

**CITY OF WOBURN
MARCH 21, 2017 - 7:00 P.M.
REGULAR MEETING OF THE CITY COUNCIL**

Roll Call

Anderson	Gately
Campbell	Higgins
Concannon	Mercer-Bruen
Gaffney	Tedesco
Haggerty	

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

MAYOR'S COMMUNICATIONS: None.

PUBLIC HEARINGS:

On the petition by NSTAR Electric Company dba Eversource Energy and Verizon New England, Inc. for a grant of right in a way on Main Street southwesterly side at and northeast of Charles Gardner Lane to remove two joint occupancy poles Pole 1/92 and Pole 1/91A, on Charles Gardner Lane northwesterly side at and southwest of Main Street to install one joint occupancy pole Pole 1/92, and on Charles Gardner Lane southeasterly side at and southwest of Main Street to install one joint occupancy pole Pole 1/91A.

PUBLIC HEARING OPENED.

On the petition by NSTAR Electric Company d/b/a Eversource Energy and Verizon New England Inc. for a grant of right in a way on Wade Place as follows: 1. Southeasterly side relocate one (1) Eversource pole 221/1 to northwesterly side at North Warren Street; 2. Southeasterly side relocate one (1) Eversource pole 221/3 approximately 56 feet northeast; 3. Northwesterly side install one (1) Eversource pole 221/5-1 and two (2) hip guys; 4. Northwesterly side relocate one (1) joint occupancy pole 221/5 approximately 25 feet southwest and rename pole 221/4; and 5. Northeasterly side relocate one (1) joint occupancy pole 221/6 approximately 14 feet east, rename pole 221/5, and install two hip guys. PUBLIC HEARING OPENED. A communication dated March 13, 2017 was received from Superintendent of Public Works John Duran as follows:

Subject: NStar Electric Company d/b/a Eversource Energy and Verizon New England – Wade Place

Pursuant to the request from Eversource and Verizon for the relocation of poles, I have reviewed the existing poles in the field and the proposed locations of the new poles and the associated hip guys. The contractor should clearly re-mark all utilities on the ground prior to the work being performed and restore the sidewalk on North Warren Street. I recommend that the City Council grant approval for this request as shown on the plan(s) submitted with the petition with the conditions noted above.

Please feel free to call with any questions or concerns.

On the petition by NSTAR Electric Company d/b/a Eversource Energy for a grant of right in a way to install conduit on East Dexter Avenue as follows: 1. Northerly from pole 60/17 approximately 65 feet northwest of Baldwin Avenue, a distance of about 6 feet; and 2. Northerly from pole 60/18 approximately 35 feet north of Baldwin Avenue, a distance of about 7 feet. PUBLIC HEARING OPENED. A communication dated March 14, 2017 was received from Superintendent of Public Works John Duran as follows:

Subject: NStar Electric Company d/b/a Eversource Energy– East Dexter Avenue

Pursuant to the request from Eversource for the installation of six feet of conduit from pole 60/17 and six feet of conduit from pole 60/18 to the development, I recommend that the City Council approve this petition. The conduit should be installed prior to and coordinated with the rest of the proposed sidewalk construction approved under the Special Permit.

Please feel free to call with any questions or concerns.

On the petition by NSTAR Electric Company d/b/a Eversource Energy and Verizon New England Inc. for a grant of right in a way on East Dexter Avenue northerly side at pole 60/18, approximately 35 feet north of Baldwin Avenue, to relocate one (1) hip guy approximately 12 feet west. PUBLIC HEARING OPENED. A communication dated March 14, 2017 was received from Superintendent of Public Works John Duran as follows:

Subject: NStar Electric Company d/b/a Eversource Energy and Verizon New England Inc. – East Dexter Avenue

Pursuant to the request from Eversource and Verizon to relocate one hip guy approximately 7.6 feet away from pole 60/18, I recommend that the City Council approve this petition under the condition that the sidewalk gets extended further away from the hip guy to allow for ADA compliance. The approved Special Permit Plan depicts the sidewalk widened by pole 60/18. The sidewalk should be further widened to accommodate the new hip guy to be ADA compliant and allow safe passage to pedestrian traffic. This installation should be coordinated with the rest of the proposed sidewalk construction approved under the Special Permit.

