

COMMITTEE ON ORDINANCES, CHARTER AND RULES
JANUARY 8, 2018 AT 6:14 p.m.
COMMITTEE ROOM
WOBURN CITY HALL

Voting Members:

Present: Chairman Michael Anderson, Alderman Michael Concannon, Alderman Darlene Mercer-Bruen, Alderman Lindsay Higgins and Alderman Mark Gaffney.

Non-Voting Members:

Present: Alderman Richard Gately, Alderman Joanne Campbell, President Richard Haggerty, and Alderman Edward Tedesco

Also present: Mayor Scott Galvin

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On the Order to authorize the Mayor to enter into a 10-year lease agreement for the Ned O'Brien Ice Rink: Mayor Galvin said the lease for the rink has traditionally been for a 10-year term with Woburn Youth Hockey, and if the City Council authorizes the mayor to enter into a lease, he will take the best responsible offer on the city's behalf. Chairman Anderson asked how much involvement the City Council will have beyond authorizing the mayor to accept bids. Mayor Galvin said the mayor negotiates the lease, and he could advise the City Council about the terms. Alderman Mercer-Bruen asked if repair of the chillers or any other equipment is part of the lease agreement. Mayor Galvin said he will return to the Council with an appropriation for electrical work. The bids range from \$40,000-\$120,000, which he said it an inordinately wide range. He said he is anticipating a cost of around \$700,000 to replace the chillers and he would negotiate with the successful bidder about who is going to pick up the cost of that. Alderman Concannon noted the lease calls for the successful bidder to pay for the cost of operations and maintenance and said whoever wins the bid knows that they're getting into. Alderman Gately said he thought the lease refers to all minor repairs. Mayor Galvin said the winning bidder will continue with minor repairs and under the terms of the lease the lessee pays for maintenance, repairs and utilities. Alderman Concannon asked if there is a cap on the number of years for the lease. President Haggerty said the last lease was a 10-year term. Mayor Galvin said he thinks 10 years is the maximum term. President Haggerty asked if the mayor has sought requests for proposals yet. Mayor Galvin replied he cannot do that until the Council authorizes him to enter into the lease. Chairman Anderson told the Committee that if the Council approves the order, the mayor will be responsible for executing a lease with someone who is a willing participant. Mayor Galvin said he is happy with the city's arrangement with Woburn Youth Hockey. Motion made by Alderman Higgins and seconded by Alderman Concannon that the order to authorize the mayor to enter into a 10-year lease agreement for the Ned O'Brien Ice Rink "ought to pass," approved, 5-0.

Chairman Anderson recessed the meeting at 6:20 p.m.

Chairman Anderson reconvened the meeting at 6:59 p.m.

On the Order to amend the Woburn Zoning Ordinances, Section 11, Special Permits and Variances, Procedures for Special Permits, subparagraph 11, by deleting “six (6) months and replacing same with “twelve (12) months.”: Chairman Anderson said the Council has talked about this matter already. Motion made by Alderman Higgins and seconded by Alderman Mercer-Bruen that the order “ought to pass;” approved, 5-0. Alderman Mercer-Bruen said the change is being made so the city can mirror the state statute. Chairman Anderson said the ordinance change allows a person with a special permit to initiate the permit within 12 months.

On the Order to amend the Woburn Zoning Ordinances by adding “Rooftop Dining” to the table of uses in the B-D zoning district: Chairman Anderson said the matter will be continued. Chairman Anderson said he thought the Planning Board issued a recommendation on the order but it is on the Planning Board’s agenda for January 9. Chairman Anderson said he and President Haggerty authored the ordinance. Alderman Campbell said she likes the idea and asked if there are any safety issues. Chairman Anderson said there will be setback requirements and barriers will need to be involved and those are among the issues that need to be worked out. Alderman Concannon said hours of operation is also going to be a big issue.

On the Order to amend Woburn Zoning Ordinances by amending Section 11.11.1 relative to affordable housing requirement in dwelling units above first floor commercial structure.

On the Order to amend Woburn Zoning Ordinances by amending Section 11.11.1 by amending requirement for affordable housing units from 10% to 25%.

