

**CITY OF WOBURN
JUNE 1, 2010 - 7:30 P.M.
REGULAR MEETING OF THE CITY COUNCIL**

Roll Call

Anderson	Gately
DiTucci	Haggerty
Drapeau	Mercer-Bruen
Gaffney	Raymond
Denaro	

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

MAYOR'S COMMUNICATIONS: None.

PUBLIC HEARINGS:

On the petition concerning the structure or structures located in the City of Woburn, County of Middlesex, Commonwealth of Massachusetts known and numbered as 4 Ellis Court, Woburn, Massachusetts, for the purposes of determining whether said structure or structures 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.

On the petition by Alderman Richard Gately concerning the structure or structures located in the City of Woburn, County of Middlesex, Commonwealth of Massachusetts known and numbered as 320 Main Street aka 286 Main Street, Woburn, Massachusetts, commonly referred to as the Woburn Armory, for the purposes of determining whether said structure or structures 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.

On the petition by Alderman Michael Raymond to amend the 1985 Woburn Zoning Ordinances, as amended, by establishing a new Section 25 Upper Main Street Overlay

(UMS) District. [For a full recitation of the Ordinance, see Journal of the City Council for the Regular Meeting held on May 4, 2010.] PUBLIC HEARING OPENED.

On the petition by Alderman Michael Raymond to amend the “Zoning Map of the City of Woburn, dated April 7, 1980, as revised” by adding the parcel of land known as 1071 Main Street (Map 8, Parcel 18) consisting of approximately 4.92 acres and shown on plan on file to the “Upper Main Street Overlay District” (“UMS”) zoning district. PUBLIC HEARING OPENED.

CITIZEN’S PARTICIPATION: None.

COMMITTEE REPORTS:

FINANCE:

On the Order to appropriate the sum of \$7,000,000.00 for the costs of acquiring Whispering Hill Property, so-called, located at Cambridge Road, committee report was received “ought to pass.”

On the Order to appropriate the sum of \$2,700,000.00 for the costs of acquiring the Spence Farm Property, so-called, committee report was received “ought to pass.”

On the Order to appropriate the sum of \$1,700,000.00 for the costs of replacing the roof at the Kennedy Middle School, committee report was received “ought to pass with the amendment as follows: That any excess monies of the awarded bid may be applied towards the repair/replacements of the Police Station roof.”

On the Order to transfer the sum of \$3,500.00 from ALS Ambulance Receipts Account to Fire/Holiday Pay Account, committee report was received “ought to pass.”

On the Order to transfer the sum of \$4,434.27 from Medicad Direct Billing Account to Election Printing Account and Election Workers Salary Account, committee report was received “ought to pass.”

SPECIAL PERMITS:

On the petition to amend special permits granted to Perennial Landscape Corp., 955 Main Street, Unit 204, Winchester, Massachusetts 01890 pursuant to the 1985 Woburn Zoning

Ordinances, as amended, as follows: 1. Pursuant to Section 5.1.43 to allow for open or outside storage of new or used building materials or equipment, and 2. Pursuant to Section 5.1.57b to allow for accessory storage or parking of commercial motor vehicles, both at 22 Torrice Drive, committee report was received as follows: "That Condition Number 8 shall be amended to require a fence six (6) feet in height on three-quarters of the property line with the exception of the portion of the property on Torrice Drive."

ORDINANCES:

On the Order to establish a new Section 12-14B of the 1989 Woburn Municipal Code, as amended, to provide for temporary repairs to private ways, committee report was received "ought to pass."

On the Order to accept a grant of easement for public way purposes between Lexington Street and Russell Street, committee report was received "To accept the easement for public way." A communication dated May 26, 2010 was received from Michelle Roselli, Fairway Drive relative opposed to the acceptance of the proposed easement from Lexington Street to Russell Street.

POLICE AND LICENSES:

On the petition by Amy Vogt, Tenant Coordinator, Cushman & Wakefield, 55 Cambridge Parkway, Cambridge, Massachusetts 02142 requesting the change of name of owner of the Inflammable License at 225 Presidential Way from 150 MetroNorth Corporate Center, LLC to VV2 Presidential Way, LLC, committee report was received "ought to pass."

NEW PETITIONS: None.

COMMUNICATIONS AND REPORTS:

A communication dated May 19, 2010 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 a report to you on the parking violations in the City of Woburn for the period ending April 2010: number of parking violations issued 628, number of violations paid 353, number of violations outstanding 277, amount collected and submitted to the Office of the Collector \$23,911.60. There exists a backlog of 5,250 tickets for 1982 through 2009. Demand will be sent until all tickets have been paid. Parking violations referred to the Handicapped Commission to date \$5,300.00.

