

**CITY OF WOBURN
FEBRUARY 4, 2014 - 7:00 P.M.
REGULAR MEETING OF THE CITY COUNCIL**

Roll Call

Anderson	Gaffney
Concannon	Gately
DiTucci	Mercer-Bruen
Drapeau	Raymond
Haggerty	

VOTED to dispense with the reading of the previous meeting's Journal and to APPROVE.

MAYOR'S COMMUNICATIONS:

A communication dated January 29, 2014 with attachments was received from His Honor the Mayor Scott D. Galvin as follows:

Dear President Haggerty and Members of the City Council:

I am submitting for your consideration an Order to accept the M.G.L. C. 32B, Sec. 21-23 – acceptance of the local option that will allow the City to make changes to the health insurance plan design including co-pays, deductibles and tiering without the need to engage in collective bargaining. This is the same way that plan design changes are implemented for every employee that works for the Commonwealth of Massachusetts. Acceptance of the Municipal Health Care Reform law will not affect the employee contribution rate. Any changes to employee contributions would still be subject to traditional bargaining.

Signed into law in July 2011, Municipal Health Care Reform is one of the most beneficial tools afforded to cities and towns in decades, and has achieved substantial savings for communities and has helped preserve essential government jobs and services. According to the latest figures released by Governor Patrick “over 260 communities and school districts across the state have collectively saved more than \$237 million to date in health insurance premiums as a result of the Municipal Health Care Reform Law. This reform has the potential to produce as much as \$2.8 billion in savings over 10 years if implemented by all cities, towns and school districts in Massachusetts.”

Based on conservative estimates, the City of Woburn could save more than \$1.5 million in the first year alone if the City Council approves the Order to accept M.G.L. C. 32B, Sec. 21-23 (Municipal Health Care Reform Law).

I would like to make a presentation to the City Council at the beginning of your February 4, 2014 meeting regarding the Municipal Health Care Reform Law. In addition, I have invited Michael Widmer of the Massachusetts Taxpayers Foundation to attend this meeting and take part in the presentation.

No vote on this matter can be taken on February 4, 2014, other than referral to Committee. I look forward to seeing you on the 4th.

Sincerely, s/Scott D. Galvin

Attached thereto was the following Order:

ORDERED Be it ordained by the City Council of the City of Woburn that the provisions of M.G.L. c.32B, §§21-23 are hereby accepted, and that the City of Woburn elects to engage in the process to change health insurance benefits under M.G.L. c.32B, §§21-23.

s/Alderman _____

A communication dated January 29, 2014 was received from His Honor the Mayor Scott D. Galvin as follows:

Dear President Haggerty and Members of the City Council:

I have submitted an Order respectfully requesting your Honorable Board accept the provisions of M.G.L. c. 32B, Sec. 20, allowing the city to establish a Trust Fund for OPEB to continue with the monumental task of complying with Governmental Accounting Standards Board (GASB) Statements 43 and 45.

GASB 43 and 45 were designed to shed light on costs and financial obligations related to post-employment benefits other than pensions (OPEB). Rather than incurring costs after employees retire, GASB standards require cities to report obligations as they are incurred. This additional information can better position the City of Woburn to prepare for, and address, future costs being incurred right now.

In addition, cities and towns have begun to set aside assets for future OPEB liabilities because failure to pre-fund benefits will result in new balance sheet liabilities that could adversely affect bond ratings. The Trust Fund that will be established by your acceptance on M.G.L. c. 32B, Sect. 20, is the accounting entity that will receive funds in reserve for the payment of these liabilities.

I look forward to discussing this matter in Committee.

