

**COMMITTEE ON ORDINANCES, CHARTER AND RULES  
DECEMBER 12, 2017 AT 7:08 PM  
COMMITTEE ROOM  
WOBURN CITY HALL**

Voting Members:

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

Non-Voting Members:

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

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**On the Order to amend 1985 Woburn Municipal Code Section 8-17 relative to dumpsters:**

Alderman Mercer-Bruen said she has made some changes to the proposal that are reflected in a handout she gave to the clerk for distribution to the members. Motion made by Alderman Higgins and seconded by Alderman Gaffney to accept a draft copy of Alderman Mercer-Bruen's proposed changes to section 8-17, as follows:

1. By deleting Title 8, Article VII, Section 8-17 (B) in its entirety and replacing with the following: "When deemed necessary by the fire department, building commissioner or Woburn City Council, it may be required that a dumpster be enclosed or screened."
2. By adding the following to Title 8, Article VII, Section 17 (H): "Any property owner or **person/entity in possession of property, or their** agent being serviced who violates the established hours for emptying dumpster contents will be subject to a fine: **one hundred dollars (\$100) for a first offense, two hundred dollars (\$200) for a second offense within one year of the first offense and three hundred dollars (300) for a third offense and all subsequent offenses within one year of the date of the first offense; ~~of \$300 for each offense.~~**"
3. By deleting Title 8, Article VII, Section 8-17(J) in its entirety and replacing same with the following: "Any owner of property on which a dumpster is located and on which a violation of this Section shall occur shall be subject to a fine of \$300 for each offense and a separate offense shall be deemed committed on each day on which a violation occurs or continues."
4. By deleting Title 8, Article VII, Section 8-17(K) in its entirety and replacing same with the following: "It shall be the responsibility of the Inspectional Services Department to enforce the provisions of this section."

Alderman Mercer-Bruen said she would like to confer with City Solicitor Ellen Callahan Doucette about a couple of other issues and she would expect the matter to remain in Committee until then. Motion made by Alderman Higgins and seconded by Alderman Mercer-Bruen to add a comma between "building commissioner" and "Woburn City Council" in item #1, approved, 4-

0. Alderman Campbell said she called the fire department about a dumpster issue and was told to go through the Board of Health. Alderman Mercer-Bruen said adding the Board of Health to the list of enforcement agencies is something to consider. Alderman Campbell said she ended up working with Board of Health Agent Jack Fralick on the aforementioned issue. Alderman Mercer-Bruen said she would call Agent Fralick if she saw a dumpster that was overflowing, but if there is an instance of when the dumpster is being emptied at an early-morning hour, she would call the Building Commissioner. Alderman Mercer-Bruen said many cities and towns she has contacted allocate enforcement of dumpster regulations, including the times they are emptied, to their Board of Health. Motion made by Alderman Campbell and seconded by Alderman Higgins to add the Board of Health to the list of enforcement agencies so item #1 in Alderman Mercer-Bruen's handout reads: "When deemed necessary by the fire department, building commissioner, Board of Health or Woburn City Council, it may be required that a dumpster be enclosed or screened." Alderman Campbell asked what the rationale is for including the City Council among the enforcement agencies. Alderman Mercer-Bruen replied it will give the Council more leverage. Alderman Mercer-Bruen said the fire department was initially listed as the enforcement agency when arson fires in dumpsters were common. Though that practice has since decreased, the municipal code has not been changed and remains with the fire department. Alderman Mercer-Bruen said the graduated schedule of fines in item #2 on her handout (as indicated in red type) was suggested by Alderman Anderson, but said she not sure she agrees with it and thinks the fine ought to be a standard \$300. Alderman Gately said he has talked to Building Commissioner Thomas Quinn and said Commissioner Quinn would like the fine to be consistent at \$300 for each violation. Alderman Mercer-Bruen agreed a graduated schedule of fines would be difficult from an administrative perspective. Alderman Gaffney said a \$300 fine may not be a big deal to some of the larger corporations in the city which may continue to empty their dumpsters late at night or in the early morning and opt to pay the fine. Alderman Gately said most of the complaints he gets are about dumpsters that aren't emptied in a timely manner and cause odors. Acting Chairman Concannon asked where the \$300 fine fits within the schedule of other zoning violations in the city. Alderman Mercer-Bruen said the most common amount for a fine is \$300 per day per offense, but added there are also ranges from \$25-\$1,000 depending upon the offense that the City Solicitor is trying to eliminate. Alderman Higgins said it would be easy to appeal a discretionary fine levied within such a wide range. Alderman Gately said a homeowner in the South End once accrued \$38,000 in fines for an illegal trampoline, and the offender had to go before a judge. Alderman Gately said Commissioner Quinn has taken people to court for zoning violations. Alderman Mercer-Bruen said items #2 and #3 on her list were attempts at consistency and to alleviate an administrative nightmare for the Building Commissioner. President Haggerty said the Council needs to send a clear message. He said he has talked to Commissioner Quinn who would much prefer to fix the amount of the fine at one amount. President Haggerty said discretion will also play a big role in Commissioner Quinn's decisions whether to issue fines. He said the Council will have to trust Commissioner Quinn's judgment to enforce the dumpster regulations, and that Commissioner Quinn is generally reasonable. Alderman Mercer-Bruen said she has never known Commissioner Quinn to levy a fine on a first offense. Alderman Mercer-Bruen said she would like to leave the matter in committee until January. In the interim, she said she will confer with Chairman Anderson and City Solicitor Callahan Doucette.

