

**COMMITTEE ON ORDINANCES, CHARTER AND RULES
DECEMBER 10, 2018 AT 7:31 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 Edward Tedesco and President Richard Haggerty; Absent: Alderman Joanne
Campbell and Alderman Richard Gately

Also present: Building Commissioner Thomas Quinn

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Motion made by Alderman Higgins and seconded by Alderman Concannon to take out of order from the posted agenda an Order to amend 1989 Woburn Municipal Code, as amended, Sections 15-5 Building Permit Fees and Section 15-27 relative to vacant property registration fee, approved, 5-0: Building Commissioner Quinn told the committee his department undertook a survey of building permit and vacant property registration fees from surrounding communities and he is now recommending a slight increase in fees to account for departmental activities. He said there may be additional staff required at some point. He said the vacant property registration fee has not been amended since 2009. He said the banks pay fees to register the property, and he said based on the aforementioned survey, he feels \$500 is a reasonable amount. He said there are currently 37 vacant properties in the city. He said the increased fee takes the financial onus off the taxpayers because the present \$100 fee does not justify going to a vacant property four times a year. He said there are constant issues. He said some of the properties are occupied while they are being foreclosed. Chairman Anderson asked if the fees to places like movie theaters and restaurants are annual. Commissioner Quinn said they are. He said fees are waived for establishments like day care centers, churches, and public education facilities. Chairman Anderson asked if collected fees go toward the city's general fund. Commissioner Quinn said the fees go to the general fund and said with all the inspections his department does, there may be a need to increase staff. He said staff is at the Woburn Public Library at least twice a week. Chairman Anderson asked about the fee for removal of a stop work order. Commissioner Quinn replied the fee schedule is \$50 to remove a residential stop work order and \$100 to remove a commercial stop work order, and he thinks that fee is important. Alderman Higgins asked if that runs afoul of any state laws. Commissioner Quinn said it does not. He said she tries to be reasonable. He said he is not trying to hurt the mom and pop stores in the community, but the inspections of entities like hotels require time and effort. Alderman Concannon asked when the last time the ordinance was adjusted. Commissioner Quinn said in 2014. Alderman Concannon asked about prior adjustments. Commissioner Quinn said in 2001-02 there was an \$8 fee per 1,000-square-feet, and it was raised to \$10 per 1,000-square-feet in 2014. Alderman Concannon asked if the fee schedule would be revisited again in another 3-4 years. Commissioner Quinn said he does not expect it will. Alderman Concannon asked if the fees are being raised because they can be raised, rather than because they need to be raised.

Commissioner Quinn said his department supports itself financially. He said if the department is going to grow, the fees need to be raised to accommodate the level of enforcement. Motion made by Alderman Higgins and seconded by Alderman Mercer-Bruen that the proposed fee changes for the Building Dept. “ought to pass,” approved, 5-0.

Motion made by Alderman Higgins and seconded by Alderman Mercer-Bruen to return to the regular order of business; approved, 5-0.

