

**CITY OF WOBURN  
MARCH 20, 2018 - 7:00 P.M.  
REGULAR MEETING OF THE CITY COUNCIL  
COUNCIL CHAMBER, WOBURN CITY HALL**

Roll Call

Anderson	Gately
Campbell	Higgins
Concannon	Mercer-Bruen
Gaffney	Tedesco
Haggerty	

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VOTED to dispense with the reading of the previous meeting's Journal and to APPROVE.

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**MAYOR'S COMMUNICATIONS:** None.

**PUBLIC HEARINGS:**

On the petition by Jamieson Properties, 627 Main Street, Woburn, Massachusetts 01801 to amend the 1989 Woburn Zoning Ordinances, as amended by adding a Section 31 Federal Street Smart Growth Overlay District (FS/SGOD) in accordance with the purposes of G. L. Chapter 40R as set forth in the petition. PUBLIC HEARING OPENED. A communication dated March 15, 2018 was received from Attorney Joseph R. Tarby, III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: Proposed Amendment to Zoning Map of the City of Woburn/Jamieson Properties LLC, 14 and 14R Federal Street, Woburn, Massachusetts

Dear Mr. Campbell:

On behalf of my client Jamieson Properties LLC, I respectfully request that the public hearing scheduled for March 20, 2018 be continued to April 17, 2018. As you know, the City Solicitor issued an opinion to the City Council Committee on Ordinances on February 26, 2018 that certain steps, including a public hearing held by the Mayor, must be held before the City Council can take further action on this matter.

If you have any questions, please do not hesitate to contact me. Thank you.

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

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On the petition by Jamieson Properties, 627 Main Street, Woburn, Massachusetts 01801 to amend the Zoning Map of the City of Woburn by changing the zoning district for the property located at 14 Federal Street and 14R Federal Street containing approximately 11,325.6 square feet of land from the B-D zoning district to the FS/SGOD zoning district. PUBLIC HEARING OPENED. A communication dated March 15, 2018 was received from Attorney Joseph R. Tarby, III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

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On the petition by NSTAR Electric Company d/b/a Eversource Energy for a grant of right in a public way to allow installation of a new subsurface 345 kilovolt transmission conduit duct bank with appurtenant communication/signal wires beneath Lake Avenue (approximately 1485 linear feet), Pickering Street (approximately 475 linear feet), Border Street (approximately 540 linear feet), Cross Street (approximately 365 linear feet), Washington Street (approximately 2,375 linear feet), and Montvale Avenue (approximately 2090 linear feet). The duct bank is comprised of four (4) eight-inch (8") HDPE conduit and two (2) four-inch (4") and two (2) two-inch (2") PVC conduit. The conduit is encased in thermal duct bank concrete. PUBLIC HEARING OPENED. A communication dated March 15, 2018 was received from City Solicitor Ellen Callahan Doucette as follows:

Re: NStar Electric Company d/b/a/ Eversource - Petition for Grant of Location under M.G.L. c.166, §22

The preparation of this memorandum was prompted by concern that the City Council's consideration of the above-referenced Petition for Grant of Location filed by NStar Electric Company d/b/a/ Eversource ("Eversource") may be wading into matters which lie outside of its authority and jurisdiction. According to the February 20, 2018 City Council Journal, during the public hearing on Eversource's request for a grant of location, a number of individuals including members of the City Council, raised the

prospect of adverse health issues that might be caused by the increased capacity of Eversource's line. That discussion raises issues as to the limitations of the City Council's authority to grant or deny a request for a grant of location and perhaps more importantly, issues of preemption that is, where the legislature has crafted a comprehensive and uniform regulatory scheme for the siting of public utilities, inconsistent local action whether by a decision or by the adoption of an ordinance or bylaw is impermissible.

