

**CITY OF WOBURN
NOVEMBER 18 - 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.

Pursuant to an Order adopted by the City Council on October 21, 2008, the City Treasurer/Collector is to provide a report regarding status of the city's bank accounts and investments to the City Council at this meeting.

MAYOR'S COMMUNICATIONS:

ORDERED That the amount of \$200,812.15 be and is hereby appropriated and approved as so stated to Police Salary Acct #0121051-511000 \$163,533.72, Police Sick Time Acct #0121051-515400 \$13,697.60, Police Holiday Acct #0121051-514500 \$14,600.83, Police Crossing Guards Acct #0121051-512500 \$2,580.00, Matrons Acct #0121051-512800 \$6,400.00, Total \$200,812.15

I do hereby approve the above: s/Thomas L. McLaughlin, Mayor
I hereby recommend the above: s/Philip L. Mahoney, Chief, Police Department
I have reviewed the above: s/Gerald W. Surette, City Auditor

s/Alderman _____

ORDERED That the amount of \$2,000,000.00 be and is hereby appropriated and approved as so stated from Reserve for Appropriation – I/I Study \$2,000,000.00 to 1. Area #3 Acct #64158-589510 \$95,000.00, 2. Inflow Source Construction Acct #64158-589520 \$500,000.00, 3. Arlington Road Sewer Investigation Acct #64158-589530 \$120,000.00, 4. Horn Pond Interceptor Sewer Bypass Acct #64158-589540 \$25,000.00, 5. Area #3 Sewer Rehabilitation Construction Acct #64158-589950 \$1,020,000.00, 6.

Area #3 Sewer Rehab Construction Services Acct #64158-589560
\$200,000.00, 7. Arlington Road Sewer Rehab Design Acct #64158-
589570 \$40,000.00, Total \$2,000,000.00

I do hereby approve the above: s/Thomas L. McLaughlin, Mayor
I hereby recommend the above: s/Vincent Ferlisi, Supt. Public Works
I hereby recommend the above: s/John Corey, City Engineer
I have reviewed the above: s/Gerald W. Surette, City Auditor

s/Alderman _____

ORDERED That the Woburn City Council hereby authorizes the Recreation Department to utilize a Departmental Revolving Fund under M.G.L. Chap. 44, Section 53E½. The Recreation Department may spend funds received without further appropriation during Fiscal Year 2009 for the purpose of operating a Youth Basketball Program. The “Youth Basketball Revolving Fund”, is to be created with all fees and charges not to exceed \$40,000.00 received during Fiscal Year 2009 from donations and monies collected. Any remaining balance at June 30, 2009 is to revert to the General Fund, unless the fund is re-established on a year-to-year basis. The City Council, upon recommendation of the Mayor, must have an annual vote prior to the start of the Fiscal Year. This authorization makes the approved Revolving Fund effective for the ensuing Fiscal Year Only.

I hereby recommend the above. s/Thomas L. McLaughlin, Mayor

On the Order to accept a deed in lieu of foreclosure pursuant to and in accordance with Massachusetts General Laws Chapter 60, §77C relative to certain land designated as Map 13, Block 25, Lot 01, on Baldwin Avenue and Merrimac Street, a VETO MESSAGE was received as follows: “Vetoed by Mayor. Not in overall interest of the City. No accompanying 21E evaluation.”

PUBLIC HEARINGS:

On the petition by Trade Center Park, LLC, 200 West Cummings Park, Woburn, Massachusetts 01801 for a special permit with site plan review pursuant to Section 5.1.41 of the 1985 Woburn Zoning Ordinances, as amended, to allow Research and Testing Laboratory use at TradeCenter 128, and seeks correspondingly, to modify the Certificate of Appeal of Special Permit dated December 22, 2006 by amending condition number 2 to allow such Research and Testing Laboratory use at 100 Sylvan Road. PUBLIC HEARING OPENED.

On the petition by Hugo G. Moraes, dba Taste of Brazil, Tuda Na Brasa, 6 Park Drive, Woburn, Massachusetts 01801 for a special permit pursuant to Section 5.1.29 of the 1985 Woburn Zoning Ordinances, as amended, to allow authorize restaurant establishment and to allow for expansion of same at 414 Main Street. PUBLIC HEARING OPENED. A communication dated November 17, 2008 was received from Attorney John D. McElhiney, McElhiney and Matson, 607 Main Street, Woburn, Massachusetts 01801 as follows:

Re: Special Permit Petition – Hugo G. Moraes, dba Taste of Brazil, Tudo na Brasa – 414 Main St., Woburn, MA

Dear Councillors:

Please consider this as a request that the hearing on the above-matter be continued to your second meeting in January, 2009. There is now a question as to exact area or proposed areas which will be covered by this Special Permit, and the petitioner would like an opportunity to work through those issues before presenting the matter to the Council at a hearing. For the same reasoning, we have also asked the Planning Board to continue the matter to their first meeting in January. These proposed hearing dates should allow the Planning Board to review this prior to your re-scheduled hearing.

