

**CITY OF WOBURN  
MARCH 7, 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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VOTED to dispense with the reading of the previous meeting's Journal and to APPROVE, all in favor, 9-0.

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Motion made and 2<sup>nd</sup> to suspend the rules for the purposes of taking the following matter out of order, all in favor, 9-0.

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Petition by James L. McKeown Boys and Girls Club of Woburn, Charles Gardner Lane, Woburn, Massachusetts 01801 for a Special Event Permit to allow a road race and health walk on city streets beginning at Library Park and around Horn Pond on May 7, 2017. Motion made and 2<sup>nd</sup> that the SPECIAL EVENT PERMIT be GRANTED, all in favor, 9-0.

**Presented to the Mayor: March 9, 2017**

**s/Scott D. Galvin March 9, 2017**

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

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**MAYOR'S COMMUNICATIONS:** None.

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**PUBLIC HEARINGS:**

On the petition by Commonwealth Investment Properties LLC, 12 Chandler Road, Burlington, Massachusetts 01803 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended Section 7.3 to alter and reconstruct a pre-existing nonconforming three family residential dwelling by razing the existing structure and replacing with a new three family dwelling house at 43-45 Church Street. PUBLIC HEARING OPENED. A report was received from the Committee on Special Permits as follows: "ought not to pass." A communication dated March 6, 2017 was received from Attorney Malcolm Houck, 7 Winn Street, Woburn, Massachusetts 01801 as follows:

In Re: 43-45 Church Street – Special Permit Petition – WZO 1985 §7.3 – Commonwealth Investment Properties LLC – Petitioner

Dear Mr. Campbell:

Further to the several public hearings, and associated proceedings with respect to the above captioned Special Permit petition of Commonwealth Investment Properties LLC, this Petitioner has determined that it be withdrawn from further consideration.

So far as any further action is required by the Special Permit Granting Authority, this letter shall respectfully represent a request by the Petitioner for leave to withdraw without prejudice.

Upon reconsideration of development options this petitioner may elect to return to a Special Permit process at a later time.

Very truly yours, s/Malcolm H. Houck

Motion made and 2<sup>nd</sup> that the communication 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 closed, all in favor, 9-0. PUBLIC HEARING CLOSED. Motion made and 2<sup>nd</sup> that the MATTER be GIVEN LEAVE TO WITHDRAW WITHOUT PREJUDICE, 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. Appearing for the petitioner was Attorney Joseph R. Tarby, III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 and he stated that the matter is in committee, hat the petitioner will have a calculation of final costs prepared for submission to the City Engineer by the end of the week, and that he requests the matter be continued to April 4, 2017. 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 4, 2017, all in favor, 9-0.

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On the petition by President Haggerty, Alderman Campbell and Alderman Anderson to amend the 1985 Woburn Zoning Ordinances, as amended, by adding new definitions for “Marijuana Accessories”, “Marijuana Cultivator”, “Marijuana Establishment”, “Marijuana Product Manufacturer”, “Marijuana Products”, “Marijuana Retailer” and “Marijuana Testing Facility” to Section 2 Definitions; by amending Section 5.1.33c to “Medical Marijuana Treatment Center; Marijuana Establishment” by special permit in IP-2 zoning district and prohibited in all other zoning districts; and by amending Note 19b of

Section 5.1 relative to Medical Marijuana Treatment Center and Marijuana Establishment, as set forth in the petition. PUBLIC HEARING OPENED. A report was received from the Committee on Ordinances as follows: “ought to pass, as amended as follows:

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

1. By adding to Section 2 Definitions between “Massage Therapist” and “Medical Marijuana Treatment Center” the following:

MARIJUANA ACCESSORIES: equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing marijuana into the human body.

MARIJUANA ESTABLISHMENT: a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business that is not a Medical Marijuana Treatment Center.

