

COMMITTEE ON ORDINANCES, CHARTER AND RULES
NOVEMBER 26, 2018 AT 6:00 p.m.
COMMITTEE ROOM
WOBURN CITY HALL

Voting Members:

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

Non-Voting Members:

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

* * * * *

Order to amend Woburn Municipal Code relative to senior citizens and veterans tax assistance programs: Chairman Anderson said he has talked to Mayor Scott Galvin and his honor said that the order is pretty straightforward. Chairman Anderson said the mayor told him he is not concerned about funding. He suggested sending the order out “ought to pass” after receiving some clarification from the City Solicitor about whether the maximum amount of earnings is \$1,000 or \$1,500. Alderman Concannon asked if there is a maximum number of participants and that he believes the program may have been capped at 20 people. Chairman Anderson said 20 people have not signed up in the past. Alderman Concannon asked if current city employees are ineligible. Chairman Anderson said he is not sure if there is a prohibition in the Mass. General Laws about municipal employees being unable to participate. Alderman Concannon said he would not want to exclude municipal employees out of hand. Chairman Anderson asked if there should be a priority on people over 60 and who need financial assistance. Alderman Concannon said he would just as soon leave it open to all and if people don’t qualify on financial grounds, then so be it. Alderman Concannon asked if special municipal employee status would need to be granted for a municipal employee who is involved in the program. Alderman Higgins said she thinks that is a good question for City Solicitor Ellen Callahan Doucette. Alderman Higgins suggested sending the matter back for action. Chairman Anderson said he would prefer the committee offer a recommendation pending the receipt of a legal opinion from City Solicitor Callahan Doucette. Motion made by Alderman Higgins and seconded by Alderman Mercer-Bruen to send the order “ought to pass,” with a communication to City Solicitor Callahan Doucette asking her whether the maximum amount of earnings is \$1,500 or \$1,000, and whether city employees are eligible; approved, 5-0.

President Haggerty to amend the 1985 Woburn Zoning Ordinances, as amended, by adding a new Section 30 entitled “Smart Growth Overlay Districts” in accordance with the purposes of G. L. Chapter 40R; 2. By amending the City of Woburn Zoning Map by overlaying the Smart Growth Overlay District zoning provisions over one parcel of land at 300 Mishawum Road; 3. By adopting the Woburn Mall Smart Growth Overlay District Design Standards; and 4. By adopting the Smart Growth Overlay District Plan Review and Special Permit Application Form and the Smart Growth Overlay District Regulations and