I will be present at the scheduled hearing date, but will not plan on speaking, unless requested to do so in response to any questions regarding this request.

Thank you for any courtesy and cooperation.

Sincerely, s/John D. McElhiney

On the petition by Hess Corporation f/k/a Amerada Hess Corporation, One Hess Plaza, Woodbridge, New Jersey 07095 for a special permit pursuant to Sections 5.1.46a, 5.1.46b, 5.1.22a Note 16 and 7.3 of the 1985 Woburn Zoning Ordinances, as amended, to allow self-service/full service gasoline station with convenience store at site of already existing gasoline station, convenience store, car sales and repairs at 306 Montvale Avenue. PUBLIC HEARING OPENED. A communication dated November 4, 2008 with attachments was received from Attorney Joan E. Langsam, Riemer and Braunstein, Seven New England Executive Park, Burlington, Massachusetts 01803 as follows:

Re: Special Permit Application/306 Montvale Avenue, Woburn, Massachusetts

Dear Mr. Campbell:

We are hereby filing twenty copies of revised site plans, for the property located at 306 Montvale Avenue, (the “Property”) which include a landscaping plan and drainage calculations. In addition, we are also filing twenty copies of a traffic report for the Property. These documents are being filed as a supplement to the application for Special

Permit for the Property that was previously filed with your office on October 20, 2008. It is my understanding that these documents along with our original application will be reviewed by both the City Council and the Planning Board on November 18th.

We thank you for your attention to this matter.

Very truly yours, s/Joan E. Langsam

On the petition to further amend the 1985 Woburn Zoning Ordinances, as amended, be further amended by striking from Section 2 Definitions the definition for “Sign, Window” in its entirety and replacing same with the following: “Sign, Window: A sign that is applied or attached to a window or door, or a sign located near a window within a building for the purpose of being visible to and read from the outside of the building.” PUBLIC HEARING OPENED.

On the petition by Alderman Michael Raymond and Alderman Richard Gately to further amend the 1985 Woburn Zoning Ordinances, as amended, as follows: 1. By striking Section 5.3.1 in its entirety and inserting in its place the following: “No fence, retaining wall, screen or other method of separation shall be erected without a permit; however, no permit shall be required for the erection of a fence in a location in which a previously existing fence was maintained provided that the new fence is erected within thirty (30) days of the removal of the former fence. No permit shall be required for the repair of a fence which is in broken or damaged condition including the replacement of the fence, or a section thereof, with a new fence.” 2. By striking Section 5.3.3 in its entirety and inserting in its place the following: “No fence shall be maintained over forty-two (42) inches high within sixteen (16) feet of an intersecting street.” PUBLIC HEARING OPENED. A communication dated October 29, 2008 was received from Edmund P. Tarallo, Planning Director, Woburn Planning Board as follows:

Re: Alderman Michael Raymond and Alderman Richard Gately – Zone Change – Amend Sections 5.3.1 and 5.3.3 regarding fences

Dear Mr. Campbell and Members of the City Council:

At the Planning Board meeting held on October 28, 2008, the Board voted to forward a favorable recommendation to the City Council to approve the zoning amendments as amended: By striking Section 5.3.1 in its entirety and inserting in its place the following: “No fence, retaining wall, screen or other method of separation shall be erected without a permit; however, no permit shall be required for the erection of a fence in a location in which a previously existing legally erected fence was maintained provided that the new fence is erected within thirty (30) days of the removal of the former fence and is not prohibited by state law or regulated by the Massachusetts State Building Code. No permit shall be required for the repair of a previously existing legally erected fence which is in broken or damaged condition including the replacement of the fence, or a section thereof,

with a new fence provided that the fence is not prohibited by state law or regulated by the Massachusetts State Building Code.” and by striking Section 5.3.3 in its entirety.

If you have any questions or concerns regarding this matter, please feel free to contact me.

Sincerely, s/Edmund P. Tarallo, Planning Director

On the petition by Alderman Gonsalves to further amend the 1985 Woburn Zoning Ordinances, as amended, by striking from the first sentence in Section 11.11.1 the words and numbers “Sections 5.1.3(a) through 3(d), and Section 5.1.4” and replacing same with the words and numbers “Sections 5.1.3(a) through 3(d), Section 5.1.4, Section 5.1.69, Section 5.1.70, and Section 7.3” meaning and intending that the conditions of Section 11.11 shall apply to any development of more than two units of townhouse, garden, or elevator apartments. PUBLIC HEARING OPENED. A communication dated October 29, 2008 was received from Edmund P. Tarallo, Planning Director, Woburn Planning Board as follows:

Re: Alderman Joanna Gonsalves – Zone Change – Amend Section 11.11.1 Affordable Housing

Dear Mr. Campbell and Members of the City Council:

At the Planning Board meeting held on October 28, 2008, the Board voted to forward a favorable recommendation to the City Council to approve the zoning amendment as amended: by striking from the first sentence in Section 11.11.1 the words and numbers “Sections 5.1.3(a) through 3(d), and Section 5.1.4” and replacing same with the words and numbers “Sections 5.1.3(a) through 3(d), and Section 5.1.4; or any application for a Special Permit to create more than two units of Townhouse, Garden, or Elevator apartments under Section 5.1.69, Section 5.1.70, or Section 7.3”.