On the Order to amend Woburn Zoning Ordinances by amending Sections 11.11.3, 11.11.4 and 11.11.5 by deleting off-site affordable housing option, by renumbering section, and by changing calculation of fractional unit of affordable housing by rounding up to nearest whole number: Motion made by Alderman Mercer-Bruen and seconded by Alderman Higgins to take all three matters collectively; approved, 5-0. Chairman Anderson said there have been some revisions to the proposed ordinance. In Section 11.11.1, he suggested incorporating Section 5.1.5 to encompass the BH, BI and BD zoning districts, so the requirements would be applicable to special permits in the downtown section of the city. Alderman Concannon asked if the imposition of the affordable housing requirements would discourage development in those areas. Alderman Campbell said that depends upon your point of view. Alderman Campbell said the Planning Board suggested a 15-percent affordable housing component on projects in the downtown area. President Haggerty said the section, as it is written, does not distinguish between projects larger or smaller than 10 units, and said he is worried about discouraging smaller projects. Chairman Anderson said the section only refers to the downtown area, and asked if that is an area where the Council wants to promote affordable housing. Alderman Concannon said the downtown area is delicate and he is hesitant to change anything more than the Council already intends to. Alderman Gaffney said small projects less than 10 units should be exempt. Alderman Higgins said the Council may want to hold off further discussion about Section 11.11.1 until the other parameters are worked out. Alderman Campbell said the downtown area is not big and asked if the Council really wants to allow 10 units on top of buildings, especially when parking is an issue downtown. She said a maximum of six units would be better than eight or 10. Alderman Concannon said he is wary about trying to get into the head of a developer who might be interpreting the affordable housing ordinance. He acknowledged the effort to get out

from under the 10 percent affordable housing stock ratio that would eliminate Ch. 40B filings, but he believes the ordinance may lead the Council down the path of encouraging 40B petitions. Alderman Tedesco said he is wary of requiring an affordable housing quotient in the 20-25 percent range because the council is going to open the floodgates for 40B, and he will not support the ordinance with if the affordable housing is in the 20-25 percent range. Chairman Anderson suggested setting the threshold at 10 units for the applicability of the affordable housing ordinance under Section 5.1.5. Motion made and seconded to amend Section 11.11.1 to read: "1. Whenever an application under this section for a Special Permit from the City Council seeks approval for the development of more than two units of Townhouse, Garden, or Elevator apartments as specified under Sections 5.1.3(a) through 3(d), and Section 5.1.4 or whenever an application under this section for a Special Permit from the City Council seeks approval for the development of more than ten (10) units of Townhouse, Garden, or Elevator apartments as specified under Section 5.1.5;" approved, 5-0. Alderman Campbell acknowledged the Council is not comfortable setting the affordability ratio at 25 percent but said the ratio should be set no lower than 20 percent so the city can reach the 10 percent housing stock quotient during the 2-year safe harbor window under the housing production plan. Chairman Anderson said the Council appreciates the work Alderman Campbell has put into the ordinance but said there is more likely to be support for a 15 percent affordability ratio, which he noted is 50 percent higher than it is under the current regulations. Alderman Campbell suggested a 15 percent affordability component for projects up to 99 units and a 20 percent component for projects larger than 100 units. Alderman Concannon said he has a feeling the Council is on the edge of passing the ordinance but he doesn't want to act with a guillotine. Motion made by Alderman Tedesco and seconded by Alderman Higgins to accept and make part of the permanent record a memo from Planning Director Tina Cassidy in response to the Committee's request for a calculation of the land mass ratio as it relates to Ch. 40B. Alderman Concannon said he would still like to know the land mass ration before the Council jumps off a cliff. He said he his still bothered by the idea the state determines how much affordable housing the city should provide. Chairman Anderson told Alderman Concannon he will love the idea the state is exploring the concept of regional zoning. Alderman Concannon said 40B is like a hammer over your head and the state is telling the cities and towns they have to eat their peas, but they have to be force fed a whole can of them. Alderman Campbell said it's a good thing peas are good for you. Alderman Tedesco asked if the city was close to the land mass threshold. President Haggerty said he does not think the city is close. Chairman Anderson said Director Cassidy's memo indicates the land mass ratio is difficult to calculate. President Haggerty said there was an instance at Weiss Farm in the town of Stoneham where a 40B project was challenged on the basis of land mass ratio and it ended up the town wasn't even close to the threshold. Alderman Tedesco reiterated his belief that a 20-25 percent affordability component will tend to encourage 40B filings. Alderman Gately said he recalls a discussion about the land mass ratio but he could not remember what the number was, but he added that if the city attains the land mass ratio, it will no longer have to worry about any 40B filings again because the land mass is never going to change. Alderman Gately said he thinks communities like Orange or Harvard may have attained the land mass threshold. President Haggerty said those two towns are more rural than Woburn and have huge tracts of land that cannot be developed, and that Woburn's attempt to attain the land mass ratio threshold was futile. Alderman Gately said he remembers former Planning Director John Cashell was able to calculate the land mass ratio and said the city might already have exceeded the threshold. Alderman Campbell said if that's true then the proposed zoning amendments are moot.

