

**CITY OF WOBURN
FEBRUARY 19, 2013 - 7:00 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:

ORDERED That the sum of \$875,000.00 be and is hereby appropriated as so stated from School Stabilization Fund Acct #704059-596100 \$875,000.00 to Wyman/Hurld Feasibility Study Acct #0112158-588113 \$875,000.00

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

s/Alderman _____

PUBLIC HEARINGS:

On the petition by Alderman Anderson concerning the structure or structures located in the City of Woburn, County of Middlesex, Commonwealth of Massachusetts known and numbered as 18-20 Campbell Street, 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 Woburn Auto Sales LLC, P.O. Box 158, North Billerica, Massachusetts 01862 for a special permit pursuant to Sections 5.1.45 and 7.3 of the 1985 Woburn Zoning Ordinances, as amended, to allow for the sale or rental of automobiles, trucks, truck trailers and motorcycles and for a Second Class Motor Vehicles Sales

License at 1095R Main Street. PUBLIC HEARING OPENED. A communication dated February 11, 2013 was received from Attorney Joseph R. Tarby, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: Special Permit Petition of Woburn Auto Sales LLC, 1095R Main Street, Woburn, Massachusetts

Dear Mr. Campbell:

I respectfully request that the City Council public hearing on this matter presently scheduled for February 19, 2013 be continued to the City Council meeting on March 19, 2013. As a result of the snowstorm, my client's surveyor was not able to finalize the revised plan. If you need any further information, please contact me. Thank you.

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

On the petition by Peterson Party Center Inc., 139 Swanton Street, Winchester, Massachusetts for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Section 5.1.57b to modify special permits issued August 11, 2011 and January 26, 2012 by deleting the reference to the plan entitled "Proposed Parking Layout" Sheet PK-1 dated November 15, 2011 in Condition 2 and replacing same with the plan filed with this petition entitled "Proposed Parking Layout" Sheet PK-1 dated June 4, 2012 as the plan of record, at 36 Cabot Road. PUBLIC HEARING OPENED. A communication dated February 8, 2013 was received from Attorney Joseph R. Tarby, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: Special Permit Petition of Peterson Party Center, Inc., 36 Cabot Road, Woburn, Massachusetts

Dear Mr. Campbell:

On behalf of my client, I hereby request leave to withdraw without prejudice of the above-referenced Special Permit Petition. At the last City Council meeting I informed the City Council that the site plan was in the process of being revised. It is expected that that process will take several more weeks. As a result, rather than continue the Public Hearing once again, I am requesting a leave to withdraw without prejudice. It would be our intention to re-file the Special Permit Petition next month. If you need any further information, please contact me.

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

On the petition by Lawless Chrysler Jeep, Inc., 196 Lexington Street, Woburn, Massachusetts 01801 for a special permit pursuant to Section 5.1.71 of the 1985 Woburn Zoning Ordinances, as amended, to allow for a commercial parking lot at 9 Forbes Road.

PUBLIC HEARING OPENED. A report was received from the Committee on Special Permits as follows: “ought to pass, with the following conditions: 1. The Petitioner shall be limited to parking up to 180 cars on the property subject to said number being reduced as the building becomes occupied so that there are sufficient parking spaces as required under the Woburn Zoning Ordinance. There shall be no further occupants of the property unless and until the Special Permits Committee confirms there is sufficient parking for the new tenant(s).; 2. The Petitioner shall park its vehicles in the area designated on the Allen & Major plan dated October 4, 2011.; 3. The issuance of this Special Permit is contingent upon the owner of record, 9 Forbes Road Investments LLC, filing a written statement with the City Clerk agreeing to be bound by the conditions of the Special Permit.; 4. The Petitioner shall file with the Building Commissioner on the 15th of each month a report with the number of vehicles parked on the Property.; 5. That there shall be no parking of vehicles on Forbes Road at any time.; 6. That this Special Permit shall expire one year from the date of issuance.; 7. That there shall be no parking of vehicles in designated handicap parking spaces on the site.”

