

COMMITTEE ON ORDINANCES, CHARTER AND RULES
MONDAY, FEBRUARY 24, 2020 AT 6:15 P.M.
COMMITTEE ROOM
WOBURN CITY HALL

Voting Members:

Present: Chairman Lindsay Higgins, Alderman Michael Concannon, Alderman Darlene Mercer-Bruen, Alderman Edward Tedesco, and Alderman Jeffrey Dillon

Non-Voting Members:

Present: President Michael Anderson and Alderman Robert Ferullo. Absent: Alderman Joanne Campbell and Alderman Richard Gately

Also present: Building Commissioner Thomas Quinn and Police Chief Robert Rufo

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VOTED to dispense with the reading of the minutes from the January 27, 2020, meeting and to approve; in favor, 5-0.

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MOTION to take the last item on the Ordinances, Charter & Rules agenda out of order from the posted agenda; in favor, 5-0.

Order to amend Woburn Municipal Code Title 8, Article VII, relative to Dumpsters:

Chairman Higgins said she received a relevant email today from City Solicitor Ellen Callahan Doucette. Motion made by Alderman Tedesco and seconded by Alderman Mercer-Bruen to receive the email form City Solicitor Callahan Doucette and make it part of the permanent record; approved, 5-0. Alderman Mercer-Bruen said the council has been talking about changes to the dumpster ordinance but discussion got put on the back burner a couple of years ago. She said City Solicitor Callahan Doucette was able to find language in a Falmouth bylaw that was supported by the Attorney General. She said she hopes City Solicitor Callahan Doucette came up with something that the council can adopt. She said there are complaints all the time. She said she gets complaints at 3 a.m. She said she has gone out to witness dumpsters being emptied early in the morning, as has Commissioner Quinn. She said the current ordinance indicates enforcement of the dumpster ordinance is under the jurisdiction of the Woburn Fire Dept. She said the only time the fire department has enforced the dumpster regulations was once when Paul Tortolano was the chief, at Pier 1 Imports. She suggested putting more teeth in the dumpster regulations. She said the regulations before the committee are from Falmouth. She said Commissioner Quinn and the police department will absolutely be able to issue tickets. She said she conferred with Chief Rufo about this and it makes sense to have the police be an enforcement agent because they are in the field. Alderman Ferullo asked what kind of tickets will be issued. Alderman Mercer-Bruen said she will address that. She said another reason to have the police act as an enforcement agent is because if someone calls to complain, the call is logged. She said she would like to change the reference to 9 p.m. in the proposed legislation in paragraph

