinued operations. Within the same 150-day period, the wind facility site shall be restored to the state it was in before the facility was constructed. More specifically, decommissioning shall consist of:

- (a) Physical removal of all wind energy conversion devices, structures, equipment, security barriers and transmission lines from the site.
- (b) Disposal of all solid and hazardous waste in accordance with local and state waste disposal regulations.
- (c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The City Council may allow the owner to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

(2) Abandonment

Absent notice of a proposed date of decommissioning, the facility shall be deemed to be abandoned if the facility is not maintained or operated for a period of one year except where prior written consent of the City Council was obtained, or upon expiration of the special permit without renewal or extension.

(3) Financial Surety

As a condition of the special permit, the City Council shall require the applicant to provide surety in an amount determined by the City Council to be necessary to ensure proper removal of the facility upon abandonment. Such surety may be provided in the form of a bond acceptable to the City Council or by placing a sum of money into an account to be held by the City Treasurer. Such surety will not be required for municipally or state owned facilities.

The applicant shall submit to the City Council a fully inclusive estimate of the costs associated with removal, prepared by a qualified, professional engineer registered to practice in the Commonwealth of Massachusetts.

The applicant shall provide written authorization and, as necessary, shall provide the written authorization of the owner of the subject property, for the City or its agents to enter upon the subject property to remove the wind facility in the event that the applicant fails to do so within 150 days after abandonment or decommissioning as required under this Section.

f. Term of Special Permit

Unless abandoned earlier, a special permit issued for a large wind energy facility shall automatically expire after 25 years, unless

extended or renewed by the City Council upon a finding that there has been satisfactory operation of the facility in accordance with the requirements of the special permit and this Section. An application for renewal or extension must be submitted at least 180 days prior to expiration of the special permit. Submission of such an application shall allow for continued operation of the facility until the City Council acts. Upon final expiration of the special permit (including extensions and renewals), the wind facility shall be deemed abandoned and shall be removed as required by this Section.

g. Application Process and Requirements

(1) Application Procedures

(a) General

The special permit application for a large scale wind energy conversion facility shall be filed in accordance with Section 11 of the Woburn Zoning Ordinance and the rules and regulations of the City Council concerning special permits.

(b) Site Control

At the time of its application for a special permit, the applicant shall submit documentation of actual or prospective control of the project site sufficient to allow for installation and use of the proposed facility. Documentation shall also include proof of control over setback areas and access roads, if required. Control shall mean the legal authority to prevent the use or construction of any structure for human habitation within the setback areas.

(c) Proof of Liability Insurance

The applicant shall be required to provide evidence of liability insurance in an amount and for a duration sufficient to cover loss or damage to persons and structures occasioned by the failure of the facility.

(d) Professional Fees

The City Council may impose reasonable fees for the employment of outside consultants to be expended in accordance with the requirements and provisions of MGL C. 44, § 53G.

(e) Additional Requirements

The City Council may require that the applicant arrange for a balloon or crane test at the proposed site to illustrate the height of the proposed facility. The date, time, and location of such test shall be advertised in a newspaper of general circulation in the City at least 14 days, but not more than 21 days prior to the test.

(2) Visualizations

The City Council shall select between three and six sight lines, including from the nearest building with a view of the wind facility, for pre- and post construction view representations. Sites for the view representations shall be selected from populated areas or public ways within a 2-mile radius of the wind facility. View representations shall have the following characteristics:

- (a) View representations shall be in color and shall include actual pre-construction photographs and accurate post construction simulations of the height and breadth of the wind facility (e.g. superimpositions of the wind facility onto photographs of existing views).
- (b) View representations shall include existing, or proposed, buildings or tree coverage.
- (c) View representations shall be accompanied by a description of the technical procedures followed in producing the visualization (distances, angles, lens, etc).

(3) Landscape Plan

A plan indicating all proposed changes to the landscape of the site, including temporary or permanent roads or driveways, grading, vegetation clearing and planting, exterior lighting (other than FAA lights), screening vegetation or structures. Lighting shall be designed to minimize glare on abutting properties and, except as required by the FAA, be directed downward with full cut-off fixtures to reduce light pollution.

(4) Operation & Maintenance Plan

The applicant shall submit a plan for maintenance of access roads and storm water controls, as well as general procedures for operational maintenance of the wind facility.