Please feel free to call with any questions or concerns.

On the petition by Sports Management Services, Inc., an individual owning land to be affected by change or adoption, to amend the Zoning Map of the City of Woburn by changing the zoning district for two parcels of land known as Lot 69-08-07 on Garfield Avenue and Lot 69-08-08 on Garfield Avenue together containing approximately 2.92 acres of land as shown on a plan by Allen & Major Associates, Inc. entitled "Parcel Rezoning Plan" dated November 10, 2016 from R-2/I-G to R-3. PUBLIC HEARING OPENED. A report was received from the Committee on Ordinances as follows: "back for action." A communication dated March 9, 2017 was received from Attorney Joseph R. Tarby, III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: Petition to Amend Zoning Map, Sports Management Services, Inc., Garfield Avenue, Woburn, Massachusetts

Dear Mr. Campbell:

Please be advised that I represent Sports Management Services, Inc. in connection with the above-referenced Petition. On behalf of my client I respectfully request that the above-referenced matter be given leave to withdraw without prejudice. If you have any questions please feel free to contact me. Thank you.

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

On the petition by Seaver Properties, LLC, 215 Lexington Street, Woburn, Massachusetts 01801 to amend the 1985 Woburn Zoning Ordinances, as amended, by amending Section 14 Townhouse Development in Residential Districts R-1 and R-2 to allow stacked townhouses, and Section 8.4.1.3 and Note 1 in Notes to Table 5.1 relative to driveway width or minimum driveway radii requirements for townhouses, multi-family dwellings and commercial projects, as set forth in the Journal of the City Council Regular Meeting of January 17, 2017. PUBLIC HEARING OPENED. A report was received from the Committee on Ordinances as follows: "ought to pass, as amended, with the amendments as follows:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WOBURN that the 1985 City of Woburn Zoning Ordinances, as amended, be further amended as follows:

8.4 Design and Layout of Required Parking Facilities

1. Dimensions

1. Parking stall, standard: minimum of nine (9) feet in width, eighteen (18) feet in length
 2. Parking stall, compact car: minimum of eight (8) feet in width, sixteen (16) feet in length
 3. Parking stall, retail; minimum of ten (10) feet in width, eighteen (18) feet in length
 4. Parking stall, handicapped: minimum of twelve (12) feet in width; eighteen (18) feet in length
2. Minimum and Maximum Entrance and Exit Driveway Widths:

The term “entrance and exit driveway” as used in this Section shall mean the location at which the driveway meets the street, and shall not mean the driveway(s) interior to the site.

Minimum Driveway Width: For both residential and commercial developments, the minimum driveway width shall be twelve (12) feet.

Maximum Driveway Width: For residential and commercial developments, the maximum driveway width shall be as follows:

Residential: Maximum driveway width of twenty-four (24) feet. For a detached two-family dwelling in the R-2 zoning district, the maximum driveway width serving the lot shall be forty-eight (48) feet. (amended 5/26/2009)

Commercial Developments of less than 15,000 square feet: Maximum driveway width of twenty-eight (28) feet of pavement width, leading to an intersection having a radius of ten (10) feet.

Commercial Developments of greater than 15,000 square feet: Maximum driveway width of twenty-eight (28) feet of pavement width, leading to an intersection having a radius of thirty (30) feet.

Notwithstanding the provisions of this section, the maximum pavement width may be increased and/or the minimum required driveway radius may be reduced for multi-family dwellings and commercial developments only, if so authorized by Special Permit issued by the City Council pursuant to this Section 8.4.1.2 or if shown on a plan approved by either the City Council or the Planning Board. Neither the City Council nor the Planning Board shall have the authority to modify the dimensional requirements for entrance and exit driveways servicing one-family and two-family dwellings.

Note: All driveways shall be subject to the additional regulations set forth in Section 5.2.4 hereof.”

