

**CITY OF WOBURN
MAY 1, 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	

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

MAYOR'S COMMUNICATIONS:

A communication dated April 25, 2018 with attachment was received from His Honor the Mayor as follows:

Subject: Required Municipal Order to Initiate Land and Water Conservation Fund (LWCF) Grant Award (Clapp Park project)

I am pleased to announce the City was recently awarded a \$300,000 LWCF grant to defray the cost of the Clapp Park project. In order to formally initiate the City's project and its agreement with the state's Executive Office of Energy and Environmental Affairs (EEA), the City must submit a certified version of the attached to demonstrate its financial commitment to the project completion. I would like to thank Tina Cassidy and Dan Orr for their efforts in obtaining this very competitive grant award.

So that you are aware of the grant time constraints, an executed and certified "hard" copy of the attached must be received by EEA by June 1, 2018. We therefore would appreciate your efforts to approve the attached order at your earliest convenience.

Thank you for your prompt attention to this request. Please feel free to contact me if you have any questions or need additional information.

Sincerely, s/Scott D. Galvin, Mayor

Attached thereto was the following Order:

ORDERED Whereas Clapp Park at Fleming Field will serve as a community-wide asset and the preservation and improvements to this facility are a City priority as evidenced in the most recent Open Space and Recreation Plan; and

Whereas Clapp Park at Fleming Field will be designed and used for park and recreation purposes; and

Whereas Clapp Park at Fleming Field's ultimate creation, guided in principal by the City of Woburn's Open Space and Recreation Plan, will be greatly enhanced with improved infrastructure, path systems, site lighting, universal access, etc.; and

Whereas The main focus of the Plan is to increase the available space for the enjoyment of outdoor recreation by users of all ages, and the overall cost and fiscal budget constraints prevent the City from proceeding with implementation at its sole cost; and

Whereas The Executive Office of Energy and Environmental Affairs (EEA) is offering reimbursable grants to cities and towns to support the creation and restoration of urban parks through the Land and Water Conservation Fund Act of 1965, 78 Stat. 897 (1964) allocated by the National Park Service (NPS); and

Whereas the Clapp Park at Fleming Field Project will cost a total of approximately \$997 thousand (Nine-Hundred Ninety-Seven Thousand Dollars) to construct; and

Whereas the City has appropriated the total cost of Clapp Park at Fleming Field project (\$997 thousand) but anticipates an effective municipal share of \$697,000 post-grant reimbursement (having received \$300,000 in LWCF grant funding).

Now therefore be it:

1. That the Mayor be and is hereby authorized to file and accept grants from the Executive Office of Energy and Environmental Affairs; and
2. That the Mayor be and is hereby authorized to take such other actions as are necessary to carry out the terms, purposes, and conditions of this grant to be administered by the Parks and Recreation Department; and
3. That this resolution shall take effect upon passage; and
4. That the Clapp Park at Fleming Field property is designated as parkland in accordance with M.G.L. Chapter 45, Section 3.

s/President Haggerty, Alderman Concannon, Alderman Campbell,
Alderman Gately, Alderman Gaffney, Alderman Anderson,
Alderman Mercer-Bruen, Alderman Tedesco, Alderman Higgins

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

Presented to the Mayor: May 3, 2018

s/Scott D. Galvin May 3, 2018

ORDERED Be It Ordained by the City Council of the City of Woburn that the Mayor be and is hereby authorized to accept on behalf of the City of Woburn the perpetual right and easement in certain water mains and sanitary sewers located in and under Wall Drive as shown on the plan entitled "Wall Estates, A Definitive Subdivision in Woburn, Massachusetts by Commonwealth Engineering, Inc."

s/Alderman Higgins

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

PUBLIC HEARINGS:

On the petition by Kiwanis Club of Woburn, 10 Cedar Street, Suite 26, Woburn, Massachusetts 01801 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Section 5.1.75 to allow for Flag Day celebration and carnival on June 15, 2018 and June 16, 2018 at 0 Harrison Avenue (Library Park). PUBLIC HEARING OPENED. A communication dated April 20, 2018 was received from Dan Orr, City Planner/Grant Writer, Woburn Planning Board as follows:

Re: Special Permit application for Flag Day celebration and carnival at 0 Harrison Street (Library Park) on June 15-16, 2018/Kiwanis Club of Woburn

Dear Council:

The Planning Department has reviewed the above-referenced Special Permit application submitted by the Kiwanis of Woburn for its Annual Flag Day Celebration and Carnival on June 15 and June 16, 2018 at Library Park pursuant to Section 5.1.75 (Carnival and/or Traveling Enterprises). The property is zoned R-2 and therefore such use is allowed by City Council Special Permit.

The Planning Department takes no exception to this request but recommends the Council consider imposing a condition requiring the applicant, and all activities authorized by this Special Permit, to comply with Note #14 of Section 5.1 of the Woburn Zoning Ordinances relative to parameters for event duration, times of operation, department notification and provision of liability insurance.

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

Respectfully, s/Dan Orr, City Planner/Grant Writer

Motion made and 2nd that the communication be received and made part of the record, all in favor, 9-0. Appearing for the petitioner was Attorney Mark Salvati, 10 Cedar Street, Suite 26, Woburn, Massachusetts 01801 and he stated that this is the same event as held in recent years, that there will be bands performing Saturday night followed by a fireworks display. PUBLIC COMMENTS: None. Motion made and 2nd that the public hearing be closed, all in favor, 9-0, PUBLIC HEARING CLOSED. Motion made and 2nd that the SPECIAL PERMIT be GRANTED, AS AMENDED with the condition as follows: 1. That the recommendations of the Planning Board be adopted as a condition of the special permit, all in favor, 9-0.

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 April 30, 2018 was received from Superintendent of Public Works John Duran as follows:

Subject: Eversource- Woburn to Wakefield 345 kV Line

Pursuant to the City Council's request for my comments on the transmission line for the Montvale Avenue and Washington Grant of Locations, I offer the following recommendation. The Montvale Avenue widening project coordinated by Mass DOT is on schedule to be commencing soon in this same area of Montvale Avenue. In my opinion, It is critical to coordinate these projects.

I met with the Eversource Project Team including the new Project Manager Michael Hager on April 25, 2018. Based upon the new plans submitted to my office on that day, I requested that additional details be provided which clearly demonstrate that the proposed transmission line can be properly positioned to allow clear access and provide reasonable clearances away from our infrastructure. The Team requested additional time be granted to them to provide these details.

I recommend that the following course of action be taken at this time. Allow Eversource additional time to provide this additional data for proper evaluation of these 2 roadways. This should also include the portions within the Mass DOT portion of Montvale Avenue. The City

Council may not have to extend a Grant of Location, but the final design could impact the 2 main sewer trunk lines that service the City of Woburn. They can also continue to finalize engineering designs in Lake Avenue as well as the three additional roadways that they requested for the Grant of Locations.

Please feel free to contact me with any questions or concerns on this matter.

Motion made and 2nd that the communication be received and made part of the record, all in favor, 9-0. Appearing for the petitioner was William Zamparelli, Community Relations & Economic Development Specialist, Eversource Energy and he stated that they received the communication from the Superintendent of Public Works, that if the City Council wishes to move forward with the matter they will but if a continuance is desired they will agree to do so as well, that the petitioner thanks the City Council for reconvening this matter, that he works with the City of Woburn on many issues, and that they will address the questions raised previously. Mr. Zamparelli offered a document entitled "Eversource Energy – Woburn to Wakefield Line Project – City of Woburn – Grant of Location Hearing – May 1, 2018" 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. Mr. Zamparelli stated that the project was requested by ISO New England, that the project is designed to improve the capacity and interconnectivity between the substations, that the most significant benefit is the ratepayers will receive a reduction in charges when ISO can call up electric service in the most efficient manner, that this area has the most expensive electricity in the country, and that it is difficult for New England to be competitive due to the electric rates. Mike Hager, Project Manager, Eversource Energy stated that there was extensive siting review by the Energy Facilities Siting Board (EFSB), and that the streets involved in Woburn are Lake Avenue, Pickering Street, Border Street, Cross Street, Washington Street and Montvale Avenue. Alderman Campbell stated that there is no need for the petitioner to present information that was previously presented. Mr. Hager stated that two 345 kV transmission lines and a 115 kV transmission line existing at the Woburn substation, that each transmission line runs approximately two miles through Woburn, that 345 kV transmission lines and 115 kV transmission line exits the Woburn substation at the Winchester town line, that the transmission line will require two feet of clearance from the duct bank, that other utility companies are not barred from installing lines in the right of way in the future, that there would be 14.2 miles of transmission line if the overhead and underground route traveled through Woburn, Burlington, Wilmington, Reading, Lynnfield and Wakefield, that the proposed underground route would be for a distance of 8.5 miles, that the power comes from all power sources, that the cross-linked polyethylene (XLPE) cable system will be used along the entire proposed route. David Klinch, Epsilon Associates Inc., 3 Mill & Main Place, Maynard, Massachusetts 01754 stated that the best routes for the transmission line were those with least impact to the human and natural environment and at the least cost, that the preferred route is 8.54 miles long at a cost of \$91,000,000.00, and that the overhead/underground hybrid route would be 14.2 miles at a cost of \$101,900,000.00 with additional costs for a third transformer and acquisition of property rights from the Reading Municipal Light Department. Mr. Hager stated that the impact on particular streets depends on several factors including conditions encountered during excavation and the number of crews available to perform the work, that typically twenty to forty feet of trenching can be completed each day, that the schedules are developed

