

**CITY OF WOBURN  
APRIL 4, 2017 - 7:00 P.M.  
REGULAR MEETING OF THE CITY COUNCIL**

Roll Call

Anderson	Gately
Campbell	Higgins
Concannon	Mercer-Bruen
Gaffney	Tedesco
Haggerty	

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The City Council observed a moment of silence in memory of State Senator Kenneth J. Donnelly who recently passed away.

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VOTED to dispense with the reading of the previous meeting's Journal and to APPROVE, all in favor, 9-0.

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**MAYOR'S COMMUNICATIONS:** None.

**PUBLIC HEARINGS:**

On the petition by Seaver Properties LLC, 215 Lexington Street, Woburn, Massachusetts 01801 for a special permit and site plan approval pursuant to 1985 Woburn Zoning Ordinances, as amended, Sections 5.1.3c, 5.1 Note 20, 11.3.2, 14, and Site Plan Approval pursuant to Sections 12.2.2 and 12.3.2 to allow for one hundred eighteen (118) residential townhouse units at 285, 287 and 299 Lexington Street. PUBLIC HEARING OPENED. A communication dated March 23, 2017 was received from Attorney Joseph R. Tarby, III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: Special Permit Petition of Seaver Properties LLC, 285, 287 and 299 Lexington Street, Woburn, Massachusetts

Dear Mr. Campbell:

On behalf of my client Seaver Properties LLC, I respectfully request that the public hearing scheduled for April 4, 2017 be continued to April 18, 2017. If you have any questions, please do not hesitate to contact me. Thank you.

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

Motion made and 2<sup>nd</sup> that the communication be received and made part of the record, all in favor, 9-0. Appearing for the petitioner was Attorney Joseph R. Tarby and he stated that a the zoning amendment relative to stacked townhouses and driveways was recently adopted, that the petitioner is revising the site plan to conform to the new ordinance, that the petitioner hopes to provide a general overview of the revised plan at the Committee on Special Permits meeting on April 10, 2017 and provide a full presentation at the City Council meeting on April 18, 2017. PUBLIC COMMENTS: A letter dated April 3, 2017 was received from Charles Viola, 2 Morningside Circle in opposition to the petition. Motion made and 2<sup>nd</sup> that the communication be received and made part of the record, all in favor, 9-0. Motion made and 2<sup>nd</sup> that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON APRIL 18, 2017 AND THAT THE MATTER BE REFERRED TO THE COMMITTEE ON SPECIAL PERMITS, all in favor, 9-0.

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On the petition by WMK, LLC dba MobilityWorks, 299 C&E Washington Street, Woburn, Massachusetts 01801 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Section 5.1.45 to allow use of 10,150 square feet of space in existing building for sale office and automotive shop to convert standard vehicles to wheelchair accessible vehicles and fourteen overnight parking spaces at 299 C&E Washington Street. PUBLIC HEARING OPENED. A communication dated March 23, 2017 was received from Attorney Joseph R. Tarby, III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: WMK LLC, 299-C and 200-E Washington Street, Woburn, MA

Dear Mr. Campbell:

On behalf of my client WMK LLC, I respectfully request that the public hearing scheduled for April 4, 2017 be continued to April 18, 2017 since the Public Hearing on the Class One License is scheduled for April 18, 2017. If you have any questions, please do not hesitate to contact me. Thank you.

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

A communication dated March 30, 2017 was received from Dan Orr, City Planner/Grant Writer as follows:

Re: Planning Department comments on special permit application for 299 Washington Street C&E/WMK, LLC (d.b.a. MobilityWorks)

Dear Council:

The Planning Department has reviewed the above-referenced petition which seeks a special permit in accordance with Section 5.1(45) for the operation of a sales office and automotive shop that converts standard vehicles to wheelchair-accessible vehicles, as

well as permission to park fourteen (14) vehicles on site overnight. The property is located in an Industrial General (I-G) zoning district, and the Petitioner seeks a special permit for the sale or rental of automobiles including accessory repair and storage in accordance with Section 5.1(45). The applicant intends to lease approximately 10,150 square feet of space in an existing building at 299 Washington Street for this use.

Although the application notes that a Special Permit is being sought in accordance with Section 5.1(45) for the sales office and automotive shop, the Building Inspector should be consulted with respect to the portion of the request dealing with overnight parking of vehicles, to determine if a special permit is needed for the overnight vehicle storage. Accessory storage or parking of *commercial* vehicles may be allowed by special permit in this district (Section 5.1.57[b]); there is no corresponding authorization for non-commercial vehicles. It may be that ancillary vehicle storage associated with an authorized automotive repair shop is permitted by right and needs no special permit; it may be that outside vehicle storage is not permitted at all.

The application proposes to reserve fourteen (14) parking spaces for the overnight storage of vehicles. However, no parking or floor area calculations have been provided to demonstrate that there are in fact fourteen (14) excess parking spaces over and above the number needed to ensure zoning conformance for the building's uses. The applicant should be required to provide this information.

Similarly, the Petitioner should be required to amend the plan to comply with Section 8.5.1 of the WZO which requires security lighting for all parking facilities "which are used at night". Although the key on the plan indicates that "existing site lighting" is incorporated into the plans, Planning staff found none on the plan itself. Therefore, the plans should be revised to incorporate details of all lighting, including security lighting, all of which should be shielded in such a manner that will prevent glare from impacting abutting properties.

Lastly, the plan does not show any areas dedicated for snow storage, and the application does not address snow removal. Planning staff therefore recommends the plans be revised to include this information.

If the Council ultimately decides to grant the special permit (singular or plural), staff recommends imposing the following as conditions of approval:

1. The Plan of Record for this petition shall be "Special Permit Application: Mobility Works, 299 C&E Washington St., Woburn, MA," Site Layout Plan; Prepared by Crossroads Properties, LLC, 200 West Cummings Park, Woburn, MA; Sheet C-1, Dated February 28, 2017; Revised\_\_\_\_\_";
2. That a copy of the approved snow storage plan be submitted to the Building Inspector; and

3. The special permit shall be issued to WMK, LLC (d.b.a. MobilityWorks) and shall not be transferrable.

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

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

Motion made and 2<sup>nd</sup> that the communications be received and made part of the record, all in favor, 9-0. PUBLIC COMMENTS: None. Motion made and 2<sup>nd</sup> that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON APRIL 18, 2017 AND THAT THE MATTER BE REFERRED TO THE COMMITTEE ON SPECIAL PERMITS, all in favor, 9-0.