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

A communication dated May 26, 2010 with attachments was received from Joanne Collins, Director, Woburn Council on Aging along with the minutes of the May meeting of the Council on Aging and the Director's report for the month of May.

A communication dated May 2, 2010 was received from the Woburn Traffic Commission relative to traffic queuing on Commerce Way at the easterly entrance to the Woburn Mall requesting that appropriate action, if necessary, be taken to remedy the issue.

A communication dated May 22, 2010 was received from Richard J. Mahoney, Vice President of Woburn Public Library Board of Trustees requesting to postpone the presentation to the City Council concerning the library renovation plans in order to accommodate the City Council meeting schedule.

A communication dated May 20, 2010 with attachments was received from Steven J. Chilton, Senior Vice President, MassDevelopment, 160 Federal Street, Boston, Massachusetts 02110 advising of the preliminary approval to issue a revenue bond on behalf of Agiltron, Inc. at 15 Presidential Way and requesting that the department be notified if the proposed project conflicts with an existing local or regional comprehensive plan.

A communication dated May 25, 2010 was received from Attorney Diane S. Byrnes, Hanley, Hassett & Fitzsimmons, LLC, 40 Willard Street, Suite G101, Quincy, Massachusetts 02169-1252 relative of notification of intent to withhold educational incentives on behalf of Woburn Patrol Officers' Union, NEPBA Local 56.

A communication dated May 25, 2010 was received from Joanne Lux, 218 School Street relative to a condition to install a fence for a special permit issued to her abutter Anne M. Beauchamp and John J. Beauchamp pursuant to Section 7.3 of the 1985 Woburn Zoning Ordinances, as amended, to alter and change a pre-existing non-conforming structure by razing the same and constructing a new, two-family structure which will also be non-conforming with respect to some dimensional requirements and changing the use from single family to two-family at 222 School Street.

A communication dated May 28, 2010 was received from Joseph R. Tarby, III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: Minor Modification to Special Permit Granted to Chair 5 Restaurants – Woburn LLC, d/b/a Qdoba Mexican Grill, 300 Mishawum Road, Woburn, MA

Dear Mr. Campbell:

Please be advised that I represent Chair 5 Restaurants – Woburn LLC, d/b/a Qdoba Mexican Grill. On September 16, 2008, your office issued a Landowner’s Decision and Notice of Special Permit setting forth approval by the Woburn City Council of the Special Permit granted to my clients (the “Decision”)(copy enclosed). The Decision allowed for a Qdoba Mexican Grill in the outparcel building at the Woburn Mall.

Since the time of issuance of the Decision, Chair 5 Restaurants – Woburn LLC (a Qdoba franchisee) has been experiencing financial difficulty and is in the process of transferring its twenty-eight (28) locations, including the Woburn location, to other Qdoba restaurant operators. The proposed transferee of the Woburn store is ZRC Operations Company Inc., d/b/a Qdoba Mexican Grill of 4865 Ward Road, Suite 500, Wheat Ridge, Colorado 80033 (“ZRC”). ZRC is the corporate owner of the Qdoba Mexican Grill restaurants. ZRC, as restaurant operator, will operate a Qdoba restaurant at 300 Mishawum Road consistent with the Decision.

Therefore, on behalf of my client, I respectfully request approval by the City Council at its meeting on June 1, 2010 of the transfer of the Decision from Chair 5 Restaurants – Woburn LLC, d/b/a Qdoba Mexican Grill to ZRC Operations Company Inc., d/b/a Qdoba Mexican Grill as a minor modification to the Decision.

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

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

UNFINISHED BUSINESS OF PRECEDING MEETING: None.

APPOINTMENTS AND ELECTIONS: None.

A communication dated June 1, 2010 was received from His Honor the Mayor as follows:

Dear William Campbell, City Clerk:

By the power vested in me as Mayor of the City of Woburn, I hereby appoint William Callahan as a member of the Historic Commission subject to City Council confirmation with a term expiring on 3/2/2012. Mr. Callahan will replace Peter Lennon who has resigned.

Sincerely, s/Scott D. Galvin, Mayor

A communication dated June 1, 2010 was received from His Honor the Mayor as follows:

Dear William Campbell, City Clerk:

By the power vested in me as Mayor of the City of Woburn, I hereby appoint Peter Lennon as an alternate member of the Historic Commission subject to City Council confirmation. Mr. Lennon's term will expire on 3/2/2012.