**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; Order to amend Woburn Zoning Ordinances by amending Section 11.11.1 by amending requirement for affordable housing units from 10% to 25%; and 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 Higgins and seconded by Alderman Campbell to take the affordable housing amendments collectively; approved, 4-0. Motion made and seconded by Alderman Campbell and seconded by Alderman Higgins to receive and make part of the permanent record a letter from the Woburn Redevelopment Authority regarding the amendments to Section 11.11; approved, 4-0. Alderman Campbell referred to a memo from the Planning Board regarding recommendations to the proposed zoning amendments and said there was unanimous support for expanding the scope of the affordable housing ordinance's applicability to downtown structures where the units are located above first floor commercial entities. She said the Board recommended on a 4-3 vote the off-site housing provision, and unanimously supported deleting a cash payment option from the ordinance. With respect to increasing the percentage of required affordable housing, Alderman Campbell said the Board supports a tiered approach and recommended a minimum of 15 percent, with four members stating they would not recommend a figure higher than 20 percent and three members preferring a figure as high as 25 percent. Chairman Concannon asked if the cash option is off the table. Alderman Campbell responded all but one piece is off the table. President Haggerty said his concern is for developers who are seeking construction of smaller number of units and that by raising the percentages of affordable units, they may be discouraging good projects, particularly in the downtown area. Alderman Campbell noted the Woburn Redevelopment Authority recommended exempting projects in the downtown district with fewer than 10 units from the affordability requirements. Alderman Campbell said she has surveyed other communities and said Newton uses a tiered approach where any project between 4-9 units requires a 15 percent affordability component; 10-20 units requires 20 percent; and 21-plus units requires 25 percent. Alderman Campbell said Somerville and Cambridge require a 20 percent affordability component across the board. Alderman Higgins noted Newton's current percentage of affordable housing stock is abysmal, under 5 percent. Alderman Campbell said she has spoken to a real estate agent who sells property mostly in Boston and Cambridge who told her increasing the affordability percentages would not hinder developers from coming forward with proposals, as the Greater Boston area remains a hot location. Alderman Campbell said the goal is to get Woburn to the 10 percent housing affordability threshold during the 2-year window the city is in safe harbor. If the city attains the 10 percent threshold, it will be able to get local control and regulate filings under state law Chapter 40B, she said. Acting Chairman Concannon said his fear is that by keeping the state from telling the city what the state wants to do, the city will end up doing something the city doesn't want to do. Acting Chairman Concannon said he would like Woburn to remain an affordable place to live for the next generation, but he acknowledged the market factors may not allow that to happen, and they may have to look toward communities like Pepperell or Townsend to find housing they can afford. Acting Chairman Concannon said the city is not going to fix 40B. Acting Chairman Concannon said an apt analogy is the city taking a baseball bat out of the state's hands to keep the state from hitting the city in the head with it, but then the city hitting itself in the head with it. He asked if attaining the 10 percent housing stock threshold is so vital, why doesn't the city raise the affordability requirement to 75 percent and