in consultation with municipal officials, local businesses and property owners, that the petitioner does not believe damage will be caused to abutting homes, that the petitioner will provide preconstruction inspections, that the petitioner's construction contractors will be responsible for any repairs that may be needed, that the petitioner's contractor will be responsible for repairing any damage to water lines, that if there is a dispute between the petitioner and the city than cannot be resolved or unreasonable conditions are imposed on the petitioner then the petitioner has the right to seek an override from the EFSB. Bob Carberry, Transmission Engineer, Eversource Energy stated that if a home is ten to twelve feet from the road the home is further than ten to twelve feet from the cables, that the interior of such a home will be even further away from the cables, that there are no plans to conduct pre-construction or post-construction ENF measurements, that meters are available to monitor magnetic fields, that there are also recording meters that measure magnetic fields over time, that there are 345 kV transmission lines installed underground in a trench in Connecticut, that the State of Connecticut created a rebuttable presumption that a 345 kV transmission line would have to be placed underground in an area expected to have children, that the utility could demonstrate that an underground installation was not practical in a given case, that the petitioner does not have information on the distance of homes from the 345 kV XLPE cable transmission lines installed in the Middletown to Norwalk Transmission project in Connecticut, that a post-construction measurement report shows the line giving a visual indication of proximity to homes, that the measured values of magnetic fields were sometime higher and sometime lower than calculated values, that the magnetic fields in a home varies constantly depending upon what is being used in the house, that calculations for underground transmission lines assume a specific depth of the cable ducts below ground and greater depths may exist at some measurement locations, that the pre-construction EMF levels in Connecticut along the 24 miles of double-circuit 345 kV underground cable and post-construction levels are included in the report. Mr. Hager presented a document to the City Council entitled "Post-Construction EMF Monitoring Report for the Middletown-Norwalk Transmission Project" dated December 18, 2009 prepared by Exponent, Inc. for review. Motion made and 2nd that the document be received and made part of the record, all in favor, 9-0. Mr. Hager stated that they will send a PDF version of the Norwalk report to the City Clerk. Nicole Bowden, Project Outreach Specialist, Siting and Construction Services, Eversource Energy stated that notifications of the open house in April 2015 were published in the Boston Globe and Daily Times Chronicle, sent to the City Clerk and Woburn Public Library and mailed to 750 property owners, that the petitioner fully complied with notice requirements, that the petitioner will notify all property owners and lessees before construction starts, that notices of open houses were mailed to all property owners and businesses within 300 feet of the proposed route and alternate route, that the that the April 2015 open houses were advertised in the Boston Globe and the Woburn Advocate, that eight members of the community attended the open house in the rotunda of Woburn City Hall including former Alderman Michael Raymond, former Alderman Rosa DiTucci and City Engineer John Corey, and that she does not have available the list of the residents who were notified. Alderman Campbell stated that at the last meeting the petitioner stated that a list of the residents notified would be provided. Mr. Hager stated that if the petition is denied or unreasonable conditions are established the petitioner can seek an override of the denial from the EFSB and judicial remedies, that under M.G.L. Ch. 164, Sec. 69K to 69O the EFSB has the authority to issue the permits, that the EFSB has been requested on six occasions to grant

an override and has granted the override each time, and that a relevant case is Alliance to Protect Nantucket Sound, Inc. v. Energy Facilities Siting Board, 457 Mass. 663 (2010). Alderman Campbell stated that the Supreme Judicial Court set out the authority of the City Council in petitions for a grant of right in a way in Boston Edison Company vs. Board of Selectman of Concord, 355 Mass. 79, 242 NE 2nd 868 (1968), that pursuant to M.G.L. Ch. 166, Sec. 22 the City Council has exclusive authority to approve a grant of right in a way, that pursuant to M.G.L. Ch. 164, Sec. 72 if a grant of right in a way is not approved a utility company is not permitted to run electricity through the transmission lines, that pursuant to M.G.L. Ch. 166, Sec. 21 provides that utility company “shall not incommode the public use of public ways or endanger or interrupt navigation”, that the court in Boston Edison Company vs. Board of Selectman of Concord provided a list definitions of incommoding the public, that she has prepared a list of 61 reasons that are concrete evidence of reasons to deny the grant of right in a way, and that the city does have authority to deny the grant of a right in a way. PUBLIC COMMENTS: David Hunt, 2 Central Court stated that the responsibility for any damage caused is being passed onto the subcontractor from the petitioner, that if there is damage the property owner has to file suit against the subcontractor who can file a bankruptcy petition and the petitioner would have no responsibility, that the petitioner should be required to file a performance bond to protect property owners from damage, that the Tennessee Valley Authority (TVA) has provided information that heat from the transmission lines can kill trees in the area of the lines, that the project can cause static discharge and this should be controlled, that the petitioner has not addressed issues raised at this meeting, that the petitioner has discussed the project in terms of things going right but not if thing go wrong, that he is concerned about the vaults being punctured, that he is concerned about the corrosive effect of salt on the condition of the vault, that the transmission line will pass under or near the Scalley Dam, that a rupture of the dam could cause issues with the transmission line, that the rate payers will be paying higher costs to pay for the construction of the transmission line, that the TVA indicates that it is seven times more expensive to install underground wires as opposed to aboveground wires, and that an aboveground route is available. Brian Carpenter, 70 Washington Street stated that this is not the right project for a residential neighborhood, that the graph provided by the expert shows EMF levels but then said these levels will vary because the load will vary and the petitioner said they will use the line at less of a load than the line will bear, that the overhead line is fourteen miles versus eight miles for this proposed route, that it is not clear whether EMF will harm people but we are told to stay away from EMF, that a vote should be taken at this meeting, that the matter has been given sufficient hearing, and that the petition should be denied. Rosa DiTucci, 82 Arlington Road stated that she was mentioned as attending the open house, that this was an event with a couple of tables and some posters, that she asked many questions at the open house and gave the petitioner’s representative her contact information but never heard from the petitioner, that she was told there would be additional outreach to the city but this was not to the City Council and instead was to the Mayor, that the petitioner bypassed the City Council, that if the City Council had been properly informed of this process the petition would not be before the City Council now, that her father’s house is 300 feet from the proposed work area and he did not receive notice from the petitioner, that she knows this as she handles his mail, that the petitioner has provided no proof that notice was sent, that all of the data submitted to the EFSB was based on property within twenty-one feet of the transmission line but there are homes five to ten feet from the proposed line, and that people

have a right to be in their front yard. Sandra Nestor, 66 Washington Street stated that no one knew about this issues, that she believes the petitioner has been deceitful, that the petitioner cannot provide answers to questions, that she does not want the project constructed, that more information is needed to get a building permit to install a fence than has been presented for this project, that the petitioner has never installed a transmission line in an area like this before, that she is concerned about safety, the impact on traffic and the difficulty there will be in exiting from driveways and traveling along the streets during construction, that she asks the City Council not approve this grant of right in a way, and that she is concerned about the Montvale Avenue widening project in combination with this project. Sue Klawans, 7 Pickering Street stated that studies on the Environmental Protection Agency website do not provide federal standards relative to EMF but recommends people increase the distance from and limit exposure to the source of the EMF, that she wants to know who is accountable if personal injury is caused by EMF, that many residents did not receive the 2015 notices, that no distances were given between the houses and transmission line in Norwalk, Connecticut, that if the project is approved the measurement of the EMF and accountability for any damages or injury should be established, that there are various routes and project costs, and that none of the criteria considered for the project was human health. Tom Gerety, 43 Washington Street stated that this is purely a business deal, that the City Council asked the petitioner to move utility poles in the past and the petitioner a number of times indicated they could not do so because other utility lines had to be moved first, that he asks whether the city will receive the same kind of treatment with this project, that the petitioner has to convince the city what success will look like, that the petitioner could have indicated noise and EMF monitors will be installed but they have not done so, that a failure would be humming noise from the transmission line, that it is not known if humming will be heard, that the city and residents have no recourse, that if there is damage underground to the infrastructure there is no recourse, that the city will not be able to work on the city's infrastructure in the future without the petitioner's approval, that there is no recourse if there is evidence of leukemia in the future, that the Aldermen must vote as if this project is going in all areas of the city, and that today Wakefield needs power but Burlington, Lexington and other communities will need power in the future and more transmission line routes may be requested. Dennis Scott, 21 Washington Street stated that the City Council has conducted due diligence, that a lot of time was spent on the issue, that the City Council has not been receiving answers to the questions asked, that the citizens want direct and correct answers and not circling around an answer, that there should be a video taken of the conditions of all houses pre-construction, that the plan indicates the line will be installed in the middle of the road, that a resident will not know if there is a water leak cause by the work, that the petitioner has proposed to pay for a project manager that is supposed to work for the city but will be paid by the petitioner, that the petitioner's information relative to their right to seek an override from the EFSB of a denial of the grant of right in a way or judicial remedies was a threat, and that the petitioner did not provide enough information packets for the public at this meeting. Bill Ballotta, 31 Lake Avenue stated that he did receive the notice of the meeting in 2015, that he wants to know if there is a concrete plan as to exactly how deep the line will run, and that the plan should be definitive. Mr. Hunt stated that the City Council has treated the residents with respect as have the residents treated the City Council, and that the petitioner should not have threatened legal action if the petition is denied. Debbie Gerety, 47 Washington Street stated that the petitioner talks about outreach and caring for the community but when the petitioner

conducted soil testing in the road outside her house last year they used a jack hammer all night including 2:00 a.m. Mr. Zamparelli stated that the petitioner will provide a PDF of the information package used at this meeting to the City Clerk for the public. Motion made and 2nd that the public hearing be closed, all in favor, 9-0. PUBLIC HEARING CLOSED.

Alderman Concannon stated that he wants to ask a final question or two, and that he wants to know if the grant of right in a way is approved would the petitioner perform pre-construction and post-construction EMF level monitoring for all abutters within 300 feet of the work area unless the property owner opts out of such monitoring. Mr. Zamparelli stated that he would have to consult with others at Eversource but they would consider the request. Alderman Concannon asked if the petitioner would waive an appeal for an EFSB override and accept the city as final decision maker on deciding issue that arise relative to construction conditions. Mr. Zamparelli stated that the petitioner would not be willing to make this commitment. Alderman Campbell stated that the petitioner has stated that they do not have to stand by conditions imposed, that at the last meeting the petitioner's project manager at the time Mr. Roland stated that the petitioner would make a determination as to what work needed to be done even if there was a contrary condition, that the petitioner said at this meeting the same cross-linked polyethylene (XLPE) cable system will be used the whole length of the project from Woburn to Wakefield although one of the conditions in Wakefield was the high-pressure fluid-filled (HPFF) cable system would be used in Wakefield, that the petitioner indicates that it is not going to follow the conditions, and that even if the petitioner agrees to a condition it appears they do not believe they have to abide by the condition.