If you have any questions or concerns regarding this matter, please feel free to contact me.

Sincerely, s/Edmund P. Tarallo, Planning Director

On the petition by President Charles Doherty to amend the 1985 Woburn Zoning Ordinances, as amended, by establishing a new Section 23 entitled Commerce Way Corridor Overlay District as set forth in the petition.

CITIZEN’S PARTICIPATION: None.

COMMITTEE REPORTS:

PERSONNEL:

On the appointment of Robert McNabb as a Member of the Human Rights Commission, committee report was received “ought to pass.”

On the appointment of the Reverend Dr. Neal Pearson as a Member of the Human Rights Commission, committee report was received “ought to pass.”

On the appointment of Denis Murphy as a Member of the Human Rights Commission, committee report was received “ought to pass.”

On the appointment of Lori Medeiros as a Member of the Human Rights Commission, committee report was received “ought to pass.”

On the appointment of Alfred Tancreti as a Member of the Handicapped and Disabled Citizens Commission, committee report was received “ought to pass.”

NEW PETITIONS:

Petitions for renewal of First Class Motor Vehicle Licenses by C.N. Wood Company, Inc., 200 Merrimac Street; Lannan Chevrolet, Inc., 40-56 Winn Street; Lawless Chrysler Jeep, Inc., 196 Lexington Street; M&L Transit Systems, Inc., 60 Olympia Avenue; Woburn Foreign Motors, 394 Washington Street; and Woodco Machinery, Inc., 22 North Maple Street.

Petitions for renewal of Second Class Motor Vehicle Licenses by Anchor Body Corp., 3 Breed Avenue; Robert McSheffrey dba Bob McSheffrey Auto Sales, 306 Montvale Avenue; Capelo’s Auto Service, Inc., 22 Winn Street; Kenneth L. O’Connor dba City Line Motors, 39 Rear Torrice Drive; Enterprise Rent-A-Car Company of Boston, 248 Mishawum Road; Exclusive Automobiles, 7 Independence Drive; George J. Hamilton dba George’s Auto Body, 19 Jefferson Avenue, Unit C; J.C. Auto Sales, 84-86 Winn Street; Larade’s Collision Repair Center, Inc., 20 High Street; McSheffrey Auto Sales, Inc., 878-880 Main Street; Ollie’s Service Center, 310 Main Street; Southside Associates, Inc. dba Burke’s Garage, 71 Main Street; Velozo Enterprises, Inc. dba Rogers Radiators; and Donald J. Socorelis dba Woburn Glass Company, 243 Main Street.

Petition for renewal of Third Class Motor Vehicles Sales License by Woburn Truck and Auto, Inc., 1095R Main Street.

Petition by Ali-A-Shleh dba Metro Car Service, 329 Washington Street for a new Taxi Cab License.

Petition by Mugerwa Nasser dba Hello Taxi Woburn, 68 Mill Street, Apt. 3 for a new Taxi Cab License.

A communication dated November 12, 2008 was received from Attorney G. Michael Peirce, 60 Walnut Street, 4th Floor, Wellesley, Massachusetts 02481 on behalf of Mack Investor LLC requesting clarification relative to a certain parcel of land located on Rainin Road and seeking a meeting with the Committee on Municipal Lands to discuss the matter.

A communication dated October 22, 2008 was received from Attorney James J. Mawn, Mawn and Mawn, 215 Lexington Street, Woburn, Massachusetts 01801 as follows:

Re: Request for Extension of Special Permit
Applicant: Mishawum Properties, LLC
Property: Lot A, Mishawum Road, Woburn, Massachusetts

Dear Members of the Council:

On behalf of the above-named applicant, and for good cause as set forth below, request is hereby made for a two year extension of time within which rights under the above-referenced Special Permit may be exercised.

The original Special Permit was approved by a vote of the City Council on January 2, 2007, and the actual Special Permit was issued, following the expiration of the applicable appeal period on January 25, 2007.