As to the issue of the City Council's authority, M.G.L. c.166, §21 provides that a utility company may *inter alia*, construct transmission lines in, under or across public ways "but such company shall not incommode the public use of public ways." M.G.L. c.166, §22 authorizes the City Council to grant, deny or condition a request for a grant of location of the transmission lines over or under the public way, but that authority is limited to consideration of the affects upon other public uses of the public ways and, if applicable, aesthetic considerations, height of a proposed pole and the attachments, clearance above ground, noise, lighting, signage, and sensitive locations (scenic roads, historical). See, *Boston Edison Co. v. Bd. of Selectmen of Concord*, 355 Mass. 79 (1968).

To the issue of preemption, potential health concerns is one element for consideration in for the siting of public utilities. As applied to the Eversource petition, the Energy Facilities Siting Board ("EFSB"), established by M.G.L. c.164, §69H, is charged with implementing; "the provisions contained in [c.164, §§69H to 69Q], inclusive, so as to provide a reliable energy supply for the commonwealth with a minimum impact on the environment at the lowest possible cost. To accomplish this, the board shall review the need for, cost of, and environmental impacts of transmission lines, (emphasis supplied).

The Supreme Judicial Court has consistently stated that "the purpose of G.L. c. 164 is to ensure uniform and efficient utility services to the public." *Boston Gas Co. v. Newton*, 425 Mass.697, 699 (1997). Previously, the Supreme Judicial Court had observed that "[t]he provision of electricity in Massachusetts is thoroughly regulated." *Boston Edison Co. v. City of Boston*, 390 Mass. 772, 774 (1984). This thorough regulation has been acknowledged in a number of cases acknowledging the legislature's intent to reserve the regulation of utilities solely to the Commonwealth and the Department of Public Utilities. See, *Boston Gas Co. v. City of Newton, supra*; *Boston Gas Co. v. Somerville*, 420 Mass. 702, 703; and *Cambridge Electric. Light Co. v. Dep't. of Public Utilities*, 363 Mass. 474 (1973).

After a years long public process, on February 28, 2018 the EFSB issued its final decision approving; 1.) Eversource's petition under c.164, §69J; for the construction of a new 8.5 mile long 345 kilovolt transmission line from the Wakefield substation to the Woburn substation in accordance with c.164, 2.) Eversource's request for a determination under c.164, §72 that the construction of the new transmission line was necessary, serves the public convenience and is consistent with the public interest; and 3.) Eversource's requests for zoning exemptions under c.40A, §3 from the Woburn Zoning Ordinance the Wakefield Zoning Bylaw for modifications of the Woburn and Wakefield substations.

During the lengthy public hearing process, expert witness testimony and materials were presented to the EFSB regarding the increase in electromagnetic fields and potential health effects, and the EFSB evaluated such evidence in rendering its Final Decision. I understand that a copy of the EFSB's Final Decision was filed with the City Clerk and I invite the Council to review the Final Decision in its entirety. To the issue of electromagnetic fields, the Council should specifically review pgs. 120-127 wherein the EFSB discusses this issue, directs Eversource to continue to evaluate the mitigation of magnetic fields, and concludes that "[t]he Siting Board finds that magnetic field impacts from construction and operation of the Project using the Primary Route would be minimized."

Please don't hesitate to contact me if you have any questions regarding the above.

s/Ellen Callahan Doucette, City Solicitor

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On the petition by President Richard Haggerty and Alderman Michael Anderson, Alderman Higgins, Alderman Tedesco, Alderman Mercer-Bruen, Alderman Gately and Alderman Campbell to amend the 1985 Woburn Zoning Ordinances, as amended, by adding a new Section 5.2.1.5 as follows: "The maximum residential density on any parcel in all districts, except for B-D, shall not exceed 20 units per acre." PUBLIC HEARING OPENED.

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**CITIZEN'S PARTICIPATION:** None.

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**COMMITTEE REPORTS:**

**FINANCE:**

On the transfer of \$125,000.00 from Fire/BLS Ambulance Acct to Fire Ambulance Salary Acct, committee report was received "ought to pass".

