

**Meeting Minutes**  
**January 10, 2017 Planning Board Meeting**  
**7:00 P.M.**  
**City Council Chambers, Woburn City Hall**

A blue ink stamp with a checkmark in a box followed by the word "APPROVED" in a stylized, slanted font.

Chair Carolyn Turner called the meeting to order at 7:00 p.m. and asked City Planner/Grant Writer Dan Orr to call the roll.

**ROLL CALL OF MEMBERS**

Ms. Claudia Bolgen, Mr. Kevin Donovan, Mr. Bob Doherty, Mr. Jim Callahan, Mr. Michael Ventresca, Mr. Dave Edmonds and Chair Carolyn Turner were present. Also present were Planning Director Tina Cassidy and City Planner/Grant Writer Dan Orr.

**1. SUBDIVISION APPROVAL NOT REQUIRED PLANS (SANR's)**

Chair Turner asked if there were any ANR's for consideration. Director Cassidy indicated there were not.

**2. PUBLIC HEARING: ZONING TEXT AMENDMENT TO DELETE SELF-STORAGE WAREHOUSE FACILITIES AS A PERMITTED USE IN THE B-I, I-P AND I-G ZONING DISTRICTS**

Alderman Haggerty approached the Board to offer background on the proposed amendment to the Woburn Zoning Ordinance. The proposal would essentially ban the permitting of self-storage facilities in the City. At least 3-4 properties have been permitted as self-storage warehouse facilities over the course of the last year. There are a total of at least 6 self-storage facilities existing in the City. The proposed ordinance would not affect them.

Alderman Haggerty further stated that he would like to look toward creating higher-end uses that creates jobs, although he acknowledges that self-storage facilities are needed by the residential and business communities in terms of temporary storage space.

Alderman Haggerty further stated that the proposed deletion of this use would grandfather the current self-storage properties as "existing non-conforming."

Mr. Dave Edmonds inquired about the transfer of these properties. Alderman Haggerty stated that if the uses were to continue, the transfer of property ownership would be allowed.

Mr. Michael Ventresca stated that he was surprised by this proposed change and inquired as to whether other areas of the City were examined to pinpoint where this use may be most appropriate. Alderman Haggerty responded appropriateness of the use seems to be based on residents' interpretation. Because the Council has granted several of these permits in recent years, it has come to his attention that the City should now encourage more productive uses that are low impact for similar properties.

Ms. Claudia Bolgen inquired about why the Special Permitting process is not sufficient to prevent additional self-storage facilities. Alderman Haggerty stated that is a fair question. Although the Council could say no to a special permit request, eliminating it altogether would make clear what land uses the City wants to see in different areas and having extremely clear rules would be beneficial.

Ms. Claudia Bolgen asked for confirmation that the proposal would make the zoning clearer as to what the Council is willing to accept in terms of allowable uses. Alderman Haggerty confirmed that is the case; the City does not want to send "mixed messages" by listing a special permit use it does not intend to permit.

## PUBLIC HEARING

Chair Carolyn Turner reminded the audience that this matter is the subject of a public hearing and asked any member of the audience who wished to speak to please do so at this time.

No members of the audience stepped forward.

Motion to close the public hearing made by Mr. Dave Edmonds;  
Seconded by Mr. Jim Callahan;  
Motion carried, 7-0-0.

Planning Director Cassidy stated that she did not make a recommendation prior to the hearing but she has been persuaded by the comments of the Councilor and would recommend the Board recommend its passage to the Council.

Motion to accept the Planning Director's recommendation made by Mr. Dave Edmonds;  
Seconded by Mr. Bob Doherty;  
Motion carried, 7-0-0.

## 2. PUBLIC HEARING: ZONING TEXT AMENDMENT TO ADD BILLBOARDS AS A SPECIAL PERMIT USE IN THE MISHAWUM STATION TRANSIT ORIENTED DISTRICT OVERLAY DISTRICT (MSTODOD)

Attorney James Mawn for the petitioner, Mawn & Mawn PC, 275 Mishawum Road, approached the Board to explain the background of the proposed zoning change.

Attorney Mawn stated that he does not want to be in front of the Board this evening, but he finds himself in a "defensive posture." He and the City have recently received notice that the MBTA has agreed to a transfer of property with the intention to construct a billboard that will be able to "sidestep" local zoning controls.