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On the petition by Minast, LLC, 11 Presidential Way, Woburn, Massachusetts 01801 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, to modify a special permit dated January 9, 2014, as modified by decisions dated October 29, 2015 and August 11, 2016 to allow for the deletion or modification of Condition 3 of the Decision relative to mitigation at Lot 1, Presidential Way. PUBLIC HEARING OPENED. A communication dated April 3, 2017 was received from City Engineer John Corey as follows:

Subject: 4 Presidential Way Mitigation

The applicant has submitted the required Post Construction Cost Summary required by the subject special permit.

The cost summary does not include the costs of site work. These costs are generally included in the overall project cost summary, however they are excluded from the submission. The cost summary indicates that the project was completed within budget.

If we neglect site development costs, the mitigation fee, based on the \$2,867,848.00 completed building cost would be \$86,035.00.

Relative to reducing mitigation fees based on site development costs that went over budget, we believe that such issues are normal and part of the cost of doing business. We do not recommend a reduction in mitigation fees.

I trust the foregoing information is sufficient for your needs. Should you have any questions or comments, please do not hesitate to contact this office.

A communication dated March 27, 2017 was received from City Engineer John Corey as follows:

Subject: Mitigation Priorities in the Commerce Way Presidential Way Area

There are a number of projects that are being developed or proposed for development within the Commerce Way Overlay District. In order to keep the Council apprised of various transportation and utility improvements that are needed in the general area we offer the following projects as potential mitigation candidates:

Traffic Signal Presidential Way at Raytheon: Upgrade controller, add GridSmart camera, ethernet connection, audible pedestrian signals and improved crosswalks and handicap access ramps. - \$130,000.00

Traffic Signals at Atlantic and Commerce Way and Target and Commerce Way: Replace master controller and add ethernet connection. - \$25,000.00

Commerce Way: Improve Handicap Access Ramps and crosswalks - \$75,000.00

Commerce Way Corridor Study: Prepare a study of Commerce Way to widen the roadway in accordance with complete street requirements. The study would evaluate the possibility of covering the Aberjona River down the middle of Commerce Way as well as widening on the outside of the roadway and truck turning lanes with costs and implementation requirements. - \$75,000.00

New Boston St Bridge: The project has received approval of the 25% design and additional funding is required to progress the project towards the 100% milestone.

I trust the foregoing information will assist you relative to potential mitigation that can be assigned to the various developments.

Motion made and 2<sup>nd</sup> that the communications be received and made part of the record, all in favor, 9-0. Appearing for the petitioner was Attorney Joseph R. Tarby, III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 and he stated that he received copies of the report from the City Engineer tonight, that he asks that the matter be continued, and that the petitioner will present a response at the Committee on Special Permits meeting. PUBLIC COMMENTS: None. Motion made and 2<sup>nd</sup> that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON MAY 2, 2017 AND THAT THE MATTER BE REFERRED TO THE COMMITTEE ON SPECIAL PERMITS, all in favor, 9-0.

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Motion made and 2<sup>nd</sup> that the public hearings on the following two matters be held collectively, all in favor, 9-0.

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On the petition by Woburn Toyota, 394R Washington Street, Woburn, Massachusetts 01801 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Sections 5.1.71 and 7.3 to modify a special permit dated July 1, 2016 to allow for parking of additional vehicles in its commercial parking lot at 1095R Main Street. PUBLIC

HEARING OPENED. A communication dated April 4, 2017 was received from Tina Cassidy, Planning Board/WRA Director, Woburn Planning Board as follows:

Re: Combined Planning Department comments on two special permit modification applications for 1095R Main Street/Woburn Toyota & Burns Landscaping and Construction, LLC

Dear Council:

The Planning Department has reviewed the above-referenced applications which seek modifications to an existing Special Permit Decision dated July 1, 2016. The applications cite Section 7.3 (extension or alteration of a non-conforming use), although the nature of the non-conformity(ies) is not immediately apparent based on the information provided.

The first modification request (Petitioner: Woburn Toyota) seeks permission to allow for additional vehicle parking in the “commercial parking lot”, a use previously authorized by City Council Special Permit (under Section 5.1.71) in July of 2016.

The second modification request (Petitioner: Burns Landscaping and Construction, LLC) seeks permission for a revised site plan per the four-line narrative attached to the application form as well as (a) accessory storage or parking of “a storage container, storage trailer, commercial trailer or semi-trailer (one or more)” pursuant to Section 5.1.57a and (b) for “accessory storage or parking of commercial motor vehicles other than as provided for in line 58, trucks, buses or contractors' equipment (pursuant to Section 5.1.57b).” Both uses are permitted as *accessory* uses in the Industrial General (I-G) zoning district by City Council Special Permit. It is assumed the “container” shown on the plan is the subject of subpoint (a) and the “trailer and truck parking” area in front of the “container” is the subject of subpoint (b). The Council should clarify whether this is the case.

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

#### GENERAL

1. What is the principal use of the site, and can the requested permissions be granted?
2. Storage trailers and bus storage may be allowed by special permit as accessory uses depending upon the principal use of a particular site. What is the principal use of this site? If Woburn Foreign Motors is the principal use of the lot, will the storage container be associated with that use? Will Woburn Foreign Motors own the commercial motor vehicles that will be stored on site if the special permit is granted under 5.1(57b)? If not, they may not be entitled to authorization since storage trailers or commercial vehicle storage is permitted only as uses accessory to the principal use. If Burns Landscaping is the principal use and the storage trailer and commercial vehicles will be used/owned by that company, perhaps there would be no

zoning issue. It should be noted that commercial parking lots and storage trailers/storage containers require an annual license from the City Council.

3. The area north of Ingelow Avenue is listed on the City's website as being owned by the City of Woburn; no ownership information has been provided with the application to refute this. The area north of Ingelow is also shown to have an "area of inundation", according to City GIS records. Has the Conservation Commission been consulted to determine if a filing with that Board will be required in order to expand parking of vehicles into this area?
4. As pointed out in the Planning Department's previous recommendation letter for this property in July of last year, the Petitioner's application contains no information relative to lot coverage and open space calculations, nor does it incorporate calculations relative to parking spaces required by the Zoning Ordinance and provided in conformance therewith.
5. Has the Fire Department been consulted with respect to site design, specifically on the issue of access into, around and out of the property?