Alderman Tedesco stated that he was hesitant to close the public hearing at the last meeting, that he thought more information was needed, that the petitioner has not presented any new information, that the petitioner was asked at the last meeting for a construction time line street by street but it was not provided, that the petitioner indicates that it is diligent but did not respond to the question as to who would be accountable for damage to the infrastructure, that the petitioner was asked two weeks ago for a list of abutters who had been notified but no list has been provided, that the Superintendent of Public Works stated in his letter to the City Council that the petitioner has asked for more time to answer his questions, that the petitioner has been provided sufficient time to provide answers and information requested, and that he is now ready to close the public hearing. Alderman Higgins stated that she took the 45 conditions proposed by Alderman Campbell at the April 17, 2018 meeting and along with Alderman Anderson made some amendments to those conditions resulting in 58 conditions which she will refer to as the Higgins draft, that Alderman Campbell also amended her previously proposed conditions resulting in 61 conditions which she will refer to as the Campbell draft, and that there were no substantive changes but organizational changes of the document. Motion made and 2nd that the Higgins draft be accepted and made part of the record, all in favor, 9-0. Motion made and 2nd that the Higgins draft shall be used as the working document for any additional amendments, all in favor, 9-0. Alderman Concannon stated that before finalizing the decision the role and authority of the City Council in this matter should be understood, that the State and the city have certain authority, that the standard of review revolves around incommoding public use of the public way, that there is a broad definition of the term incommoding, that questions have been asked of the petitioner about the future impact on the city's infrastructure, that the answer was that a collegial resolution would be determined but there may be disagreement, that he needs assurance that the city will be the final arbiter in these possible disputes, that the evidence

indicates that the public will be incommoded, that the petitioner has the burden of demonstrating there will be no incommoding of the public, that the petitioner has not met that burden, that the EMF is a concern but is not the basis of his decision in this matter, and that the City Council should stay in its lane to avoid having a denial of the petition overturned. Alderman Mercer-Bruen stated that the responsibility of the City Council is the health and welfare of the people who live in the community, that it is ludicrous that the health and welfare of the people in the community could not be considered with a new project such as this, and that the health and welfare of the people should be considered as well as all of the other factors stated in the proposed denial. Alderman Gately stated that there are health effects, construction and many other concerns involved in this decision, that a lot of questions remain unanswered, that the petition should be denied, that the petitioner can find a better location for the transmission line, and that the City Council has to save our neighborhoods and save our people. The City Council reviewed the Higgins draft and the Campbell draft and made the following changes to the Higgins draft. Motion made and 2nd that the title and opening paragraph of the Campbell draft be substituted for the title and opening paragraph of the Higgins draft, all in favor, 9-0. Motion made and 2nd to add paragraphs 55 through 59 of the Campbell draft after paragraph 4 of the Higgins draft, all in favor, 9-0. Motion made and 2nd to add the words “impede or” before the words “prohibit the use” in the third line of paragraph 5 in the Higgins draft, all in favor, 9-0. Motion made and 2nd to delete the word “exclusively” and insert in its place the word “primarily” in paragraph 5 of the Higgins draft, all in favor, 9-0. Motion made and 2nd to delete from the first sentence in paragraph 10 of the Higgins draft the word “Petitioner” where it first appears and insert the words “Superintendent of DPW” in its place, all in favor, 9-0. Motion made and 2nd to delete the words “that day” in paragraph 10 of the Higgins draft and insert in its place the word and numbers “April 25, 2018”, all in favor, 9-0. Motion made and 2nd to insert new paragraph after paragraph 10 to read as follows: “The City of Woburn already contributes to the power grid and there are already approximately twelve miles of transmission lines currently in the city”, all in favor, 9-0. Alderman Higgins stated that paragraph 16 of the Higgins draft starts with the words “The most recent reconstruction.” Motion made and 2nd to add paragraphs 19 and 20 of the Campbell draft after paragraph 29 of the Higgins draft, all in favor, 9-0. Motion made and 2nd to add a second sentence to Higgins draft paragraph 28 to read as follows: “The closest house from the vault on Pickering Street is a distance of eighteen feet according to the design on record as confirmed by the City Engineer”, all in favor, 9-0. Alderman Gately stated that the decision should not refer to distances from the vault as the vault can be moved. Alderman Campbell stated that petitioner told the EFSB that the closest house would be twenty-one feet from the vault, and that she suggested adding a reference to the plan of record. Motion made and 2nd to add paragraph 22 of the Campbell draft after paragraph 30 of the Higgins draft, all in favor, 9-0. Motion made and 2nd that the words “large areas of” after the words “the pumping station” in paragraph 33 of the Higgins draft, all in favor, 9-0. Motion made and 2nd to add paragraphs 27 and 28 of the Campbell draft after paragraph 34 of the Higgins draft, all in favor, 9-0. Motion made and 2nd to add from paragraph 29 of the Campbell draft the words “, with 18,000 cars per day according to information from the MassDOT Traffic Data Collection” to the end of paragraph 35 of the Higgins draft, all in favor, 9-0. Motion made and 2nd to add from paragraph 34 of the Campbell draft the words “, with 25,000 cars per day according to information from the MassDOT Traffic Data Collection” to the end of paragraph 39 of the Higgins draft, all in favor, 9-0. Motion made

and 2nd to add paragraphs 45 through 49 of the Campbell draft after paragraph 52 of the Higgins draft, all in favor, 9-0. Motion made and 2nd to add at the end of paragraph 53 of the Higgins draft the words “, a specialized agency of the United Nations that is concerned with international public health” from paragraph 50 of the Campbell draft, all in favor, 9-0. Motion made and 2nd that paragraph 54 of the Campbell draft be added after paragraph 56 of the Higgins draft, all in favor, 9-0. Motion made and 2nd that 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, Pickering Street, Border Street, Cross Street, Washington Street, and Montvale Avenue be DENIED for the following reasons:

NSTAR Electric Company d/b/a Eversource Energy
Findings of Fact and Reasons for Denial

Based on the authority granted to the Woburn City Council under M.G.L. Ch.166, §22 and M.G.L. Ch.164, §72(a), the general discretion of the Woburn City Council and the following Findings of Fact and Reasons for Denial, the Woburn City Council hereby denies the petition by NSTAR Electric Company d/b/a Eversource Energy (hereinafter “the petitioner”) for a grant of right in a public way pursuant to Massachusetts General Laws Chapter 166, Section 22 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 2,275 linear feet), and Montvale Avenue (approximately 2090 linear feet) (hereinafter “the Project”):

1. The grant of a right of way to construct or alter transmission lines is within the authority of the City Council.
2. The City Council shall not act arbitrarily or capriciously.
3. An important consideration for the City of Woburn in granting a right of way is the impact said right of way would have on the community and whether the grant would incommode the public.
4. The proposed project, as set forth herein, incommodes the public use of public ways and/or interrupts navigation.
5. Pursuant to M.G.L. Ch.166, §22, the City Council has exclusive authority in the City of Woburn to grant a right in a public way for the installation of electric transmission lines.
6. Pursuant to M.G.L. Ch.164, §72(a), unless the City Council grants a right in a way for the installation of an electric transmission line, the petitioner shall not transmit electricity through any transmission line that may be installed.

7. In Boston Edison Company vs. Board of Selectman of Concord, 355 Mass. 79, 242 NE 2nd 868 (1968), the Supreme Judicial Court found in favor of the Board of Selectman of Concord which denied Boston Edison Company permission to cross certain public ways in the respective towns with its high tension wires due to incommoding the public.
8. Pursuant to M.G.L. Ch. 166, §21, the basic standard stated by the Supreme Judicial Court is that the petitioner in installing transmission lines “shall not incommode the public use of public ways or endanger or interrupt navigation”. [See Boston Edison Company vs. Board of Selectman of Concord, 355 Mass. at 87, 242 NE 2nd at 874 (1968)]
9. The Supreme Judicial Court defined incommode as “...to give inconvenience or trouble to; to disturb or molest; to put out...” and “...to subject to inconvenience or discomfort; to trouble, annoy ...”. Boston Edison Company vs. Board of Selectman of Concord, 355 Mass. at 90, 242 NE 2nd at 876, Footnote 2 (1968).
10. A valid consideration in whether or not to grant a right of way as contemplated by M.G.L. c.166, section 22 is the economy and/or efficiency of granting a right of way to the extent that other wires or cables of other providers may use the same right of way. M.G.L. c.166, section 22 specifically authorizes the City after granting a right of way and after the erection of the same to permit an increase in the number of wires or cables and grant other companies the right to attach its wires. The proposed right of way, due to the nature of the voltage, will impede or prohibit the use by other users and indeed would more than likely prohibit the placement of other utilities in the ground proximate to the proposed line. Granting a public way that primarily benefits one service and excludes other uses is not in the best interests of the City and will potentially cause further disruption and interference with public ways in other locations if other utilities need to stay outside of the same right of way and other rights of way are required.
11. City water mains, water service lines to water users, city sewer mains and service lines are all in the ground in proximity to the proposed transmission line.
12. The City Council is duty bound to protect the integrity of the City infrastructure from damage that may occur during the proposed construction of the transmission line and for the long-term maintenance and repair of City infrastructure which would be significantly hindered and/or problematic if such repairs and maintenance are necessary in the proximity of a subsurface 345 kilovolt transmission conduit.
13. At the request and/or agreement of the Petitioner, this matter was continued to allow Petitioner to answer a myriad of questions that arose as well as to give the Petitioner time to confer with City Department heads, including the Superintendent of DPW.
14. Petitioner was unable to address all of the issues that arose with the Superintendent of DPW because, as acknowledged by the Petitioner, two Nor’easters in March interfered with their ability to conduct survey work along the project route. On or about Tuesday,

April 17, 2018, the same date of the last meeting of the City Council, the Petitioner informed the Superintendent of DPW of the following:

- a. "Lake Ave Routing: Black and Veatch is completing a feasibility study to determine the best way to get the duct bank off of Lake Ave. We had to complete a detailed survey of the city property between Lake Ave and Horn Pond to ensure that all impacts to city property could be identified. The survey work was delayed due to the back to back Nor'easters in March. This survey has now been completed and B&V is working on conceptual design for the area. Once the study has been completed we plan to reach back out to review the options."
 - b. "Utility relocations due to Manhole on Pickering Street: Black and Veatch is completing a feasibility study to show the anticipated utilities to be relocated as part of the manhole location on Pickering Street. Once the study has been completed we plan to reach back out to review the drawings."
 - c. "Geotechnical and Test Pit Data: My apologies for not sending this information sooner. I mistakenly thought that this had been provided. I have attached the geotechnical report for your review."
 - d. "Test Pit Data: My apologies for not sending this information sooner. I mistakenly thought that this had been provided. I have attached the test pit Information for your review."
15. The Superintendent of DPW met with the Petitioners Team and new plans were submitted to the Superintendent of DPW on April 25, 2018. The Superintendent requested that additional details be provided which clearly demonstrate that the proposed transmission line can be properly positioned to allow clear access and provide reasonable clearances away from City infrastructure. The Petitioner requested additional time be granted to them to provide these details.
 16. The City of Woburn already contributes to the power grid and there are already approximately twelve miles of transmission lines currently in the city.
 17. A portion of the Project will be constructed under the Horn Pond Brook at the Scalley Dam.
 18. The dam is critical to the security and integrity of Horn Pond and the aquifer below it that provides a significant portion of the City water.
 19. The roadway at the Scalley Dam has been subject to settling during washouts.
 20. The Scalley Dam has been reconstructed a number of times over the years to ensure the integrity of the dam to protect the safety and welfare of the residents and property owners downstream from the dam.