Order to amend 1989 Woburn Municipal Code, as amended, by adding Article XVI Information Technology Department: Chairman Anderson said Mayor Galvin discussed the financial aspect of the IT position during the Finance Committee meeting earlier in the evening. Chairman Anderson said he has looked at the legislation and suggested adding a new Article XVI Section 2-126C.5 that reads “Implement appropriate procedures and technology to protect the information and technology systems of the city from cyberattack and /or theft, and to prevent the unauthorized dissemination of information and data.” He said Section 2-126C.5 proposed originally in the order would thus become Section 2-126C.6. Motion made by Alderman Higgins and seconded by Alderman Mercer-Bruen to insert Alderman Anderson’s proposed language as Section 2-126C.5 and adjust the order to move “Provide hardware maintenance to all city departments, boards, committees and commissions” to Section 2-126C.6; all in favor, 5-0. Chairman Anderson also suggested inserting the phrase “Subject to appropriation,” to begin Section 2-126D. Motion made by Alderman Mercer-Bruen and seconded by Alderman Higgins to insert the phrase “Subject to appropriation,” at the beginning of Section 2-126D; all in favor, 5-0. Motion made by Alderman Mercer-Bruen and seconded by Alderman Higgins that the order, as amended, “ought to pass,” all in favor, 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 recused himself and left the Committee Room. Chairman Anderson said the committee is still working through a draft version of Section 30 from Planning Director Tina Cassidy. He said there were some minor amendments made at the last meeting, and the committee left off with Alderman Mercer-Bruen indicating she may want to insert some language about mitigation. Alderman Mercer-Bruen said she had a lengthy conversation with City Engineer Jay Corey. She offered the following language regarding Section 30-6 of the proposed legislation, under the heading “Impacted intersection”: “Any intersection that will be negatively impacted due to the proposed development will be subject to providing suitable mitigative measures to reduce the impact to pre-development conditions.” Alderman Mercer-Bruen said one of her concerns was about not putting any type of number with the mitigation component. She said it is not appropriate. She said she is hoping the City Council will not include a number in the mitigation section. Alderman Higgins said she thinks Alderman Mercer-Bruen’s suggested amendment should end at “development” and the rest should be stricken, and that the other language belongs in a different section. Alderman Mercer-Bruen said

the proposed language is what Engineer Corey endorsed. Motion made by Alderman Mercer-Bruen and seconded by Alderman Higgins to include the following language in Section 30-6: "Any intersection that will be negatively impacted by the increased traffic due to the proposed development;" approved, 4-0. Motion made by Alderman Mercer-Bruen and seconded by Alderman Higgins to delete the word "significant," from Section 30-26.1; approved, 4-0. Alderman Mercer-Bruen suggested deleting the word "adverse" from the last sentence of Section 30-27A. Alderman Higgins asked what the difference is between adverse and negative. Chairman Anderson said he thinks the word "generally" should be added to Section 30-28. Motion made by Alderman Mercer-Bruen and seconded by Alderman Higgins to add the word "Generally," to Section 30-28; approved, 4-0. Alderman Mercer-Bruen said she would like to add language to Section 30-29 that references the notion the residents of the project at the Woburn Mall will be using public transportation at Anderson station. Motion made by Alderman Mercer-Bruen and seconded by Alderman Higgins to amend section 30-29 to read: "Traffic mitigation measures: Specific measures to be undertaken by the Applicant in order to mitigate the impacts of the proposed Development Project and to ensure that current traffic conditions and Levels of Service (LOS) are not adversely affected by the Project. Also, the assessment shall consider both on site and off site mitigation measures, to include but not be limited to new traffic control signals, increase(s) in right of way capacity via widening roads, or other right of way or intersection improvements. Where the use of existing transit systems is proposed as mitigation, analysis of the impacts on capacity and performance of these services should be quantified and documented in this section. The proposed mitigation measures, if approved, shall be required to be completed prior to the issuance of a final certificate of occupancy for the Project component. The assessment shall also consider how the proposed mitigation measures and future year performance degradation are fully mitigated to the equivalent No Build condition;" approved, 4-0. Representing the developer of the Woburn Mall site, Attorney Mark Vaughan, Riemer & Braunstein, 700 District Avenue, Burlington, MA, said he thinks that change came from the state while they were reviewing it. Chairman Anderson said the draft of the ordinance would be sent to Director Cassidy for review. Alderman Higgins said she would like to change any reference to "Special Permit Granting Authority" in the ordinance to "City Council." Motion made by Alderman Higgins and seconded by Alderman Mercer-Bruen to change all references to "Special Permit Granting Authority" or "SPGA" in the draft to "City Council;" approved, 4-0. Motion made by Alderman Higgins and seconded by Alderman Mercer-Bruen to amend Section 30-33.2 to include "It is the preference of the City Council that the developer/applicant complete all mitigation measures;" approved, 4-0. Motion made by Alderman Higgins and seconded by Alderman Mercer-Bruen to add a period and a space between "Special Permit" and "Any;" approved, 4-0. Alderman Higgins said the committee may want to add a sunset clause to the expenditure of mitigation funds. Motion made by Alderman Higgins and seconded by Alderman Mercer-Bruen to amend the section entitled "2. Payment in lieu of mitigation measures" to read: It is the preference of the City Council that the developer/applicant complete all mitigation measures. Occasionally the option of a payment in lieu of performance may be appropriate in certain circumstances (e.g. contributions toward a larger-scale infrastructure project being planned by others). In those circumstances the City Council may authorize the Applicant to make a payment in lieu of performing all or part of mitigation measure(s) which have been made a condition of the Special Permit. Any such payment shall be equivalent to the amount calculated by the City Engineer in accordance with paragraph f.1 above and shall be placed into an account dedicated to the specific purpose identified as a condition of the Special Permit. In calculating