On the petition by R.C. Olsen Cadillac, Inc., 201 Cambridge Road, Woburn, Massachusetts 01801 for a special permit pursuant to Section 5.7.71 of the 1985 Woburn Zoning Ordinances, as amended, to allow for a commercial parking lot at 280 Salem Street. PUBLIC HEARING OPENED. A communication dated February 13, 2013 was received from Edmund P. Tarallo, Planning Director, Woburn Planning Board as follows:

Re: R.C. Olsen Cadillac, Inc. – 280 Salem Street – To allow for a commercial parking lot pursuant to Section 5.1.71

Dear Mr. Campbell and members of the City Council:

At the Planning Board meeting held on February 12, 2013, the Planning Board voted to send a favorable recommendation to the City Council on the Special Permit application of R.C. Olsen Cadillac, Inc., regarding the property at 280 Salem Street to allow for a commercial parking lot pursuant to Section 5.1.71 subject to the following conditions:

1. That the number of vehicles shall be limited to 150 in accordance with the Plan entitled “Proposed Parking Plan, 280 Salem Street, Woburn, Mass.” dated January 23, 2013 prepared by Edward J. Farrell, Professional Land Surveyor, 110 Winn Street, Suite 203, Woburn, MA.; and
2. The petitioner shall file with the Building Commissioner a letter relinquishing the City of Woburn from any and all liability for any cars damaged that are parked in the flood plain.

If members of the City Council have any questions or concerns regarding the foregoing recommendation, please feel free to contact me.

Sincerely, s/Edmund P. Tarallo, Planning Director

A copy of a communication dated January 28, 2013 to Edmund Tarallo, Planning Director was received from Brett F. Gonsalves, Senior Engineer, Engineering Department as follows:

Subject: 280 Salem Street – Commercial Parking Special Permit – Special Permit Application dated January 25, 2013 – Proposed Parking Plan Dated January 23, 2013

The applicant is seeking a special permit to allow the parking of commercial parking vehicles at the above referenced location

The submitted parking plan shows the location and the amount of vehicles that will be parked on the subject property. However, a majority of the site including the area of the proposed parking is located within the FEMA 100 year flood plain.

It will be the discretion of the board whether to grant the special permit as submitted.

If you or the board have any questions concerning this information, do not hesitate to contact this office.

On the petition by Woburn Armory LLC to amend the Zoning Map of the City of Woburn by changing the zoning district for the entire parcel known as 286 Main Street a/k/a 320 Main Street, containing approximately 38,344 square feet of land as shown on a plan by Design Consultants, Inc., entitled “Plan of Land in Woburn, Massachusetts” dated June 23, 2005 from the R-2/B-D zoning districts to the B-D zoning district. PUBLIC HEARING OPENED. A communication dated January 7, 2013 was received from City Solicitor Ellen Callahan Doucette as follows:

Re: The Woburn Armory LLC v. Paul J. Denaro, et al – No. 2012 MICV 1528

In response to the City Council’s inquiry regarding the need for a further extension of the demolition order for the Woburn Armory, the demolition order should be further extended from January 31 to April 30, 2013.

In October, 2012, the attorney for The Woburn Armory and I filed a Joint Motion to Stay the Litigation with the Superior Court to allow the property owner the opportunity to investigate options to develop the site. We are required to inform the court as to progress toward a resolution of this litigation by March 12, 2013. Upon information and belief however, the zoning amendments filed on behalf of The Woburn Armory are still pending and therefore, the status of the property remains unchanged. As such, a further extension of the demolition order is in order to allow the City Council (and Planning Board) to continue its consideration of the zoning amendments and the special permit petitions that will be filed should the zoning amendments be adopted.

Very truly yours, s/ Ellen Callahan Doucette

A communication dated February 14, 2013 with attachments was received from Attorney Joseph R. Tarby, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: Woburn Armory LLC/Proposed Amendments to 1985 City of Woburn Zoning Ordinance, as amended

Dear Mr. Campbell:

Please be advised that I represent Woburn Armory LLC of 175 Summer Street, Somerville, Massachusetts. Enclosed please find a copy of the Covenant my client is prepared to execute and record at the Middlesex County South District Registry of Deeds in connection with the above-referenced matter. I will formally present the Covenant to the City Council at the Public Hearing scheduled on Tuesday, February 19, 2013. As a result of the Monday holiday, I have mailed a copy of this communication as well as a copy of the Covenant to each City Council member. If you need anything else, please do not hesitate to contact me. Thank you.