21. Past breaches of the Scalley Dam have caused millions of dollars of property damage in Woburn and Winchester over the years.
22. The most recent reconstruction of the Scalley Dam was completed in 2017 at a cost of approximately \$1,000,000.00.
23. The 2017 reconstruction of the Scalley Dam was performed to address known risks to future deterioration of the dam based on existing conditions at the time of construction.
24. Even during the 2017 reconstruction of the Scalley Dam a breach occurred that indicates the uncertainty of the stability of controlling the flow of water from Horn Pond to the Horn Pond Brook downstream.
25. Plans provided by Eversource do not include construction details including the impact of the 345 kV transmission line on the Scalley Dam or other infrastructure.
26. Possible breach of the Scalley Dam could cause millions of dollars of property damage in both Woburn and Winchester.
27. Further breach of the Scalley Dam caused by construction of or the impact from the operation of the 345 kV transmission line over time may result in additional property damage as well as potential personal injury.
28. Also, a breach of the Scalley Dam in the future would undermine Lake Avenue and any infrastructure under the roadway including the 345 kV transmission line.
29. The Scalley Dam is also located on Lake Avenue. The area of the Project on Lake Avenue is a heavily used passive recreation area with hundreds of pedestrians walking along the street sidewalks on any given day.
30. A municipal parking lot is located on Lake Avenue that is used for public access to the Horn Pond recreation area along the route of the Project.
31. Further, Lake Avenue is a heavily traveled roadway connecting Woburn with Winchester and Arlington.
32. Many passenger vehicles and commercial vehicles, including tractor-trailer trucks, pass along Lake Avenue each day.
33. The extended period of construction and future maintenance work on the Project will cause disruption in the flow of traffic, impact residents and pedestrians, and be a continuing source of such disruption as the ground is dug up to make repairs as needed, on Lake Avenue as well as other streets along the route of the Project.
34. Pickering Street, which is also along the route of the Project, is a narrow street with smaller house lots that have numerous homes constructed with little or no setback from

the street. The closest house from the vault on Pickering Street is a distance of eighteen feet according to the design on record as confirmed by the City Engineer.

35. The construction and future maintenance of the Project will cause severe disruption and annoyance for the residents and property owners along Pickering Street and will prohibit the flow of vehicles along the inferior roadway and access to the homes.
36. A ten foot by thirty foot vault is proposed to be constructed on Pickering Street.
37. The construction of the vault on Pickering Street will prohibit vehicular and pedestrian traffic on the street and access by residents to their homes, including deliveries, visiting nurses and other necessary travel.
38. Further, Border Street, also along the route of the Project, is a narrow street with smaller house lots that have numerous homes constructed with little or no setback from the street.
39. The construction plans of petitioner do not address current conditions of the city's existing infrastructure under the roadways.
40. The construction and future maintenance of the Project will cause severe disruption and annoyance for the residents and property owners along Border Street and will prohibit the flow of vehicles along the roadway and access to the homes.
41. Further, the areas of Lake Avenue, Pickering Street and Border Street are among the oldest settled areas in the city and the extensive construction and maintenance of the Project may jeopardize the integrity of the many homes and buildings along the roadways which have inferior rubble stone basements and older/outdated construction methods.
42. In addition, the water service from the pumping station to large areas of the city passes along Lake Avenue, potentially leaving the city's water source susceptible to disruption caused by the Project.
43. The water lines, sewer lines, and other underground infrastructure in the area of Lake Avenue, Pickering Street, and Border Street will be disturbed and may be jeopardized by the extensive construction and future maintenance of the Project.
44. Cross Street is a heavily traveled and thickly settled roadway connecting Woburn, Winchester and Stoneham and used by many commuters to access Interstate Route 93.
45. The construction and future maintenance of the project will cause severe disruption and annoyance for the residents, property owners and the travelling public along the roadway.
46. The Project also runs along Washington Street which is a heavily traveled roadway connecting Woburn and Winchester, with 18,000 cars per day according to information from the MassDOT Traffic Data Collection.

47. Ambulance services constantly use Washington Street for access to Winchester Hospital.
48. The line of the Project on Washington Street will pass an established playground with baseball fields, football fields, a street hockey rink, a seasonal swimming pool, children's playground equipment and is a place of gathering for children and their families year round.
49. The construction and future maintenance of the Project along Washington Street will severely disrupt travel and cause additional inconveniences and annoyances to the residents and traveling public along the roadway.
50. Montvale Avenue, also along the route of the Project, is a heavily traveled roadway that connects Woburn to Interstate Route 93, with 25,000 cars per day according to information from the MassDOT Traffic Data Collection.
51. The intersection of Washington Street and Montvale Avenue is one of the most congested intersections in the city.
52. Washington Street, as well as Montvale Avenue will be part of a street widening project. Upon completion of the widening of Washington Street and Montvale Avenue, the Washington Street roadway will absorb additional heavy traffic volume.
53. In addition, upon completion of the widening of Washington Street and Montvale Avenue, the Montvale Avenue roadway will absorb additional heavy traffic volume.
54. There are at least six (6) bus routes along the proposed route of the underground transmission line with stops along the route. These routes would most certainly be disrupted during construction causing significant inconvenience and disruption.
55. There are at least six (6) bus routes along the proposed route of the underground transmission line with stops along the route where children could be exposed to EMF if the transmission line is in operation.
56. Further, the Project's proposed transmission line will be constructed along Montvale Avenue including the section that passes over the Aberjona River.
57. The proposal to excavate in, around and/or under the Aberjona River would have a negative impact upon the city of Woburn. It is well-established that the sediment in and around the wetlands and riverbed of the Aberjona river is potentially contaminated as a result of the numerous Superfund sites in the area. The disruption and movement of this potentially contaminated settlement prohibits approval of the proposal.
58. The construction and future maintenance of the Project along Montvale Avenue will severely disrupt travel and cause additional inconveniences and annoyances to the residents and traveling public along the roadway.

59. The petitioner argues there is no causal link to negative health effects as a result of continued exposure to EMF. Nevertheless, the Petitioner concedes that it is also true that it has not been established that EMF does not cause negative health effects as a result of continued exposure to EMF.
60. The impact of the electromagnetic field (“EMF”) emitted from the Project creates public health concerns, as the majority of the Project will run through single and two family residential neighborhoods.
61. In the final decision of the Energy Facilities Siting Board (the “EFSB”), the EFSB recognized the existing EMF impact from construction and operation of the Project.
62. In the final decision of the EFSB, the EFSB ordered Eversource to continue to evaluate the mitigation of the EMF indicating that the mitigation proposed to date is not sufficient to alleviate public health concerns.
63. The Project may diminish the property value of homes along the route of the Project because of the close proximity and location of the Project.
64. The petitioner was unable, after repeated requests, to provide evidence of the location of a comparable installation of a 345kV transmission line using the cross-linked polyethylene (XLPE) cable system method of installation for such a distance or in such a thickly settled residential area on a substandard road.
65. During the multiple Public Hearings, the petitioner touted their public relations capabilities in notifying the public and frequently stated that residents were consistently notified, including mailings and visits to residents’ homes referred to by the petitioner as “door knocking”. Many residents that live directly on the route of the transmission line stated that they had not received one mailing or notification from the petitioner about the project or about the public hearings that were taking place.
66. After the first Public Hearing held on February 20, 2018, the petitioner’s representatives stated that they would send out notifications of any future Public Hearings that were to follow to the residents. The petitioner presented no evidence of the notification being sent to the residents.
67. At the Public Hearing on April 17, 2018, the City Council asked for the list of residents that have been notified about this project. The petitioner agreed to provide the list of residents. As of May 1, 2018, the City Council has not received any such list from the petitioner.
68. At the Public Hearing on April 17, 2018, the petitioner offered to send to the City Council, in care of the office of the City Clerk, a PDF file of the construction plans of the project to post on the City of Woburn’s website to give residents more information on the project. As of May 1, 2018, the City Clerk has not received said construction plans of the project from the petitioner.

69. The vaults along Lake Avenue, Pickering Street, Washington Street and Montvale Avenue will have high levels of EMF exceeding those determined to have effect on human health by the World Health Organization, a specialized agency of the United Nations that is concerned with international public health.
70. The 90° turn at the intersection of Lake Avenue and Pickering Street will have higher levels of EMF exceeding those determined to have effect on human health by the World Health Organization.
71. The 90° turn at the intersection of Pickering Street and Border Street will have higher levels of EMF exceeding those determined to have effect on human health by the World Health Organization.
72. The 90° turn at the intersection of Washington Street and Montvale Avenue will have higher levels of EMF exceeding those determined to have effect on human health by the World Health Organization.
73. Although health effects of the EMF may be outside the scope of the term incommoding, the City Council is cognizant of the history of the industrial uses in the city which caused or contributed to childhood leukemia from land designated by the Federal Government as a Superfund Site. [See Anderson vs. W.R. Grace & Co., 628 F. Supp. 1219 (D. Mass. 1986); Anderson vs. Cryovac, Inc., 862 F.2d 910 (1988)].
74. The evidence presented including plans, documents, and testimony at the public hearing shows a significant incommoding of the public during construction and future operation of the 345 kV transmission line and therefore the petition for a grant of right in a way must be denied.
75. Although the review of the petition for a grant of right in a way by the City Council is limited to the incommoding of the public and that the plans, documents and testimony provided as evidence clearly demonstrates a significant incommoding of the public during construction and future operation of the 345 kV transmission line, the City Council noted during testimony by the petitioner that a route along an existing utility easement controlled by the petitioner exists which would relieve that public of the significant incommoding presented in the proposed petition for a grant of right in a way.

, all in favor, 9-0. Motion made and 2nd that the decision including the list of reason for denial be posted on the city's website, all in favor, 9-0.

Presented to the Mayor May 3, 2018 and ten days having elapsed without same being approved, said Vote became effective without his signature on May 15, 2018.

Motion made and 2nd for a two minute recess, all in favor, 9-0.

President Haggerty called the meeting back to order.

Motion made and 2nd that a copy of the decision and reasons for denial in 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, Pickering Street, Border Street, Cross Street, Washington Street, and Montvale Avenue be sent to the Town of Stoneham, the Town of Wakefield and the Town of Winchester, all in favor, 9-0.