any such payment, the Applicant shall not be credited the amount of the contribution required under Title 13, Article 11 of the City of Woburn Municipal Code, or any contribution to roadway, water or sewer improvements required as a result of the environmental review process of the state or federal government. In the case when such payment in lieu of performance is accepted, if the funds have not been encumbered by the City of Woburn within two years of the issuance of an occupancy permit, the City Council upon request shall hold a hearing to determine why the funds have not been spent or encumbered. At said hearing, the City Council may extend for a period of no more than two years the time frame to encumber such payment in lieu of performance. If payment in lieu of performance is not executed in the aforementioned time frame, the payment shall be returned to the developer," based on language suggested by Alderman Higgins and Alderman Tedesco; approved, 4-0. Alderman Higgins asked if the committee wanted to discuss the number of units that would be allowed. Chairman Anderson said the city has received a memo from Director Cassidy, who was asked to calculate the number of affordable units in the city as of November 1, 2018. Chairman Anderson said Director Cassidy has also submitted a memo regarding the potential construction of a walkway from Mishawum Road to Anderson station. Motion made by Alderman Mercer-Bruen and seconded by Alderman Higgins to accept both documents from Director Cassidy and make them part of the permanent record; approved, 4-0. Alderman Mercer-Bruen said the committee had also asked Director Cassidy to forward a memo about the comparative design standards in Lynnfield and Burlington. Clerk of Committees replied that in his memo to Director Cassidy he did not make her aware of the likelihood of a committee meeting on December 10. President Haggerty asked about the status of the city's solar energy ordinance as it relates to the Woburn Mall project. Chairman Anderson said the Solar Voltaic ordinance is bootstrapped into the ordinance under Section 30-14. President Haggerty said the solar facilities on Wildwood Avenue are unattractive. Alderman Higgins agreed she thought the solar panels would be more attractive. Chairman Anderson said he never thought the solar facilities would be attractive but he thought they would look better than they do. President Haggerty asked in which zoning district the Woburn Mall exists. Attorney Vaughan said the zoning district is Business Interstate. President Haggerty said solar facilities are not allowed in the BI district. He said if you drive down Wildwood Avenue like he does every day, the solar equipment looks terrible. He said he is thankful the city didn't put solar facilities on school grounds. Chairman Anderson said if the council opts to allow 325 units at the Woburn Mall, the city will attain the 10-percent housing stock threshold that will rule out the possibility of a developer filing for a comprehensive permit until MGL Chapter 40B. President Haggerty concurred the 10 percent status would remain until 2020. Chairman Anderson said allowing 325 units at the mall would not give the city a big buffer against the 40B threshold. Alderman Tedesco asked if allowing 350 units at the mall would guarantee safety against 40B filings until 2025. President Haggerty said the proposed Mill Street project is included in Director Cassidy's calculations because that development is part of the city's Safe Harbor requirement. Alderman Mercer-Bruen said she appreciates the effort to get to a safe harbor status, but she can't support 400 units at the Woburn Mall. Alderman Gaffney said he would like to get as close to safe harbor status as the city can. He suggested a compromise of 375 or 370 units. He said there are still 1,500 potential units in the city that haven't been permitted. He said he wants to be assured the city will reach safe harbor status if the Woburn Mall project is permitted. He said the housing stock situation is always going to be in flux. Chairman Anderson said the city wants to attain safe harbor status, but without shooting itself in the foot. Chairman Anderson asked how many of the units will have three bedrooms. Attorney Vaughan said 10