#### WOBURN FOREIGN MOTORS APPLICATION

6. No information has been provided in the application relative to the operation of the "commercial parking lot" and the expected traffic resulting from it. Will any employees be working on the site on a typical day and what tasks will they be performing (mechanics, drivers, etc.)? How many cars will be delivered to the site on a daily/weekly basis? Will any work be done on the cars stored on site, such as detailing/sales 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?
7. Planning staff notes a number of inconsistencies between the application/plan and the requirements of the Zoning Ordinance:
  - 8.4.2.1 (No provision of 5-foot setbacks from each lot line). The proposed parking arrangement violates this ordinance provision at the northerly, easterly and westerly edges of the property. This setback violation cannot be authorized by the City Council via a special permit and would require a variance instead)
  - 8.5.1 (Security lighting for parking facilities used at night)
  - 8.5.2 (Light shielding)
  - 8.5.3 (Surfacing, grading and drainage of parking facilities approved by the City Engineer)
  - 8.5.4 (Proper surfacing material for parking lot)
  - 8.5.6 (Proper drainage of parking areas)
  - 8.6.2 (Interior landscaping for parking facilities containing 20 or more stalls)
  - 8.2.3 (Planning staff estimates at least 60% of the proposed parking spaces are designed as compact parking spaces. No special permit has been requested to

allow compact parking spaces, but if it were requested, the maximum number of compact parking spaces that can be allowed by special permit is 30%).

### BURNS LANDSCAPING

In addition to the threshold question #1 above:

- 8.5.1 (Security lighting for parking facilities used at night)
- 8.5.2 (Light shielding)
- 8.5.3 (Surfacing, grading and drainage of parking facilities approved by the City Engineer)
- 8.5.4 (Proper surfacing material for parking lot)
- 8.5.6 (Proper drainage of parking areas)
- 8.6.2 (Interior landscaping for parking facilities containing 20 or more stalls)
- 8.2.3 (Planning staff estimates at least 60% of the proposed parking spaces are being proposed as compact parking spaces. No special permit has been requested to allow compact parking spaces, but if it were, the maximum number of compact parking spaces that can be allowed by special permit is 30%).

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

1. That the site plan be revised to identify the square footage of each leased area for all tenants currently located on the property;
2. That the Plan of Record for these petitions shall be “Proposed Parking Plan for Woburn Foreign Motors, 1095R Main Street, Woburn, MA,” Scale 1”=40’; Prepared by Edward J. Farrell, Professional Land Surveyor, 110 Winn Street, Suite 203, Woburn, MA, Dated February 16, 2017; Revised \_\_\_\_\_”;
3. That the Petitioner verifies that the only points of vehicular access and egress will be from Breed Avenue;
4. That the applicants/owners be required to meet with Building Commissioner Tom Quinn to review the identity of all businesses on site to ensure compliance with the Zoning Ordinance and to ensure that Certificates of Occupancy have been issued for all tenants;
5. Establish a maximum number of vehicles that will be permitted 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;
6. Require all tenants of the site to submit monthly reports to the Building Commissioner which include information on (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; and
7. That the applicant’s snow storage plan be filed with the Building Commissioner.

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



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

Appearing for the petitioner was Attorney Joseph R. Tarby, III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 and he stated that Burns Landscaping & Construction, LLC (“Burns”) has downsized the use of the property, that Woburn Toyota (“Toyota”) was previously authorized to park vehicles on site, that the Burns petition will further reduce use of the property by the petitioner, the Toyota wants to past an additional 151 vehicles on the property, that Burns requests a modification of the special permit with a revised site plan as a result of downsizing the property and a reorganization of the uses on the property, that the parking spaces have been relocated, that additional parking was added to the plan to be used by Toyota, that Toyota requests a modification of a special permit, that with construction beginning on the Toyota facility on Washington Street as of May 15, 2017 all vehicles must be removed from the site, that both new and certified pre-owned vehicles will be parked at the location, that car carriers will deliver vehicles to the 1 Jewel Drive location in Wilmington, that there will be no vehicle sales on the premises, that the location will be used solely for vehicle parking, that there will be no impact on the traffic, that the entire property was used as a junkyard since 1951 until the landowner reorganized the use of the property, that there will be lights and security cameras on site, that the petitioner is willing to accept a provision that the previous conditions of the Toyota special permit remain in effect except as modified by this special permit, that there is employee parking at the Wilmington location as well as an auto repair facility, that the Toyota employees are being picked up by vans when parking at the location, that on average ten vehicles will be driven from the site each day, that the principal use of the property is business use with business service, junkyard and commercial parking lot, that since the petitioner is paying to park the vehicle on the property that is a commercial parking lot, and that no commercial parking lot license has been obtained for the lot. Attorney Tarby offered a proposed condition as follows for review by the City Council:

“Proposed Condition to Special Permit Petition of Woburn Toyota, 1095R Main Street, Woburn, MA

“That the total number of vehicles (new or certified preowned) shall be limited to 292 in accordance with the Plan entitled “Proposed Parking Plan for Woburn Foreign Motors, 1095R Main Street, Woburn, Mass.” dated February 16, 2017 prepared by Edward J. Farrell, Professional Land Surveyor, 110 Winn Street, Suite 203, Woburn, MA.”

Motion made and 2<sup>nd</sup> that the document be received and made part of the record, all in favor, 9-0. Rieder Davies of Toyota stated that there is a full service body shop at the Wilmington location, that there are security cameras located at the property which are used to monitor employees on site, that cars are delivered to the Wilmington location and prepped for delivery, that there are four to six employees on site, that there is a one to one exchange of vehicles from the location unless a large number of cars have to be moved, and that providing a daily report of vehicles on site may be difficult by a monthly report of vehicle activity can be provided. Alderman Gately stated that he visited the site and

