

**CITY OF WOBURN
JUNE 17, 2008 - 7:30 P.M.
REGULAR MEETING OF THE CITY COUNCIL**

Roll Call

Denaro	Gately
Drapeau	Gonsalves
Dwyer	Mercer-Bruen
Galvin	Raymond
Doherty	

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

MAYOR'S COMMUNICATIONS:

ORDERED That the sum of \$25,000.00 be and is hereby transferred as so stated from Fire – Ambulance Receipts (BLS) Acct #31359-595000 \$25,000.00 to Fire – Ambulance Maintenance Acct #0122054-544300 \$25,000.00.

I hereby recommend the above. s/Paul Tortolano, Chief, Fire Department
I have reviewed the above: s/Gerald W. Surette, City Auditor
I hereby approve the above: s/Thomas L. McLaughlin, Mayor

s/Alderman _____

Motion made and 2nd that the MATTER be REFERRED TO COMMITTEE ON FINANCE, all in favor, 9-0.

PUBLIC HEARINGS:

On the petition by Lowe's Companies, Inc., 15 Commerce Way, Woburn, Massachusetts 01801 for special permits pursuant to Section 5.1.45, 5.1.57a and 5.1.57b to allow for the rental of moving trucks; accessory storage or parking of storage containers, storage trailers or commercial trailers; and the accessory storage or parking of commercial motor vehicles at 15 Commerce Way. PUBLIC HEARING OPENED.

On the petition by Alderman Mercer-Bruen concerning the lot of land located in the City of Woburn, County of Middlesex, Commonwealth of Massachusetts known and numbered as 5 Lillian Street, Woburn, Massachusetts for the purposes of determining

whether said lot of land and chain link fence are a public nuisance, a nuisance to the neighborhood, a dilapidated or dangerous building or other structure, as said terms are used in Massachusetts General Laws Ch. 139, Sec. 1, and if so, enter an order adjudging it to be a nuisance to the neighborhood, or dangerous, and prescribing its disposition, alteration or regulation. PUBLIC HEARING OPENED.

CITIZEN’S PARTICIPATION:

Petition by Francis P. Dawson, Jr., 2 Kimball Road for citizen’s participation time at the July 8, 2008 meeting of the City Council or, if necessary, the Committee on Public Safety.

COMMITTEE REPORTS: N

FINANCE:

On the Order to transfer the sum of \$5,000.00 from Fire Sick Leave Buyback Account to Fire Regular Salaries Account, committee report was received “ought to pass.”

ORDINANCES:

On the Order to amend Title 3, Article V, Section 3-25 “Senior Citizen Property Work-Off Program” of the 1989 Woburn Municipal Code, as amended, committee report was received “ought to pass.”

LIAISON:

On the citizen’s participation request by Richard O’Rourke relative to the need for local regulations of hawkers and peddlers when using city streets, parks and other public lands, committee report was received as follows: “1. That a communication be forwarded to the Woburn Police Department to enforce the Ordinance, and 2. That the matter be referred to the Committee on Ordinances.”

NEW PETITIONS:

Petition by MetroNorth Hotel LLC, c/o National Development, 2310 Washington Street, Newton, Massachusetts 02462 for a special permit pursuant to Sections 5.1.20 and 8.3.2 of the 1985 Woburn Zoning Ordinances, as amended, to amend the prior special permits granted on October 26, 2000 to delete the reference to “brick façade” contained in a condition of the special permits at 300 Presidential Way.

Petition by Self Storage Group LLC, 637 Washington Street, Suite 200, Brookline, Massachusetts 02446 for a special permit pursuant to Section 5.1.42a of the 1985 Woburn Zoning Ordinances, as amended, to allow for self storage warehouse with a floor area ratio of 1.85 at 420 and 422 Washington Street.