On the petition by 285 Locust LLC, c/o Duffy Bros Management Co., Inc., Kevin Duffy, 465 Waverley Oaks, Suite 500, Waltham, Massachusetts 02452 for a special permit and site plan review pursuant to 1985 Woburn Zoning Ordinances, as amended, Sections 5.1.3c, 12.2 and 15.6(C) for the demolition of the existing commercial building and site improvements, and for the construction of a 41 unit, attached townhouse development with integrated parking, landscaping and infrastructure improvements at 285 Locust Street. PUBLIC HEARING OPENED. A report was received from the Committee on Special Permits as follows: “ought to pass with the conditions as follows:

1. The Petitioner shall construct and improve the Site as substantially described in the plans submitted with the Petition for Special Permit entitled: “Site Plan for 285 Locust Street, Woburn, Massachusetts” Cover Sheet, Sheets EX-1, C-1, C-2, C-3, C-4, L-1, L-2, C-5, C-6, C-7, C-8, SL-1, A1.0, A1.1, A1.2, A1.3, A1.4 and A1.5 dated June 13, 2017, January 18, 2018, January 22, 2018, January 26, 2018, revised March 22, 2018, revised April 6, 2018, prepared by RJ O’Connell & Associates, Inc., 80 Montvale Avenue, Stoneham, Massachusetts 02180, William Fleming Associates, Inc., 375 Main Street, Suite 3, Stoneham, Massachusetts 02180, and HDS Architecture, 625 Mount Auburn Street, Cambridge, Massachusetts 02138 (hereinafter the “Site Plan”) although design adjustments and modifications generally associated with: (i) preparing so-called “working drawings” or (ii) site conditions shall be permitted so long as such changes do not constitute substantial changes from said plans as determined by the Building Commissioner. In the event that the Building Commissioner determines that the building plans filed with the building permit application are not in substantial conformance with the Site Plan, the Petitioner may request a review of said plans by the City Council Special Permits Committee who shall make a final determination. If the Special Permits Committee makes a determination that the proposed plans are not in conformance with the Site Plan, the Petitioner shall be required to file a Special Permit Petition seeking approval to modify the Site Plan.
2. All exterior building illumination shall be shielded in such a manner that will prevent direct light from impacting any abutting properties.
3. Except in the event of an emergency, exterior construction activities on the Site shall be from 7:00 a.m. to 5:00 p.m. Monday through Friday, and 8:00 a.m. to 4:00 p.m. on Saturdays. No construction activities on Site shall be permitted on Sundays or federal or state holidays.

4. The applicant shall comply with the requirements of Section 11.11 of the Zoning Ordinance (Affordable Housing Requirement) relative to the creation of a minimum of four (4) affordable housing units.
5. Any bituminous curbing that is installed within the property as part of the project shall be maintained by the property owner and/or condominium association and not the city.
6. All sidewalks installed within the property as part of the project shall be made of concrete or concrete pavers.
7. The petitioner shall provide a copy of an environmental report for the property, when available, to the City Council and the Woburn Board of Health.
8. Sheet C-4 of the Plan of Record shall be modified to reflect the island inside the development shall be bounded by sloped granite curbing, and the residential area shall be bounded by Cape Cod berm.
9. The snow storage areas on the plan of record shall be used only for snow. No snow removal-related equipment shall be stored on the property unless authorized by the City Council.
10. The Petitioner shall be responsible for snow removal until such time when all its legal rights in the development are transferred to the Townhouse Association or similar association. Once the Townhouse Association, or similar association, has been created and its legal rights vested in the development, the townhouse Association or similar association, will be responsible for snow removal.
11. The mitigation for this proposal shall be as indicated below and in accordance with the City Engineer's memoranda dated March 26, 2018, April 3, 2018 and April 23, 2018. The total mitigation fee shall be \$300,000 which shall be paid to the city prior to the issuance of an occupancy permit, temporary or otherwise, and the mitigation funds shall be used for the following purposes:
 - (a) Up to \$150,000 of the funds under the project shall be applied to the Bedford Road/Cambridge Road Traffic Signal Redesign Plans. Any of the funds remaining upon completion of the design study shall be applied to further upgrades of the Locust Street sidewalks.
 - (b) \$150,000 of the funds shall be used to install sidewalks with granite curbing on Locust Street beginning at the intersection with Willow Street, as determined by the DPW Superintendent.
 - (c) Any money designated in paragraph (a) not used for the Bedford Road/Cambridge Road Traffic Signal Redesign Plans within 18-24 months shall be used for the upgrades of Locust Street sidewalks.
 - (d) Any funds not expended or encumbered within 48 months after the issuance of the permanent occupancy permit shall be returned to the Petitioner.
12. Adequate rodent and pest control shall be put in place before demolition and reviewed by the Board of Health.
13. During construction, all vehicles shall be parked on Site. All staging and deliveries shall occur on Site.
14. During construction, no vehicles shall be parked on Locust Street, Kelly Drive or Cambridge Road.
15. Sidewalks and roadways shall be kept open and clear during construction.
16. This project shall not exceed forty-one (41) units.

17. All signage shall comply in all respects with the provisions of Section 13 of the Woburn Zoning Ordinance, unless modified herein.
18. All landscape shall be maintained by property owner, Townhouse Association or similar association. Any dead trees, shrubbery, plants, or grass shall be replaced with new plants within a reasonable amount of time.
19. All landscaped areas on property shall have an irrigation system.
20. Interior roadway shall be assigned a name and unit numbers assigned. No letters shall be used to identify units as requested by Police Department and Fire Department.
21. Units in development shall be serviced by weekly private trash collection and collection of recyclable materials.
22. That an ADA accessible sidewalk be established on Locust Street as determined in the field by the Police Chief and DPW Superintendent.

A communication dated April 30, 2018 was received from Attorney Mark Vaughan, Riemer and Braunstein LLP, 7 District Avenue, #800, Burlington, Massachusetts 01803 as follows:

Re: Special Permit Application/285 Locust Street Woburn Massachusetts

Dear William:

Please be advised that this office and the undersigned represent 285 Locust LLC (“Petitioner and/or Property Owner”), in connection with the captioned matter which is pending with the City Council.

Please consider this letter as the Petitioner’s respectful request for the City Council to continue the pending Special Permit to May 15, 2018 due to a scheduling conflict.

Thank you for your assistance, and please do not hesitate to contact me should you have any questions whatsoever.

Very truly yours, s/Mark T. Vaughan

Motion made and 2nd that the communications be received and made part of the record, all in favor, 9-0. PUBLIC COMMENTS: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON JUNE 5, 2018, all in favor, 9-0.

On the 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. PUBLIC HEARING OPENED. A communication dated April 25, 2018 with attachment

was received from Attorney Joseph R. Tarby, III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: Petition to amend Zoning Map, Sports Management Services, Inc., Garfield Avenue, Woburn, Massachusetts

Dear Mr. Campbell:

Enclosed please find fourteen (14) copies of a revised Parcel Rezoning Plan for the above-referenced matter. Please note the plan file with the original Petition did not include the block number. Thank you.

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

Motion made and 2nd that the communications be received and made part of the record, all in favor, 9-0. Appearing for the petitioner was Attorney Joseph R. Tarby, III and he stated that the revised plan that was filed is the same as the prior plan but includes the block numbers, that there are two parcels of land, that the I-G zoning district contains 1.81 acres of land, that the R-2 zoning district contains 1.81 acres of land, that there are single and two family homes to the north of the locus, that to the south and east of the locus are commercial and industrial uses, that the petitioner wants to amend the I-G property to the R-2 zoning district, that both parcels would be in the in R-2 zoning district which is consistent with the property in the area, that if the property is rezoned the petitioner would file a definitive subdivision plan with the Planning Board, that the Planning Board will be meeting on this proposal on May 8, 2018, that single and two family homes will be developed on the parcels, that the prior rezoning petition submitted for this property was to amend the zoning district to R-2, that approximately twenty condominiums would have been developed on the site, and that this matter could be reviewed further in committee pending the report from the Planning Board. Carlton Quinn, Allen & Major Associates, Inc., 100 Commerce Way, Woburn, Massachusetts 01801 stated that if the zoning amendment is approved the petitioner would develop three two family homes and four single family homes with access off Garfield Avenue, that two homes would have access off Garfield Avenue, that two homes would be located on a cul-de-sac off Garfield Avenue, and that three two-family homes would have access on a cul-de-sac off Medford Street. Alderman Gately stated that Medford Street is a dead-end street, that he has not heard any concerns from neighbors about the proposal, that the last petition to rezone to the property to the R-3 zoning district and construct twenty-one condominiums was overwhelmingly opposed by the neighbors, that this is useable land and a doable plan, that there may be an issue with the sewer service to the parcels, that the water mains are accessible to the properties, that the parcels are used as a dumping site now, and that the land must be developed. PUBLIC COMMENTS: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON JUNE 5, 2018 AND THAT THE MATTER BE REFERRED TO THE COMMITTEE ON ORDINANCES, all in favor, 9-0.

On the petition by Hugo Moraes, 1 Middlesex Canal Park, Woburn, Massachusetts 01801 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Section 5.1.28 and 5.1 Note 27 to allow rooftop dining in conjunction with a restaurant on the ground floor including all facilities associated with the rooftop dining area and conditions in Section 11.6.12 at 434 Main Street. PUBLIC HEARING OPENED. Appearing was the petitioner Hugo Moraes and he stated that the petition is to allow rooftop dining at the restaurant, and that the area will be ten feet from the front of the building and four feet from the sides of the building. Steven Paris, 3 Fisher Terrace stated that the petitioner reviewed the regulations for rooftop dining and can comply with all of them. President Haggerty stated that the special permit petition is separate from the issue of the proposed zoning amendment concerning elevators and rooftop dining. PUBLIC COMMENTS: None. Motion made and 2nd that the public hearing be closed, all in favor, 9-0. PUBLIC HEARING CLOSED. President Haggerty offered the following proposed conditions should the special permit be granted:

Conditions for 434 Main Street

1. The City Council authorizes that the equipment structures, service and preparation areas, and restrooms comprise approximately 18.4% of the gross floor area which is in excess of the 15% maximum requirement outlined in Section 11.6.12.7[c] Because the building predates the adoption of the rooftop dining Ordinance, the Council authorizes that higher percentage provided certain determinations/demonstrations can be made in accordance with Section 11.6.12.7(c).
2. Although off-street parking is not required onsite in the B-D district for the proposed restaurant, the applicant has demonstrated that parking is available at a municipal lot within a 500-ft. radius of 434 Main Street to satisfy Section 8.3.2;
3. The special permit for rooftop dining is contingent upon the issuance of a building occupancy permit for the first-floor restaurant space;
4. That information relative to the height of rooftop fixtures, location of rooftop access within the building, and information as to building use for each floor is supplied by the applicant and incorporated into the record or Plan of Record, as appropriate, for the Building Commissioner's review;
5. The applicant adheres to subsections 6, 7(e), 8, 9, 10, 11, and 13, and 15(b) through 15(e) of Section 11.6.12 over the course of rooftop dining operations; and
6. That the special permit is issued only to 434 HM LLC and is not transferrable with the exception of a transfer to an entity of which 434 HM LLC is the primary or principal owner.
7. Hours of operation on the rooftop shall be 9:00am to 10:30pm Monday-Sunday. In no event shall the rooftop be occupied by patrons later than 10:30 p.m.

8. The City Council authorizes the petitioner to have live entertainment, music, speakers, and televisions on the rooftop dining area.
9. Equipment and structures associated with the elevator providing access to the rooftop area required by State Building Code shall be a height that is consistent with providing safe access to the roof top dining area.