(5)Waiver

The City Council may waive or modify the submission requirements contained herein where it finds such waiver or modification shall not adversely affect the public health, safety, or welfare, and will not derogate from the intent of this Section.

(6) Monitoring and Maintenance

- (a) After the wind energy conversion facility is operational, the applicant shall submit to the town at annual intervals from the date of issuance of the Special Permit, a report detailing operating data for the facility (including but not limited to days of operation, energy production, etc.).
- (b) The applicant shall maintain the wind energy conversion facility in good condition. Such maintenance shall include, but not be limited to, painting, structural integrity of the foundation and support structure and security barrier (if applicable), and maintenance of any buffer areas and landscaping. The applicant shall be responsible for the cost of maintaining the wind facility and any access road, unless accepted as a public way, and the cost of repairing any damage occurring as a result of operation and construction.
- (c) The applicant or facility owner shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project.

(7) Emergency Services

The applicant shall provide a copy of the project summary, electrical schematic, and site plan to the local emergency services departments, as designated by the City Council. The applicant shall cooperate with local emergency services in developing an emergency response plan for the large wind energy facility.

All means of disconnecting the large wind energy facility shall be clearly marked.

The applicant or facility owner shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project.

s/Alderman Raymond,
Alderman Mercer-Bruen,
President Doherty

Motion made and 2nd that the MATTER be REFERRED TO PUBLIC HEARING, all in favor, 9-0.

ORDERED Notwithstanding the provisions of section 15A of chapter 40 of the general laws, or of any other general or special law to the contrary, the land commonly known as the Clapp School and surrounding fields, acquired by the City on or about 1909, located at the intersection of Hudson Street and Arlington Road in the City of Woburn, Massachusetts shown as Assessors Map 59, Block 26, Lot 20, containing 2.92 acres more or less, and shown on a plan entitled, "Use and Limitation Plan" dated September 2, 2009, and prepared by Leblank Survey Associates, Inc. and on file with the City Clerk, currently used for recreational and educational purposes, shall hereinafter be under the care, custody and control of the Woburn Recreation Commission, to be used solely for active or passive recreational use including, but not limited to, community gardens, trails, and noncommercial youth and adult sports, park, playground or athletic field purposes, provided, however, that recreational use of such land shall not include horse or dog racing or the use of land for a stadium, gymnasium or similar structure. Provided, however, that notwithstanding the provisions of the preceding sentence, the portion of land shown on the above-referenced plan as designated for educational purposes shall continue to be under the care, custody and control of the City of Woburn school committee and shall be used for educational purposes only until such time as the newly constructed Goodyear School is completed and all students receiving educational services at the Clapp School have been reassigned to alternative sites within the Woburn school district and said school committee votes that such property is no longer needed for educational purposes and authorizes a transfer of the care, custody and control of such property to the Woburn Recreation Commission, at which time, that portion of the land shall then be used only for active or passive recreational use as described herein. No other use or uses of said land, or transfer of such land from one board, committee, or officer to another, except as specifically authorized herein, shall be permitted except upon the approval of a 2/3 vote of both houses of the General Court.

s/President Doherty and Alderman Gately

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

RESOLVED Whereas, the 75-year-old steel exposed pipe located at the intersection of Montale Avenue and Washington Street which runs past Utica Street has had multiple leaks over the past several months,

Be It Resolved by the City Council of the City of Woburn that the Chief of the Fire Department send a letter to National Grid requesting that this pipe be replaced as a matter of public safety.

s/Alderman Mercer-Bruen

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

Presented to the Mayor: Sept. 18, 2009 s/Thomas L. McLaughlin Sept. 23, 2009

RESOLVED That voters of Ward Five be reminded that the voting for the Preliminary Election on September 22, 2009 will be conducted at the Goodyear School gymnasium.

s/Alderman Mercer-Bruen

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

Presented to the Mayor: Sept. 18, 2009 s/Thomas L. McLaughlin Sept. 23, 2009

RESOLVED That His Honor the Mayor instruct the Superintendent of the Department of Public Works to investigate the feasibility of paving the Stonewall Drive and Russell Court.

s/Alderman Drapeau

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

**Presented to the Mayor: Sept. 18, 2009 s/Thomas L. McLaughlin Sept. 23, 2009
with the notation "subject to funding"**

Motion made and 2nd to ADJOURN, all in favor, 9-0. Meeting adjourned at 10:15 p.m.

A TRUE RECORD ATTEST:

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