COMMUNICATIONS AND REPORTS:

A copy of a communication dated June 2, 2008 with attachment to Mayor Thomas McLaughlin was received from John E. Corey, Jr., PE, City Engineer relative to flood improvements to Scalley Dam and scope of work by Winchester was received.

A copy of a communication dated June 2, 2008 with attachment to Mayor Thomas McLaughlin was received from John E. Corey, Jr., PE, City Engineer as follows:

Subject: FEMA Flood Insurance Maps

Enclosed for your information is a copy of the FEMA notification letter that the 90 day review period will begin on the Flood Insurance Rate Maps prepared in 2006. The engineering department has been using the new maps and they are interactive with the GIS.

During the 90 day review period, any Board, Commission or member of the local government may comment on the mapping as long as real evidence is presented with comments. The engineering department has made observations during two major storm events and we believe the mapping to be substantially better than the earlier FEMA maps.

After the comment period has passed, the City will be required to adopt the mapping. It may be appropriate to revise the Ordinance on Flood Plains to make it consistent with MGL Chapter 131. There are model ordinances available for review and editing to suit our local requirements, but I believe that this function should lie with the City Council and the Conservation Commission.

The enclosed information has been disseminated to interested parties.

A copy of a communication dated June 12, 2008 with attachment to the Massachusetts Land Court was received from Jonathan M. Silverstein, Kopelman and Paige, P.C. relative to an Assented Motion to Remand the matter of Lowe’s Companies, Inc. and Lowe’s Homes Centers Inc. v. City Council of the City of Woburn, Misc. No. 291847 and Misc. No. 291848 to the Woburn City Council.

A communication was received from the Woburn Police Department entitled “Policy and Procedure No. 83 – Police Department Vehicles” marked “draft”.

A communication dated June 4, 2008 was received from Steven J. Chilton, Senior Vice President, MassDevelopment, 160 Federal Street, Boston, Massachusetts 02110 notifying the City Council that the Massachusetts Development Finance Agency is considering final approval to a revenue bond project to be financed on behalf of The Tidd Home and requesting that the Agency be advised if the proposed project conflicts with an existing local or regional comprehensive plan.

A communication was received from Joan E. Murphy, Trustee, Old Oil Realty Trust 41 Harriet Avenue, Burlington, Massachusetts 01803 requesting a waiver of the late fees due for the Inflammable License to allow the storage of 125,000 gallons of fuel oil at 252R Salem Street.

A communication dated June 16, 2008 with attachments was received from Attorney John D. McElhiney, McElhiney and Matson, 607 Main Street, Woburn, Massachusetts 01801 as follows:

Re: Request for Abandonment, Discontinuance, and Release of a Certain Sewer Easement

Dear Councillors:

On behalf of David M. Purcell, owner of a certain lot of land on North Maple Street, Woburn, MA, I hereby request that your honorable body vote to discontinue, abandon and release a certain sewer easement which crosses through said lot.

An investigation has determined that the actual sewer line is not located within the easement, and in fact is not located on the property at all, and thus there is no need for the easement as presently located. However, a 10’ wide strip along the side of the parcel is still necessary, and the owner is willing to grant a new easement to the City along said strip, so as to more properly reflect the location of the sewer line and the reasonable needs of the City to maintain the same.

The area to be abandoned, as well as the area to be granted with the new easement, are shown on a plan dated June 10, 2008, prepared by Edward J. Farrell, submitted herewith.

It is my understanding that the Engineering Department is in full accord with this action.

I am attaching a proposed “Order” for your consideration. As you know, this matter will require two readings, and accordingly I look forward to meeting with your Committee on Municipal Lands to further explain this request.

Thank you for your courtesy and cooperation.