A to 7 p.m. She said a \$300 fine is what is being supported by Commissioner Quinn, and the Planning Board also weighed in on it. Chairman Higgins said the committee has not received a letter from the Planning Dept. regarding dumpsters. Alderman Mercer-Bruen said she can ask Planning Director Tina Cassidy to send one. Alderman Mercer-Bruen asked what form of ticket will be used. Commissioner Quinn said he has a fillable pdf form. Alderman Mercer-Bruen asked if the committee can accept a copy of the form as provided by Commissioner Quinn. Motion made by Alderman Mercer-Bruen and seconded by Alderman Tedesco to accept a blank copy of the non-criminal complaint form and make it part of the permanent record; approved, 5-0. Alderman Mercer-Bruen said this form is what Commissioner Quinn uses now for zoning violations. She said consulted with Chief Adgate and he agreed that as long as the Fire Dept. retains all of its jurisdiction on dumpsters as it pertains to state law for fire codes, that he agreed enforcement of when dumpsters are emptied/filled can be overseen by the Building Dept. Chief Rufo asked what recourse the city has if a fine is not paid. Commissioner Quinn said there is a protocol for non-payment of fines, starting with letters that get increasingly insistent and then eventually a hearing before a court magistrate. He said he would treat a violation of the dumpster ordinance like he would a zoning violation. He said there would be warnings and then fines. He said he has been doing it that way as long as he's been in the Building Dept. Alderman Concannon said the expectation is the primary enforcement agent will be the Building Dept. Commissioner Quinn said if the Building Dept. receives notification from the police, they would run with it. He said he has the staff to enforce the dumpster regulations. Alderman Mercer-Bruen asked about the Police Dept.'s role for enforcement. Chief Rufo said it is imperative that violations be called in to the Police Dept. Alderman Mercer-Bruen said she receives calls about dumpsters, and she has been trying to get people to understand that they need to call the police department. She said there are residents who do not know there is an anonymous line. Chief Rufo said the anonymous line is not monitored in real time, but anyone who calls the main line is not required to leave their name. Chief Rufo asked about enforcement of dumpster access for restaurants that close after 9 p.m. Commissioner Quinn said in those instances the dumpster cannot be accessed a half-hour after the restaurant closes. Chief Rufo said that could be an issue. Alderman Mercer-Bruen said she did not even think of restaurants. Alderman Tedesco said if there is a requirement for the dumpster to have a rubber lid, he does not think there will be any problems. Alderman Mercer-Bruen said there is a construction company on Salem Street that has been loading its dumpsters at 2 a.m. Motion made by Alderman Mercer-Bruen and seconded by Alderman Tedesco to amend proposed Article VII, Section 8-17, Paragraph A to read "7 p.m.," instead of 9 p.m.; approved, 5-0. Chief Rufo asked about the hours of dumpster access for a 7-Eleven type of store that is open late. Commissioner Quinn said enforcement would be more focused on the tipping hours. He said there are problematic areas like Draper Street and Micro Drive and in the South End that abut residential areas that will be monitored. Alderman Mercer-Bruen asked if there are any questions about Paragraph B in the proposed ordinance. Commissioner Quinn said there are special permit provisions that show plantings adjacent to the screens. He said a fence will be required. Chairman Higgins asked if temporary dumpsters for construction will have comply with the dumpster regulations. Commissioner Quinn said those are a separate issue. Alderman Mercer-Bruen said the Planning Dept. suggested amending Paragraph B to remove the phrase "and/or plantings" in the first sentence, which will now read: "All dumpsters shall be enclosed or screened with an opaque wall and/or fence ...;" approved, 5-0. Motion made by Alderman Tedesco and seconded by Alderman Concannon to amend Paragraph D to read: "Dumpsters shall not be used or serviced after 7 p.m. for residential

property and the enclosure around them shall be locked by 9 p.m. Dumpsters for non-residential uses shall not be filled and the enclosure around them shall be locked no later than 30 minutes after the close of business;" approved, 5-0. Alderman Dillon asked if existing apartment buildings will be grandfathered. He said there are a lot of dumpsters that aren't screened. Alderman Concannon asked about special permits that have language about dumpsters included. Commissioner Quinn said properties like 369 Washington Street were required to submit a plan of record that involves screening the dumpsters. Alderman Concannon asked if Commissioner Quinn's view is that special permit conditions would prevail. Commissioner Quinn said he would look at it that way. Motion made by Alderman Tedesco and seconded by Alderman Mercer-Bruen to further amend Paragraph D by deleting the words "used or" from the first sentence; approved, 5-0. Referencing Paragraph F, Alderman Concannon asked to which city agency does a rodent management plan have to be submitted. Commissioner Quinn said property owners are required to file a pest management plan annually with the Board of Health. Alderman Concannon asked if there is a requirement to submit a rodent management plan to the Board of Health within 30 days. He said that is a lot of time for the rats to get comfortable. Commissioner Quinn said he thinks the plan should be submitted annually. President Anderson asked who is going to keep track of that. Motion made by Alderman Mercer-Bruen and seconded by Alderman Tedesco to amend Paragraph F to insert the word "annually" after "Board of Health" in the second sentence and eliminate the third sentence in the paragraph; approved, 5-0. Motion made by Alderman Tedesco and seconded by Alderman Mercer-Bruen to add an Oxford comma after the word "firm," in Paragraph I; approved, 4-0-1, with Alderman Concannon abstaining. Motion made by Alderman Mercer-Bruen and seconded by Alderman Tedesco that the order, as amended, "ought to pass;" approved, 5-0.