2. By adding Section 5.1, line 33d “Marijuana Establishment” and inserting a “P” under the IP-2 zoning district meaning and intending to allow the use in the zoning district by special permit granted by the City Council, a “-“ under all other zoning districts meaning and intending to prohibit the use in all other zoning districts, and “Note 19C” under “Notes; Other sections”.
3. By adding Note 19c of Section 5.1 Table of Use Regulations as follows:

19c. No Marijuana Establishment shall be allowed on property where the proposed marijuana establishment is to be located within five hundred feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12. The distance under this Note shall be measured in a straight line from the nearest point of the facility in question to the nearest point of the proposed Marijuana Establishment. No Marijuana Establishment shall be allowed to cultivate, process or manufacture marijuana that is, in a manner that is, causes or contributes to a public nuisance. Public signs related to marijuana establishments shall comply with Section 13 of the 1985 Woburn Zoning Code, as amended. For the purposes of this zoning ordinance, the definitions as set forth in M.G.L. c.94G, Section 1, as may be amended from time to time, shall apply.”

A communication dated March 2, 2017 was received from City Solicitor Ellen Callahan Doucette as follows:

Re: Proposed Amendment – Section 5.1, Marijuana Establishments

I received the City Council's request to review the proposed ordinance creating a new use entitled "Marijuana Establishment", which seems to have been revised in accordance with my January 12, 2017 memorandum. I have no further or additional comments regarding the proposed Ordinance as revised.

Of course I will continue to keep the Council apprised as the state legislature wades through the various pieces of legislation that have been filed in an effort to amend M.G.L. c.94G.

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

A communication dated February 22, 2017 was received from Tina P. Cassidy, Planning Board Director, Woburn Planning Board as follows:

Re: Proposed amendments to Section 2 (Definitions) and 5.1 (Table of Use Regulations) of the zoning ordinance to permit marijuana establishments by City Council special permit in the IP-2 zoning district only

Dear Council:

At its meeting on February 14, 2017, the Planning Board conducted a public hearing on the above-referenced zoning petition which was submitted by Aldermen Campbell, Haggerty and Anderson. After concluding the public hearing and following subsequent Board discussion, members of the Board voted 6-1 (Bolgen, Doherty, Donovan, Turner, Callahan, Ventresca in favor, Edmonds in opposition) to recommend to the City Council that the proposed amendment not be adopted, at least not at this time. Though the proposal to regulate the siting of these establishments is an excellent one, the Planning Board believes the details of this proposal need more consideration before adoption.

Those who voted in favor of recommending no action/no adoption at this time noted the following:

- The Planning Board is not convinced that the IP-2 Zoning District is the right location for marijuana establishments. It may or may not be, given the two pending applications for transit-oriented development projects being proposed in that district. If the City intends to encourage mixed-use and residential development in the IP-2 District/Commerce Way area in the future, will it be compatible with the retail sale of marijuana?
- Is the location of the IP-2 Zoning district immediately adjacent to I-93 and readily accessible to Route I-95 of concern, given the fact that Federal laws result in this industry being a cash business?
- Are there zoning districts that allow retail sales elsewhere in the City where the retail sales of marijuana might also be appropriate, by City Council special permit?

- The legislation that will allow marijuana establishments to operate in this State precludes them from opening anywhere in Massachusetts until at least the Summer of next year. This affords the City with reasonable time and opportunity to more fully discuss the siting of these facilities in order to ensure it is done correctly. The Board feels strongly that there are still more questions than available answers regarding this subject, particularly since the State commission tasked with promulgating regulations has yet to convene or issue its recommendations. The Planning Board encourages the Council to continue the conversation on marijuana establishments before making a decision.

If you have any questions about the Board's recommendation please do not hesitate to contact me.