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

On the petition by Woburn Armory LLC to amend the 1985 Woburn Zoning Ordinances, as amended, as follows: 1. By revising Section 11.11 entitled "Affordable Housing Requirement" by adding a new Paragraph 8 to Section 11.11 as follows: "8. The City Council by majority vote, may waive the requirements of this Section 11.11 if the development includes dwelling units in a building deemed "Significant" by the Woburn Historical Commission.", and 2. By revising Section 18.8.2 "Waivers" by adding the following language to the end of Paragraph 18.8.2 as follows: The "period" after "site" shall be deleted and the following language added: "or the renovation, rehabilitation or redevelopment of a building deemed "Significant" by the Woburn Historical Commission." PUBLIC HEARING OPENED.

On the petition by Alderman Michael Anderson, President Paul Denaro and Alderman Michael Raymond to amend the 1985 Woburn Zoning Ordinances, as amended, as follows: By adding the definition "MEDICAL MARIJUANA TREATMENT CENTER" between the definition of "Massage Therapist" and "Menu Board/Order Board" as follows: MEDICAL MARIJUANA TREATMENT CENTER: An establishment that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana or products containing marijuana and/or related supplies, for medical purposes; and further, to amend Section 5.1 – Table of Use Regulations of the 1985 Woburn Zoning Ordinances, as amended, by inserting a new line "33c MEDICAL MARIJUANA TREATMENT CENTER" after "33b Muscular Therapy" as follows: A "-" under R-1, R-2, R-3, R-4, B-N, B-H, B-D, BI, I-P, I-G, S-1, S-2, O-P, OP-93, O-S, a "P" under IP-2 and "19b" under Notes; and to further amend

Section 5.1, Table of Use Regulations by adding Note 19b as follows: 19b. No MEDICAL MARIJUANA TREATMENT CENTER shall be allowed: A. Within one thousand feet of a residential zoning district, public or private school, or church or other structure used in whole or in part all the time or part of the time for religious or spiritual services; B. Within one thousand feet of any facility where large numbers of minors regularly congregate; C. Within two thousand feet of a public park, playground, nursery school or day care center. PUBLIC HEARING OPENED. A report was received from the Committee on Ordinances as follows: “to impose a one year moratorium on Medical Marijuana Treatment Centers in accordance with the following Order:

ORDERED Be it Ordained by the City Council of the City of Woburn that Section 5, Use Regulations, of the 1985 Woburn Ordinances as amended, be further amended by adding a new Section 5.8, Interim Regulations for Medical Marijuana Treatment Centers, as follows:

Section 5.8 Interim Regulations for Medical Marijuana Treatment Centers

1) Purpose

At the November 6, 2012 state election, the voters of the Commonwealth approved legislation regulating the cultivation, distribution, possession and use of marijuana for medical purposes, which legislation became effective on January 1, 2013. The legislation requires the state Department of Public Health to issue regulations regarding implementation of the legislation by May 1, 2013 which are expected to provide guidance in regulating medical marijuana, including medical marijuana treatment centers. As the regulation of medical marijuana raises novel and complex legal and planning issues, the City requires adequate time to consider whether to allow facilities associated with the medical use of marijuana, to the extent that such facilities are permitted under state laws and regulations, and, if so, where and under what conditions should such facilities be located in the City of Woburn. Therefore, the City adopts this temporary moratorium on the use of land and structures in the City for medical marijuana treatment centers in order to allow the City sufficient time to engage in a planning process to address the potential impacts on adjacent uses and on general public health, safety and welfare, and to develop and enact zoning ordinances and other applicable regulations that appropriately address these considerations consistent with statewide regulations and permitting procedures, and in a manner consistent with sound land use planning goals and objectives.

2) Definition

A “Medical Marijuana Treatment Center” as defined under state law as a Massachusetts not-for-profit entity that acquires, cultivates, possesses, processes (including development of related products such as food,

tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana or products containing marijuana and/or related supplies, or educational materials to qualifying patients or their personal caregivers, which is properly licensed and registered by the Massachusetts Department of Public Health.

3) Exclusion of Other Marijuana Uses

Any establishment that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana or products containing marijuana and/or related supplies, or educational materials to qualifying patients or their personal caregivers shall not be permitted if such establishment has not been properly licensed and registered by the Massachusetts Department of Public Health, or is not operated as a not-for-profit entity, or otherwise fails to meet the definition of a Medical Marijuana Treatment Center.