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On the transfer of \$26,000.00 to Fire/Ambulance Maintenance Acct, Fire/Medical Attention Acct and Fire/Computer Maintenance Acct, committee report was received "ought to pass".

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On the transfer of \$1,265,637.68 from Mayor Salary Adjustments Acct to Fire Salary Acct, committee report was received "ought to pass".

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**PUBLIC SAFETY AND LICENSES:**

On the petition by Mourad Djar dba ABCE Taxi of Woburn for renewal of a Taxi Cab License, committee report was received “ought to pass”.

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On the petition by Gevorg Melikyan dba Milano Jewelry for renewal of a License to Purchase and Sell Second-Hand and Personal Articles of Value and Collectibles, committee report was received “ought to pass”.

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On the petition by M&L Transit Systems, Inc. for renewal of a Common Carrier License, committee report was received “back for action”.

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**NEW PETITIONS:**

Petition by James L. McKeown Boys and Girls Club of Woburn, Charles Gardner Lane, Woburn, Massachusetts 01801 for a Special Event Permit to allow a road race and health walk along area streets between Library Field and Horn Pond on May 6, 2018.

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Petition by Robson L. Dias, 2 Westgate Drive #202, Woburn, Massachusetts 01801 for renewal of Livery License.

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Petition by Hilton Hotel, 2 Forbes Road, Woburn, Massachusetts 01801 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Section 7.3 to allow for the alteration of a preexisting nonconforming structure to change a roof sign at 2 Forbes Road.

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Petition by Adam Quinn, Quinn Management, Inc., 360 Route 101, Unit 4B, Bedford, New Hampshire 03110 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Sections 5.1.29 and 18.3.4 to allow reuse of a portion of building for a 2,000 square foot Dunkin Donuts store at 130 Commerce Way.

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Petition by Sports Management Services, Inc., 41 East Street, Winchester, Massachusetts 01890, an individual owning land to be affected by change or adoption, to amend the Zoning Map of the City of Woburn by changing the zoning district for two parcels of land known as Lot 69-08-07 on Garfield Avenue and Lot 69-08-08 on Garfield Avenue together containing approximately 2.92 acres of land as shown on a plan by Allen & Major Associates, Inc. entitled “Parcel Rezoning Plan” dated November 10, 2016 from R-2/I-G to R-2.

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Petition by Boys and Girls Club of Woburn, Charles Gardner Lane, Woburn, Massachusetts 01801 for a special permit to allow carnival from May 3, 2018 to May 6, 2018 at 25 Middlesex Canal Parkway.

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**COMMUNICATIONS AND REPORTS:**

A communication dated February 23, 2018 was received from Brian J. McLaughlin, Woburn Firefighter's Association Local 971 requesting to meet with the City Council.

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**UNFINISHED BUSINESS OF PRECEDING MEETING:** None.

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**APPOINTMENTS AND ELECTIONS:** None.

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**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 further amended as follows:

1. By deleting from Section 5.1.56 the words "private garage" and inserting in their place the words "any accessory building" so that the section reads as follows: "Any accessory building for use of residents of the premises";
2. By adding to Section 5.1.55 under "Notes; other sections" the following: "Note 15"
3. By deleting from Section 5.1, Note 15 the words "any private garage" and inserting in their place the words "any accessory building" and by deleting the word "per" and inserting in its place the words "pursuant to" so that the section reads as follows: "Any accessory building, attached or detached, to be constructed as an accessory use of the residents of the premises in excess of 900 square feet or with a garage bay door in excess of eight feet in height, shall require a special permit pursuant to section 11 of the City of Woburn 1985 Zoning Ordinance as amended. This note shall not apply to detached private garages in the S-2 Zoning District."

s/Alderman Tedesco

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Motion made and 2<sup>nd</sup> to ADJOURN.