On the petition by Cabot, Cabot & Forbes, LLC, 185 Dartmouth Street, Suite 402, Boston, Massachusetts 02116 for special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Section 23.4.2 for a special permit to allow restaurant and retail uses on ground floor (9,390 square feet) with multifamily residential housing within the six stories above (289 units) with 462 total parking spaces including surface spaces to serve the retail and residential clubhouse areas and a structured parking facility wrapped by residential units at 120 Commerce Way. PUBLIC HEARING OPENED. A communication dated March 15, 2017 was received from Tina P. Cassidy, Planning Director, Woburn Planning Board/WRA Director as follows:

Re: Commerce Way Corridor Overlay District special permit application for mixed use project at 120 Commerce Way/Cabot, Cabot and Forbes LLC

Dear Council:

The Planning Department has reviewed the above-referenced application which seeks approval for a transit-oriented development project on property at 120 Commerce Way, which is located in both the IP-2 and Commerce Way Corridor Overlay zoning districts. The development would consist of 289 residential housing units, a 6,210 sq. ft. restaurant, 3,180 sq. ft. of retail space and a clubhouse to support the residential use. A total of 462 parking spaces would be provided by a combination of surface parking lot and structured parking.

The Department notes the following with respect to this application:

- The “existing conditions” layer of data should be deleted from sheets C-3 and C-4B. At present those sheets show landscaped islands, parking spaces and other site features that will be eliminated with the proposed construction. The “existing conditions” data should be deleted in order to eliminate conflicting information and to ensure clarity as to what is being proposed;
- The amount of proposed parking falls short of what is required by zoning. A total of 508 parking spaces are needed to meet the zoning requirements and only 462 are being proposed. Staff notes the parking requirements for studios (1.25 spaces per unit), one bedroom (1.25 spaces per unit) and two bedroom units (1.75 spaces per 2 bedroom unit) in the Commerce Way Overlay District are below the usual, standard parking requirements of two (2) spaces per unit.
- The proposed “6’ concrete sidewalk with accessible ramp” and crosswalk that lead from Commerce Way to the access aisle between two (2) handicapped parking spaces should be relocated. Pedestrians should not be encouraged to walk between two vehicles (via an aisle designated for other purposes) in order to reach the sidewalk.

Planning staff recommends the walkway and crosswalk be relocated northward slightly by about 15'-20', so that the walkway and crosswalk can instead be designed to lead directly to the sidewalk. See sketch attached.

- The plans exceed the maximum allowable lot coverage of 80% (83.6% proposed) and do not propose enough open space (20% is required and slightly more than 16% is proposed). Although the Council would have the authority to grant special permits to provide relief from these requirements, the applicant has not filed any such requests nor have they been advertised as required. Staff therefore recommends the applicant file a supplemental special permit request to address these two matters, or revise the plans to conform to zoning requirements.
- The plans and application state that signage will conform to Section 13, but the plans do not conform to Section 13 because they propose more wall signs than allowed. Although the Council would have the authority under Section 23-9 to authorize additional signage, the applicant has not filed any such request nor has it been advertised as required. Therefore, Planning staff recommends the applicant strike all references to conformance with Section 13, and file a supplemental special permit request to cover this item, or revise the plans to conform to Section 13.
- The applicant should confer with the Building Commissioner relative to the freestanding sign identified on plans as “development wall signage” relative to the maximum permitted size and placement given the location of the sidewalk and its proximity to the intersection.
- The compact car parking spaces on the top level of the garage should be equipped with signage identifying them as such.
- The vertical granite curbing proposed for use on site should be specified as 6” vertical granite curbing.
- How will use of the residential ‘move in’ loading zone be coordinated with use and servicing of the trash and recycling bay?
- Has the Fire Department reviewed and approved the access to/from and within the garage and site?