noted that much of the Burns storage at the location has been removed opening the area up for parking, and that this is a much smaller use compared to the former junkyard at the site. Alderman Tedesco stated that he spoke to residents in the area, and that they raised no issues concerning the current operation relative to traffic. Alderman Mercer-Bruen stated that she understands that when the Washington Street project is completed the vehicles will no longer remain stored at this location, that she has heard from people who work near the Wilmington location that the petitioner's employees are dropped off in a van and leave the site in vehicles, and that she has received complaints about vehicles leaving the Wilmington location at excessive speeds. Alderman Concannon stated that the Planning Department raised several issues and that he would be reluctant to act on the petition until those were addressed, and that while the situation with the petitioner parking vehicles at the locus is not what most people would consider a commercial parking lot nothing has been brought forward to contradict the petitioner's position on the issue. Alderman Anderson stated that he wants it to be clear in the record where the Toyota vehicles will be parked and that when the Washington Street construction project is completed the special permit will expire. PUBLIC COMMENTS: None. Motion made and 2<sup>nd</sup> that the public hearing be closed, all in favor, 9-0. PUBLIC HEARING CLOSED. Motion made and 2<sup>nd</sup> that: 1. The SPECIAL PERMIT PETITION OF BURNS LANDSCAPING & CONSTRUCTION, LLC be GRANTED, AS AMENDED with the condition as follows: 1. That the site plan of record shall be the plan entitled Proposed Parking Plan for Woburn Foreign Motors, 1095R Main Street, Woburn, Mass. dated February 16, 2017 prepared by Edward J. Farrell, Professional Land Surveyor; and 2. The SPECIAL PERMIT PETITIONER OF WOBURN TOYOTA be GRANTED, AS AMENDED with the conditions as follows: 1. That the total number of vehicles (new or certified preowned) shall be limited to 292 in accordance with the Plan entitled "Proposed Parking Plan for Woburn Foreign Motors, 1095R Main Street, Woburn, Mass." dated February 16, 2017 prepared by Edward J. Farrell, Professional Land Surveyor, 110 Winn Street, Suite 203, Woburn, MA; 2. That all tenants of the site shall submit monthly reports to the Building Commissioner which include information on (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. That all other conditions of the special permit issued on July 1, 2016 shall remain in full force and effect unless otherwise amended herein; 4. That the petitioner shall consult with the Woburn Fire Department to ensure adequate access for emergency vehicles; 5. That the parking areas designated on the plan of record with 39 total spaces, 51 total spaces, 46 total spaces, 66 total spaces and 90 spaces total be designated for use by Woburn Toyota only; and 6. That access to and from the site shall be by Breed Avenue only, all in favor, 9-0.

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On the petition by Burns Landscaping & Construction, LLC, 68 Delwood Drive, Tewksbury, Massachusetts 01876 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Sections 5.1.57a, 5.1.57b and 7.3 to modify special permits dated April 9, 2015 and November 13, 2015 by amending Condition Two to allow for a revised site plan at 1095R Main Street. PUBLIC HEARING OPENED. A

communication dated April 4, 2017 was received from Tina Cassidy, Planning Board/WRA Director, Woburn Planning Board as follows:

Re: Combined Planning Department comments on two special permit modification applications for 1095R Main Street/Woburn Toyota & Burns Landscaping and Construction, LLC

Dear Council:

The Planning Department has reviewed the above-referenced applications which seek modifications to an existing Special Permit Decision dated July 1, 2016. The applications cite Section 7.3 (extension or alteration of a non-conforming use), although the nature of the non-conformity(ies) is not immediately apparent based on the information provided.

The first modification request (Petitioner: Woburn Toyota) seeks permission to allow for additional vehicle parking in the “commercial parking lot”, a use previously authorized by City Council Special Permit (under Section 5.1.71) in July of 2016.

The second modification request (Petitioner: Burns Landscaping and Construction, LLC) seeks permission for a revised site plan per the four-line narrative attached to the application form as well as (a) accessory storage or parking of “a storage container, storage trailer, commercial trailer or semi-trailer (one or more)” pursuant to Section 5.1.57a and (b) for “accessory storage or parking of commercial motor vehicles other than as provided for in line 58, trucks, buses or contractors' equipment (pursuant to Section 5.1.57b).” Both uses are permitted as *accessory* uses in the Industrial General (I-G) zoning district by City Council Special Permit. It is assumed the “container” shown on the plan is the subject of subpoint (a) and the “trailer and truck parking” area in front of the “container” is the subject of subpoint (b). The Council should clarify whether this is the case.

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

#### GENERAL

1. What is the principal use of the site, and can the requested permissions be granted?
2. Storage trailers and bus storage may be allowed by special permit as accessory uses depending upon the principal use of a particular site. What is the principal use of this site? If Woburn Foreign Motors is the principal use of the lot, will the storage container be associated with that use? Will Woburn Foreign Motors own the commercial motor vehicles that will be stored on site if the special permit is granted under 5.1(57b)? If not, they may not be entitled to authorization since storage trailers or commercial vehicle storage is permitted only as uses accessory to the principal use. If Burns Landscaping is the principal use and the storage trailer and commercial vehicles will be used/owned by that company, perhaps there would be no

zoning issue. It should be noted that commercial parking lots and storage trailers/storage containers require an annual license from the City Council.

3. The area north of Ingelow Avenue is listed on the City's website as being owned by the City of Woburn; no ownership information has been provided with the application to refute this. The area north of Ingelow is also shown to have an "area of inundation", according to City GIS records. Has the Conservation Commission been consulted to determine if a filing with that Board will be required in order to expand parking of vehicles into this area?
4. As pointed out in the Planning Department's previous recommendation letter for this property in July of last year, the Petitioner's application contains no information relative to lot coverage and open space calculations, nor does it incorporate calculations relative to parking spaces required by the Zoning Ordinance and provided in conformance therewith.
5. Has the Fire Department been consulted with respect to site design, specifically on the issue of access into, around and out of the property?

#### WOBURN FOREIGN MOTORS APPLICATION

6. No information has been provided in the application relative to the operation of the "commercial parking lot" and the expected traffic resulting from it. Will any employees be working on the site on a typical day and what tasks will they be performing (mechanics, drivers, etc.)? How many cars will be delivered to the site on a daily/weekly basis? Will any work be done on the cars stored on site, such as detailing/sales 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?
7. Planning staff notes a number of inconsistencies between the application/plan and the requirements of the Zoning Ordinance:
  - 8.4.2.1 (No provision of 5-foot setbacks from each lot line). The proposed parking arrangement violates this ordinance provision at the northerly, easterly and westerly edges of the property. This setback violation cannot be authorized by the City Council via a special permit and would require a variance instead)
  - 8.5.1 (Security lighting for parking facilities used at night)
  - 8.5.2 (Light shielding)
  - 8.5.3 (Surfacing, grading and drainage of parking facilities approved by the City Engineer)
  - 8.5.4 (Proper surfacing material for parking lot)
  - 8.5.6 (Proper drainage of parking areas)
  - 8.6.2 (Interior landscaping for parking facilities containing 20 or more stalls)
  - 8.2.3 (Planning staff estimates at least 60% of the proposed parking spaces are designed as compact parking spaces. No special permit has been requested to

allow compact parking spaces, but if it were requested, the maximum number of compact parking spaces that can be allowed by special permit is 30%).