Sincerely, s/Scott D. Galvin, Mayor

ORDERED Be it ordained that the City Council of the City of Woburn hereby accepts and adopts the provisions of M.G.L. c.32B, §20, authorizing the City to establish a Trust Fund for Other Post Employment Benefit liabilities.

s/Alderman _____

ORDERED That the amount of \$1,356,906.62 be and is hereby appropriated from Reserve for Medicare Subsidy – Part D Acct #01-357500 \$1,356,906.62 to Other Post Employment Benefits Liability (OPEB) Trust Fund (MGL Chap. 32B, Sec. 20) Fund #7100 \$1,356.906.62

I hereby recommend the above: s/Scott D. Galvin, Mayor
I have reviewed the above: s/Gerald W. Surette, City Auditor

s/Alderman _____

ORDERED That the amount of \$100,000.00 be and is hereby appropriated from BLS/Ambulance Receipts Acct #31359-590000 \$100,000.00 to Fire/Overtime Acct #0122051-513100 \$100,000.00

I hereby recommend the above: s/Scott D. Galvin, Mayor
I hereby approve the above: s/Timothy J. Ring, Chief, Fire Department
I have reviewed the above: s/Gerald W. Surette, City Auditor

s/Alderman _____

PUBLIC HEARINGS:

On the petition by Lytron Realty Corp. and Lytron Incorporated to amend the Woburn Zoning Map for the parcels of land known as 73 Dragon Court containing approximately 5.3 acres of land; 41 Dragon Court containing approximately .52 acres of land; 39 Dragon Court containing approximately 1.31 acres of land; Dragon Court, Lot 1 containing approximately .28 acres of land and Dragon Court, Lot 2 containing approximately .28 acres of land, as shown on Assessors Map 16 Block 02 Lot 02, Map 16 Block 02 Lot 04, Map 16 Block 02 Lot 05, Map 16 Block 02 Lot 06 and Map 16 Block 02 Lot 07 from the R-2/I-P zoning district to the I-P zoning district. PUBLIC HEARING OPENED. A communication dated January 28, 2014 was received from Attorney Joseph R. Tarby, III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: (1) Lytron Realty Corp./Lytron Incorporated Petition to Amend Zoning Map and
(2) Lytron Incorporated Petition to Amend Zoning Ordinance

Dear Mr. Campbell:

At the request of the Committee on Ordinances, Charter and Rules at its meeting on January 27, 2014, I respectfully request that the City Council public hearings on the above matters presently scheduled for February 4, 2014 be continued to the City Council meeting on March 4, 2014. If you need any further information, please contact me. Thank you.

Very truly yours, s/Joseph R. Tarby, III

On the petition by Lytron Incorporated to amend the 1985 Woburn Zoning Ordinances, as amended, as follows:

Be it Ordained by the City Council of the City of Woburn that the 1985 Woburn Zoning Ordinances, as amended, be further amended by revising the following:

- Section 5.1, line 72, Table of Use Regulations shall be amended by replacing the “_” with “P” in the R-2 Zoning District and inserting: Note 26 under the heading: “Notes; Other Sections”
- Amend Section 5 Notes to 5.1 Table of Use Regulations by adding the following note:

26. Accessory parking facilities in an R-2 Zoning District for use in an IP Zoning District shall be subject to the following conditions:

- a) No portion of the parking facility may be located within 100 feet of an immediate abutting property used for residential purposes;
- b) Except for the following, the Buffer Requirements set forth in Section 5.7 are not applicable:
 - i. The buffer zone may be used to calculate the Minimum Useable Open Space percentages required in Section 6.1;
 - ii. The buffer zone may be used for driveways, useable open space, walkways and landscaped areas; and
 - iii. The perimeter of the parking facility shall contain a screen of evergreen plantings at least ten (10) feet from the edge of a road except for entrances and exits and any portion of the parking facility abutting a highway. Such evergreen plantings shall not be less than three (3) feet in width and six (6) feet in height at the time of occupancy of the parking facility and shall thereafter be maintained by the owner so as to maintain a dense screen year round. Other

alternative screening devices may be permitted by Special Permit where topography, soils or other conditions make the planting or maintenance of such a hedge impractical.