Motion made and 2nd that the proposed conditions be accepted and made part of the record, all in favor, 9-0. Alderman Campbell stated that she was concerned about sound and noise emanating from the rooftop from activities under proposed condition 8. President Haggerty stated that the special permit has to authorize the uses in condition 8 but that the petitioner must also comply with the noise ordinances. Motion made and 2nd that the petitioner will comply with all appropriate noise ordinances in the City of Woburn, all in favor, 9-0. Motion made and 2nd that proposed condition 8 be amended to read as follows: “8. The City Council authorizes the petitioner to have live entertainment, music, speakers, and televisions on the rooftop dining area and that the petitioner shall comply with all applicable noise ordinances of the City of Woburn,” 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 proposed conditions, as amended, be adopted as conditions of the special permit, all in favor, 9-0.

On the petition by BlueLine Rental, 8401 New Trails Drive, Suite 150, The Woodlands, Texas 77381 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Sections 5.1.45, 5.1.57b and 7.3 to allow for: 1. Sale or rental of construction equipment and vehicles including the outside storage of new equipment, and 2. Overnight parking of four (4) commercial vehicles at 20 Atlantic Avenue. PUBLIC HEARING OPENED. A communication dated April 25, 2018 was received from Tina P. Cassidy, Planning Board Director, Woburn Planning Board as follows:

Re: Special Permit applications for 20 Atlantic Avenue/Blueline Rental

Dear Councilors:

The Planning Department has reviewed the above-referenced applications which seek special permits to authorize the sale or rental of construction equipment and vehicles as well as the overnight parking of four (4) commercial vehicles at 20 Atlantic Avenue.

The application seeks a special permit for the “sale or rental of construction equipment and vehicles including the outside accessory storage of new equipment” and cites line 5.1(45). However, Section 5.1(45) actually authorizes the “sale or rental of automobiles, trucks, truck trailers and motorcycles, including accessory repair and storage facilities” by special permit. Building Commissioner Tom Quinn has reviewed the application and determined that consistent with longstanding practice and interpretation, the requested use can be allowed by special permit on this site.

Staff recommends that with respect to this point, the City Council consider whether to (a) expressly exclude authorization for the sale and/or rental of automobiles, motorcycles (and any other type of vehicle/equipment it wishes to prohibit) and/or (b) specifically list the types of construction vehicles and equipment that can be sold or rented from this property.

The plan indicates in words that there are 30 existing parking spaces on site and that an additional 37 will be added but the plan does not note/distinguish which parking spaces are existing parking spaces and which ones are being proposed for the first time.

What types of commercial vehicles will be stored on site? Will they physically fit into the respective parking spaces? The plan should be revised to note which parking spaces will be used for the overnight storage of commercial vehicles, for ease of future enforcement.

The plan shows four (4) different areas for equipment storage: A relatively large area on the western side of the building and three (3) other smaller areas on the eastern side of the building interspersed among parking spaces for customers and employees. Planning staff recommends the Council not authorize the three (3) smaller areas for the sake of aesthetics and safety. Instead, staff recommends any and all equipment stored outside be restricted to the larger area depicted on the building's west side. Additionally, staff recommends the area(s) for equipment storage be screened/enclosed with a fence/gate that is opaque so that none of the equipment is visible from abutting properties or from Atlantic Avenue. Otherwise, any or all such areas will be highly visible by passersby.

The proposal calls for 8' high fencing. 8' high fencing is expressly permitted for certain uses listed in Section 5.1 Table of Uses, but line 5.1(45) and line 5.1(57b) are not among them. Therefore, Section 5.3.4 restricts the fence height to six (6) feet unless the applicant obtains a variance from the Board of Appeals.

The largest proposed storage area is immediately adjacent to a water course and a site that has an extensive history of environmental contamination. What existing or proposed safeguards will be in place to ensure any gas or oil runoff from the site does not migrate onto adjacent properties/water bodies? On a related note, the Council should consider imposing a condition prohibiting the repair of any vehicles or equipment outside of the building. Instead, any and all vehicle/equipment repair activities that may be allowed should be restricted to the interior of the building.

I am happy to answer any questions you may have regarding these comments.

Respectfully, s/Tina P. Cassidy, Planning Board Director

Motion made and 2nd that the communication be received and made part of the record, all in favor, 9-0. 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 nonconforming because there is not sufficient useable open space, that the property is located in the IP-2 zoning district, that a special permit is required for the proposed used, that the parcel is 3.08 acres with a 34,213 square foot building, that from 1996 to December 2017

the building was used as a paper recycling facility, that the petitioner rents construction vehicles and equipment similar to those shown in the document filed at this meeting, that the rentals are generated by an outside sales force, that the equipment is delivered to the customers from the facility, that there will be twelve employees, that there are four drivers, four mechanics, a manager, two general employees and one outside sales consultant, that the petitioner's mechanics will do work on the company's equipment, that the hours of operation will be from 6:00 a.m. to 5:00 p.m. Monday through Saturday, that there are currently three commercial vehicles that will be stored overnight but the petitioner requests authorization for four vehicles in anticipation of growth of the company, that there will be two to three delivery runs from the site each day and two to three truck deliveries to the site each week, that the petitioner's intention is to rent construction vehicles and equipment and not cars or other equipment, that the Building Commissioner was determining whether a six foot or eight foot fence would be required, that the petitioner requested authorization to erect an eight foot fence in the event this is required, that the petitioner's business starts at 6:00 a.m., and that this is a busy street early in the day with traffic to the MBA station and industrial uses in the area. Attorney Tarby offered a plan entitled "#20 Atlantic Avenue Off-Street Parking Summary" prepared by Allen & Major Associates, Inc. and a document entitled "BlueLine Fleet" to the City Council for review. Motion made and 2nd that the documents be received and made part of the record, all in favor, 9-0. Tim Williams, Allen & Major Associates, Inc., 100 Commerce Way, Woburn, Massachusetts 01801 stated that the parcel is approximately three acres with a 35,000 square foot building on the site, that the site will not be changed except for restriping the parking areas and bringing the property up to Americans with Disabilities Act compliance, that the site is wrapped in an existing six foot fence, that there will be on driveway that enters and exits the property and a second driveway to exit the property, that 55 parking spaces are required and the petitioner striped out 67 parking spaces, that there will be a 30,000 square foot area for storage of the equipment, that there will be an eight foot fence from the building the existing six foot fence, that there will be a gate on the fence, that there will be no digging in the ground, that the site is next to the MBTA facility, that most of the building will be used by the petitioner and the property owner is retaining some space for its own use, and that Section 5.1 Note 6 of the Woburn Zoning Ordinances requires an eight foot fence for the outside storage of equipment and materials and therefore the petitioner requested authorization to install an eight foot fence. Tony Plescia, Vice President of Northeast Operations stated that the petitioner is typically and aerial equipment facility such as booms and scissors, that 95% of the business is aerial equipment and not excavation equipment, that the equipment is moved with a flatbed and tractor trailer, that vehicles will flow around the building rather than back in, that all of the yards in their facilities are striped, that signage is installed to promote safety at all sites, that occasionally a customer will show up at one of their facilities, and that safety is a priority. Alderman Gately stated that he wants it to be clear that the facility is for construction equipment vehicles and not for items such as cars and campers. President Haggerty stated that a new residential development will be constructed two parcels away from this locus, and that he would like the 6:00 a.m. opening time to be later. PUBLIC COMMENTS: None. Motion made and 2nd that the public hearing be closed, all in favor, 9-0. PUBLIC HEARING CLOSED. Motion made and 2nd that the following condition be added to the special permit: 1. That the hours of operation shall be between 6:00 a.m. and 5:00 p.m. Monday through Saturday, 8 in favor, 1 opposed (Haggerty opposed). Motion made and 2nd that the following condition be added to

the special permit: 2. That the special permit shall be granted to BlueLine Rental and shall not be transferable, all in favor, 9-0. Motion made and 2nd that the following condition be added to the special permit: 3. That all equipment maintenance and repairs shall be done inside the building, all in favor, 9-0. Motion made and 2nd that the following condition be added to the special permit: 4. That the special permit excludes authorization for the sale and/or rental of automobiles and motorcycles from the locus, all in favor, 9-0. Motion made and 2nd that the following condition be added to the special permit: 5. That the petitioner shall file a snow storage plan with the Building Commissioner, all in favor, 9-0. Motion made and 2nd that the SPECIAL PERMIT be GRANTED, AS AMENDED, 7 in favor, 2 opposed (Mercer-Bruen, Haggerty opposed).

On the petition by Diprio Construction Corp., 271 Salem Street, Woburn, Massachusetts 01801 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Section 5.1.57a to allow for overnight parking of three commercial vehicles and Section 5.1.57b to allow for accessory parking of one storage container at 271 Salem Street. PUBLIC HEARING OPENED. A communication dated April 25, 2018 was received from Dan Orr, City Planner/Grant Writer, Woburn Planning Board as follows:

Re: Planning Department comments on two special permit applications for property located at 271 Salem Street/Diprio Construction Corp. & Diversified Construction Corp.

Dear Council:

The Planning Department has reviewed the above-referenced applications which collectively seek Special Permits pursuant to Sections 5.1 (57a) and 5.1 (57b) to allow accessory parking for one (1) storage container and overnight parking for fifteen (15) commercial vehicles. The property is zoned Industrial General (I-G), which allows the aforementioned uses by City Council special permit. A review of environmental mapping on the City's GIS system reveals that the parcel does not fall within any of the following: a local floodplain, a Groundwater Protection District (GPD), an area of contaminated soils, nor within 150' of a wetland boundary line. Additionally, no new construction nor an increase in impervious surface area is proposed.

Fundamentally, Planning staff cannot recommend that the Council consider this application at present given the status of the property. Per communication from the Building Commissioner, dated Tuesday April 24, 2018 (attached hereto), the property is the subject of several unresolved zoning violations that have been issued within the past few years relative to: 1) storage containers, 2) dumpsters partially filled with materials, and 3) a transportation company's use of the location's parking lot. The Commissioner has also indicated that notice will be issued to the property owner of record to resolve all zoning violations within seven days.