Sincerely, s/John D. McElhiney

Attached thereto was the following Order:

ORDERED That the City Council of the City of Woburn does hereby approve the Discontinuance, Abandonment, and Release of a sewer easement over a certain parcel of land on North Maple Street, Woburn, MA, said parcel shown on Assessors Map 8, Block 7, Parcel 12, said parcel further described in a deed recorded with the Middlesex South District Registry of Deeds, in Book 51206, Page 137, said sewer easement being discontinued, abandoned, and released being shown as the area marked "Proposed Discontinuance of Easement" on a plan titled "Easement & Discontinuance Plan, North Maple Street, Woburn, Mass.," Scale 1" = 20', June 10, 2008, prepared by Edward J, Farrell, PLS (hereafter the "Plan.");

Said Easement being discontinued, abandoned, and released was a portion of the sewer easement originally taken by instrument and Order of Taking dated May 18, 1967, recorded with said deeds in Book 11328, Page 629;

Further it was VOTED to authorize the Mayor to execute such Release or other Instrument in favor of the owner of record of such affected parcel for no consideration, conditioned, however, upon the contemporaneous execution by said owner of record of a new easement, as shown on the Plan, said new easement area shown as "Proposed 10' Wide Sewer Easement" on said Plan, and conditioned on the recording of the Plan and new easement with said Deeds.

A communication dated June 17, 2008 was received from Attorney Joseph R. Tarby, III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: Mascoma Corporation, 20-30 Commerce Way, Woburn, Massachusetts

Dear Mr. Campbell:

On behalf of my client I respectfully request that the above-referenced Petition by given leave to withdraw without prejudice. If you need any further information please contact me. Thank you.

Very truly yours, s/Joseph R. Tarby III

UNFINISHED BUSINESS OF PRECEDING MEETING:

A notice of intention to move for reconsideration was filed by Alderman Darlene Mercer-Bruen pursuant to Rule 13 of the Rules and Orders of the City Council on June 4, 2008 at 4:22 p.m. having voted as a member of the prevailing party relative to a vote to allow leave to withdraw without prejudice of a petition for a special permit by College Street Partners LLC for a special permit pursuant to Sections 5.1.57b, 5.1.71, 7.3, 8.2.5 and 9 to allow for a 300 vehicle parking lot; a reduction in parking for the office, warehouse and distribution use; the parking of commercial motor vehicles and shuttle buses; and for the continuation of the existing warehouse and distribution use all within a flood plain district at 23 Mack Road a/k/a 23 Rainin Road, Mack Road and Mack Road Rear.

APPOINTMENTS AND ELECTIONS:

A communication dated June 4, 2008 was received from His Honor the Mayor Thomas L. McLaughlin as follows:

Re: Sign Review Board – Peter Lennon

Dear Mr. Campbell:

By the power vested in me as Mayor of the City of Woburn, I hereby reappoint Peter Lennon of 629 Main Street as a Member of the Sign Review Board for a period of two years. His term will expire June 11, 2010.

If you have any questions, please feel free to contact me.

Sincerely, s/Thomas L. McLaughlin, Mayor

A communication dated June 11, 2008 was received from His Honor the Mayor Thomas L. McLaughlin as follows:

Re: John (Jack) Kelly – Council on Aging

Dear Mr. Campbell:

By the power vested in me as Mayor of the City of Woburn, I hereby reappoint Jack Kelly of 20 Barbara Circle as a member of the Council on Aging for a period of three years.

Mr. Kelly’s appointment will be effective subject to the date of confirmation by the City Council, and his term will expire December 31, 2010.

If you have any questions, please feel free to contact me.

Sincerely, s/Thomas L. McLaughlin, Mayor

A communication dated June 11, 2008 was received from His Honor the Mayor Thomas L. McLaughlin as follows:

Dear Mr. Campbell:

By the power vested in me as Mayor of the City of Woburn, I hereby reappoint Michael Ventresca of 32 Lowell Street, as a Member on the Planning Board. Please be advised that the term expired on April 30, 2007. The effective date of this appointment will be the date of confirmation by the City Council.

If you have any questions, please feel free to contact me.