- c) The parking facility shall comply with the requirements of Section 8.4, 8.5 and 8.6; and
- d) The City Council shall also impose such additional conditions of those specified in this Ordinance as it finds reasonably appropriate to safeguard the neighborhood or otherwise serve the purposes of this Ordinance, including but not limited to the following: Screening, buffers, or planting strip, fences, or walls, as specified by the Council; modification of the exterior appearance of the structure; method and time of operation, or extent of facilities; regulation of number and location of drives, accessways, or other traffic features, and off-street parking or loading, or other special features beyond the minimum required in the Ordinance.

- Section 8.3 shall be amended by adding a new paragraph as follows:

- 3. Within any R2 district, the City Council by Special Permit pursuant to the requirements of Section may allow accessory parking facilities for a use in the IP Zoning District on a lot separate from the use to be served provided such facilities immediately abut the use to be served in the IP Zoning District and are owned by the user of the parking facilities.

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Very truly yours, s/Joseph R. Tarby, III

On the petition by National Grid for a grant of right in a way to install approximately 85 feet of 2 inch plastic main to supply house number 3 Hobson Avenue. PUBLIC HEARING OPENED.

On the petition by NStar Electric Company for a grant of right in a way to install approximately 48 feet of conduit westerly on Jericho Road from pole #242/34 at the intersection of Wyman Street and to install approximately 212 feet of conduit easterly on Wyman Street from pole #242/32 approximately 230 feet east of Jericho Road. PUBLIC HEARING OPENED.

On the petition by NStar Electric Company for a grant of right in a way to install approximately 55 feet of conduit south on Water Street northeasterly from pole #299/12 at the intersection of Woburn Parkway and install approximately 890 feet of conduit and also installing two (new) manholes (MH29735 and MH29736) in Woburn Parkway northerly at the intersection of Water Street. PUBLIC HEARING OPENED.

On the petition by 10 Presidential Way Associates, LLC, 10 Presidential Way, Woburn, Massachusetts 01801 for a special permit with any dimensional relief as may be required pursuant to Sections 5.1.80a, 5.6, 6 and 11 of the 1989 Woburn Zoning Ordinances, as amended, to establish a telecommunications facility to be used for education, training and transmission of secure data at 10 Presidential Way. PUBLIC HEARING OPENED. A report was received from the Committee on Special Permits as follows: "ought to pass, as amended, with the conditions as follows:

1. That the Plans of Record shall be the plans Z-1 – Z-8 with a Title Sheet T-1 revised through 11/22/13 by Dewberry Engineers Inc., 280 Summer Street, 10th Floor, Boston, MA 02210 entitled "Model Tower: An Educational Training Facility" except as modified by this decision;
2. The Carrier Equipment Shelter Interior Isometric on Sheet Z-8 shall be unmanned and not be used as an educational classroom and only as an equipment shelter;
3. The Future Carrier Equipment Shelter shall not be allowed;
4. That prior to building permit a license for secure data link shall be issued for the proposed facility by the FCC;
5. That 16' wide paved access road as shown on the plan shall be provided for access and the elimination of the two parking spaces to be utilized for access shall be eliminated to provide for fire access and general access the compound area;
6. That the proposed height of the Tower shall not exceed 160';
7. That the Planning Board shall retain jurisdiction over the landscaping;
8. That effective when the monopole is no longer in use for the purpose intended in the special permit, American Tower agrees to remove it within 90 days;
9. That there shall be no advertising on said monopole of any kind, including the use of company logos and other kinds of signage;
10. That this Special Permit shall be non-transferrable, but shall include American Tower Corporation, its affiliates and subsidiaries;
11. That the monopole shall be capable of accommodating future carrier colocations. While the mount height and equipment configurations of future carrier colocations may vary, such equipment shall not exceed 160' AGL. Additionally, notwithstanding

any provisions in the Woburn Zoning Ordinance, future carrier colocations and the construction of additional ground shelters, including the Future Carrier Equipment Shelter, shall require a Special Permit from the City of Woburn. The Woburn City Council, together with the Special Permits Committee, shall retain jurisdiction over the review and issuance of such future carrier colocations Special Permits;

12. Unless otherwise required by the Federal Aviation Administration (the "FAA"), or a comparable government agency, the monopole shall not be painted or lit.
13. That mandatory government signage, such as that required by the FAA and FCC (the "Federal Communications Commission), and site level emergency signage, as required by the Carriers and the Petitioner, be permitted."