Attorney Mawn further stated that there is no mechanism currently in the zoning ordinance to support this type of advertising. Adopting the proposed measure would enable the City to control billboard advertising parameters derived from State law (700 CMR Section 3). If not addressed in the local zoning ordinance, the City would be missing an opportunity to benefit property owners and the City as a whole and the opportunity to try to manage the inevitability of billboard advertising.

Attorney Mawn requested that the Board accept a document for its review that proposes a modification to the City's Zoning Ordinances (Section 21, Subsection 7), which is where regulatory oversight for billboard advertising would be placed.

Motion to accept the handout made by Mr. Dave Edmonds;  
Seconded by Ms. Claudia Bolgen;  
Motion carried, 7-0-0.

Ms. Claudia Bolgen inquired as to where the proposed MBTA-authorized billboard will be placed with respect to the MSTODOD and the Northern Bank and Trust Headquarters. Attorney Mawn confirmed that the proposed billboard would be located on the Northern Bank and Trust building property and the proposed MBTA billboard currently being considered is on the opposite side of I-95, within the rail bed.

Attorney Mawn requested that the Board accept a letter originating from Clear Channel (working in partnership with the MBTA) which notified the recipient of the proposed billboard location for better context; it is accompanied by a rendering of the sign.

Motion to accept the handout made by Mr. Dave Edmonds;  
Seconded by Ms. Claudia Bolgen;  
Motion carried, 7-0-0.

Ms. Claudia Bolgen stated that she would like to understand better the premise of the proposal and the mechanism by which the MBTA could override what the City adopts in its ordinances.

Ms. Claudia Bolgen inquired to Attorney Mawn that the premise of his proposal to provide the City with an effective method for regulating billboard advertising in the context of the potential for local zoning preemption. Attorney Mawn confirmed that the zoning proposal would provide the City with tools for mitigation if a billboard were to be allowed. The City would have no such control over a billboard permitted by the State.

Ms. Claudia Bolgen asked that, given a State agency owns the property, is there anything that can be done in his opinion on this particular issue? Even if the City adopts this proposed ordinance, how will it help him? Attorney Mawn responded that if the City adopts the ordinance NBTC is proposing and a sign were to be installed on NBTC's land, it would preempt the MBTA from doing so. That is because the Outdoor Advertising Board (OAB) regulations will only allow one sign within a certain radius.

Ms. Claudia Bolgen inquired about the legal mechanism by which allowing a billboard in the MSTODOD would prevent the MBTA from erecting its own sign. Attorney Mawn responded that Section 3 (700 CMR) dictates the minimum distances between billboard signs (digital signs, for example, cannot be within 1,000 ft. of one another).

Attorney Mawn further stated that if the MBTA-authorized sign is approved before the City adopts the proposed ordinance, then a petitioner would not be allowed to erect a sign within the MSTODOD. An electronic billboard sign is coming to the City, but the proposed ordinance will enable control over the look of the sign.

Ms. Claudia Bolgen stated that the proposed ordinance will only address this particular scenario of an MBTA-authorized billboard; it would not address another proposal further down on the rail line, that is not adjacent to the MSTODOD. Attorney Mawn responded that is true, but this scenario is unique in that it is the only area of the City where the MBTA rail bed intersects the I-95 Corridor. However, he has not conducted an analysis of all MBTA-owned property in Woburn (including parcels not laying in a rail bed).

Mr. Dave Edmonds asked whether an MBTA-authorized sign could be placed on the other side of the highway adjacent to the Northern Bank and Trust Building. Attorney Mawn confirmed it could be.

Mr. Dave Edmonds inquired how the City would benefit if the proposed ordinance is adopted. Attorney Mawn responded that the success and benefit of the proposed ordinance is based upon who gets there first. If a sign is to be erected on the north side of the highway, before the MBTA-authorized sign, the City could control all aspects of the sign.

Attorney Mawn further stated that the MBTA has the ability to sidestep local ordinances, but if a sign is erected utilizing the new zoning for the MSTODOD, the MBTA has to observe the State law that restricts signs based upon distances between digital billboards, and as such, it could not erect its own sign on the south side of the highway.