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

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: Liz Daneu, 7 Arlington Road stated that she wants a zoning amendment that respects the will of the voters legalizing marijuana but also the will of the voters in Woburn who did not support legalizing marijuana, that the retail sales of marijuana should be in an area not accessible by youth traveling on foot, that she is a school teacher, that she has been told as a teacher to look out for students with lollipops as these can be a form of edible marijuana, and that she asks that the city be a community ahead on the issue by locating recreational marijuana establishments in an area that is not accessible to youth. Giuliana Long, 7 Arlington Road stated that marijuana should not be easily accessible to children within walking distance or throughout the city. Alex Langlais, 91 Wood Street stated that he is in middle school and will soon be in high school, that peer pressure is high, and that he is concerned about marijuana being available in the form of candy. Alessandro Long, 7 Arlington Road stated that if recreational marijuana is placed in areas visible to children it will look acceptable, and that it is better not to create this impression with children. Alderman Concannon stated that he understands and appreciates the comments, that he agrees as to most Woburn voters with restricting recreational marijuana in the city, that the ultimate goal is not to have such an establishment in the community, that the city can do without this type of business, that the statute is clearly a work in progress, that the statute as passed left many unanswered questions, that it is not clear whether the city can prohibit the use in the city, that one change to the statute may be to allow communities to prohibit the use, that there is a desire to limit if not prohibit the use in the city, that he is concerned that if the use is limited to certain areas of the city this could put the city in a bad position when attempting to prohibit the use in the future, that he does not know for certain that the city could not change the law in the future however the Planning Board shared the concern and therefore recommended that the city tread cautiously, and that he had not special insight into what changes may be coming in the law or knowledge that the city would be barred from taking further action. Alderman Campbell stated that the use of recreational marijuana establishments can be prohibited by the voters but this proposal is a first step, that the ordinance gets the use in the zoning code to protect the city today knowing what is currently known, and that if new statutory language is adopted by the

General Court such as allowing prohibition of the use in a community then further steps can be taken at that time. President Haggerty stated that adopting this ordinance sends a clear message of the intent of the city with respect to recreational marijuana, that the ordinance makes it clear that the community is not generally interested in having the use in the city and even then the location will be limited to one area of the city, that Planning Board members made some remarks suggesting opening the use up citywide by special permit, that the Planning Director suggested the use may be appropriate downtown, and that the City Council must act in the best interest of the city. Alderman Mercer-Bruen stated that this is a preemptive move, and that she is not certain if the statute is changed why the city could not change the ordinance as well at that time. Motion made and 2<sup>nd</sup> to CLOSE THE PUBLIC HEARING and ADOPT THE ORDINANCE, 8 in favor, 1 opposed (Concannon opposed).

**Presented to the Mayor March 9, 2017 and ten days having elapsed without same being approved, said Order became effective without his signature on March 21, 2017.**

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On the petition by NAI Entertainment Holdings LLC , 846 University Avenue, P.O. Box 9108, Norwood, Massachusetts 02062-9108 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended Section 5.1.15b to amend a special permit dated May 6, 1994 as modified November 10, 2016 to allow for: 1. A revised site plan for its existing cinema building entitled “Showcase Cinemas, 25 Middlesex Parkway, Woburn, MA” dated June 10, 2016, revised August 8, 2016 and prepared by Allen & Major Associated, Inc., 100 Commerce Way, Woburn, MA 01888-0118 (the “Site Plan”); and 2. A modification to “IV General Condition” by deleting “Site” on the third line and the sixth line and replacing with “Parcel II” as shown on the Site Plan, at 25 Middlesex Canal Park. PUBLIC HEARING OPENED. Appearing for the petitioner was Attorney Joseph R. Tarby, III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 and he stated that the matter was continued from the last meeting to allow the petitioner the opportunity to decide whether to withdraw the petition, that the petitioner believes that there are adequate safeguards in the proposal, and that the petition asks that the City Council proceed with the petition. 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 the SPECIAL PERMIT be DENIED, with the following findings: 1. That the petition would reduce the necessary parking for the movie theater use, 2. That the petition ignores the increased traffic and parking in and out of the site from the hotel and restaurant uses, 3. That the petition ignores the reduced access lane to the site that may be affected by a future unknown use of the site, 4. That there are additional residential properties along the roadway that may be affected by a future unknown use of the site, and 5. That the petition would allow a future unknown use without information of the impact of such an unknown use on traffic and parking, 8 in favor, 0 opposed, 1 abstained (Mercer-Bruen abstained).