On the petition by Rosematwo, LLC, 10 Dorrance Street, Boston, Massachusetts 01219 for a special permit pursuant to Sections 8.7.2.10, 5.1.42, 8, 6.1 Note 8, and 12 of the 1985 Woburn Zoning Ordinances, as amended, to allow for the construction of a 10,000 square foot building addition to an existing warehouse facility, including loading docks and parking at 7 State Street. PUBLIC HEARING OPENED. A report was received from the Committee on Special Permits as follows: "ought to pass, as amended, with the conditions as follows:

1. That the Plan of Record shall be "Rosematwo, LLC, Building Expansion, 7 State Street, Woburn, Massachusetts" Sheets C-1.0, C-2.0, C-3.0, C-4.0 and C-4.1 dated 04/08/2013, revised 10/07/2013 and further revised 11/07/2013, prepared by Level Design Group, 249 South Street, Unit 1, Plainville, MA 02762" except as modified by this decision;
2. That a minimum of 32 parking spaces be required for the facility and complies with Section 8 of the Woburn Zoning Ordinance;
3. That any proposed water services require approval from the Department of Public Works;
4. That the petitioner shall comply with any requirements of the Plumbing Inspector with regards to the oil/water separator prior to occupancy;
5. That the applicant's engineer verify that drainage runoff as a result of the proposed work will not impact the abutting properties to the satisfaction of the Engineering Department prior to issuance of the building permit;
6. That the petitioner show sizes and location of the existing site utilities and utilities on State Street including inverts and rims as appropriate to the satisfaction of the Engineering Department prior to issuance of the building permit;
7. That the Engineering Department shall review and approve the mitigation cost submitted by the developer prior to the issuance of a building permit;
8. That the petitioner provide a snow plow plan;
9. That the fire hydrant at the front of the property be replaced and that the breakable flange will be 6" above grade;
10. That this Special Permit shall be not be transferrable; and
11. That any conditions of the Conservation Commission be included herewith."

On the petition by Herb Chambers 128, Inc., c/o The Herb Chambers Companies, 47 Eastern Boulevard, Glastonbury, Connecticut 06033 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended Section 5.1.71 to allow for a commercial parking lot at 400 Unicorn Park Drive. PUBLIC HEARING OPENED.

On the petition by Joseph Zink, Atlantic Management Corporation, 205 Newbury Street, Framingham, Massachusetts 01701 for special permits pursuant to the 1985 Woburn Zoning Ordinances, as amended as follows: 1. Section 5.1.44 to allow operation of a garage, automobile and truck repair, 2. Section 5.1.57b to allow accessory storage or parking of commercial motor vehicles other than as provided for in Section 5.1.58, trucks, buses or contractor's equipment, and 3. Section 7.3 findings for extension or alteration of non-conforming uses/structures for the following: a. minimum landscaped usable open space requirement under Section 6.1 and footnote 7 (30%), and b. retaining loading bays facing Wildwood Avenue under Section 8.7.10, at 205 Wildwood Avenue. PUBLIC HEARING OPENED.

CITIZEN'S PARTICIPATION: None.

COMMITTEE REPORTS:

FINANCE:

On the Order to transfer the sum of \$22,000.00 from Cemetery Interest Fund to various Cemetery Accounts, committee report was received "ought to pass".

On the Order to appropriate the sum of \$30,374.19 from Unreserved Fund Balance Account to Planning/Sick Leave Buy Back Account, committee report was received "ought to pass".