Ms. Claudia Bolgen stated that this proposal appears to be dependent on timing; if the State moves quickly to permit the existing application before a local ordinance is passed, then the current proposal is already at a disadvantage. Additionally, it could also enable other property owners in MSTODOD to pursue the option of erecting a billboard. Attorney Mawn stated that the MSTODOD is a very small area and he would have to do some research to determine if there are other properties not preempted given the 1,000-ft. distance restriction.

Ms. Claudia Bolgen asked Attorney Mawn if he has a sense of how long the MBTA will take to issue approval of the billboard application already pending before it. Attorney Mawn stated that he believes that the sign could be erected when the OAB issues a permit. His understanding is that once OAB issues its approval, the approval would preempt any other proposal within a 1,000-ft. radius.

Ms. Claudia Bolgen stated that the applicant appears to be in second place based on the timing of filings. Attorney Mawn confirmed that is true but he "hopes to catch up."

Ms. Claudia Bolgen further stated that there is also a risk of another applicant filing a rezoning proposal to allow billboards in another part if the Planning Board/City Council demonstrate a willingness to adopt such a change. Attorney Mawn responded that it is the City's discretion to determine what uses should be allowed in which district. Further, earlier creation of the Mishawum Overlay District itself indicated that something is unique about the MSTODOD that would not apply to any other part of the City. As a result, he does not see the risk of "extrapolating the rules" from this district to another district.

Ms. Claudia Bolgen stated that she had come across a Commerce Way Corridor Overlay District filing recently and asked the Planning Director if it was still an active proposal. Planning Director Cassidy responded that this was a plan filed for 120 Commerce Way for a mixed-use development at the former Fitzgerald Tile site.

Attorney Mawn stated that the conditions that define an Overlay District cannot necessarily be applied to other Overlay Districts in the City, much like each "Zoning District" has its own distinct set of allowable uses.

Ms. Claudia Bolgen stated that the point still stands that the petitioner is "behind in the race." Attorney Mawn stated that he wishes he had filed before the other application was submitted to the State, but he hopes the Board is willing to allow him to try.

Mr. Jim Callahan asked what NBTC's proposed sign would look like compared to the sign being considered by the MBTA. Attorney Mawn stated that the MSTODOD-located sign is half as tall as the

one currently being proposed at the State level. At the end of the day, the City Council and the Planning Board would have jurisdiction over how it would appear.

Mr. Jim Callahan asked what triggers oversight of a sign by the OAB. Mawn stated that there are two bodies of law that would apply in this scenario, including 700 CMR Section 3 which would dictate the criteria for the sign. Section 7 lays out the maximum dimensions for a billboard, but it does not specify a minimum.

Attorney Sam Brady, Mawn & Mawn PC, 275 Mishawum Road, approached the Board on behalf of the Petitioner.

Attorney Brady stated that, regarding the definition of a billboard, generally regulations under the State statute are limited to advertising activities or products not pertaining to the area in which the sign is located. There does not appear to be minimum regulations.

Mr. Jim Callahan stated that if no minimum is required, the Petitioner puts up a small sign that is less invasive, it could do so without pursuing the rezoning proposal.

Attorney Mawn stated that whether a sign that cannot be seen, for example, falls within the standards of the OAB a good question to research further.

Mr. Jim Callahan inquired about the Planet Fitness site and its free-standing sign. Attorney Mawn stated that the sign being referred to is now "blacked-out" and likely a static sign.

Mr. David Edmonds stated that exceptions have been granted in the past in terms of signage and regulations allowed; it may be that further exceptions would be permitted with the proposed zoning change. Attorney Mawn stated even with the possibility of exceptions, the City will still have the authority to grant a variance or not.

Attorney Brady stated that all billboards within 660 feet of a federal highway are regulated by State and Federal statute. If an applicant wanted to receive an exception from State law, they would have to also receive it from the Federal government.

Mr. Bob Doherty inquired as to whether the MBTA has received a permit from the State and how Attorney Mawn knows about the application. Attorney Mawn said that he does not believe the State has yet received a permit, and he knows about the application due to the certified letter that was sent to the Petitioner.

Mr. Michael Ventresca asked for clarification about the jurisdiction of State law. Attorney Mawn stated that there are two sets of rules that the City would have to abide by: 700 CRM Section 3 and Federal law.