percent of the units will have three bedrooms. Chairman Anderson said a lot of people who live at the mall site may not even have cars. Alderman Mercer-Bruen said she does not believe that for a minute. Alderman Gaffney said some of the residents may use ride-sharing services or public transportation. Alderman Mercer-Bruen said she doubts people who live at the mall are going to walk to Anderson station when there is two feet of snow on the ground. Alderman Tedesco said his floor for the number of units is 350, because that will allow the city to maintain safe harbor status until 2025. Chairman Anderson said his preference is between 300-375 units. He said he would prefer the number to be in the 320s, and he could abide by 350 units. Alderman Tedesco said 350 units is a lot better than 325 or 300. Alderman Mercer-Bruen said 350 is better than 400, and 350 works for her. Alderman Higgins said she does not think the council will support 375 units. Alderman Gaffney said the committee should come to some type of consensus tonight. Alderman Mercer-Bruen said she thinks 350 is a good compromise. Motion made by Alderman Gaffney and seconded by Alderman Higgins to amend Section 30-44.5 to read: "Subject to consistency the minimum residential densities for Multi-Family Residential use that must be allowed under the Governing Laws on land qualifying as Developable Land, as approved by DHCD, the maximum number of Multi-Family Residential units is capped at 355." Alderman Mercer-Bruen reiterated she thinks 350 is reasonable. Chairman Anderson said he supports 350 units. Alderman Tedesco said 350 units is his floor, and he is comfortable with 375. Vote to amend Section 30-44.5 to allow 355 units failed, 2-2, with Chairman Anderson and Alderman Mercer-Bruen opposed. Motion made by Alderman Mercer-Bruen and seconded by Alderman Higgins to cap the number of units at 350 in Section 30-44.5; approved, 4-0. Motion made by Alderman Mercer-Bruen and seconded by Alderman Higgins to suspend the rules to allow Attorney Vaughan to address the committee about the number of units; approved, 4-0. Attorney Vaughan said his client hopes to build a high-end project. He said there will be challenges with the development presented by Market Basket's lease. He said his client's preference is for 370 units, and the number could be between 362-370 to meet a certain baseline need. He said his client certainly knows any impact from the project needs to be mitigated. Attorney Vaughan said the City Council adopted similar legislation allowing 25 units per acre on Commerce Way and his client is proposing about 16 units per acre. Chairman Anderson said the mall project will have more commercial space than the Commerce Way project. Attorney Vaughan said a project with the developer's preferred number of units at the mall would provide the city with additional protection against a Ch. 40B filing. He said it is for everyone's benefit if the mall project is a quality project. Chairman Anderson acknowledged the city is working with two reputable entities on the project. He said the mayor's office is looking for fewer units. He said after a lot of thought and deliberation, the committee is recommending 350 units. He said that number could change on the council floor. He said the revised document will be sent to Director Cassidy for her to send to the state Dept. of Housing and Community Development for review. Motion made by Alderman Mercer-Bruen and seconded by Alderman Gaffney to send the matter "back for action," pending review by DHCD; approved, 4-0. President Haggerty asked if DHCD will be able to respond by the City Council's next meeting on Tuesday. Chairman Anderson said he spoke to Director Cassidy and she responded that DHCD could respond by Tuesday. President Haggerty said he wants to make it clear to DHCD that there ought to be a response by Tuesday.

Motion made by Alderman Mercer-Bruen and seconded by Alderman Higgins to adjourn; approved, 5-0. Chairman Anderson adjourned the meeting at 8:58 p.m.

A TRUE RECORD ATTEST

Gordon Vincent
Clerk of Committees