ORDINANCES:

On the Ordinance to amend Title 7 of the 1989 Woburn Municipal Code, as amended, relative to authorizing the Conservation Commission to impose consultant fees, committee report was received "ought to pass".

PUBLIC SAFETY AND LICENSES:

On the petition by Robert McSheffrey dba Bob McSheffrey Auto Sales to amend a Second Class Motor Vehicle Sales License to allow a limit of two (2) vehicles on site at

880 Main Street, committee report was received “ought to pass allowing for two vehicles”.

PERSONNEL:

On the reappointment of Timothy A. Mooney, Michael J. Benenate and Robert F. Carley to the Woburn Agricultural Commission, committee report was received “ought to pass”.

NEW PETITIONS:

Petition by NSTAR Electric Company and Verizon New England Inc. for a grant of right in a way to relocate one pole (#242/34) on Wyman Street southerly side at the intersection of Jericho Road.

Petition by Boys & Girls Club of Woburn, Charles Gardner Lane, Woburn, Massachusetts 01801 for a special permit pursuant to Section 5.1.14 of the 1985 Woburn Zoning Ordinances, as amended, to allow a carnival from May 13, 2014 through May 18, 2014 at 25 Middlesex Canal Park.

COMMUNICATIONS AND REPORTS:

A communication dated January 17, 2014 was received from Charles L. O’Connor, Parking Clerk, Police Headquarters, 25 Harrison Avenue as follows:

In accordance with Massachusetts General Laws Chapter 90, Section 20½, I am submitting this report to you on the parking violations within the city of Woburn for the period ending December 2013: number of violations issued 771, number of violations paid 396, number of violations outstanding 273, amount collected and submitted to the Collector’s Office \$41,688.40. There exists a backlog of 3,301 tickets from 1982 through 2013. Demand will be sent until all tickets have been paid. Parking fines referred to the Handicapped Commission \$9,300.00.

Respectfully submitted, s/Charles L. O’Connor, Parking Clerk City of Woburn

A communication dated January 24, 2014 with attachment was received from Attorney Margaret K. LaMothe, McElhiney and Matson, 607 Main Street, Woburn, Massachusetts 01801 as follows:

Re: Mentas Circle

Dear Mr. Campbell:

As you know, my office represents Heritage Builders, Inc. the builders of the homes no Mentas Circle off Poole Street in North Woburn. The project is now complete and my clients are anxious to have Mentas Circle considered a Public Way by the City of Woburn.

In order to accomplish this, I can have my clients execute and record a Deed to the City for the fee interest in Mentas Circle. I am attaching a draft deed for your review. If this is acceptable to you and the appropriate City Departments, I will proceed to record this Deed.

In the alternative, please let me know the appropriate procedure for the City to accept the street as a public way.

I thank you for your attention and anticipated cooperation in this matter. Please contact me directly to discuss our next steps.

Very truly yours, s/Margaret K. LaMothe, Esq.

UNFINISHED BUSINESS OF PRECEDING MEETING: None.

APPOINTMENTS AND ELECTIONS: None.

MOTIONS, ORDERS AND RESOLUTIONS:

From Traffic Commission:

ORDERED In accordance with M.G.L. c.90, §18, the following Special Speed Regulation is hereby adopted by the City Council of the City of Woburn:

That the following speed limits are established at which motor vehicles may be operated in the areas described:

CRANES COURT – Eastbound, beginning at the junction of Main Street (Route 38), thence easterly on Cranes Court, 0.08 miles at 20 miles per hour ending at the cul-de-sac; the total distance being 0.08 miles;

CRANES COURT – Westbound, beginning at the beginning of Cranes Court at the cul-de-sac, thence westerly on Cranes Court, 0.08 miles at 20 miles per hour ending at the junction of Main Street (Route 38); the total distance being 0.08 miles;