On a final note: If the City Council ultimately decides to grant the special permits needed for this project, the Planning Department strongly urges the Council to consider requiring, as a condition of approval, that at least 25% of the housing units in this project be “affordable”. The applicant has proposed to provide the minimum 10% required by Section 11.11 of the Zoning Ordinance. Given the status of the City’s current subsidized housing inventory and its relatively low percentage of affordable housing, and given the nature of the application and extent of zoning relief required (90 units per acre, less parking than required), it would seem the City has ample reason and justification for requiring the higher number.

I am happy to elaborate on this recommendation upon request.

Respectfully, Tina P. Cassidy, Planning Board/WRA Director

On the petition by Lawless, Inc., 196 Lexington Street, Woburn, Massachusetts 01801 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Sections 5.1.44, 5.1.71 and 7.3 to allow for 1. the reconditioning, adjusting, equipping and preparation of motor vehicles; 2. commercial parking lot; and 3. alteration of nonconforming use (loading dock fronts on street) and structure (loading dock fronts on street and interior landscaping, at 8 Draper Street. PUBLIC HEARING OPENED. A communication dated march 15, 2017 was received from Tina P. Cassidy, Planning Director, Woburn Planning Board as follows:

Re: Special Permit application of Lawless, Inc. for use of land at 8 Draper Street

Dear Council:

The Planning Department has reviewed the application and plan which seek special permits to operate an automobile and truck repair garage in accordance with Section 5.1(44) and a commercial parking lot in accordance with Section 5.1(71) at property at 8 Draper Street. In addition, the application seeks a special permit under Section 7.3 (extension or alteration of non-conforming uses) because the existing structure has loading docks that front on a street and because the lot currently does not and will not conform to interior landscaping requirements.

The Planning Department has a number of questions and concerns relative to this filing:

PROPOSED USES

1. The off-street parking summary on the plan states that uses will include “storage warehouse” and office space on this I-G zoned lot. However, the zoning ordinance appears to only authorize two types of warehouses; a warehouse and distribution center as part of a wholesale establishment, and a self-storage warehouse which does not include the storage of motor vehicles or any outside storage. The application cannot propose the latter type, since outdoor motor vehicle storage is in fact contemplated. Has the Building Commissioner been consulted to determine if this proposed “storage warehouse” use will in fact constitute “a warehouse and distribution center as part of a wholesale establishment”? See item #2 below for a related issue.
2. The plan, application, and attachment to the application all list different uses for the site, or perhaps use different terms to describe the same uses. The off-street *parking summary on the plan* states that on-site uses will include “**storage warehouse**” and **office space**. *Exhibit A* to the application indicates that other activities (including

auto reconditioning and auto preparation) will take place on site, and requests a special permit for a **commercial parking lot**. *The application form* requests a special permit for an “**automobile and truck repair garage**” in accordance with Section 5.1.44 and a special permit for a non-conforming use. The applicant should be required to clarify which uses will be on site. The applicant should also be required to consult with Building Commissioner Tom Quinn to determine whether (a) the uses being proposed are in fact allowable by special permit and (b) the amount of parking required to meet zoning has been properly calculated and provided for (e.g., are the parking requirements for auto repair/reconditioning/preparation activities and/or automobile and truck repair garages the same as the parking requirements for warehouse uses?).

PARKING

3. Exhibit A to the application form indicates one of the uses on site will be “the reconditioning, adjusting, equipping and preparation of motor vehicles”. What is the parking requirement for this use, and has that parking been included on the plan?
4. The plan shows roughly 85% of the proposed parking spaces to be compact parking spaces. No special permit has been requested to allow compact parking spaces, but if it is requested, the maximum number of compact parking spaces that can be allowed by special permit is 30%. If the argument is advanced that these are not really parking spaces in a parking lot but rather constitute vehicle storage, how would that comport with the request for a commercial parking lot? Also, note that the 8’x22’ parallel parking space should be considered a compact space because although it exceeds the minimum required dimension in one respect, it falls short on the other.