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On the petition by Alderman Anderson to amend Section 3 Administration, Enforcement and Appeals of the 1985 Zoning Ordinance of the City of Woburn, as amended, by

inserting a new Subsection 3.4 as follows: “3.4 Administrative Correction of Scrivener’s Errors: Typographical or numbering errors which do not affect the intent or substance of this Ordinance or any of its articles or sections may be corrected by the City Clerk, without need of a public hearing or further legislative action, by filing a revised copy of same in the Offices of the City Clerk, City Solicitor and Building Commissioner, with a ‘Scrivener’s Note’ providing the date and substance of the correction.” PUBLIC HEARING OPENED. A communication was received from the Committee on Ordinances as follows: “ought to pass, as amended as follows: ‘3.4 Administrative Correction of Scrivener’s Errors: Typographical or numbering errors which do not affect the intent or substance of this Ordinance or any of its articles or sections may be corrected by the City Clerk, without need of a public hearing or further legislative action. The City Clerk shall notify the City Council of the scrivener’s error and the correction and, upon the City Council acceptance of the changes thereafter shall file a revised copy of same in the Offices of the City Clerk, City Solicitor and Building Commissioner, with a ‘Scrivener’s Note’ providing the date and substance of the correction.’” 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 the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.

**Presented to the Mayor: March 9, 2017**

**s/Scott D. Galvin March 9, 2017**

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On the petition by NBTC Realty LLC to amend the 1985 Woburn Zoning Ordinances, as amended, by adding new definitions for “Billboard” and “Electronic Billboard” to Section 2 Definitions; by amending Section 13 Sign Regulations; and by amending Section 21 Mishawum Station Transit Oriented Development Overlay District including adding a new Section 7 Billboards as set forth in the petition. PUBLIC HEARING OPENED. A communication dated March 2, 2017 was received from City Solicitor Ellen Callahan Doucette as follows:

Re: Proposed Amendment to WZO regarding Billboards

I received the City Council’s request for my opinion in regard to a pending zoning amendment which would allow billboards in the Mishawum Station Transit Oriented Development Overlay District. The proponent of the zoning amendment suggested to the Council that the enactment of the amendment would preclude the MBTA from installing its proposed billboard on nearby property. The Council wants to know if the enactment of the zoning amendment would also preclude the MBTA from installing a billboard at property it owns at Salem Street, or at any other MBTA owned location in the City.

First of all, I disagree with the proponent that the enactment of the zoning amendment will prevent the MBTA from installing a billboard at its Mishawum location adjacent to Rte. 128. Presumably, the proponent’s statement is based upon those sections of 700 CMR 3.17 (5) (g) and (h) which prohibit an off-premise permitted Electronic Sign (billboard) to be located within 1,000 feet of another off-premise permitted Electronic Sign on the same or opposite side of the traveled way. Though I have not independently confirmed this information, it is my understanding that the MBTA has or had a pending

application before the MassDOT Office of Outdoor Advertising (“MOOA”) for the premises on the opposite side of Rte. 128 but because that location contained inadequate square footage, the MBTA intends to file, or has filed, a new application for property located on the same side of Rte. 128 as the proponent’s property. In either case, the MBTA’s billboard will be located within 1,000 feet of the proponent’s billboard.

It seems to me that if the Council enacted the zoning amendment, it would merely launch the proponent into a footrace with the MBTA to see whose application the MOOA would approve first. Furthermore, in certain instances MOOA can waive the 1,000 foot spacing requirement “where a proposed sign and an existing sign are separated by a building or other permanent obstruction or the geometry of the roadway is such that the motorist can only view one sign at any point on the public way at any one time”. See, 700 CMR 31.07(6). Assessment of the view is taken from the highway, not the affected properties. See, *Plamandon v. Outcepts Management & Consulting, LLC*, 81 Mass.App.Ct. 845, 853-854 (2012) (“visibility and appearance in relation to the surrounding neighborhood must be observed from the highway”).