Aside from these pertinent zoning concerns, Planning staff also recommend the Council require the applicant to provide or complete the following prior to the Council's discussion of/decision on this application:

- A revised parking calculation. The parking calculation submitted with the application indicates, and a manual count of the plot plan confirms, that 148 parking spaces have been provided onsite as required for the various use types. In comparison to the required number of spaces (which incorporate the 15 spaces needed in conjunction with the Petitioners' latest overnight parking request) the applicant supposes an excess of 12 spaces. However, this calculation does not account for the number of parking spaces required for the commercial vehicle drivers' personal vehicles. With 15 commercial vehicles proposed for the site, a corresponding number of drivers' personal vehicles would in fact reduce the 12 excess parking spaces to a shortage of 3 parking spaces;
- Storage conformance and access. It is not clear whether the proposed storage container serves as an acceptable accessory use for Diprio Construction Corp. based on the purpose and activity surrounding such storage. This must be independently confirmed by the Building Commissioner. Further, it is not clear whether the Petitioner anticipates delivery truck traffic generated by use of the storage container.
- Completeness of plan. The plan should be revised to include the following information so that it can be evaluated by Councilors prior to any vote on the special permit applications:
 - a. Onsite security lighting for the purpose of overnight parking (per Sections 8.5.1 and 8.5.2);
 - b. The location of off-street loading bays (at least one required, per Section 8.7.1, in conjunction with a building size of 38,555 sq. ft.);
 - c. The distance between the storage container and the lot line to demonstrate compliance with the 5' lot setback requirement (in accordance with Sec. 8.4.3);
 - d. Snow storage areas; and
 - e. The missing number notation for the cluster of parking spaces located on the easterly edge of the building (should denote "12 spaces");

Finally, staff recommends the Council consider imposing at least the following conditions on any future approval of the special permit requests:

- That the special permit for the storage container shall be issued to Diprio Construction Corp. for a period not to exceed one (1) year, per Note 17 to Section 5.1 Table of Use Regulations; and
- That the special permits are issued only to the above-referenced Petitioners and are not transferrable with the exception of a transfer to an entity of which either Petitioner is the primary or principal owner.

If you have any questions relative to this letter, please do not hesitate to contact me.

Respectfully, s/Dan Orr, City Planner/Grant Writer

A communication dated May 1, 2018 was received from Dan Orr, City Planner/Grant Writer, Woburn Planning Board as follows:

Dear Council:

Please be advised that the Planning Department's April 25, 2018 recommendation letter to you on the above-referenced subject contains a factual error.

The Department's comment letter stated that the applicant "supposes an excess of 12 spaces." However, based on a secondary review of the parking calculation table submitted for both Petitioners, the actual number of excess spaces reflected on the table is 23. Further, in accounting for the additional number of parking spaces required for the commercial vehicle drivers' personal vehicles (15 spaces), the property therefore would contain an excess of 8 parking spaces.

We apologize for any inconvenience/confusion our oversight may have caused you or the applicant.

Respectfully, s/Dan Orr, City Planner/Grant Writer

A copy of a communication dated April 24, 2018 to Attorney Mark Salvati was received from Building Commissioner Thomas Quinn, Jr. as follows:

Upon request from the Planning Dept. for comments on above address and two applications that have requested Special permits, a site visit was done by this writer and would advise that the owner/tenants have zoning violations on the property, a few years ago there were issues and did get resolved.

Storage Containers

Numerous Dumpsters partially filled with materials

Transportation Company using location as a parking lot

A letter will be going out to the owners to resolve all violations within seven days with a copy to the City Council Special permits committee.

Call to discuss if needed.

Motion made and 2nd that the communications be received and made part of the record, all in favor, 9-0. Appearing for the petitioner was Attorney Mark Salvati, 10 Cedar Street, Suite 26, Woburn, Massachusetts 01801 and he stated that the property is set back off of Salem Street quite a ways, that the property abuts Lincoln Road off Pine Street, that the petitioner is trying to clean up the property, that there will be three commercial vehicles parked onsite overnight and one storage container, that the petitioner understands that the storage container can only remain onsite for one year, that the petitioner needs the storage container until they complete the process of moving into the property, that a large amount of trees buffer the building, that all the limousines have been removed from the property, that the limousines were subject of

the citation issued by the Building Commissioner, that all of the storage containers will be removed from the site except for one, that the petitioner has requested authorization to keep one container under the petition, that the dumpsters are allowed to be on the site, that the parking lot is striped, that the Building Commissioner stated this petition should be filed, that the petition was filed although it seemed premature to do so, that the petition is for parking vehicles overnight and that if there were no commercial vehicles being parked on site overnight a special permit would not be required, that the building is allowed by right, that that dumpsters are brought to sites, filled with material, brought to a location to be emptied and then returned to the locus, that he met with the Building Commissioner and was told complaints had not been received from residents but from the Ward 5 Alderman, that the number of tenants is shown in the parking plan chart, that there were previous requests for a U-Haul storage facility and a dog daycare facility at the locus, that the special permits were appealed by another tenant who has since vacated the building, that there are a total of twelve tenants with about 3,000 square feet of space each, that there is sufficient onsite parking, that the supplemental letter received from the Planning Board indicates that there is sufficient parking, that the petitioner would like to address the issues onsite, that Diprio Construction Corp. just moved to the site, that Diversified Construction Corp. has been at the locus for six to eight months, that the petitioner has three trucks and does not bring anything onsite, that the petitioner wants this matter to move forward, that if there are issues with the Diversified Construction Corp. operation then that company will have to deal with the Building Commissioner, that he does not want one of these petitions to burden the other, that Diprio Construction Corp. does construction but Diversified Construction Corp. is a demolition company, and that the petitioner's employees meet at the site in the morning, go to a job site and come back at the end of the day. Alderman Gately stated that he knows the Building Department has visited the site, that the City Council should not even look at this petition with the pending violations, that there are three storage containers on the property, that one storage container has been on the site since the last petition for a special permit at the locus, that there is an unregistered vehicle onsite, that there are roll-off dumpsters up against the wall, that there is a collapsed manhole, that there are dumpsters all over the site, that the parcel should be cleaned up, that he does not want to consider sending the petition to the Committee on Special Permits until the issues on the property are addressed, that the neighbors should not have to suffer from the noise generated on the locus, and that the petitioner should address these issues and then re-file the petition. Alderman Mercer-Bruen stated that she is not confident that the petitioner will abide by any conditions that may be imposed, that the neighbors complain of loud noise from the site, that the residential area is close to the locus, that there are sounds like stone being crushed at the site, that these complaints prompted the Building Commissioner to order the site cleaned, that the petitioner wants to clean the property because they want this special permit, that this use should not be so close to residential properties and that is why this type of special permit is required, that she wants the issues raised by the neighbors addressed, that on a prior petition for a special permit at the locus there was a concern about noise from dogs and now the concern is noise from construction equipment, that the petition should not be approved but she is willing to review the issues in committee, and that she wants assurances Diversified Construction Corp. will leave the site. President Haggerty stated that the City Council could ask the Building Commissioner to review the matter and provide an update of the status of the site in thirty days. PUBLIC COMMENTS: Bob Buehler, 26 Montvale Road stated that his property is

close to the hill that separates the locus from his house, that he opposed the parking of fifteen trucks on that property, that there is noise from the trucks and dragging of dumpsters, that sometimes the noise starts at first light in the morning, that the petitioner is a construction company that has to get out early in the morning and the neighbors suffer for that, that there are fifteen diesel truck engines starting, loading and unloading activities, and truck back-up signal noises, and that he asks the special permit be denied and the neighbors be helped with the issue of noise pollution. Eileen Dixon, 30 Montvale Road stated that she sent photographs of the issues to the Ward 5 Alderman, that she saw a full size dumpster and material in the dumpster being crushed by a backhoe, that she saw a child playing on the property, that she saw a dumpster being dragged along the asphalt, that the limousines were onsite yesterday, and that the noise echoes through the area. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON JUNE 5, 2018 AND THAT THE MATTER BE REFERRED TO THE COMMITTEE ON SPECIAL PERMITS, all in favor, 9-0.

On the petition by Diversified Construction Corp. 271 Salem Street, Woburn, Massachusetts 01801 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Section 5.1.57b to allow for the overnight parking of twelve commercial vehicles at 271 Salem Street. PUBLIC HEARING OPENED. A communication dated April 25, 2018 was received from Dan Orr, City Planner/Grant Writer, Woburn Planning Board as follows:

Re: Planning Department comments on two special permit applications for property located at 271 Salem Street/Diprio Construction Corp. & Diversified Construction Corp.

Dear Council:

The Planning Department has reviewed the above-referenced applications which collectively seek Special Permits pursuant to Sections 5.1 (57a) and 5.1 (57b) to allow accessory parking for one (1) storage container and overnight parking for fifteen (15) commercial vehicles. The property is zoned Industrial General (I-G), which allows the aforementioned uses by City Council special permit. A review of environmental mapping on the City's GIS system reveals that the parcel does not fall within any of the following: a local floodplain, a Groundwater Protection District (GPD), an area of contaminated soils, nor within 150' of a wetland boundary line. Additionally, no new construction nor an increase in impervious surface area is proposed.

Fundamentally, Planning staff cannot recommend that the Council consider this application at present given the status of the property. Per communication from the Building Commissioner, dated Tuesday April 24, 2018 (attached hereto), the property is the subject of several unresolved zoning violations that have been issued within the past few years relative to: 1) storage containers, 2) dumpsters partially filled with materials, and 3) a transportation company's use of the location's parking lot. The Commissioner has also indicated that notice will be issued to the property owner of record to resolve all zoning violations within seven days.

Aside from these pertinent zoning concerns, Planning staff also recommend the Council require the applicant to provide or complete the following prior to the Council's discussion of/decision on this application:

- A revised parking calculation. The parking calculation submitted with the application indicates, and a manual count of the plot plan confirms, that 148 parking spaces have been provided onsite as required for the various use types. In comparison to the required number of spaces (which incorporate the 15 spaces needed in conjunction with the Petitioners' latest overnight parking request) the applicant supposes an excess of 12 spaces. However, this calculation does not account for the number of parking spaces required for the commercial vehicle drivers' personal vehicles. With 15 commercial vehicles proposed for the site, a corresponding number of drivers' personal vehicles would in fact reduce the 12 excess parking spaces to a shortage of 3 parking spaces;
- Storage conformance and access. It is not clear whether the proposed storage container serves as an acceptable accessory use for Diprio Construction Corp. based on the purpose and activity surrounding such storage. This must be independently confirmed by the Building Commissioner. Further, it is not clear whether the Petitioner anticipates delivery truck traffic generated by use of the storage container.
- Completeness of plan. The plan should be revised to include the following information so that it can be evaluated by Councilors prior to any vote on the special permit applications:
 - a. Onsite security lighting for the purpose of overnight parking (per Sections 8.5.1 and 8.5.2);
 - b. The location of off-street loading bays (at least one required, per Section 8.7.1, in conjunction with a building size of 38,555 sq. ft.);
 - c. The distance between the storage container and the lot line to demonstrate compliance with the 5' lot setback requirement (in accordance with Sec. 8.4.3);
 - d. Snow storage areas; and
 - e. The missing number notation for the cluster of parking spaces located on the easterly edge of the building (should denote "12 spaces");

Finally, staff recommends the Council consider imposing at least the following conditions on any future approval of the special permit requests:

- That the special permit for the storage container shall be issued to Diprio Construction Corp. for a period not to exceed one (1) year, per Note 17 to Section 5.1 Table of Use Regulations; and
- That the special permits are issued only to the above-referenced Petitioners and are not transferrable with the exception of a transfer to an entity of which either Petitioner is the primary or principal owner.