Sincerely, s/Thomas L. McLaughlin, Mayor

A communication dated June 12, 2008 was received from His Honor the Mayor Thomas L. McLaughlin as follows:

Dear Mr. Campbell:

By the power vested in me as Mayor of the City of Woburn, I hereby appoint James Callahan of 32 Van Norden Road, as a Member of the Planning Board. Mr. Callahan is replacing John Cashell, whose term has expired April 30, 2007. Mr. Callahan's appointment will be effective the date of confirmation by the City Council; his term will expire five years from that date.

If you have any questions, please feel free to contact me.

Sincerely, s/Thomas L. McLaughlin, Mayor

MOTIONS, ORDERS AND RESOLUTIONS:

ORDERED Be it Ordained by the City Council of the City of Woburn that the Zoning Map, as amended, be further amended as follows:

By adding the parcel of land containing approximately 6.00 acres of land identified as Lot 2 Main St. at as shown on a plan by Allen & Major Associates, Inc. entitled St. Anthony of Padua 859 Main Street Woburn, MA Revised 1/04/08 to the "Senior Housing Overlay (SHO)" zoning district.

s/Alderman Raymond

ORDERED

Be it Ordained by the City Council of the City of Woburn that the 1985 Woburn Zoning Ordinances, as amended, be further amended by adding a new Section 22 entitled “Senior Housing Overlay (SHO) District” as follows:

SECTION 22 - Senior Housing Overlay (SHO) District

A. Purpose and Objectives

1. To provide senior housing options to meet the needs of households at different stages of life.
2. To promote high quality design and minimize negative impacts on the surrounding area.

B. Application

1. The Senior Housing Overlay (SHO) is hereby established as an overlay district. The SHO shall only be applied to properties zoned R-1 that have frontage along Route 38 (Main Street) of at least 400 feet and are north of Interstate 95 (I-95) and Route 38 interchange; and are within 2,250 feet northerly of the centerline right of way of said I-95 at the Route 38 interchange. Inclusion of any property into an SHO shall also require a zoning map change consistent with the rules and regulations of the Woburn Zoning Ordinance.
2. The provisions of the SHO shall only apply to projects using SHO criteria. Any building, structure or use of land that is not part of an SHO development proposal shall maintain the rights and privileges of the underlying district without modification by the SHO.

C. Associated Criteria

1. All SHO proposals shall be subject to Site Plan Review Section 12a, as applicable.
2. All SHO proposals shall be subject to Section 18, Development Impact Mitigation as applicable.
3. All SHO proposals shall be subject to Section 11.11 Affordable Housing Requirements, as applicable.

D. By Right Uses

1. None

E. Special Permit Uses

1. A special permit issued by the Woburn City Council may include the following as separate uses or a combination of uses.
 - a. Independent Living Senior Housing restricted to ages 62 and over, in town house or multifamily housing designs.
 - b. Assisted Living residences.
 - c. Nursing homes, Alzheimer care residences, and similar facilities.
 - d. Continuing Care Facility: A combination of the uses noted in items a through c above.
 - e. Accessory offices, clubhouses, personal services, and recreation amenities consistent and with the uses noted above.

F. Dimensional and Density Regulations

1. Lot area, frontage and yards.

Minimum lot area: 5 acres
Minimum Lot frontage: 200 feet
Minimum Front yard setback: 60 feet
Minimum side yard setback: 40 feet
Minimum rear yard Setback: 30 feet.

2. Lot coverage and Landscaped Usable Open Space

Maximum building coverage: 40%
Minimum landscaped usable open space: 40%
Minimum Lot Coverage: 60%

3. Building Height and Intensity of Use

- a. Maximum height for SHO development shall be 3 stories and 42 feet. A peaked roof shall be required unless waived during the site plan review process; however, the maximum exterior eave height of any portion of any building shall not exceed 36 feet at any one point. The maximum number of residential units shall be not more than 1 bedroom or per

1,000 square feet of gross lot area not including the area assigned to rivers or canals that may be on the lot; a nursing home room/bed or Alzheimer room/bed shall be construed to be a bedroom. Further, in no instance shall there be more than 150 units in any SHO development proposal.