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MOTION to suspend the rules to take the third item on the agenda, "Order to add a new City Council Rule 41 relative to special permit provisions" out of order; approved, 5-0.

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Order to add new City Council Rule 41 relative to special permit provisions: Chairman Higgins said the citation of the Rule in the first paragraph in the order is incorrect. Motion made by Alderman Tedesco and seconded by Alderman Mercer-Bruen to amend the text of the first paragraph of the order to read "Be it ordained by the City Council of the City of Woburn that a new City Council Rule 41 be amended as follows;" approved, 5-0. President Anderson said these are the most common amendments the council attaches to special permits. Alderman Concannon asked if the Rule 41 proposal would be impacted by any changes the committee just made to the dumpster ordinance. Chairman Higgins said the special permit provisions and the dumpster ordinance are not inconsistent. Chairman Higgins suggested changing the first parenthetical phrase in the fifth paragraph to correct a typographical error. Motion made by Alderman Mercer-Bruen and seconded by Alderman Tedesco to amend the fifth paragraph to read "[insert site plan title];" approved, 5-0. Motion made by Alderman Tedesco and seconded by Alderman Mercer-Bruen that the order "ought to pass;" as amended; approved, 5-0.

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MOTION to suspend the rules to take the fourth item on the agenda, “Order to add a new City Council Rule 20 relative to standing committees” out of order; approved, 5-0.

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Order to add new City Council Rule 20 relative to standing committees: President Anderson said his feeling is the present Rule 20 is kind of clunky. Chairman Higgins said the Fire Department Building Committee was added to the list of boards and commissions to which the president shall appoint a liaison. President Anderson said a liaison to the Fire Department Building Committee has already been appointed. President Anderson said if the Zoning Ordinance Review Committee (ZORC) is ever revived, he would like for it to have three members instead of two from the City Council. Motion made by Alderman Mercer-Bruen and seconded by Alderman Tedesco to increase the number of City Council members on the ZORC from two to three; approved, 5-0. Alderman Tedesco said he has no issue with increasing the number of City Council members on the ZORC to three, but he said he thinks discussion at City Council committee meetings should be limited to the members of the committee. Alderman Mercer-Bruen said there are times when she is not a member of a committee that has business that concerns her ward, and in those instances, she would like to participate. For instance, she said, she is not a member of the Finance Committee but there was an item on the agenda tonight that had everything to do with Ward 5. She said opening the debate to aldermen not on the committee would be at the discretion of the committee chairman. President Anderson agreed that decision would be at the discretion of the committee chairman. He said any alderman not on a committee can speak on the council floor. Alderman Mercer-Bruen said she would expect to be able to speak about an issue in Ward 5, and not be at the mercy of the chairman. Alderman Concannon said he is aware of instances where the rules have been suspended and asked if that should be reflected in the order. He said if it is at the discretion of the chairman then you are at the chairman’s mercy. He said he thinks there should be a line in the order to allow the committee can suspend the rules. Alderman Tedesco said he wants to amend Rule 22, but he will bring that up during the comprehensive review of the rules. Chairman Higgins said she thinks the matter would default to Roberts Rules of Order. Alderman Dillon said he thinks he has a copy of Roberts Rules in his vehicle. (Alderman Dillon returned minutes later with a copy of Roberts Rules of Order). Alderman Mercer-Bruen said often times there are discussions that are more apropos in committee than on the council floor. She said if someone has a million questions, those should be asked in committee, not on the floor. President Anderson said the council can account for those scenarios. Chairman Higgins said any alderman not on a committee who has an interest in an agenda item should still come to the committee meeting. Alderman Mercer-Bruen said she thinks it would be frustrating for an alderman to sit through a committee meeting without being able to say anything. Alderman Concannon said there can be a motion to suspend the rules, but it cannot be amended or debated. He said Roberts Rules indicates a two-thirds majority is required. President Anderson said that issue does not need to be decided tonight. Alderman Concannon said he is fine with what has been submitted but he thinks it would be professional courtesy to allow an alderman not on a committee to speak at a committee meeting. Alderman Mercer-Bruen said that may be true now but the names and the faces on the council change over time. Motion made by Alderman Tedesco and seconded by Alderman Concannon that the order “ought to pass;” as amended, with Alderman Concannon saying he will rely on the professional courtesy of past and present boards; approved, 3-2, with Alderman Dillon and Alderman Mercer-Bruen opposed.