4) Exclusion of Accessory Uses

In no case shall the acquisition, cultivation, possession, processing, transference, transportation, sale, distribution, dispensing, or administration of marijuana, products containing or derived from marijuana, or related products be considered accessory to any use.

5) Interim Restriction/Moratorium

Medical Marijuana Treatment Centers shall not be permitted in any zoning district in the City of Woburn so long as this section remains in effect, as set forth below. Use variances are strictly prohibited. During this moratorium period, the City will undertake a planning process to address the potential impacts of medical marijuana in Woburn, consider the Department of Public Health regulations regarding medical marijuana treatment facilities and related uses, and enact zoning ordinances to address the impact and operation of medical marijuana treatment centers and their related uses.

5) Expiration

This section shall be effective for a period of twelve (12) months beginning January 1, 2013, or until such future time that the Woburn City Council enacts superseding zoning ordinances that set forth the allowed zoning districts, dimensional, parking and other requirements applicable to medical marijuana treatment centers and their related uses.

CITIZEN'S PARTICIPATION: None.

COMMITTEE REPORTS:

FINANCE:

On the Order to appropriate the sum of \$50,000.00 from Unreserved Fund Balance Account to Legal Assistance Account, committee report was received "ought to pass".

PERSONNEL:

A report was received regarding the appointment of a Member of the Woburn Recreation Commission as follows:

"At a meeting on February 11, 2013, the Committee on Personnel discussed a City Council appointment regarding the vacancy of a Recreation Commission member. Said discussion resulted in the following motions:

"Motion was made and seconded requesting the City Council to send a proclamation to Robert Morgan (retiring member of the Recreation Commission) in appreciation for his years of service. The Vote was all in favor, 2-0.

"Motion was made and seconded to request the City Council to grant the authority to the Committee to advertise the vacancy of the position of recreation commission member. The Vote was all in favor, 2-0.

"Please consider this memorandum the requests as motioned above to the City Council, and feel free contact me with any additional questions."

NEW PETITIONS:

Petition by Lowe's Companies, Inc., 15 Commerce Way, Woburn, Massachusetts 01801 for a special permit pursuant to the 1985 Woburn Zoning Ordinances, as amended,. As follows: 1. Section 5.1.57a, Note 17 to allow for the storage of trailers for the collection of used appliances and pallets; 2. Section 8.2.5 and Section 11 to allow for a further reduction in the number of parking spaces from 589 to 554; and 3. To replace the site plan of record with the site plan entitled "Proposed Outdoor/Seasonal Storage, 15 Commerce Way, Woburn, MA" dated January 31, 2013 prepared by Allen & Major Associates, Inc., for the property located at 15 Commerce Way.

COMMUNICATIONS AND REPORTS:

A communication dated February 7, 2013 was received from Joanne Collins, Director, Woburn Council on Aging along with a copy of the Director's Report and the minutes of the Council on Aging for the month of January 2013.

A communication dated February 14, 2013 with attachments was received from City Solicitor Ellen Callahan Doucette relative to the eminent domain process in response to a Resolution of the City Council adopted February 5, 2013.

A communication dated February 6, 2013 was received from MassDevelopment, 160 Federal Street, Boston, Massachusetts 02110 advising that the Massachusetts Development Finance Agency will be considering final approval to a capital equipment lease project to be financed on behalf of Hallmark Health located in Woburn and requesting that the city advise in the event the proposed project conflicts with an existing local or regional comprehensive plan.

A communication dated January 29, 2013 was received from Joan Butler, Executive Director, Minuteman Services, 26 Crosby Drive, Bedford, Massachusetts 01730 inviting the Aldermen to participate in the March for Meals national campaign to raise awareness of senior hunger, recruit volunteers, and increase local fundraising.

A communication dated February 13, 2013 was received from Attorney Joseph R. Tarby, III, Murtha Cullina, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: Proposed Amendment to Section 2 and 27 of the 1985 City of Woburn Zoning Ordinance, as amended (the "Amendment")

Dear Mr. Campbell:

On behalf of my client, I hereby request leave to withdraw without prejudice the above-referenced Amendment. If you need any further information, please contact me. Thank you.

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

UNFINISHED BUSINESS OF PRECEDING MEETING: None.