Operation of a motor vehicle at a rate of speed in excess of these limits shall be prima facie evidence that such speed is greater than is reasonable and proper. The provisions of this regulation shall not, however, abrogate M.G.L. c. 90, §14.

s/Alderman _____

ORDERED Pursuant to Title 3, Article II, Section 3-12(H) of the 1989 Woburn Municipal Code, as amended, the School Department is hereby authorized to solicit from and award to a regular school day bus transportation company a contract for the regular school day bus transportation with a term of three years together with two one-year options, such options to be exercised at the discretion of the school department

s/Alderman _____

ORDERED Pursuant to Title 3, Article II, Section 3-12(H) of the 1989 Woburn Municipal Code, as amended, the School Department is hereby authorized to solicit from and award to a food service management company a contract for the school cafeterias with a term of three years together with two one-year options, such options to be exercised at the discretion of the school department.

s/Alderman _____

ORDERED Whereas, M.G.L. Chapter 40A, known as the Zoning Act, provides a uniform process for considering zoning petitions, including zoning code amendments, zoning map amendments, special permits and variances, throughout the Commonwealth and was enacted to establish standardized procedures for the administration of zoning laws; and

Whereas, the Zoning Act contemplates an orderly and efficient processing of petitions relating to land use; and

Whereas, one requirement of the Zoning Act with respect to zoning ordinances, special permits and variances is that the applicable board hold a public hearing with notice published, posted and mailed to parties in interest as defined in Section 11 of Chapter 40A; and

Whereas, the Zoning Act requires the applicable board to take final action within 90 days of the public hearing; and

Whereas, if the applicable board fails to take final action within 90 days following the public hearing on a zoning amendment then a new hearing must be held on the petition; and

Whereas, if the applicable board fails to take final action within 90 days following the public hearing on a petition for a special permit or variance the special permit or variance may be deemed constructively granted without final action; and

Whereas, the Zoning Act provides the petitioner for a special permit or variance with authority to agree in writing to an extension beyond 90 days from the date of the public hearing for final action; and

Whereas, the Zoning Act does not provide to the applicable board authority to extend the time for final action in zoning petitions; and

Whereas, the Zoning Act does not provide the applicable board authority to extend the time for final action with respect to special permits and variances without the written agreement of the petitioner; and

Whereas, a practice has developed whereby various boards of the city continue public hearings on petitions for zoning amendments,

special permits and variances without written agreement by the petitioner thereby preventing the time for calculating the 90 day period under the Zoning Act to begin accruing; and

Whereas, at times the petitioner desires to file additional documents or amended plans with the applicable boards as a result of comments received during the public hearing from board members or parties in interest; and

Whereas, it is the desire of the City Council to increase the efficiency of the various boards of the city and assist petitioners in the timely processing of petitions for zoning amendments, special permits and variances in compliance with the Zoning Act;

Now, therefore, the City Council hereby requests a written opinion from the City Solicitor on the following issues:

1. Whether the Zoning Act contemplates one meeting at which a public hearing is held and closed on a petition for a zoning amendment, special permit or variance and after which time the 90 day time period by which final action must be taken begins to accrue;

2. Whether the Zoning Act permits the applicable boards to continue a public hearing on a petition for a zoning amendment;
3. Whether the Zoning Act permits the applicable boards to continue a public hearing on a petition for a special permit or variance without written agreement of the petitioner;
4. Whether the applicable boards may receive additional documents or oral presentations from petitioners or parties in interest as defined in Section 11 of the Zoning Act after the meeting at which the public hearing is held and closed;
5. Whether the applicable boards may consider additional documents or oral presentations from petitioners or parties in interest as defined in Section 11 of the Zoning Act after the meeting at which a public hearing is held and closed; and
6. Whether the applicable boards may hold and close a public hearing prior to the night of the final vote on a petition for a zoning amendment, special permit or variance.

s/Alderman _____

Motion made and 2nd to ADJOURN.