Mr. Michael Ventresca stated that he would want a more thorough review of other potentially affected areas of the City before supporting such a change to the ordinances, including other Overlay Districts.

Mr. Dave Edmonds inquired as to when the OAB is going to vote on this issue. Attorney Mawn was unaware of the hearing date. Planning Director Cassidy responded that the City has received a notice that the public hearing on the MBTA's sign proposal will take place in the second week of February.

Mr. Kevin Donovan inquired about the dimensions of the Petitioner's proposed sign. Attorney Mawn stated that new dimensions were provided in the updated Petition; it is approximately 16' wide by 40' long. Grading differences are minimal between the proposed MBTA billboard location and the proposed MSTODOD billboard location.

Mr. Jim Callahan inquired of the Planning Director whether the City of Woburn plans to send any sort of correspondence to the OAB. Planning Director Cassidy responded that the Councilor for the district in which the billboard is proposed (Darlene Mercer-Bruen) is currently organizing an opposition letter to be sent on the City Council's behalf.

Mr. Jim Callahan inquired as to whether a hearing on the pending application could be held in Woburn so that residents have an opportunity to provide their input. Planning Director Cassidy responded that she does not have an answer but would be able to look into it.

Chair Carolyn Turner asked if a decision is typically made on the same day that the hearing is opened. Planning Director Cassidy stated that she does not know the answer.

Chair Carolyn Turner asked whether the Petitioner's proposal would also go before the OAB by February and whether they only handle one application per meeting. Planning Director Cassidy stated that she is not aware of the hearing scheduling process.

Ms. Claudia Bolgen asked whether the City Solicitor could provide any recourse that City officials could take in terms of the options for impacting the signage issue location. Planning Director Cassidy stated that it makes a lot of sense to obtain her opinion on that.

Mr. Doherty stated based on his read of the Outdoor Advertising Board rules, 700 CMR 3.20 indicates that municipalities cannot be prohibited from enacting stricter zoning than is found in 700 CM 3.00.

Mr. Michael Ventresca stated that even though a billboard is not explicitly mentioned in the sign ordinances, that does not necessarily mean it is allowed.

Mr. Dave Edmonds inquired as to who represents the City at the public hearing in February. Planning Director Cassidy stated that it is the intention of the City to have representation, she plans to attend the meeting herself. Ward Councilor Mercer-Bruen's hope is that the City can also present testimony, but Planning Director Cassidy must defer to the Mayor.

Ms. Claudia Bolgen stated that we do not necessarily know the City's position relative to the MBTA's proposed sign. It is a valid concern to inquire as to whether a defensive posture is the only way to handle this proposal.

Planning Director Cassidy asked Mawn when the City Council is scheduled to hear this proposal. Attorney Mawn stated that the Council's public hearing is slated for January 17<sup>th</sup>.

Attorney Mawn stated that his firm is working in conjunction with the City Solicitor to identify other types of recourse for the City; that discussion is ongoing.

Chair Carolyn Turner stated that this matter is the subject of a public hearing and asked any members of the audience who would like to address the Board to please do so at this time.

#### PUBLIC HEARING

No one from the audience stepped forward.

Motion to close the public hearing made by Mr. Dave Edmonds;  
Seconded by Mr. Bob Doherty;  
Motion carried, 7-0-0.

Planning Director Cassidy inquired as to whether the Board would like to table the discussion until she is able to confer with City Solicitor.

Ms. Claudia Bolgen stated that instead of offering a recommendation by this evening, and given the strict timeline of this scenario, it may be helpful to share their action plan with the City Council so that they are apprised of Board's desire to receive more information before making an official recommendation.

Motion to continue the matter until the Board's next meeting on January 24<sup>th</sup> and to provide a letter to the Council informing them of the Board's request to the City Solicitor for more information made by Mr. Dave Edmonds;  
Seconded by Mr. Bob Doherty;  
Motion carried, 7-0-0.