### BURNS LANDSCAPING

In addition to the threshold question #1 above:

- 8.5.1 (Security lighting for parking facilities used at night)
- 8.5.2 (Light shielding)
- 8.5.3 (Surfacing, grading and drainage of parking facilities approved by the City Engineer)
- 8.5.4 (Proper surfacing material for parking lot)
- 8.5.6 (Proper drainage of parking areas)
- 8.6.2 (Interior landscaping for parking facilities containing 20 or more stalls)
- 8.2.3 (Planning staff estimates at least 60% of the proposed parking spaces are being proposed as compact parking spaces. No special permit has been requested to allow compact parking spaces, but if it were, the maximum number of compact parking spaces that can be allowed by special permit is 30%).

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

1. That the site plan be revised to identify the square footage of each leased area for all tenants currently located on the property;
2. That the Plan of Record for these petitions shall be “Proposed Parking Plan for Woburn Foreign Motors, 1095R Main Street, Woburn, MA,” Scale 1”=40’; Prepared by Edward J. Farrell, Professional Land Surveyor, 110 Winn Street, Suite 203, Woburn, MA, Dated February 16, 2017; Revised \_\_\_\_\_”;
3. That the Petitioner verifies that the only points of vehicular access and egress will be from Breed Avenue;
4. That the applicants/owners be required to meet with Building Commissioner Tom Quinn to review the identity of all businesses on site to ensure compliance with the Zoning Ordinance and to ensure that Certificates of Occupancy have been issued for all tenants;
5. Establish a maximum number of vehicles that will be permitted 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;
6. Require all tenants of the site to submit monthly reports to the Building Commissioner which include information on (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; and
7. That the applicant’s snow storage plan be filed with the Building Commissioner.

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

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

See public hearing record notes from preceding matter. Motion made and 2<sup>nd</sup> that: 1. The SPECIAL PERMIT PETITION OF BURNS LANDSCAPING & CONSTRUCTION, LLC be GRANTED, AS AMENDED with the condition as follows: 1. That the site plan of record shall be the plan entitled Proposed Parking Plan for Woburn Foreign Motors, 1095R Main Street, Woburn, Mass. dated February 16, 2017 prepared by Edward J. Farrell, Professional Land Surveyor; and 2. The SPECIAL PERMIT PETITIONER OF WOBURN TOYOTA be GRANTED, AS AMENDED with the conditions as follows: 1. That the total number of vehicles (new or certified preowned) shall be limited to 292 in accordance with the Plan entitled "Proposed Parking Plan for Woburn Foreign Motors, 1095R Main Street, Woburn, Mass." dated February 16, 2017 prepared by Edward J. Farrell, Professional Land Surveyor, 110 Winn Street, Suite 203, Woburn, MA; 2. That all tenants of the site shall submit monthly reports to the Building Commissioner which include information on (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. That all other conditions of the special permit issued on July 1, 2016 shall remain in full force and effect unless otherwise amended herein; 4. That the petitioner shall consult with the Woburn Fire Department to ensure adequate access for emergency vehicles; 5. That the parking areas designated on the plan of record with 39 total spaces, 51 total spaces, 46 total spaces, 66 total spaces and 90 spaces total be designated for use by Woburn Toyota only; and 6. That access to and from the site shall be by Breed Avenue only, all in favor, 9-0.

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On the petition by Burbank LLC, 16 Highland Street, Woburn, Massachusetts 01801 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Section 7.3 to allow alteration of a nonconforming structure and use (three family dwelling) by razing existing structure and replacing with a new three family dwelling at 25 Hawthorne Street. PUBLIC HEARING OPENED. A communication dated March 30, 2017 was received from Dan Orr, City Planner/Grant Writer as follows:

Re: Planning Department comments on special permit application for 25 Hawthorne Street/Burbank LLC

Dear Council:

The Planning Department has reviewed the above-referenced petition submitted by Burbank LLC, which requests approval pursuant to Section 7.3 of the Woburn Zoning Ordinances (WZO) to allow for the alteration and expansion of a non-conforming use (a three-family residential dwelling) in a Residential-Two (R-2) zoning district. Specifically, the applicant intends to raze the existing three-family dwelling and replace it with a new three-family dwelling.

Planning staff note that no proof has been provided as required to show that the pre-existing, non-conforming structure was “validly and legally established” prior to the adoption of the current WZO. The site plan submitted with the application references MSRD Plan #1030 of 1930 but a copy of this historic survey plan was not submitted with the application. The applicant should be required to provide this information.

The proposed replacement structure would become less non-conforming in several respects as compared to the existing structure. The land surveyor-certified plot plan provided with the application indicates that front and side setbacks would shift from non-conforming to conforming. Currently conforming aspects of the property such as rear setback, building ground coverage and landscaped usable open space would each become closer to the respective thresholds yet still comply with current zoning ordinances. Other aspects of the site such as lot area, lot width, lot frontage and building height would remain as they are with the proposed new structure. The lot currently has one driveway on Hawthorne Street, which would be replaced by three (3) driveways serving each unit. Two driveways would access the lot from Hawthorne Street and one would access the lot from Central Street. The two driveways on Hawthorne Street violate zoning requirements; Section 8.4.1.4. requires a minimum of fifty (50) feet of distance between driveways on a corner lot, and the driveways being proposed are only 27’ apart.

Assuming the existing building is at least seventy-five (75) years old, its destruction will be subject to the City’s Demolition Delay ordinance prior to the issuance of any demolition/building permit.

The plan submitted for review does not show any areas for the storage of snow. The applicant should be required to incorporate such area(s) into the plan so they can be reviewed as to adequacy.