TRAFFIC AND ACCESS

5. Little information has been provided relative to the operation of the proposed uses and the expected traffic resulting from them. How many employees will work on the site on a typical day and what tasks will they be performing (i.e. office support staff, mechanics, drivers, etc.)? How many cars will be delivered to the site on a daily/weekly basis, either for storage or for detailing/prep? How many vehicles will be taken from the site on a daily/weekly basis? How long will the average vehicle be “stored” on site? How will the cars be brought to/removed from the site – individually by employees or by car carrier? If by carrier, will the vehicles be off-loaded from the carrier on site or while it is parked in the street and if on street, would that cause safety or congestion concerns? If delivery is to be made by employees, has sufficient parking been included on the site plan to accommodate their personal vehicles?
6. The combination of existing buildings, landscaping and proposed on-site parking will combine to require a fire truck to swing into the opposing lane of traffic on Draper Street when exiting the site.

7. Has the Fire Department been consulted with respect to site design, specifically on the issue of access into, around and out of the property?
8. The minimum safe width for travel aisles and driveways is 18' for one-way traffic and 24' for two-way traffic. Only one aisle meets the 24' width.
9. No snow storage areas are shown on the plans. No provisions appear to have been made for snow storage or snow removal from the site.

MISCELLANEOUS

10. Aerial photography shows two of the warehouse buildings to be connected, but the plan does not show that feature. Was some part of the building recently demolished, or will some part of the building be demolished in the future?
11. No fence may be taller than 6 feet per Section 5.3.4 of the Zoning Ordinance. The plan shows a proposed 8' tall fence and gate.
12. There is no site lighting shown on the plan.
13. No provisions appear to have been made for either general refuse/trash or hazardous materials storage/collection. Where will trash and hazardous materials be stored, and how often will these materials be removed from the site?

Should the City Council ultimately vote to approve the application, the Planning Department recommends considering imposing at least the following as conditions of approval:

1. The embankment at the rear of the property shall be cleaned of all trash prior to the issuance of a building permit.
2. Consider establishing a maximum number of vehicles to/from the site on a weekly or monthly basis, to ensure that once in operation, the intensity of the proposed use does not grow beyond what is described during the permitting process. To this end, consider requiring monthly reports to be submitted to the Building Commissioner indicating (a) the number of cars stored on site on the first day of the month; (b) the number of cars delivered to the site during the month; (c) the number of cars removed from the site during the month; and (d) the total number of cars stored on site on the last day of the month.
3. A snow storage or snow removal plan shall be required and filed with the Building Commissioner prior to the issuance of any building permits.

If you have any questions relative to this recommendation, please do not hesitate to contact me.

Respectfully, s/Tina P. Cassidy, Planning Board Director

On the petition by President Haggerty, Alderman Anderson and Alderman Higgins the 1985 Zoning Ordinance of the City of Woburn, as amended, as follows: 1. By amending Section 2 Definitions by adding between “Passenger Transportation Terminal” and “Persons” the following the two new definitions: “Pawnbroker - Pawnbroker means a person engaged in the business of lending money upon the security of goods deposited with it or left in pawn, with or without a fixed period of redemption, whether or not a fixed place of business is maintained for such purposes. Pawnbroker shall not mean or include any bank, savings and loan, credit union or financial institution subject to financial regulations by the federal or state government, nor does it include lending of money on deposit or pledge of title to property.” “Pawn Shop - The location at which or premises in which a pawnbroker conducts business.”; 2. By amending Section 5.1 Table of Uses by adding a new line “25d Pawn Shop” and adding a “-“ under all zoning districts meaning and intending that the use is not allowed in any zoning district. PUBLIC HEARING OPENED.

On the petition by West Woburn Development Corporation, 27 Cambridge Road, Burlington, Massachusetts 01803 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Section 5.1.3c to modify a special permit dated January 9, 2003 (the “Decision”) by: (1) allowing for the installation of a water pump station as shown on the plans filed with the Petition; (2) allow for a “Building Envelope Plan” as shown on the Pump Station Locus and Building Envelope Plan filed with the Petition; and (3) replacing the plan of record in Condition 1 at 498 Lexington Street. PUBLIC HEARING OPENED. A communication dated March 16, 2017 was received from Dan Orr, City Planner/Grant Writer, Woburn Planning Board as follows:

Re: Planning Department comments on a request to modify a special permit decision for 498 Lexington Street/West Woburn Development Corp.