Alderman Gately said he does not want to drive developers to other communities. Alderman Campbell said she has spoken to real estate brokers who have assured her land in Woburn is too valuable and the location is too good for developers to be driven away. Motion made by Alderman Mercer-Bruen and seconded by Alderman Higgins to reduce the affordability component in Section 11.11.1 from 25 percent to 15 percent. Alderman Campbell asked if there is any support for a 20 percent affordability component. Alderman Mercer-Bruen said she'd like to set the affordability component at 50 percent and reach the housing stock quotient as soon as possible, but she doesn't want to scare developers away and thinks 15 percent will work. Alderman Concannon asked if 15 percent would trigger 40B filings, and if the city would attain the 10 percent housing stock threshold in this century. Alderman Mercer-Bruen said 15 percent will at least get the city closer. Alderman Campbell said she doesn't think a 15 percent affordability component will get the city to the 10 percent housing stock threshold before the safe harbor window closes in two years. Vote to amend 11.11.1 to read "15 percent" approved; 4-1; with Alderman Concannon opposed. Chairman Anderson suggested the deletion of Section 11.11.3. Alderman Higgins said she is not offended if the affordable housing component of a project is off-site. Chairman Anderson said he thinks the affordable component should be on-site and that having the affordable housing portion of a development off-site feels like a not-in-my-backyard situation to him. Alderman Gately said that is why the Ch. 40B law is referred to as "anti-snob zoning." Alderman Concannon said the whole thing feels like that to him and that the state's view of local communities is as snobs, and that he doesn't want to give the state any ammunition to say the city is snobbish. Motion made by Alderman Mercer-Bruen and seconded by Alderman Higgins to delete Section 11.11.3 and re-number proposed Section 11.11.4 as Section 11.11.3 and proposed Section 11.11.4 as Section 11.11.5. Alderman Mercer-Bruen asked if deleting the off-site housing option means the project has to be in one place. Alderman Concannon said it means the developer cannot substitute off-site housing for an affordability component; approved, 5-0. Chairman Anderson said Section 11.11.4 (formerly Section 11.11.5) involves rounding up fractions to the nearest whole number, for the purposes of calculating how many affordable units will be in a project. Chairman Anderson said in his experience a fraction less than 0.5 is rounded down and a fraction greater than 0.5 is rounded up. Chairman Anderson suggested applying the standard rounding practice only to projects with more than 10 units, so any project with less than 10 units would only have to provide one affordable unit in any event. Alderman Concannon concurred Alderman Anderson's rounding practice is standard math. Alderman Anderson said under the standard formula, a project with 23 units would have to provide two affordable units, while a project with 26 units would have to provide three affordable units. Motion made by Alderman Mercer-Bruen and seconded by Alderman Mercer-Bruen to delete Section 11.11.4 and replace it with Section the former 11.11.5; approved, 5-0. Motion made by Alderman Mercer-Bruen and seconded by Alderman Higgins to amend Section 11.11.4 (formerly Section 11.11.5) to read: "In determining the number of units to be provided pursuant to Section 11.11.1, for all projects where there are a total of 10 or more units, fractional numbers less than .5 shall be rounded down to the nearest whole number and fractional units of .5 or greater shall be rounded up to the nearest whole number. For those projects where there are a total of units less than 10, in determining the number of units to be provided pursuant to Section 11.11.1, fractional numbers shall be rounded down to the nearest whole number;" approved, 5-0. President Haggerty asked if passage of the ordinance would have any impact on pending projects. Alderman Anderson referenced the Cabot, Cabot & Forbes development on Commerce Way and Seaver Construction's development at Shannon Farm. Chairman Anderson

asked whether the ordinance would require them to get a shovel in the ground within 12 months or if it would not apply to anyone who already has a special permit in hand. Alderman Campbell said Attorney Joseph Tarby has indicated to her that two of his client could be impacted by the adoption of the ordinance. President Haggerty asked if the Council should make the ordinance effective as of 12/31/2017. Alderman Concannon asked if the Council should seek clarification from the City Solicitor. Alderman Mercer-Bruen said the ordinance should have some kind of time frame. President Haggerty asked what would happen if the Cabot, Cabot & Forbes project is held up by the EPA and they don't get a shovel in the ground until next year, and if it would be fair for the Council to change the rules. He said if it does change the rules, it would be a deal-breaker for him. Alderman Gaffney asked how many projects would be impacted. Chairman Anderson said the Melanson Development project in West Woburn and Robert Holland's project on Montvale Avenue might be impacted. Chairman Anderson said he would sent a letter to City Solicitor Ellen Callahan Doucette asked her what kind of impact the ordinance would have on projects that are approved. Alderman Campbell said the Council has been reviewing the proposed ordinance for months and she would prefer there to be no further delays. Chairman Anderson said the letter City Solicitor Callahan Doucette should refer to the latest revisions of the ordinance and ask that she render an opinion as to whether the Council can add language to protect projects that have already been issued special permits but do not have Building Permits. Motion made by Alderman Higgins and seconded by Alderman Mercer-Bruen to have the Clerk of Committees send a communication to City Solicitor Callahan Doucette; approved, 5-0.

Motion made by Alderman Higgins and seconded by Alderman Mercer-Bruen to adjourn.
Chairman Anderson adjourned the meeting at 8:08 p.m.

A TRUE RECORD ATTEST

Gordon Vincent
Clerk of Committees