If you have any questions relative to this letter, please do not hesitate to contact me.

Respectfully, s/Dan Orr, City Planner/Grant Writer

A communication dated May 1, 2018 was received from Dan Orr, City Planner/Grant Writer, Woburn Planning Board as follows:

Dear Council:

Please be advised that the Planning Department's April 25, 2018 recommendation letter to you on the above-referenced subject contains a factual error.

The Department's comment letter stated that the applicant "supposes an excess of 12 spaces." However, based on a secondary review of the parking calculation table submitted for both Petitioners, the actual number of excess spaces reflected on the table is 23. Further, in accounting for the additional number of parking spaces required for the commercial vehicle drivers' personal vehicles (15 spaces), the property therefore would contain an excess of 8 parking spaces.

We apologize for any inconvenience/confusion our oversight may have caused you or the applicant.

Respectfully, s/Dan Orr, City Planner/Grant Writer

A copy of a communication dated April 24, 2018 to Attorney Mark Salvati was received from Building Commissioner Thomas Quinn, Jr. as follows:

Upon request from the Planning Dept. for comments on above address and two applications that have requested Special permits, a site visit was done by this writer and would advise that the owner/tenants have zoning violations on the property, a few years ago there were issues and did get resolved.

Storage Containers

Numerous Dumpsters partially filled with materials

Transportation Company using location as a parking lot

A letter will be going out to the owners to resolve all violations within seven days with a copy to the City Council Special permits committee.

Call to discuss if needed.

Motion made and 2nd that the communications be received and made part of the record, all in favor, 9-0. Appearing for the petitioner was Attorney Mark Salvati, 10 Cedar Street, Suite 26, Woburn, Massachusetts 01801 and he stated that the petitioner is willing to withdraw the petition, and that he will send a letter confirming the request to withdraw the petition without prejudice. PUBLIC COMMENTS: Bob Buehler, 26 Montvale Road stated that Diprio is also a construction company, that the company could grow and create a noise issue as well, that the trucks start early in the morning, and that there are truck back up alarm noises. Motion

made and 2nd that the public hearing be closed, all in favor, 9-0. PUBLIC HEARING CLOSED. Alderman Mercer-Bruen stated that the matter should be given leave to withdraw with prejudice. Alderman Anderson stated that although he is not generally in favor of granting leave to withdraw on a petition the petitioner's attorney indicates there will be an effort to address the issues and that the courtesy of allowing the withdrawal without prejudice should be granted. Motion made and 2nd that a communication be sent to the Building Commissioner requesting an update in the next two weeks on the status of the zoning violations and informing his office of the action taken by the City Council at this meeting, all in favor, 9-0. Motion made and 2nd that the MATTER be GIVEN LEAVE TO WITHDRAW WITHOUT PREJUDICE, all in favor, 9-0.

On the petition by President Haggerty concerning the structure or structures located in the City of Woburn, County of Middlesex, Commonwealth of Massachusetts known and numbered as 425 Main 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. President Haggerty stated that this is the site of the Family Dollar Store, that the property owner was waiting for the good weather in order to make the exterior improvements, that the property owner will be painting and cleaning the façade, that the petitioner was going through the permitting process with the Building Department last week, that the property owner has been very cooperative, that the façade of the building will be upgraded, and that the matter can be continued to the August 2018 meeting to allow the work to be completed. PUBLIC COMMENTS: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL AUGUST 14, 2018, all in favor, 9-0.

CITIZEN'S PARTICIPATION: None.

COMMITTEE REPORTS:

FINANCE:

On the Order to transfer the sum of \$2,000,000.00 from Overlay Reserve Acct to OPEB Trust Fund Acct, Assessor Appraisals Acct, Personal Property Audit Acct and Stabilization Account, committee report was received "ought to pass". Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.

Presented to the Mayor: April 7, 2018

s/Scott D. Galvin May 3, 2018

On the Order to transfer the sum of \$14,000.00 from Traffic Improvements E. Woburn Acct to Cedar Street Ramp Study Acct, committee report was received “ought to pass”. Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.

Presented to the Mayor: April 7, 2018 **s/Scott D. Galvin May 3, 2018**

PUBLIC SAFETY AND LICENSES:

On the petition by Roman Limousine Inc. for new Livery License, committee report was received “ought to pass with the condition as follows: All limousines must be registered in the City of Woburn”. Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.

Presented to the Mayor: April 7, 2018 **s/Scott D. Galvin May 3, 2018**

On the petitions by Logan Way for new Livery Licenses, committee report was received “ought to pass with the conditions as follows: 1. Limit of one car, and 2. The car associated with the business must be registered in the City of Woburn”. Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.

Presented to the Mayor: April 7, 2018 **s/Scott D. Galvin May 3, 2018**

On the petition by Woburn Cab Co. Inc. for renewal of a Taxi Cab License, committee report was received “ought to pass”. Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.

Presented to the Mayor: April 7, 2018 **s/Scott D. Galvin May 3, 2018**

NEW PETITIONS:

Petition by Woburn Foreign Motors, 394 Washington Street for an Inflammable License to allow the storage of waste oil, Class IIIB, 4,000 gallons, underground storage tank; motor oil, Class IIIB, 14,000 gallons, underground storage tank; gasoline tank, 10,000 gallons, underground storage tank; gasoline in cars Class 1A, 8,000 gallons, underground storage tank; diesel in back-up generator, Class IIIA, 550 gallons, underground storage tank at 394 Washington Street. Motion made and 2nd that the MATTER be REFERRED TO PUBLIC HEARING AND TO COMMITTEE ON PUBLIC SAFETY AND LICENSES, all in favor, 9-0.

Petition by Montvale Land LLC, c/o Leggatt McCall Properties, 10 Post Office Square, Boston, Massachusetts 02109 to amend the 1985 Woburn Zoning Ordinances, as amended, Section 28.6.2 Uses Allowed by Special Permit with Site Plan Review by adding the following: 9. Extended Care Facility. A communication dated May 1, 2018 was received

from Attorney Joseph R. Tarby, III, Murtha Cullina LLC, 600 Unicorn Park, Woburn, Massachusetts 01801 as follows:

Re: Proposed amendment to Section 28.6.2 of the 1985 City of Woburn Zoning Ordinance as amended

Dear Mr. Campbell:

As you know, on April 26, 2018 I filed the above-referenced application seeking an amendment to Section 28.6.2. Please be advised that the intention of the proposed amendment is to inset "Hospital, Extended Care Facility" as a use in the TBOD.

Please let me know if you need anything else.

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

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

Petition by Montvale Land LLC, c/o Leggatt McCall Properties, 10 Post Office Square, Boston, Massachusetts 02109 to amend the Zoning Map of the City of Woburn by changing the zoning district for three parcels of land known as 0 Hill Street (54-05-04); 0 Hill Street (54-05-01); and 1 Washington Avenue (62-01-29), Woburn, Massachusetts together containing approximately 60.95 acres of land as shown on a plan entitled "Zoning Amendment Plan" dated April 25, 2018 from I-G/B-I to Technology and Business Mixed Use Overlay District (TBOD). Motion made and 2nd that the MATTER be REFERRED TO PUBLIC HEARING, all in favor, 9-0.

Petition by The Dough Connection Corp., 32A, 32B and 32C Holton Street, Woburn, Massachusetts 01801 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Sections 5.1.57b and 8.2.5 to allow for the overnight parking of petitioner's commercial vehicles and a reduction in the required number of parking spaces at 32A, 32B and 32C Holton Street. Motion made and 2nd that the MATTER be REFERRED TO PUBLIC HEARING, all in favor, 9-0.

Petition by Hill Hockey Clinic LLC, 16 Seabrook Road, Salisbury, Massachusetts 01952 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Section 5.1.17b and 7.3 to allow for use of the legal existing nonconforming structure for a hockey training facility at 90 Blueberry Hill Road. Motion made and 2nd that the MATTER be REFERRED TO PUBLIC HEARING, all in favor, 9-0.

COMMUNICATIONS AND REPORTS:

A communication dated April 19, 2018 was received from Charles O’Connor, Parking Clerk, Police Headquarters, 25 Harrison Avenue as follows:

Council Members,

In accordance with Massachusetts General Laws Chapter 90, Section 20½ I am submitting the following parking ticket report. Figures cited below are for the Month of January, 2018 to March, 2018: Number of violations issued 135, Numbers of violations paid 60, Number of violations outstanding 68, Amount collected and submitted to Collectors Office \$15,019.00, Parking fines referred to the Handicap Commission \$8,400.00.

There is a backlog of 1,534 unpaid tickets dating from January 2004 to December 2017. A 21 day late notice is sent to vehicle owners who have not paid the fine. After 28 days, if the fine still has not been paid, that information is forwarded to the Registry of Motor Vehicles for administrative action.

Respectfully submitted, s/Charles O’Connor, Parking Clerk

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

A communication dated April 19, 2018 Jay Picone, Director of Finance, Northeast Metropolitan Regional Vocational School Assessment advising the FY2019 assessment to the City of Woburn is \$1,728,898 for and enrollment of 105 students. Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE, all in favor, 9-0.

UNFINISHED BUSINESS OF PRECEDING MEETING: None.

APPOINTMENTS AND ELECTIONS: None.

MOTIONS, ORDERS AND RESOLUTIONS:

ORDERED That the City Council Regular Meetings for July 2018 and August 2018 shall be held on July 17, 2018 and August 14, 2018; and

Further, due to the State Primary, the City Council Regular Meeting scheduled for September 4, 2018 is hereby canceled.

s/President Haggerty

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

From the Traffic Commission:

ORDERED That Schedule 3 Stop Signs of the 2017 Woburn Traffic Code, as amended be further amended by adding the following:

GEORGE AVENUE – That a stop sign restriction be established on George Avenue at the intersection with Salem Avenue.

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

Presented to the Mayor: May 3, 2018 s/Scott D. Galvin May 3, 2018

From the Traffic Commission:

ORDERED That Schedule 3 Stop Signs of the 2017 Woburn Traffic Code, as amended be further amended by adding the following:

ROBERT AVENUE – That a stop sign restriction be established on Robert Avenue at the intersection with George Avenue.

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

Presented to the Mayor May 3, 2018 and ten days having elapsed without same being approved, said Resolve became effective without his signature on May 15, 2018.

From the Traffic Commission:

ORDERED That the 2017 Woburn Traffic Code, as amended, be further amended by adding to Schedule 3 Stop Signs the following:

JEFFERSON AVENUE – Stop sign westerly at the intersection with Prospect Street.

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

Presented to the Mayor May 3, 2018 and ten days having elapsed without same being approved, said Resolve became effective without his signature on May 15, 2018.

Motion made and 2nd to ADJOURN, all in favor, 9-0. Meeting adjourned at 10:29 p.m.

A TRUE RECORD ATTEST:

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