The Planning Department recommends the City Council require the applicant to provide the information noted above and correct the zoning violation prior to any approval of the plan. If the Council ultimately votes to approve this project, it should consider imposing the following as conditions of approval:

- That the Plan of Record shall be referenced in the Decision as, “Site Plan, 25 Hawthorne Street, Woburn, MA; Prepared for Burbank LLC; Scale 1”=20’; Prepared by Griffin Engineering Group, LLC, 495 Cabot Street, 2nd Floor, Beverly, MA 019015, (978) 927-5111; Dated: February 15, 2017”, revised \_\_\_\_\_; and
- That a snow storage plan be created for the property and submitted to the Building Commissioner for the City’s records; and

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

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

Motion made and 2<sup>nd</sup> that the communication be received and made part of the record, all in favor, 9-0. Appearing for the petitioner was Attorney Mark Salvati, 10 Cedar Street, Suite 26, Woburn, Massachusetts 01801 and he stated that the petitioner pays three tax, water and electric bills for the property since 1979 when he purchased the property, that the petitioner purchased the property as a three family dwelling and has rented units as such, that in April 1987 then-Building Commissioner Poskus ruled the property to be a three-family dwelling back as far as 1966, that the City Treasurer bills the water service as a three-family dwelling, that the three-family dwelling use has not been abandoned, that allowing a new structure to be built in its place will reduce some of the nonconformities, that there will be a change in ground coverage and open space but still within the requirements, that two units will face Hawthorne Street and two units will face Central Street, that the units will be owner occupied condominiums, that there is a fifty foot distance between the driveways on Hawthorne Street and Central Street and a thirty foot distance between the driveways on Hawthorne Street, that there will be separate utility meters for each unit, that there has to be intent to abandon the use as well as actual abandonment, that the petitioner stated in the affidavit that he has rented the units, and that the petitioner will not demolish the property until a special permit is issued. Attorney Salvati presented several documents to the City Council for review. Motion made and 2<sup>nd</sup> that the documents be received and made part of the record, all in favor, 9-0. Alderman Mercer-Bruen stated that she will ask the City Solicitor as what the burden of proving continued nonconforming status is, that if the use is abandoned after two years it is no longer a nonconforming use, that there has to be more evidence to meet the burden of proof, that nonconformities should be eliminated rather than being continued, and that Building Commissioner Poskus' letter is dated in 1987 and does not address if the use is abandoned or currently a three-family dwelling. President Haggerty stated that Building Commissioner Poskus' letter found that the property was a three-family dwelling, and that a property owner may not want to raze a building so as to not lose the value of nonconforming status but the city may be better served in some instances with seeing an existing nonconforming building replaced with a new building. Alderman Anderson stated that the petitioner's recitation of the law relative to nonconforming status is accurate, that the opinion of the City Solicitor as to the law relative to the question of continued nonconforming status is valid but how that is applied to the facts is a decision for the City Council, and that the building has not been demolished so there is no issue of abandonment yet. Alderman Concannon stated that the clear provisions of the Woburn Zoning Ordinances is that nonconforming properties should be eliminated, that an extension or alteration of a nonconforming property should be reviewed closely and looked at in the light most favorable to eliminating the nonconformity, that an issue is the effect of a voluntary demolition of the property, that the zoning ordinances refer to damage caused by fire and similar calamities but not to a voluntary razing of the building, and that once the building is razed the nonconformity no longer exists. Alderman Gately stated that many houses in Woburn are demolished to make way for new construction, that a voluntary abandonment could affect rebuilding a new house because of issues such as nonconforming lots, and that if there is a useable wall from the house then this is not considered a total demolition. Alderman Higgins stated that because the house has not been demolished there is no abandonment yet. Motion made and 2<sup>nd</sup> that a



communication be sent to the City Solicitor asking for her opinion as to the applicability of abandonment as stated in Sections 7.4 and 7.6 of the Woburn Zoning Ordinances as it relates to the petition, ROLL CALL: Anderson – Yes, Campbell – Yes, Concannon – Yes, Gaffney – Yes, Gately – No, Higgins – No, Mercer-Bruen – Yes, Tedesco – No, Haggerty – Yes, Motion Passes. PUBLIC COMMENTS: Glen Turgiss, 4 Central Street stated that he has only seen the property owner at the property the last five or six years, that it does not appear that the property owner’s son lives at the property, that the lot is just under 15,000 square feet in area which means that even a new two-family dwelling cannot be constructed on the lot, and that he asks that the petition be denied. Motion made and 2<sup>nd</sup> that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON MAY 2, 2017 AND THAT THE MATTER BE REFERRED TO THE COMMITTEE ON SPECIAL PERMITS, ROLL CALL: Anderson – No, Campbell – Yes, Concannon – Yes, Gaffney – Yes, Gately – No, Higgins – Yes, Mercer-Bruen – Yes, Tedesco – No, Haggerty – No, Motion Passes.

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On the petition by President Haggerty, Alderman Higgins, Alderman Anderson, Alderman Gately, Alderman Tedesco and Alderman Campbell to amend 1985 Woburn Zoning Ordinances, as amended, section 8.3 as follows: 8.3 Off Street Parking Facilities Required - Off street parking facilities shall be provided on the same lot with the principal use, except that: 1. Within any R3, R4, Business, Mixed Use, Industrial, or Office Park district, the City Council, by Special Permit, may allow the parking facility requirements to be met on a lot separate from the use to be served, if such facilities are located within five hundred (500) feet of the use to be served, and if the City Council finds that suitable arrangements, such as ownership, long term lease or easement, have been made to assure the permanent provision of the parking facilities; 2. Within the B-D District, municipal parking facilities may be substituted for the required off street parking for non-residential uses, if such facilities are located within five hundred (500) ft. of the use to be served; 3. Within the B-D District, the City Council, by Special Permit, may allow municipal parking facilities to substitute for the required off street parking for residential uses under this Section if it imposes, as a condition of approval, the non-waivable fee required by Section 8.3.4 below and makes the following findings: 1. That the municipal parking facilities are located within five hundred (500) feet of the use to be served; 2. That the proposed combination of on-site, off-street parking spaces and municipal parking spaces is available and adequate to serve the proposed development; and 3. That reliance on municipal parking facilities will not create an undue burden on the municipal parking facilities. 4. If a Special Permit is granted to allow municipal parking facilities to substitute for required off-street parking for residential uses in the B-D District, it shall be conditioned on the payment of a fee equal to Seventy Five Hundred Dollars (\$7,500) for each space in a municipal parking facility that substitutes for a required off-street parking space. The City Council shall not have the authority to vary or waive the fee, either in whole or in part, for any project. The payment of a fee shall not act as a guarantee that future tenants of the residential development shall be entitled to the reservation or designation of a parking space or spaces. All such fees shall be deposited in a separate “Downtown Parking Enhancement Fund” to be established in the City Treasury and administered by the Treasurer/Collector. Funds deposited in this

account shall only be used for costs incurred by the City in acquiring, designing, constructing and/or reconstructing land and facilities that increase the supply of parking within the B-D District. Expenditure of funds from this account shall only be authorized by a 2/3 vote of the City Council. PUBLIC HEARING OPENED. A communication dated March 29, 2017 was received from Tina P. Cassidy, Planning Board Director, Woburn Planning Board as follows:

Re: Continued public hearing on proposed zoning text amendments relative to Section 8.3 (establishment of parking fund for downtown parking lot improvements)/Alderman Higgins, Anderson, Haggerty, Gately, Tedesco and Campbell

Dear Mr. Campbell:

The Planning Board opened the public hearing on the above-referenced matter as its meeting on March 28, 2017 and subsequently voted to continue the public hearing to the Board's April 11, 2017 meeting.