get out from the threat of 40B within a year. He said he has real concerns about going higher than a 10 percent affordability requirement to get to the 10 percent housing stock requirement. Alderman Campbell said the city has to be pro-active in order to keep the city affordable for seniors and children. She said a lot of people, particularly seniors, have come up to her saying they support the ordinance change because it will allow them to stay in Woburn. Acting Chairman Concannon asked at what point cars will become an issue of affordability and whether government will someday be required to provide nice cars to everyone. Alderman Higgins replied a house is a necessity, but a car isn't. Alderman Higgins said her concern is the Council by raising the affordability component may be driving away developers, and said she thinks a 20 percent requirement is too aggressive. Alderman Gaffney said he agrees with Alderman Higgins in that 20 percent may be too much, and added a staggered system may work. Alderman Campbell said she has talked to two developers who said they don't expect to make a profit from their affordable units. Alderman Mercer-Bruen said she does not want to impose any regulations that might inhibit improvements to the downtown area. She said young kids in the city hate the downtown area. She said a 25 percent affordability requirement is too high, and that 15 percent is probably the right ratio. She said imposing a ratio that is too high might have a reverse impact. Alderman Campbell said 20 percent is going to get the city to the 10 percent housing stock threshold, but 15 percent is not. Alderman Mercer-Bruen said she will keep an open mind and would perhaps consider a 20 percent requirement for the larger developments that are proposed. President Haggerty said if the affordability quotient is raised to 15 percent, the city will begin to chip away at the 10 percent housing stock requirement. He noted at 8.64-percent the city is not way behind, and there no reason the city can't make it to the number. President Haggerty said 15 percent is the number he'd be comfortable with. President Haggerty said the city can close the gap on the housing stock percentage when the proposed project on Federal Street is built. President Haggerty said there is eventually going to be no more available land for single-family homes. He said his preference would be to exempt the Business Downtown zoning district or at least put a 10-unit minimum on any affordable housing requirement. He said the Council has to be thinking about sites that could potentially be redeveloped, and the city needs to have tools in the tool box to give developers incentives to redevelop. President Haggerty noted the city got rid of an old lead factory when the Baldwin Woods project was approved. He said a 25 percent affordability component is too aggressive, and it would dissuade development. Alderman Campbell said a 15 percent affordability component is not going to get the city where it needs to be and the Council needs to be more aggressive. She said one of the problems with the Federal Street project is the lack of parking for it. President Haggerty said he doesn't think 40-48 units on Federal Street is going to fly, but if the developer comes in with 25 units, he might be more receptive. He said the city is already knocking on the door of the 10 percent housing stock ratio, and reminded the council there could be more projects proposed in the next 12 months, including sites like the Woburn Mall and the former Atlantic Gelatin site. Alderman Gately said he thinks a 15 percent affordability component is doable, because it straddled the lone between driving developers away and creating more affordable housing to get the city closer to the 10 percent housing stock ratio. He said the scary part is the economy is going so well there might be a housing boom, and that the city has to be careful. Alderman Gately cited the possibility of 6-story apartment buildings at the former P.J. Gill site in the South End or near the Walnut Street parking lot in the downtown area. Alderman Campbell said those two potential projects are perfect examples of why the city needs to increase the ratio, to discourage them from being built. Alderman Mercer-Bruen said she fears that if the Council adopts the proposed ordinance chance

there will be at least three filings under Ch. 40B. Alderman Mercer-Bruen said affordable housing is a relative term, and seniors would not consider \$2,000 a month for rent affordable. President Haggerty said the goal is to eliminate the threat of Ch. 40B filings, and the Council is close to where it needs to be, whether the affordability component is raised to 15 percent or 20 percent. Alderman Mercer-Bruen said 25 percent is off the table. Alderman Campbell said 20 percent will get the city closer to the 10 percent housing stock ratio quicker. President Haggerty asked about the exemption for downtown development and if the Council is comfortable with a minimum of 10 units. Alderman Campbell suggested four units and up, or six units and up, but said 10 units may be a little too much. Alderman Campbell said increasing the affordability component will also help mitigate traffic problems. Alderman Campbell said she does not expect there will be action taken by the Committee at this time, and there will be further discussion in January. Acting Chairman Concannon said it sounds like increasing the affordability component to 25 percent does not have support. Alderman Mercer-Bruen said she would still like to know what is the land mass ratio of affordable housing. She said she would like to send another letter to Planning Director Tina Cassidy about where the city stands in terms of land mass percentage. Motion made by Alderman Higgins and seconded by Alderman Gaffney to send a communication to Planning Director Tina Cassidy requesting a communication be sent to Planning Director Tina Cassidy for a report on the land mass ratio as it relates to affordable housing in the city; approved, 4-0. President Haggerty said he has no problem supporting an exemption of projects of under 10 units from the affordable housing requirement in the downtown area. Alderman Mercer-Bruen concurred she would support an exemption for projects under 10 units.

Motion made by Alderman Higgins and seconded by Alderman Mercer-Bruen to adjourn.  
Chairman Anderson adjourned the meeting at 8:14 p.m.

A TRUE RECORD ATTEST

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Gordon Vincent  
Clerk of Committees