Dear Council:

The Planning Department has reviewed the above-referenced petition, which seeks to modify an existing special permit pursuant to Section 11.3.12 of the Woburn Zoning Ordinance (WZO). (Please note the application cites Section 5.1.3 (c) as the section under which a Special Permit is sought, which does not apply in this instance.) The petitioner requests: 1) authorization for the installation of a water pump station as shown on the plans filed with the Petition; 2) authorization for the allowance for a “Building Envelop Plan” as shown on the “Pump Station Locus and Building Envelop Plan” filed with the Petition; and 3) the replacement of the plan of record in Condition 1 of the Decision with the plan filed with this Petition entitled “The Village at Winning Farm Site Plan in Woburn, Mass.”, dated February 31, 2001, revised May 18, 2001, et al. (However, Planning staff has inferred that that the applicant actually intends to request

the replacement/incorporation of the newly-submitted plan sheets into the plan of record, as opposed to wholesale replacement of all sheets with those submitted).

Planning staff understands that the addition of the pump station to the previously-approved site plan was done at the request of the City’s Engineering Department to provide adequate water pressure to the substantial number of residential units being constructed. In addition, the “Pump Station Landscape Plan,” which entails the planting of 18 Mission Arborvitae, appears to provide a sufficient barrier and buffer for noise- and visual-related impacts. Therefore, as a matter of approved site plan improvements, the Planning Department takes no exception to this request.

Should the Council elect to grant this Special Permit modification, Planning staff recommend the following as conditions of approval:

1. That Condition 1 of the original Special Permit decision be modified to reflect the adoption of a each new plan sheet (e.g., the “Pump Station Locus and Building Envelop Plan,” the “Master Address Plan” and the “Pump Station Landscape Plan”) into the previously-approved plan set as replacements and/or additions, as appropriate; and
2. That remaining conditions of approval imposed in connection with the original Special Permit, and its subsequent modification, to the extent they are still applicable, remain in full force and effect.

Please feel free to contact me if you have any questions relative to this recommendation.

Respectfully, s/Dan Orr, City Planner/Grant Writer

CITIZEN’S PARTICIPATION: None.

COMMITTEE REPORTS:

PUBLIC SAFETY AND LICENSES:

On the petitions for renewal of Second Class Motor Vehicle Sales Licenses by Milano Jewelry; GameStop #3315; and Musto Jewelers, committee report was received “ought to pass”.

On the petition by Robson L. Dias for renewal of Livery License, committee report was received “ought to pass”.

ORDINANCES:

On the Order to amend the 1989 Woburn Municipal Code, as amended, Sections 3-19 and 5-84 relative to pawnbrokers, committee report was received “ought to pass”.

FINANCE:

On the 2016 Annual Report for the Northeast Metropolitan Regional Vocational School District, committee report was received “refer to full City Council.”

NEW PETITIONS:

Petition by St. Mary’s School, 162 Washington Street, Winchester, Massachusetts 01890 for a Special Event Permit to allow a walk-a-thon and family fun day at Horn Pond on April 29, 2017.

Petition by Woburn Bowladrome Inc., 32 Montvale Avenue for renewal of a Bowling Alley License.

Petition by WMK, LLC dba Mobility Works, 299-C and 299-E Washington Street, Woburn, Massachusetts 01801 for a new First Class Motor Vehicle Sales License at 299-C and 299-E Washington Street.

Petition by National Development, 2310 Washington Street, Newton Lower Falls, Massachusetts 02462 to allow transfer of Inflammable License at 120 Presidential Way to Woburn MCB I, LLC, c/o Eastport Real Estate Services, 107 Auburn Road 2-301, Wakefield, Massachusetts 01880.