3. **PUBLIC HEARING: ZONING TEXT AMENDMENT TO INSERT A PROVISION AUTHORIZING CORRECTION OF SCRIVENERS' ERRORS BY THE CITY CLERK**

Planning Director Cassidy stated that the City Solicitor drafted the proposed amendment to amend Section 3 of the Woburn Zoning Ordinances. The proposal would add a new subsection that would enable the correction of scrivener's errors (defined as typographical or numerical errors) by the City Council. There currently is no tool to address such errors and as a result there is no way to avoid the need to advertise public hearings for non-substantive changes. This appears to be very practical proposal in order to avoid the need to advertise and schedule public hearings simply to correct typos. To this end, she would recommend the Board in turn recommend the Council adopt this amendment.

Mr. Jim Callahan inquired about the nature of the changes in terms of authority. Planning Director Cassidy responded that only the City Clerk would be authorized to make corrections to Scrivener's Errors under the proposed zoning change.

Chair Carolyn Turner opened this matter for a public hearing and asked any members of the audience who would like to step forward to address the Board to please do so at this time.

PUBLIC HEARING

Mr. Chris Owen, 3 Florence Terrace, approached the Board. Mr. Owen stated that the Council is delegating an authority to the City Clerk that it should not be.

Mr. Chris Owen further stated that if there are typographical errors, that is understandable, but the issue remains that, under this proposed zoning change, the Clerk would be able to personally determine what constitutes a Scrivener's Error.

Motion to close the public hearing made by Mr. Dave Edmonds;  
Seconded by Ms. Claudia Bolgen;

Motion carried, 7-0-0.

Mr. Michael Ventresca inquired as to the meaning of the term Scrivener's Error.

Ms. Claudia Bolgen stated that the term Scriveners' Error is defined in the proposal as something that does not affect the intent or substance [of a legal document].

Mr. Bob Doherty is concerned about allowing the City Clerk to make the determination as to what constitutes a Scriveners' Error.

Planning Director Cassidy stated that based on her conversations with the City Solicitor there have in fact been scrivener's errors in the zoning ordinance but she cannot provide a specific example at the moment. Planning Director Cassidy stated that the ordinance change would allow correction of only typographical or numerical errors, and mentions that the amendment would require the City Clerk to file a copy of any corrections made to both the City Solicitor and to the Zoning Enforcement Officer.

Chair Carolyn Turner stated that she is comfortable with the proposed amendments, as it is specific enough in her opinion to allow for a straightforward determination.

Motion to recommend approval of the zoning change made by Mr. Dave Edmonds;  
Seconded by Mr. Michael Ventresca;  
Motion carried, 6-1-0, with Mr. Bob Doherty opposed.

#### **4. BAKER WAY DEFINITIVE SUBDIVISION**

Planning Director Cassidy stated that the developer has submitted an acceptable covenant as surety for this subdivision and has also submitted drafts of homeowners association and easement documents for review.

Mr. Michael Ventresca inquired as to his ability to sign off on this plan if he was not among those who voted to approve it. Planning Director Cassidy responded that he would be permitted to sign the plans as a ministerial act, but it would also pose no problem if both Mr. Michael Ventresca and Ms. Claudia Bolgen abstained from signing due to meeting absences. There are enough other Planning Board members present to provide the required signatures.

Motion to approve acceptance of the signed Covenant as the developer's form of surety to guarantee completion of the Baker Way subdivision and to endorse the Definitive Subdivision Plan made by Ms. Claudia Bolgen;  
Seconded by Mr. Michael Ventresca;  
Motion carried, 7-0-0.

#### **5. 855-859 MAIN STREET BOND RELEASE**

Planning Director Cassidy stated that the Engineering Department reviewed the request and noted that there was some damage to several trenches in Main Street that were caused by plowing. There are no other outstanding construction issues, but Planning staff was unable to ascertain the amount of money that should be held to cover the cost of repairing the trench damage. Thus, she is recommending a continuance of discussion of this matter until the next meeting so that this cost information can be provided by the Engineering Department.

Motion to continue discussion of the bond release request for 855-859 Main Street to the next meeting made by Mr. Dave Edmonds;  
Seconded by Mr. Bob Doherty;  
Motion carried, 7-0-0.

For the record, Chair Carolyn Turner stated that she incorrectly introduced the last matter as the Fremont Street Extension, whereas it should have been introduced as the matter of 855-859 Main Street.