4. More than One Building on a Lot

- a. All SHO development may contain more than one principal building on a lot.

G. Off-Street Parking Requirements

- 1. At a minimum, off street parking spaces shall be provided as follows.
 - a. Independent Living Senior Housing restricted to ages 62 and over: 1.5 spaces per unit and 1 visitor space per 10 units.
 - b. Assisted Living: 0.50 parking spaces per unit and 1 visitor space per 10 units.
 - c. Nursing Homes, Alzheimer facility and similar residences: 0.35 spaces per unit and 1 visitor space per every 10 residences.
 - d. Continuing Care Facilities: A proportional combination of the parking requirements noted in items a through c above.

H. Design Standards

- 1. All development in an SHO shall comply with the following standards for streetscape design in addition to criteria that may be required as part of site plan review.
 - a. As approved and required as part of site plan review process trees shall be planted along all public rights of way. Trees shall be planted at intervals of not less than 40 feet, unless plantings are precluded by utilities or points of access. Tree species shall be selected that require minimal maintenance and are of native origin.
 - b. Pedestrian amenities such as benches, kiosks, trash receptacles shall be provided along public sidewalks as approved as part of the site plan review process.

- c. Access to historic walkways, trails, canal walks, and other similar public open spaces and amenities that abut the proposed development shall be provided to the general public.
- d. All new utilities shall be placed underground as is practical, as determined during the site plan review process.

s/Alderman Raymond

ORDERED That the Committee on Liaison meet on June 23, 2008 with the residents of Dragon Court to receive public input regarding issues of concern in the area.

s/Alderman Mercer-Bruen

ORDERED Be it Ordained by the City Council of the City of Woburn that Title 5, Article XII, Section 5-76 be and is hereby amended by adding a second sentence to read as follows: "It shall be unlawful for any taxicab or limousine to park said vehicle on any public street or way or in any public square, playground, parking lot or other public land between the hours of 10:00 p.m. and 7:00 a.m."

s/Alderman Gately

ORDERED Be it Ordained by the City Council of the City of Woburn that a new Title 15, Article IV, Section 15-14A be added to the 1989 Woburn Municipal Code, as amended as follows:

15-14A Security gates, grilles and shutters on storefronts, office buildings and other buildings and/or structures used for commercial purposes

- A. Security devices involving gates, grilles or solid shutters designed to limit or block access to the front or sides of storefronts, office buildings or of buildings or structures used for commercial purposes, are prohibited throughout the downtown area of the city of Woburn as identified on the Woburn Zoning Map of the City of Woburn in the Business-Downtown (B-D) zoning district.
- B. All security devices involving gates, grilles or solid shutters lawfully in existence on the effective date of this ordinance, shall be maintained in good repair, painted a uniform color and be free from graffiti. Any

security device involving gates, grilles or solid shutters exhibiting substantial conditions of deterioration including either rusted finishes, peeling paint, accumulated grime, graffiti, bent, broken or distorted surfaces, if not repaired within ten (10) days after written notice from the City, shall be considered beyond repair, and shall be removed by the owner of the property at his or her own expense upon direction by the City. For purposes of this section, "substantial conditions" shall be considered to be twenty (20%) percent or more of the surface material of the security gate, grille or solid shutter.

- C. Nothing in this ordinance shall be construed to prohibit the usage of security gates, grilles or solid shutters in the interior spaces of any shopping mall, storefronts, office buildings or of buildings or structures used for commercial purposes provided that said security gates, grilles or solid shutters are not visible from the exterior of said premises.
- D. Each day that a condition exists contrary to the terms of this ordinance shall be considered a separate violation.

s/Alderman Gately

Motion made and 2nd to ADJOURN.