Petition by National Development, 2310 Washington Street, Newton Lower Falls, Massachusetts 02462 to allow transfer of Inflammable License at 150 Presidential Way to Woburn MCB II, LLC, c/o Eastport Real Estate Services, 107 Auburn Road 2-301, Wakefield, Massachusetts 01880.

Petition by A.L. Prime Energy Consultant, Inc., 18 Lark Avenue, Saugus, Massachusetts 01906 for a new Inflammable License to allow 30,000 gallons of gasoline Class 1A (flammable) stored in UST at 1 Hill Street.

Petition by A.L. Prime Energy, 319B Salem Street, Wakefield, Massachusetts 01880 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, to amend a special permit dated August 2, 2012 as modified October 27, 2016 by approval of a

revised Site Plan showing a revised tank area and building distribution in phases at 1 Hill Street.

COMMUNICATIONS AND REPORTS:

A communication dated March 7, 2017 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 meeting for the month of February 2017.

A communication dated March 15, 2017 with attachment was received from City Solicitor Ellen Callahan Doucette as follows:

Re: Referendum on the Prohibition of Marijuana Establishments

A number of communities are considering whether to prohibit recreational marijuana establishments, a topic which has generated much discussion among members of the Massachusetts Municipal Lawyers Association (“MMLA”) as to the proper procedure to be followed. Pursuant to M.G.L. c.94G, §3(a) (2), efforts to limit the number of marijuana establishments, or prohibit them entirely, requires a “vote of the voters” though the form that such a “vote of the voters” should take was not defined. (The initial question for towns, was whether a town meeting vote satisfied the requirement for a “vote of the voters”.)

As a result, members of the MMLA agree that obtaining a “vote of the voters” in cities or towns requires the submission of a referendum or ballot question to “opt-out” or prohibit recreational marijuana establishments at a general election. (To “opt in” or allow on-premises sale and consumption of marijuana, requires the submission of a ballot question at a biennial election. *See*, M.G.L. c.94G, §3(b).) However unlike other statutes which set out the specific form of the ballot question to be voted on, for instance, liquor licenses or Proposition 2 ½ overrides, c.94G is silent.

Absent an amendment by the state legislature, I agree with my peers in the MMLA that in the event that the City Council decides to consider the prohibition of marijuana establishments, it is best achieved by taking the “belt and suspenders” approach. To explain, because a prohibition requires not only a “vote of the voters”, but the adoption of a bylaw or ordinance as well, I have attached hereto for the Council’s consideration a proposed ballot question the approval of which, would authorize the enactment of amendments to both the Woburn Municipal Code and the Woburn Zoning Ordinance. (Some members of the City Council may have seen the ballot question recently passed in the Town of Westborough which simply required a yes or no answer to the question should marijuana establishments be prohibited, without the text of the general and/or zoning bylaw amendment. I do not believe that ballot question to be sufficient.)

Thank you for your attention to the above. Please do not hesitate to contact me if you have any additional questions regarding this matter.

Sincerely, s/ Ellen Callahan Doucette

Attached thereto was the following:

Referendum Question:

Shall the City of Woburn adopt, and shall the Woburn City Council be authorized to enact, the following ordinance amendments:

A. By amending Section 5, Use Regulations, of the Woburn Zoning Ordinance, by adding the following:

“5.9 Marijuana Establishments Forbidden

“The operation of any marijuana establishment, as defined in G.L. c. 94G, § 1, including, without limitation, a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business, is prohibited in all zoning districts of the City. This prohibition shall not apply to the sale, distribution or cultivation of marijuana for medical purposes licensed under Chapter 369 of the Acts of 2012”,

and

B. By amending Title 5, Business Licenses and Regulations of the Woburn Municipal Code by adding the following:

“Article XVIII - Marijuana Establishments

Section 5-89 Forbidden

“The operation of any marijuana establishment, as defined in G.L. c. 94G, § 1, including, without limitation, a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business, within the City is prohibited. This prohibition shall not apply to the sale, distribution or cultivation of marijuana for medical purposes licensed under Chapter 369 of the Acts of 2012.”

provided that the Woburn City Council may reasonably vary the form of the said ordinances within the scope of the general public objectives of this authorization?