Motion to withdraw the previous motion and to correct the record with a correct citation and new vote to continue discussion, with substantive discussion having already occurred, on the matter of 855-859 Main Street made by Mr. Dave Edmonds;  
Seconded by Mr. Bob Doherty;  
Motion carried, 7-0-0.

#### **6. FREMONT STREET EXTENSION**

Planning Director Cassidy stated that she has received feedback from the Engineering Department that the as-built and street acceptance plans are in fact acceptable and done according to the Board's requirements. There still remains one outstanding condition (that the existing 2" water line in Fremont Street was to be cut and capped and the individual services retapped) which could not be independently verified by the Departments of Engineering or Public Works by the time of the meeting. As a result, the Engineering Department recommends a reduction of the bond to \$15,000, as opposed to a full bond release, to cover the cost of remaining work should it be discovered that it was not yet completed.

Motion to accept of as-built and acceptance plans, and to reduce the bond to \$15,000 to guarantee project completion made by Mr. Dave Edmonds;  
Seconded by Mr. Jim Callahan;  
Motion carried, 7-0-0.

#### **7. APPROVAL OF MINUTES: DECEMBER 13, 2016 (Document #3)**

Motion accept the minutes as drafted made by Mr. Dave Edmonds;  
Seconded by Mr. Jim Callahan;  
Motion carried, 5-0-2, with Ms. Claudia Bolgen and Mr. Michael Ventresca abstaining due to meeting absences.

#### **8. DISCUSSION: OPEN MEETING LAW COMPLAINT**

Planning Director Cassidy stated she previously distributed, on behalf of the Chair, a copy of the complaint. She has also distributed this evening a summarized version of the Open Meeting Law (OML) complaint in hopes that it will help to guide tonight's discussion for Board members. Mr. Michael Ventresca asked who filed the complaint. Director Cassidy stated the complainant was Mr. Chris Owen of 3 Florence Terrace.

Planning Director Cassidy said there were three issues at the core of the OML complaint. The first concerned the fact that the website version of one meeting agenda did not correctly reflect the agenda which was posted with the City Clerk. The problem was a formatting problem that arose during

electronic posting of the November 29, 2016 meeting agenda to City web page calendar. The complaint also questions how, why and to what extent a meeting agenda can legally change from the time it is posted with the City Clerk's office to the time it is used at a meeting.

Planning Director Cassidy stated the background on the posting process for the Planning Board's agenda and that the typical agenda posting practice was not followed for this meeting due to a staff member's absence. Due to human or electronic error, the meeting agenda was not accurately reflected on the City website (calendar) posting.

Planning Director Cassidy further stated that complainant approached her and the Planning Board Chair to address this matter at the conclusion of the November 29<sup>th</sup> meeting, in addition to contacting the City Clerk's office afterward. The complainant was provided with an explanation by the City Clerk that confirmed the error, as well as assurance that the matter would be addressed via increased vigilance and the pending adoption of new website software.

Planning Director Cassidy further stated that she is not aware of any previous formatting issue during her 2 ½ year tenure with the City in terms of meeting agendas posted to the City's website. She asked the Board members if any of them are aware of any past example of agenda posting discrepancies.

Mr. Michael Ventresca stated that, during his 14-year tenure on the Board, he does not recall ever receiving an agenda that was not correct.

Mr. Dave Edmonds inquired as to whether the agenda posting process has been fixed for future posting purposes. Planning Director Cassidy stated that the agenda posting process has been altered. The Planning Department now posts its own agendas (rather than having the City Clerk's office post them on its behalf) and two different staff people are involved to minimize the possibility of overlooking a problem like this in the future.

Mr. Michael Ventresca asked if the new agenda posting practices are written down. Planning Director Cassidy stated although it has not been written down, it is a practice of which both Planning staff members are aware.

Ms. Claudia Bolgen inquired about the OML complaint response requirement. Planning Director Cassidy stated that after the discussion this evening, there is a requirement for the Board to provide a written response to the Attorney General and the complainant that responds to the points in the complaint.

Planning Director Cassidy further stated that the response needs to be delivered within 14 business days of receipt of the complaint. As an example, the response in terms of this part of the complaint will be to explain what happened as well as to articulate the newly-implemented posting process that will be used moving forward.