Submission Requirements: Alderman Concannon announced he was recusing himself and left the Committee Room. Chairman Anderson said the committee is in receipt of a recommendation from the Planning Board and a red line version and hard disc of Section 30, as amended by the Planning Board. Motion made by Alderman Higgins and seconded by Alderman Mercer-Bruen to accept the aforementioned documents and make them part of the permanent record; approved, 4-0. Alderman Higgins said there is an item in the red line version she would like to address. Chairman Anderson said he would also like to point out a couple of things in the red line version. Alderman Mercer-Bruen read a section from the Planning Board's recommendation and said he has a lot of concerns. She said the memo from the Planning Board indicates to her that the council has a lot more work to do before the petition is approved. Chairman Anderson said there is a significant revision to the mitigation component and the committee could start with some of the less controversial items. He cited Section 30-16 regarding waiver of parking requirements. He suggested changing item listed as "f" in Section 30-16 to "g," and adding a new item "f" that reads: "Pedestrian access to public transportation." Motion made by Alderman Mercer-Bruen and seconded by Alderman Higgins to affect the aforementioned changes; approved, 4-0. Chairman Anderson suggested amending Section 30-32 to add item "e," reading: "The City Council may incorporate peer review as appropriate." Motion made by Alderman Mercer-Bruen and seconded by Alderman Higgins to affect the aforementioned change; approved, 4-0. Chairman Anderson said the committee is not going to send the matter out with a recommendation tonight. Alderman Mercer-Bruen referenced Section 30-6 and said she had extensive conversations with Planning Director Tina Cassidy about putting numbers on it. She said she wants to get rid of references to numbers in the section. Alderman Mercer-Bruen said if there's going to be an impact, the developer should fix it. She said she is very concerned about that issue. She said the memo from the Planning Board has been out there for months and the City Council must get it right. Chairman Anderson said the memo refers to three high-crash locations in the city. Alderman Mercer-Bruen asked where the city is in regard to hiring a traffic consultant. She suggested sending a memo to Mayor Galvin and City Engineer Jay Corey asking about the status of a study for Commerce Way, for which the council appropriated \$10,000 to look at the whole area. Motion made by Alderman Mercer-Bruen and seconded by Alderman Higgins to send a communication to Mayor Galvin and City Engineer Corey asking them about the status of the Commerce Way area traffic study and whether bids have gone out; approved, 4-0. Chairman Anderson said he does not know what the status of the traffic study is. Alderman Campbell said the report will help the council alleviate safety problems at the impacted intersections. Alderman Mercer-Bruen said there are many pieces to the proposed Section 30 that the council can't change, but the council can control the mitigation. She said there are several suggestions that could make things better, including a path to the bridge that leads to Mishawum station. She said Stephanie Pollock, CEO of the MBTA, has said someone will be in touch with the council regarding the status of Mishawum station. Alderman Mercer-Bruen asked if there is anyone in the audience from MassDOT or MAPC. There were no respondents. She said maybe someone from those agencies will be here when the committee meets again in December. She asked rhetorically what the impact of the project be if there is no restoration of Mishawum station as a full-time commuter rail stop nor the path from the mall to Anderson station. Chairman Anderson said Alderman Mercer-Bruen brings up some good points, but the council can't dictate MBTA policy. He said in the past the council has heard the MBTA has no interest in restoring Mishawum station to a full-time stop. Alderman Mercer-Bruen said the council has not heard that from the top of the MBTA hierarchy. Chairman Anderson said shuttles and bus

routes are kind of out of the council's jurisdiction. Alderman Mercer-Bruen said a developer could build some sort of shuttle transportation into the ordinance. Alderman Higgins said it is not out the council's realm to ask for shuttle buses to Anderson station, but transportation to other businesses might be out of the council's jurisdiction. Alderman Campbell asked if the mitigation has been written. Alderman Mercer-Bruen said it is still being worked on. Chairman Anderson said the mitigation ordinance is broad enough to allow the council to incorporate some type of shuttle service. Alderman Campbell said shuttle service will be helpful, as would any other measures to help with the traffic issues in the area. She said the project could have a catastrophic impact on traffic considering the number of units the developer wants to build. Alderman Gately said it would be helpful to provide access to Anderson station without people having to drive there. Alderman Higgins said she believes there are only three property owners that would have to be involved in creating a path to Anderson station. Alderman Campbell asked if the current property owner would be willing to provide an easement. Chairman Anderson suggested sending a memo to Planning Director Cassidy. Motion made by Alderman Mercer-Bruen and seconded by Alderman Higgins to send a communication to Planning Director Tina Cassidy asking her if there have been any discussions with the other property owners about providing an easement for a path from the Woburn Mall to Anderson station; approved, 4-0. Alderman Mercer-Bruen said any payments the city receives from the state go into the general fund. She said she would like to see that state money spent in the area, but there is no way to guarantee it. She said that is concerning. She said there is a lot of money on the table that should be used to improve that area. Chairman Anderson said he has spoken to City Solicitor Ellen Callahan Doucette about the issue, and it's the way that it is. Alderman Mercer-Bruen said the council ought not to leave expenditures to political will. She said there are things that will cost money. Alderman Campbell said the city is trying to attract a certain clientele to that area, and the path to Anderson station is important. Chairman Anderson said the council can consider incorporating a shuttle as a mitigation component. Alderman Mercer-Bruen asked if Mayor Galvin would consider doing something like the council does with mitigation money. Chairman Anderson said the council can always ask. Alderman Mercer-Bruen said she has a question about the design elements of the proposed project. She wants to know what Burlington and Lynnfield are doing to attract good clients. Motion made by Alderman Mercer-Bruen and seconded by Alderman Higgins to send a communication to Planning Director Cassidy asking her what design elements were involved in Lynnfield and Burlington attracting their commercial entities and why Woburn is not getting that; approved, 4-0. Attorney Mark Vaughan, Riemer & Braunstein LLP, 700 District Avenue #800, Burlington, MA, 01803 and he stated that he represents Edens which is the owner of the property at 300 Mishawum Road. Attorney Vaughan said he does not think Edens would embark on this effort without thinking the density can be accommodated. He said the mitigation ordinance is pretty stringent. He said the impact needs to be 100-plus vehicles or an increase of 5 percent. He said it is either/or, not just the 100 number. He said Edens is aware traffic needs to be addressed. He said his client wouldn't have come this far if it didn't think the increase in traffic could be accommodated. Alderman Mercer-Bruen said early on Edens didn't think there was a whole lot to be mitigated, and that concerns her. Attorney Vaughan said his client is not going to overwhelm any one intersection. He said he thinks there are smaller things that can be done to mitigate traffic. Brad Dumont, Managing Director of Edens, 21 Custom House, Suite 450, Boston, MA, said Edens is willing to address the impact of the project. He said there is no way Edens is going to wiggle out of mitigation. He said it sounds like Edens is being deceitful, and it is not. Alderman Mercer-Bruen said it is not necessarily Edens. She said the council has