Subsequent to the issuance of the Special Permit, the applicant has applied for and received Mass. Highway Indirect Access Permit (with an expiration date of June 27, 2009) and a Certificate of the Secretary of Environmental Affairs. The applicant has completed a Phase I and Phase II Environmental Site Investigation and completed a Class A-2 Response Action Outcome Statement Release Abatement Measure. The applicant has also caused the installation of an extensive sub-surface drainage facility designed to service both Lot A and Lot B on adjoining property. Additionally, the applicant has filed an application pursuant to M.G.L. Chapter 40 §54A and awaits final determination from the Executive Office of Transportation and Construction.

Work is now nearly complete on Lot B (Office Building), and while the applicant is still hopeful of starting work on Lot A within the next year, we are mindful of the fact that each stage of permitting at the state level takes a significant amount of time, and the current market conditions are not favorable for condominium development.

Reference is respectfully made to Section 11.2(10) of the Woburn Zoning Ordinances of 1985 as amended, wherein it is stated: "The City Council may grant an extension of good cause and shall grant an extension if the delay has been caused by the need to seek other permits."

Given the above, we hereby respectfully request that the City Council authorize a two-year extension of the Special Permit.

Thank you for your courtesy and cooperation in considering this request for an extension.

Very truly yours, s/James J. Mawn

Petition by NSTAR Electric Company and Verizon New England, Inc. for a grant of right in a way to remove one existing joint occupancy pole on the southeasterly side of Richardson Street Ext. approximately 78 feet northeast of Main Street (P186/1), to install one joint occupancy pole on the northwesterly side of Richardson Street Ext. approximately 60 feet northeast of Main Street (P186/1), and to install one joint occupancy pole and anchor guy on the northwesterly side of Richardson Street Ext. approximately 150 feet northeast of Main Street (P186/1A).

Petition by NSTAR Electric Company for a grant of right in a way to install conduit in Richardson Street Ext. northeasterly from pole 186/1A approximately 150 feet northeast of Main Street a distance of about eighteen (18) feet.

Petition by Tibbetts Landscaping, Inc., 15 University Road, Arlington, Massachusetts 02474 for a special permit pursuant to Section 5.1.57B of the 1985 Woburn Zoning Ordinances, as amended, to allow outside parking of five (5) motorized commercial vehicles (pick-up trucks and small dump trucks, less than seventeen (17) feet in length) related to business of landscaping at 7 Breed Avenue.

Petition by Woburn Department of Public Works, 55 North Warren Street, Woburn, Massachusetts 01801 for a special permit pursuant to Section 5.1.79 of the 1985 Woburn Zoning Ordinances, as amended, to allow the construction of a water treatment plant addition and appurtenant facilities at the existing Horn Pond Water Works site.

COMMUNICATIONS AND REPORTS:

A communication dated October 31, 2008 with attachments was received from Joanne Collins, Director, Woburn Council on Aging along with the minutes of the October meeting of the Council on Aging and the Director's report for the month of October.

A communication dated November 6, 2008 was received entitled "Fuel Transactions (short format) from 9/1/2008 to 9/30/2008 – Woburn Police."

A communication dated November 6, 2008 was received entitled "Fuel Transactions (short format) from 10/1/2008 to 10/31/2008 – Woburn Police."

A communication dated October 18, 2008 with attachments was received from John E. Corey, Jr., PE, City Engineer entitled "South End Water Main Cleaning and Lining – Project Progress Report No. 2".

A communication dated October 2008 was received from the City of Woburn Engineering Department entitled "MWRA Local Pipeline Assistance Program – Final Project Progress Report – Project Number: WRA8-037-167 – City of Woburn South end Water System Improvements – Cleaning and Lining Program – Year 2."

A communication dated October 28, 2008 was received from Attorney Judith C. Cutler, Kopelman and Paige, P.C. relative to new Appeals Court decision invalidating "Major Residential Development" special permit requirement.

A communication dated October 28, 2008 was received from Joseph E. Connarton, Executive Director, PERAC, 5 Middlesex Avenue, Suite 304, Somerville, Massachusetts 02145 advising that the city of Woburn required appropriation for the retirement system for Fiscal Year 2010 is \$4,500,046.00.

UNFINISHED BUSINESS OF PRECEDING MEETING: None.

APPOINTMENTS AND ELECTIONS:

A communication dated October 24, 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 John Flaherty of 28 West Street as a Member of the Handicapped & Disabled Citizens Commission. Please be advised that the term will expire on April 30, 2011. 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

MOTIONS, ORDERS AND RESOLUTIONS:

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

1. By striking Section 6.2.4 in its entirety and inserting in its place the following: "A fence, hedge, wall, or other enclosure may be maintained on a corner lot, provided: it shall not obstruct visual clearance at intersecting streets by being between 3 ft. and 10 ft. above the grade within the triangular area formed by the intersection of the lot lines and a straight line joining said curb lines at points which are 16 ft. distant from point of intersection of said lot lines."

s/Alderman Raymond

Motion made and 2nd to ADJOURN