Sincerely, s/Scott D. Galvin, Mayor

A communication dated June 1, 2010 was received from His Honor the Mayor as follows:

Dear William Campbell, City Clerk:

By the power vested in me as Mayor of the City of Woburn, I hereby reappoint William E. Kerns to the Board of Cemetery Commissioners subject to City Council confirmation. Mr. Kerns term will expire on 4/1/2014

Sincerely, s/Scott D. Galvin, Mayor

MOTIONS, ORDERS AND RESOLUTIONS:

ORDERED WHEREAS, there presently exists a structure or structures located in the City of Woburn, Massachusetts known and numbered as 19 Day Circle; and

WHEREAS, the condition of said building or buildings has been allowed to deteriorate, the property is generally not being maintained, and the property is not secured;

NOW, THEREFORE, BE IT ORDERED be the City Council of the City of Woburn that the City Clerk and Clerk of the City Council schedule a public hearing pursuant to Mass. General Laws Ch. 139, Sec. 1, et. seq., and give notice thereof to the owner of said building or buildings, said hearing to be conducted for the purposes of determining whether said building or buildings are a nuisance, a nuisance to the neighborhood, dilapidated or dangerous building or buildings or other structure or structures, as said terms are used in Mass. 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.

s/Alderman DiTucci

ORDERED That the City Council Regular Meetings scheduled for July 20, 2010 and August 17, 2010 are hereby canceled.

s/Alderman DiTucci

ORDERED Be it ordained by the City Council of the City of Woburn, that Title 13, Article II "Water System" of the 1989 Woburn Municipal Code, as amended, be further amended as follows:

1. That Section 13.2.35.A.1 be amended by striking the amount "\$117.50" and inserting in its place the amount "\$102.50".
2. That Section 13.2.35.B.1 be amended by striking the amount "\$4.83" and inserting in its place the amount "\$4.60".
3. That Section 13.2.35.B.8 be amended by striking the amount "\$117.50" and inserting in its place the amount "\$102.50".

s/Alderman _____

**CITY OF WOBURN
CITY COUNCIL
JUNE 1, 2010 - 7:30 P.M.
SUPPLEMENTAL FILINGS**

Motion made and 2nd to suspend the rules for the purpose of adding the following late filed matters to the Order of the Day.

A communication dated June 1, 2010 was received from His Honor the Mayor Scott D. Galvin as follows:

Members of the Woburn City Council:

President Denaro and I are submitting for your approval tonight, a proposed Special Act relative to the acceptance of streets as public ways. Approval of the Special Act will allow the City to expedite the process of accepting streets as public ways.

The legislation was drafted by City Solicitor John McElhiney, City Clerk William Campbell, Planning Board Director Ed Tarallo, and City Engineer Jay Corey.

Approval of this Special Act will result in approximately \$225,000.00 of additional Chapter 90 funding from the State. The increased Chapter 90 funding will be used to repair and pave more streets throughout the City.

Upon approval by the City Council, the legislation will be forwarded to State Representative Dwyer, who will move the Special Act through the legislative process.

Sincerely, s/Scott D. Galvin

Attached thereto was the following:

ORDERED The City of Woburn hereby petitions the Great and General Court of the Commonwealth of Massachusetts to enact the following proposed Special Act:

An Act relative to the Acceptance of Streets as Public Ways in the City of Woburn

Section 1. Notwithstanding sections 1-13, inclusive, of chapter 82 of the General Laws, or any other general or special law to the contrary, the city of Woburn may accept, in accordance with the terms hereof, either:

- a. Any street or way which has been or is subsequent hereto approved pursuant to chapter 41 of the General Laws, and which approval results in a definitive subdivision plan recorded with the registry of deeds, or
- b. Any heretofore private way in existence and which has been improved as of the effective date of this act and which has been open to public use and maintained by the city for a period of 20 years or more.

Acceptance as a public way shall become final only after:

- a. The layout of the way has been ordered and approved by the city council after a duly called public hearing of which 14 days prior notice in a newspaper of general circulation in the city has been given, and of which notice is sent by mail, postage prepaid, to the owners of record, as determined by assessors' records, who abut said street or way ; and
- b. An order of layout has been filed in the office of the city clerk, containing a description of or reference to a plan showing, the boundaries and measurements of the way, which plan may be the approved and recorded definitive subdivision plan; and

- c. Either (1) the city council has determined that the city already holds land or easements for the purposes of the public way and has filed that determination with the City Clerk, provided that there shall be a presumption that the city already holds said easements or land for these purposes with respect to any way that has been opened to public use and maintained by the city for 20 years or more; or (2) the city council has determined it is necessary to acquire land or easements for the purposes of the public way and the City Council has acquired said land or easements by gift, purchase or eminent domain, provided further, notwithstanding chapter 79 of the General Laws, no appraisal of damages shall be required prior to any taking for the purposes of this Act.

Section 2. This Act shall take effect upon its passage.

s/Alderman _____

Motion made and 2nd that the ORDER be ADOPTED, all in favor, 9-0.

Motion made and 2nd to return to the regular order of business, all in favor, 9-0.

Motion made and 2nd to ADJOURN.