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

PUBLIC COMMENTS: None. Motion made and 2<sup>nd</sup> that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON MAY 2, 2017 AND THAT THE MATTER BE REFERRED TO THE COMMITTEE ON ORDINANCES, all in favor, 9-0.

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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. A communication dated March 29, 2017 was received from Tina P. Cassidy, Planning Board Director, Woburn Planning Board as follows:

Re: Planning Board recommendation on proposed zoning text amendments to (A) define the terms "pawn shop" and "pawn broker" and (B) prohibit pawn shops in all zoning districts/Alderman Haggerty, Anderson and Higgins

Dear Council:

The Planning Board conducted a public hearing on the above-referenced matters at its meeting on March 28, 2017.

Following the close of the public hearing on the same date, some members discussed the proposal and expressed concern as to whether any Constitutional issues would be raised by prohibiting this use in all areas of the City. Pawn brokers and their establishments provided a needed and necessary service to some people who are typically lower income. Would depriving residents of access to these services somehow violate the law?

Following completion of discussion, members of the Board voted 4-0 (Edmonds, Ventresca, Callahan, and Donovan in favor) to recommend to the City Council that it confer with City Solicitor Ellen Callahan Doucette on the issue of Constitutional adherence and if there are no issues, the Board recommends the above-referenced proposed zoning text amendments be adopted.

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

Alderman Concannon stated that he wants guidance from the City Solicitor as recommended by the Planning Board as to whether constitutional issues are raised by prohibiting this use, that he does not see free speech issues here, and that he wants to know when the government can ban a particular use. Alderman Higgins stated that the use is already not allowed in the city, and that this ordinance makes this clearer. Alderman Anderson stated that the City Solicitor suggested these amendments, that there is no free speech, religion or privacy rights issued presented, and that he does not believe that an undue burden is created because a petitioner could go to another town where the use is permitted. Motion made and 2<sup>nd</sup> that a communication be sent to the City Solicitor requesting her opinion as to whether a pawnshop business can be constitutionally prohibited and what standard applies when adopting such a prohibition, all in favor, 9-0.

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**CITIZEN'S PARTICIPATION:** None.

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**COMMITTEE REPORTS:**

**PUBLIC SAFETY AND LICENSES:**

On the petition by Woburn Bowladrome Inc. for renewal of a Bowling Alley License, committee report was received "ought to pass". Motion made and 2<sup>nd</sup> that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.

**Presented to the Mayor: April 6, 2017**

**s/Scott D. Galvin April 6, 2017**

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**PERSONNEL:**

On the appointment of Shannon Ryan as a Member of the Woburn Board of Registrars of Voters, committee report was received “ought to pass”. Motion made and 2<sup>nd</sup> that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.

**Presented to the Mayor: April 6, 2017** **s/Scott D. Galvin April 6, 2017**

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On the appointment of Charles J. Natale, Jr. as a Member of the Woburn Golf & Ski Authority, committee report was received “ought to pass”. Motion made and 2<sup>nd</sup> that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.

**Presented to the Mayor: April 6, 2017** **s/Scott D. Galvin April 6, 2017**

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**ORDINANCES:**

On the Order to amend the 1989 Woburn Municipal Code, as amended, Title 2, Section 2-180 relative to non-union department head salary adjustments, committee report was received “ought to pass”. Motion made and 2<sup>nd</sup> that the COMMITTEE REPORT be ADOPTED, 8 in favor, 0 opposed, 1 abstained (Campbell abstained).

**Presented to the Mayor: April 6, 2017** **s/Scott D. Galvin April 6, 2017**

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Alderman Anderson recused himself from participating in the following matter and left the Council Chamber.

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On the Order to amend the 1989 Woburn Municipal Code, as amended, Title 2, Section 2-180 as to stipends for boards and commissions, committee report was received “back for action”. Alderman Concannon stated that this matter is moving quickly, that the committee meeting on the matter was short, that he is not comfortable moving quickly or moving forward with supporting this proposed ordinance, that this matter should not be looked at as a raise, that this office is not a career or a job but a voluntary commitment to the city, that a member believes that it has been so long that a raise is expected for the position then the member has been here too long, that the members should come in, do the people’s business and move on to allow someone else to do the same, and that he felt the same way about the legislature’s pay raise. Alderman Mercer-Bruen stated that she agrees with these comments, that if this ordinance is something needed for the other boards and commissions it is for the taxpayers to decide, and that she cannot support the order. Alderman Gately stated that he does not agree that if it has been too long that a raise is not appropriate, that members have been here for a long period because they do a good job, that he spends a lot of time trying to get things right for the city, that if the health insurance premiums increase it will be in excess of the stipend, that it is time to readjust the stipends, that the City Council, the boards and commission deserve the adjustment, and that all the members spend a lot of time on matters and make crucial decisions for the city. Alderman Campbell stated that the members have the right to be

compensated for their time, that running for this office is not voluntary, that she volunteers her time at assisted living facilities but that is different than this office, that making a decision to run for Alderman involved a lot of work and she takes the office seriously, that stating that this is a volunteer position is offensive, that the statement makes it look like the City Council is doing something wrong, and that the \$3,000.00 increase does not compare to the legislature's pay increase. Alderman Mercer-Bruen stated that she did not mean to be offensive, that every election year the Aldermen have the option to run again or not, that she knows the other members work hard, and that she cannot support the ordinance. Motion made and 2<sup>nd</sup> that the ORDER be ADOPTED, ROLL CALL: Anderson – absent, Campbell – Yes, Concannon – No, Gaffney – Yes, Gately – Yes, Higgins – Yes, Mercer-Bruen – No, Tedesco – Yes, Haggerty – Yes, Motion Passes.