seen too many traffic reports that indicate there will be no impact on traffic. Alderman Campbell said she finds the process a little strange, because there is no traffic study from the city. President Haggerty said the ordinance gives the council more tools with peer review. Alderman Mercer-Bruen said it is important for the city not to hire for the peer review one of the same 3-4 firms that do business in the city of Woburn. She said the peer reviewer has to be someone who is not necessarily a known entity. Alderman Higgins referred to Section 30-26 of the proposed ordinance and asked how the term “significant impacts” is going to be defined. Alderman Campbell said the impact doesn’t necessarily have to be significant. She said if there is an impact, then it’s an impact. Alderman Gately said the council has read dozens of traffic reports over the years and most of them say there’s no impact. He said the council is going to start protecting the city’s interests. He said the city can’t get inundated with traffic it can’t handle. He said there is no room for mistakes with this project. President Haggerty addressed Section 30-33 of the proposed ordinance regarding payment in lieu of performing mitigation. He said he is generally not comfortable with that aspect. He said he does not want to create another situation like the city has with \$3 million in an account for affordable housing for 15 years. He said there has been money for the redesign of Wildwood Avenue, Salem Street and Wood Street that has been sitting there for years. Alderman Mercer-Bruen said she knows the City Council supports the re-design of that intersection, but that the project has not been completed has to do with political will. President Haggerty said the council has talked about putting sunset clauses on mitigation money. Alderman Haggerty said the cost of fixing the intersection now will be triple what it was when the council appropriated the money for it. Chairman Anderson suggested a sunset clause of five years. Mr. Dumont said Edens has no problem performing the mitigation, but there may be issues where Edens can’t do the work themselves. Keith Hague, Vice-President for Construction & Development at Edens, said there may be instances when there is a larger project funded by Massworks and it wouldn’t make sense for Edens to perform its mitigation until after the Massworks-funded project is finished. He said Edens does not care either way if the city requires Edens to perform the work or pay for the mitigation. Chairman Anderson asked if mitigation money would be returned to the developer after five years. Alderman Higgins asked if returning the mitigation money would require a vote. Chairman Anderson said a vote would not be required. President Haggerty said he likes Alderman Higgins’ idea of requiring a vote for the return of mitigation funds, because he wouldn’t want to see anything slip through the cracks. Alderman Higgins said she would like to work on language to that effect. Alderman Mercer-Bruen asked if the committee wants to discuss the density of the project. Chairman Anderson referred to Section 30-45 and Director Cassidy’s memo. He said his knee-jerk reaction is to go with the lowest number possible but added the council may want to proceed cautiously and perhaps provide a bit of a buffer and flexibility in case any of the other projects with an affordability component do not move forward. He said the council can approve a number of units between 277-280 up to 425. Alderman Campbell said the only reason she is comfortable with 300 units is because of the affordable housing component. She said the city needs to get to the 10 percent ratio of affordable housing stock and if that wasn’t the case, she would probably be looking at a very low number. She said she would prefer the lowest number of units that is beneficial for the city. Alderman Mercer-Bruen said she is not looking at 400 or 375 units. Alderman Gately suggested meeting the developer halfway with 350 units. Alderman Higgins said 325-350 units would get the city to a 10.49-percent ratio. Chairman Anderson said that would include a little bit of a buffer. President Haggerty said he has heard nothing about the Ledges project in North Woburn moving forward, and he expressed concerns the Mill Street