A communication dated March 10, 2017 was received from John R. Romano, Director, MassDOT – Office of Outdoor Advertising, Ten Park Plaza, Room 6141, Boston,

Massachusetts 02116 relative to an application by Clear Channel Outdoor for the construction electronic billboards at 275-285 Mishawum Road facing Route 128 and I-95 north and south and public meeting on April 13, 2017 at 11:00 am. in the second floor conference room Ten Park Plaza Boston.

A communication dated March 9, 2017 with attachments was received from Joseph Connarton, Executive Director, Public Employee Retirement Administration Commission, 5 Middlesex Avenue, Suite 304, Somerville, Massachusetts 02145 advising that the amount to be appropriated for the retirement system in Fiscal Year 2018 is \$7,616,072.

A communication dated March 7, 2017 was received from State Representative Jay R. Kaufman relative to reimbursement to cities and towns for the cost of early voting.

A communication dated March 15, 2017 was received from Kristin M. Reynolds, Paralegal, Keegan Werlin LLP, 265 Franklin Street, Boston, Massachusetts 02110-3113 with a copy of the Final Decision of the Energy Facility Siting Board relative to the ne underground transmission line in Woburn, Winchester, Medford, Somerville, Everett and Boston.

Copies of the Notice of Intent, Stormwater Report and Site Plans were received from National Development, 2310 Washington Street, Newton Lower Falls, Massachusetts 02462 relative to the Comprehensive Permit application for the property at 200 Presidential Way pursuant to the provisions of Massachusetts General Laws Chapter 40B.

UNFINISHED BUSINESS OF PRECEDING MEETING: None.

APPOINTMENTS AND ELECTIONS: None.

MOTIONS, ORDERS AND RESOLUTIONS:

ORDERED Pursuant to Chapter 53 of the Acts of 2007, the Preliminary Election for the Municipal Election shall be held on Tuesday, September 12, 2017.

s/President Haggerty

ORDERED Whereas, the Committee on Ordinances recommended that the non-union department heads receive a 1.75% increase in their base salaries effective July 1, 2017;

Now Therefore, Be it Ordained by the City Council of the City of Woburn that Title 2, Article XXVII, Section 2-180 of the 1989 Woburn Municipal Code, as amended, be further amended as follows:

1. That the base salary of the City Auditor be amended to \$100,853.81;
2. That the base salary of the City Clerk be amended to \$82,779.50;
3. That the base salary of the Clerk of City Council be amended to \$11,644.19;
4. That the base salary of the Clerk of Board of Registrars of Voters be amended to \$11,644.19;
5. That the base salary of the Human Resources Director be amended to \$97,891.63;
6. That the base salary of the Library Director be amended to \$99,235.29;
7. That the base salary of the City Solicitor be amended to \$98,753.07;
8. That the base salary of the DPW Superintendent be amended to \$107,769.52; and
9. That this section shall be effective July 1, 2017.

Further, whereas, the Committee on Ordinances recommended that the non-union department heads receive a 1.75% increase to their base salaries effective January 1, 2018;

Now Therefore, Be it further Ordained by the City Council of the City of Woburn that Title 2, Article XXVII, Section 2-180 of the 1989 Woburn Municipal Code, as amended, be further amended as follows:

1. That the base salary of the City Auditor be amended to \$102,618.75;
2. That the base salary of the City Clerk be amended to \$84,228.14;
3. That the base salary of the Clerk of City Council be amended to \$11,847.96;
4. That the base salary of the Clerk of Board of Registrars of Voters be amended to \$11,847.96;
5. That the base salary of the Human Resources Director be amended to \$99,604.73;
6. That the base salary of the Library Director be amended to \$100,971.91;
7. That the base salary of the City Solicitor be amended to \$100,481.24;
8. That the base salary of the DPW Superintendent be amended to \$109,655.49; and
9. That this section shall be effective January 1, 2018.

s/President Haggerty and Alderman Anderson

Motion made and 2nd to ADJOURN