Chair Carolyn Turner asked if any members had any questions/comments regarding the proposed response to this point. There were none.

Planning Director Cassidy then stated that the second part of the complaint revolves around changes to the agenda after it has been posted with the City Clerk's Office.

Planning Director Cassidy further stated, in response to this complaint, the stance of the Attorney General's Office, which maintains that topics that are not controversial or likely to be of particular

public interest can be added to an agenda after a meeting notice has been posted and within 48 hours of a meeting.

Planning Director Cassidy provided an example of a past agenda item that had been added that would have fallen within the bounds of the Attorney General's standards.

Planning Director Cassidy further stated that the guidelines of the Attorney General guidance can and should be utilized when deciding whether or not to add items to an agenda.

Chair Carolyn Turner stated that it is important to recognize that, based on this guideline, the Board does have some discretion to alter a posted agenda. If staff is vigilant about this agenda posting guidance, we should be in compliance moving forward.

Mr. Michael Ventresca stated that the Board has followed that practice as a standard operation procedure, so there is nothing necessarily to do differently. Chair Carolyn Turner stated that is true, but the Board must address the allegations made by the complainant.

Planning Director Cassidy stated that the second subset of complaints related to the content of the Board's meeting minutes; the complainant has claimed that the conduct of the Board's meetings are not adequately reflected in its minutes.

Planning Director Cassidy further stated that, based on their review of the past minutes in question, the Board member's recusal was in fact accurately reflected in the minutes.

Chair Carolyn Turner confirmed that the minutes of the meeting accurately reflected what was stated at the meeting and the abstention was appropriately handled and did not conflict with any substantive vote.

Planning Director Cassidy stated that, in response to the allegation that the minutes do not accurately reflect which members voted on which matter, that the Planning Board always includes the results of the roll call attendance vote it takes at the outset of every meeting and records members' votes on each motion.

Chair Carolyn Turner stated for the record the guidance that is offered by the Attorney General's office in terms of what is required for reflection and inclusion in meeting minutes. Based on those guidelines she would disagree with the allegations about the meeting minutes; the minutes do, in fact, adequately reflect the conduct and votes of the Board. The minutes are not required to be a verbatim transcript.

Planning Director Cassidy stated that there was an allegation in the complaint that a member used the term "preferential treatment" and that that term was not reflected in the minutes. However, upon staff's review of the meeting video, there was no mention of this term.

Planning Director Cassidy asked Board members if any of them recalled the use of the term "preferential treatment" during the course of the November 29, 2016 Planning Board meeting. There was no response.

Ms. Claudia Bolgen stated that it has never been a practice of the Board to transcribe the minutes verbatim; we are looking for a reasonable summary. As far the reflection of her words in the November 29, 2016 minutes, it was a fair summary of the discussion.

Ms. Claudia Bolgen further stated that, regarding the intent of the OML, the fact that the City provides for a videotaped version of each meeting means an interested party could ascertain a verbatim version of the meeting should they so choose.

Planning Director Cassidy stated that the last item under this facet of the complaint was an allegation that a matter was deleted from the November 29, 2016 agenda. Planning Director Cassidy stated that in fact no matter was "deleted" from the agenda. The matter in question concerned acceptance of an as-built plan and a bond reduction request on a subdivision. The matter was listed on the meeting agenda, was discussed at the meeting via a verbal update by the Planning Director, and the discussion was reflected in the minutes of the meeting.

Chair Carolyn Turner stated that she is not necessarily sure how to handle this particularly complaint.

Planning Director Cassidy stated she would recommend the Board address this particular point by verifying what was actually stated at the meeting and by providing copies of the minutes in question.

Planning Director Cassidy stated that the final general issue listed by the complainant concerns the content of the meeting agendas and the adoption of what he terms "two new practices": 1) discussing topics under an agenda item entitled "*Other Business Matters that May Legally Come Before the Board Not Known at the Time of Posting*"; and 2) the inclusion of the following statement at the bottom of each agenda: "*At the Planning Board's discretion, agenda items may be deleted or discussed in a different order than they appear on this agenda.*"

Planning Director Cassidy further stated use of these phrases are not really new practices. They are both aimed at complying with the Open Meeting Law, and it simply is not true that using them will lead to "further violations".