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MOTION to return to the regular order of business; approved, 5-0.

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Order for review of City Council Rules and Orders: Alderman Tedesco said he has submitted a revision to Rule 22, as follows: “It shall be the duty of every committee to which any subject may be specifically referred to report thereon within four weeks or ask for further time. Any subject voted on in committee and referred back to the City Council shall be sent back with a committee report of either ‘ought to pass’ or ‘ought not to pass.’” He said he if the committee decides it needs more than four weeks, it could request more time. Alderman Concannon asked if legislation would die if it is not acted upon in four weeks. President Anderson said the council can pull anything out of committee. He said after one year anything in committee is disposed of. Alderman Tedesco said the text of the proposed rule reads “It shall be ...” not “It will be ...” Alderman Concannon asked what happens after four weeks to a request for Citizens Participation. He asked if the request dies. He said it sounds like it does. President Anderson said he thinks Rule 22 is fine as it is. He said the chair should be given some leeway. He said he is ok with limiting committee reports to “ought to pass” or “ought not to pass.” Alderman Concannon said the council could adopt a rule that requires an item to be placed back on an agenda after four weeks. He asked if the council has to deal with everything that comes before it, and if that needs to be discussed. Alderman Tedesco said zoning change proposals and special permit applications would not be affected because they are referred to public hearings, but orders will be affected. Motion made by Alderman Mercer-Bruen and seconded by Alderman Tedesco to delete the first sentence of the amended Rule 22, as submitted by Alderman Tedesco; approved, 4-1, with Alderman Concannon opposed. Alderman Mercer-Bruen asked about the second sentence that limits committee recommendations to “ought to pass” and “ought not to pass.” Alderman Tedesco said he thinks a recommendation of “back for action” ought to be used only rarely. Alderman Mercer-Bruen asked about situation when the council is waiting for more information like a memo. Alderman Tedesco said if a petition is substantially ready, it ought to be sent to the council with a recommendation. He said if the council is waiting on a memo, the committee can send it back with a recommendation pending receipt of the memo. Chairman Higgins asked if the recommendation can be conditions. President Anderson suggested adding the phrase “subject to conditions” after “ought to pass.” Alderman Tedesco said he is amenable to an amendment that reads “subject to potential conditions.” Alderman Concannon asked what the concern is with back for action. Alderman Tedesco said the committee should provide a recommendation. Alderman Concannon asked if an item is sent back for action, isn’t it because the council is waiting for more information. Alderman Tedesco said he is just philosophically opposed to back for action. Alderman Concannon said he does not understand the consistency in Alderman Tedesco’s logic. Alderman Mercer-Bruen said she thinks it’s working the way it is. Alderman Tedesco said he will vote against sending anything out back for action. Alderman Mercer-Bruen said more often than not, something is sent back for action because the council is waiting for something small. Motion made by Alderman Tedesco that the proposed Rule 22, as amended, ought to pass. Chairman Higgins said there was no second to Alderman Tedesco’s motion. Motion made by Alderman Tedesco to reconsider his vote on the amendment. Alderman Concannon said he would second Alderman Tedesco’s motion to reconsider as a professional

courtesy. Motion to reconsider approved, 4-1, with Alderman Mercer-Bruen opposed. Motion made by Alderman Tedesco to rescind the amendment to delete the first sentence and to restore Rule 22 as is; approved, 5-0.

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Motion made by Alderman Tedesco and seconded by Alderman Mercer-Bruen to adjourn; in favor, 5-0. Chairman Higgins adjourned the meeting at 7:18 p.m.

A TRUE RECORD ATTEST

Gordon Vincent
Clerk of Committees