APPOINTMENTS AND ELECTIONS:

A communication dated January 31, 2013 was received from His Honor the Mayor Scott D. Galvin as follows:

Dear President Denaro and Members of the Woburn City Council:

By the power vested in me as Mayor of the City of Woburn, I hereby reappoint the following members of the Woburn Council on Aging to another three-year term, set to expire on December 31, 2015; subject to approval by the City Council: Margaret Casey, 23 Wade Avenue; John DeCata, 57 Wood Street; Theresa Donovan, 74 Kilby Street.

In addition, I hereby appoint Eleanor Collins, 19 Squanto Road, to the Woburn Council on Aging, with a term set to expire December 31, 2015; subject to approval by the City Council.

Respectfully, s/Scott D. Galvin, Mayor

MOTIONS, ORDERS AND RESOLUTIONS:

RESOLVED That His Honor the Mayor instruct the Superintendent of Public Works to re-stripe the intersection of Montvale Avenue and Washington Street in the early Spring 2013 as crosswalks have worn and the “right turn only” painting has faded

s/Alderman Mercer-Bruen

RESOLVED That the Woburn City Council send a letter to National Grid regarding the constant smell of natural gas on the Washington Street bridge near the Public Storage building located at 432 Washington Street and that National Grid be requested to respond in writing to the City Council regarding the issue

s/Alderman Mercer-Bruen

ORDERED That in accordance with precepts issued by His Excellency the Governor Deval L. Patrick and in accordance with Massachusetts General Laws Chapter 54, as amended, the City Clerk is hereby authorized and directed to notify and to warn such of the inhabitants of the City of Woburn as are qualified to vote in Special State Primary Elections to assemble at the polling places in their respective wards as designated herein, on TUESDAY, the THIRTIETH OF APRIL, 2013 from 7:00 a.m. to 8:00 p.m., then and there to cast their votes in the Special State Primary Election for the candidates of the political parties DEMOCRATIC AND

REPUBLICAN for the office of SENATOR IN CONGRESS FOR THE COMMONWEALTH at the following polling places:

<u>Ward-Precinct</u>	<u>Polling Place Location</u>
1-1	Joyce Middle School Library, 55 Locust Street
1-2	Clapp Elementary School Cafeteria, Hudson Street and Arlington Road
2-1	Shamrock Elementary School Gymnasium, 60 Green Street
2-2	Shamrock Elementary School Gymnasium, 60 Green Street
3-1	Hurld Elementary School Gymnasium, 75 Bedford Road
3-2	Hurld Elementary School Gymnasium, 75 Bedford Road
4-1	Wyman Elementary School Auditorium, Main Street and Eaton Avenue
4-2	White Elementary School, 36 Bow Street
5-1	Goodyear Elementary School Gymnasium, 41 Central Street
5-2	Goodyear Elementary School Gymnasium, 41 Central Street
6-1	Altavesta Elementary School Gymnasium, 990 Main Street
6-2	Altavesta Elementary School Gymnasium, 990 Main Street
7-1	Reeves Elementary School Gymnasium, 240 Lexington Street
7-2	Reeves Elementary School Gymnasium, 240 Lexington Street

s/Alderman _____

ORDERED Be it Ordained by the City Council of the City of Woburn that the 1989 Woburn Municipal Code, as amended, be further amended by deleting Section 6-14 of Title 6, Animals, and inserting in its place the following new Section 6-14:

6-14. Kennel licenses; fees

The fee for each kennel license shall be as follows:

Forty dollars (\$40.00) for kennels with 4 dogs or less;

Eighty dollars (\$80.00) for kennels with 5 – 10 dogs;

One hundred fifty dollars (\$150.00) for kennels with 11 dogs or more, but not more than 25 dogs;

Two hundred fifty dollars (\$250.00) for kennels with 26 dogs or more.

s/Alderman Anderson

ORDERED Be it Ordained by the City Council of the City of Woburn that the 1989 Woburn Municipal Code, as amended, be further amended by adding a new Section 3-3(G) as follows:

3-3(G). Review of Appropriations and Transfers

Before final action may be taken, any original appropriation or appropriation by transfer or loan in a sum in excess of One Hundred Thousand Dollars (\$100,000.00) filed with the City Council for approval shall be referred to and reported upon by the City Council Committee on Finance after a presentation of the particulars of the matter by the City Auditor and such other department heads as the City Council may direct.

s/President Denaro and Alderman Haggerty

Motion made and 2nd to ADJOURN.