Chair Carolyn Turner stated that the Attorney General's guidance on this particular issue is that a new matter may be added to an agenda. The Attorney General also "strongly encourages" that any controversial topics or likely to have public interest be postponed for discussion until they have been sufficiently posted for public notice. This language is discretionary, and as such, if an item is added, it does not create a violation.

Planning Director Cassidy stated that, as part of this portion of the complaint, the complainant used the term "working agenda" to describe what was perceived as a continuously-updated, separate agenda from that what may have been previously posted or distributed. She does not ever recall using the term "working agenda" and further, there is only one agenda that is drafted and then posted. If absolutely necessary, a new agenda is re-posted; but there is no such thing as a separate "working agenda".

Planning Director Cassidy noted that the complainant alleged that the meeting agenda, based on the new wording, could be modified to include "anything and everything."

Chair Carolyn Turner stated that she disagrees with this characterization. The Board will exercise proper discretion as to what would be appropriate to discuss without a 48-hour notification of agenda posting.

Planning Director Cassidy stated that, moving forward, she will be circumspect about what meets the guidelines before suggesting a matter be added for Board discussion after an agenda has been posted for an upcoming meeting.

Planning Director Cassidy stated that the complaint alleged that not only did the Board violate the OML but that it did so intentionally. Not only does she believe that nothing was done in violation of the OML, but she also believes that if any violation did occur, it would certainly not have been intentional. That said, Planning Director Cassidy stated that the Board and its staff will continue to be judicious in the future.

Mr. Michael Ventresca inquired as to whether the OML can be posted publicly so that there are no further false allegations in the future.

Planning Director Cassidy stated that it is perhaps not a bad idea for the City to post the OML to its website for purposes of clarification.

Planning Director Cassidy further stated that she will draft a formal response to the Office of the Attorney General based on the facts, applicable documents and tonight's discussion.

Ms. Claudia Bolgen stated that she hopes that the City Solicitor is involved in the response process before it is submitted to the State, and inquired as to her role. Planning Director Cassidy responded that the City Solicitor has already been consulted on this matter and Cassidy intends to circulate the draft response to both the City Solicitor and the Planning Board members prior to its finalization/submission.

Mr. Michael Ventresca requested that a statement similar to "The Board takes the Open Meeting Law and all laws pertaining to the Subdivision Control Law very seriously and will continue to do so," should be reflected in the drafted response. Planning Director Cassidy stated that she will add something like that to the letter.

**9. OTHER BUSINESS MATTERS THAT MAY LEGALLY COME BEFORE THE BOARD NOT KNOWN AT THE TIME OF POSTING**

Planning Director Cassidy stated that there are none.

**10. ADJOURNMENT**

Seeing no further business, Ms. Claudia Bolgen moved to adjourn at 9:18 p.m.;  
Mr. Bob Doherty seconded;  
Motion carried, 7-0-0.

Meeting adjourned at 9:18 p.m.

***Table of Documents Used At Meeting***

- |  |
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| <ul style="list-style-type: none"><li>• Staff Report</li></ul> |
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<ul style="list-style-type: none"> <li>Proposed Zoning Text Amendment to Section 4.1(42)a (prohibition of “self-storage” warehouse use)</li> </ul>
<ul style="list-style-type: none"> <li>Petition to Amend the Zoning Code of Woburn to permit billboards in the Mishawum TOD Overlay District (Sections 2, 13, and 21)</li> </ul>
<ul style="list-style-type: none"> <li>Map of Mishawum Overlay District prepared by Planning staff</li> </ul>
<ul style="list-style-type: none"> <li>Proposed Zoning Text Amendment to Section 3 (Scrivener’s Errors)</li> </ul>
<ul style="list-style-type: none"> <li>Letter of Action for 859 Main Street (dated 11/18/2011); 1-10-17 memo from Engineering Department</li> </ul>
<ul style="list-style-type: none"> <li>Request for Surety Release and to accept As-built and Street Acceptance Plans (Fremont Street Extension Definitive Subdivision); 1-10-17 memo from Engineering Department</li> </ul>
<ul style="list-style-type: none"> <li>Draft Planning Board Meeting Minutes (dated December 13, 2016)</li> </ul>

Respectfully submitted,



Dan Orr  
City Planner/Grant Writer