project in East Woburn may not be built. He said the worst-case scenario for the city would be approving a big number of units at the mall and still falling short of the 10 percent threshold because those two projects didn't move forward. Alderman Higgins said the projection indicates the city will be at a 10.41-percent ratio in 2025. President Haggerty asked if this includes the proposed Federal Street project. Alderman Higgins said she thinks Federal Street is included. Alderman Mercer-Bruen said the Mill Street project has been permitted and if the current developer doesn't build it, someone else will. President Haggerty asked when the Mill Street project was approved. Alderman Mercer-Bruen said the Mill Street project was approved two years ago, all the legwork has been done and someone is going to build it. President Haggerty said the city is in Safe Harbor mode with respect to Ch. 40B until the summer. He said the numbers may change after the census in 2020. Alderman Higgins said if none of those projects are approved, the city will be under the 10 percent threshold in 2025. Attorney Vaughan said he believes that will also be the case in 2020. Alderman Higgins said that will be true only if all three projects come off-line. Alderman Mercer-Bruen said those projects are just sitting there and lots of money has been spent, so someone will build them. President Haggerty said the city doesn't get credit for the affordable housing until the building permits are issued. He said right now it doesn't look like Federal Street is moving forward. Chairman Anderson said he would like to move the proposed zoning amendment forward by the next meeting and wrap up deliberations by the end of the year. President Haggerty said he would like to ask Planning Director Cassidy to calculate affordable housing figures based on today's numbers, and factor in the new census. Alderman Mercer-Bruen said she is not supporting 400 units. President Haggerty said he does not want to come up 1 percent short. Alderman Mercer-Bruen said it is going to be difficult to be sure about any numbers with so many projects in play. Motion made by Alderman Higgins and seconded by Alderman Mercer-Bruen to send a communication to Planning Director Cassidy to provide the committee with affordable housing numbers based on the inventory as of November 1, 2018; approved, 4-0. Attorney Vaughan asked if there is a time frame for a developer to obtain a building permit for a 40B project before the comprehensive permit lapses. Motion made by Alderman Mercer-Bruen and seconded by Alderman Higgins to send a communication to City Solicitor Callahan Doucette asking her if and when the Ch. 40B comprehensive permit lapses; approved, 4-0. Alderman Campbell said she does not want to feel pressure to get this matter done by the end of the year. Chairman Anderson said the council still has two more meetings in 2018. Alderman Campbell said she does not want to feel rushed. Alderman Mercer-Bruen said she does not think anyone on the committee will pass this just because it is the end of the year. Chairman Anderson said the committee will meet again on December 10.

Motion made by Alderman Mercer-Bruen and seconded by Alderman Higgins to adjourn; approved, 4-0. Chairman Anderson adjourned the meeting at 7:13 p.m.

A TRUE RECORD ATTEST

Gordon Vincent
Clerk of Committees