**Presented to the Mayor: April 6, 2017**

**Veto Message Received April 12, 2017**

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Alderman Anderson returned to the Council Chamber.

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#### **NEW PETITIONS:**

Petition by Camargo Chauffeur Service, LLC, 35 Dix Road Ext. Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO COMMITTEE ON PUBLIC SAFETY AND LICENSES, all in favor, 9-0.

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#### **COMMUNICATIONS AND REPORTS:**

A communication dated March 29, 2017 with attachment was received from City Solicitor Ellen Callahan Doucette as follows:

Re: Amendment of the WMC – Revolving Funds

Section 86 of Chapter 218 of the Acts of 2016 (the Municipal Modernization Act) amended M.G.L. c.44, §53E½ by requiring that “a revolving fund shall be established pursuant to this section by by-law or ordinance.” In order to comply with this statutory revision in advance of the City Council's budget process for FY19, I have attached hereto a proposed Order that serves to amend Title 3 (Revenue and Finance) of the Woburn Municipal Code.

This proposed Order is consistent with the statutory requirements of c.44, §53E½ by identifying the fund; the board or individual authorized to make expenditures; the sources(s) of revenue to be deposited to the fund; and the purpose(s) for which the funds may be expended. Please note that I took the liberty of formalizing the title of certain funds (e.g. Landfill Closure not Dump Closure; and Immunizations and Clinical Services instead of Vaccines). Similarly, I clarified the purpose for which funds may be expended (e.g. the stated purpose for the School Resource Officer was School Resource Officer

which is nonsensical). (I understand that two current revolving funds, Special Education and Cable TV, are being closed out.)

Please note that the City Council must still vote annually on the spending limits for each fund, however it is not necessary to include those spending limits in the ordinance.

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 Order:

**ORDERED**

Be it ordained by the City Council of the City of Woburn that Title 3, Revenue and Finance, of the Woburn Municipal Code, as amended, be further amending by inserting the following new Article and Section:

**Article VII – Revolving Funds - 3-35 Establishment**

Pursuant to M.G.L. c.44, §53E½, as amended by Section 86 of Chapter 218 of the Acts of 2016, the following revolving funds are hereby established:

<b>Revolving Fund</b>	<b>Spending Authority</b>	<b>Revenue Source</b>	<b>Purpose</b>
Conservation	Conservation Commission	Fees, gifts and donations	Support of environmental education programs and acquisition of open space
School Resource Officer	Police Department	Fees, charges, gifts and donations	Support of programs and purchase of program materials
Landfill Closure	Board of Health	Fees and charges	Expenses associated with the closure and monitoring of the landfill
Senior Center	Council on Aging	Program fees	Senior Center programs
Recreation Travel Basketball	Recreation Commission	Program fees and donations	Expenses of the travel basketball league
Liberty Elm Tree Program	DPW	Fees, charges and donations	Purchase of trees
Spence Farm	Mayor	Permit or program fees, and donations	Spence Farm activities and programs

Energy	Mayor	Revenue from Green Energy Programs	Expenditures for Green Energy programs and consultants
Immunizations and Clinical Services	Board of Health	Gifts, donations, charges and medical insurance reimbursements	Expenditures for purchase of vaccines and clinical supplies
Historical Plaques	Historical Commission	Fees, gifts and donations	Purchase and installation of historical plaques

Expenditures from each revolving fund shall be subject to the annual limitation established in the annual budget, and to any additional limitations as otherwise set forth in M.G.L. c.44, §53E½.

s/Alderman Anderson

Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO COMMITTEE ON ORDINANCES, all in favor, 9-0.

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A communication dated March 17, 2017 was received from Charles O'Connor, Parking Clerk, Police Headquarters, 25 Harrison Avenue as follows:

Council Members,

In accordance with Massachusetts General Laws Chapter 90, Section 20½ I am submitting the following parking ticket report. Figures cited below are for the Month of Jan. 2015 to February 2017: Number of violations issued 184, Numbers of violations paid 76, Number of violations outstanding 103, Amount collected and submitted to Collectors Office \$11,845.00, Parking fines referred to the Handicap Commission \$4,300.00.

There is a backlog of 1,644 unpaid tickets dating from January 2004 to December 2016. A 21 day late notice is sent to vehicle owners who have not paid the fine. After 28 days, if the fine still has not been paid, that information is forwarded to the Registry of Motor Vehicles for administrative action.

Respectfully submitted, s/Charles O'Connor, Parking Clerk

Motion made and 2<sup>nd</sup> that the MATTER be RECEIVED AND PLACED ON FILE, all in favor, 9-0.

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A copy communication dated March 21, 2017 to President Haggerty was received from Ben Tafoya, Director, Division of Local Mandates, Auditor of the Commonwealth, One Winter Street, 9<sup>th</sup> Floor, Boston, Massachusetts 02108 as follows:

Dear Alderman Haggerty:

I want to thank you, the Woburn City Council and Clerk Campbell for your correspondence to Auditor Bump regarding the recent mandate determination. The office was pleased to review the issues related to early voting and issue the determination of February 14. Please keep in mind, in terms of follow-up, we have limited authority to pursue these issues once we have made our recommendation to the Legislature, the Secretary of the Commonwealth and the other stakeholders. We are happy to answer further questions about the mandate determination at any time.

Sincerely, s/Ben Tafoya, Director, Division of Local Mandates

Motion made and 2<sup>nd</sup> that the MATTER be RECEIVED AND PLACED ON FILE, all in favor, 9-0.

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An Informational Guideline Release relative to Overlay and Overlay Surplus was received from Division of Local Services, Massachusetts Department of Revenue, P.O. Box 9569, Boston, Massachusetts 02114-9569. Motion made and 2<sup>nd</sup> that the MATTER be RECEIVED AND PLACED ON FILE, all in favor, 9-0.

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**UNFINISHED BUSINESS OF PRECEDING MEETING:** None.

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**APPOINTMENTS AND ELECTIONS:** None.

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**MOTIONS, ORDERS AND RESOLUTIONS:** None.

Motion made and 2<sup>nd</sup> to ADJOURN, all in favor, 9-0. Meeting adjourned at 8:25 p.m.

A TRUE RECORD ATTEST:

William C. Campbell  
City Clerk and Clerk of the City Council