To the specific question asked, and as stated in my February 13, 2017 legal opinion to the Planning Board, a copy of which was provided to the City Council, the MBTA is exempt from zoning ordinances and bylaws prohibiting the installation of billboards. See, *Massachusetts Bay Transp. Auth. v. City of Somerville*, 451 Mass. 80 (2008) (“the MBTA’s enabling statute, c.161A, reserves to its board of directors the duty to “determine the character and extent of the services and facilities to be furnished, and . . . gives the MBTA board exclusive authority to determine the character and extent of its facilities . . . and [to determine] the type of advertisements to erect on its facilities and. . . therefore the MBTA is exempt from local zoning regulations with respect to advertisements erected on its facilities”).

Therefore, enactment of the zoning amendment will be of absolutely no effect regarding the installation of a billboard upon any other MBTA owned property in the City, including Salem Street.

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

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 James Mawn, 275 Mishawum Road, Woburn, Massachusetts 01801 and he stated that the MBTA has proposed to install a billboard without input from the city regarding the size, shape or messaging on the billboard, that the MBTA must comply with federal and state regulations although it can avoid local control, that the proposal is to limit the billboard to a small defined area and provide the city with control over the billboard, that the City Council has authority to limit the use to a certain zoning district where it may be appropriate without having the use allowed in other districts, that the Mishawum Station Transit Overlay District



(MSTOD) was defined as a unique zoning district, and that the city has to collectively decide if there is an appropriate process to allow a billboard controlled by special permit or a billboard ninety feet in height without control over the billboard including content and benefit to the city. Motion made and 2<sup>nd</sup> for a two minute recess to allow the petitioner's attorney an opportunity to read the communication from the City Solicitor, all in favor, 9-0. President Haggerty called the meeting back to order. Attorney Mawn stated that the opinion of the City Solicitor is accurate, that the petitioner is asking the city for authority to begin the process in an effort to obtain approval for a billboard before the MBTA, that if a sign is erected on MBTA property a sign cannot be erected on the petitioner's property, that this petition is purely defensive in view of the MBTA sign, that the MBTA meeting with the outdoor advertising board has been continued to April 13, 2017, that if the ordinance is approved the petition would have to obtain a special permit and then apply to the outdoor advertising board for the petition, and that there is a notice requirement of two weeks for the hearing before the outdoor advertising board after the special permit issues. Alderman Mercer-Bruen stated that the opinion of the City Solicitor is a concern, that there are several billboards along interstate I-93 which are close together, that approving this ordinance is not a good message, that if the City Solicitor stated the city could stop the MBTA billboard she would support such action but this does not appear to be the case, that the city will be up against lobbyists until there are signs up and down the highway, that there are other property owners who also want billboards on their property, that the city should work with adjoining communities to continue prohibiting billboards along the highways in those communities, that the Planning Board voted against the proposal, that the City Solicitor indicated that the city could have more billboards erected, that the city should say no to billboards, that the city is not struggling for money, that the residents already have a burden with the number of commercial establishments, and that maybe the city will be the community that stops the erection of a MBTA billboard. Alderman Concannon stated that he does not support billboards, that if the MBTA wants a billboard they will get one, that if this ordinance was to pass he would want language added that if the MBTA is not successful in its petition then no other billboards would be allowed in the zoning district, and that although he does not support billboards if there has to be one there should be a smaller one in this zoning district. Alderman Gaffney stated that if a billboard is allowed in this district the city has some control and the billboard on the MBTA property would be prohibited, that the MBTA can install a billboard on property it controls, and that the city may have to accept this MBTA billboard as well. Alderman Anderson stated that the state can waive its own rules and the 1,000 foot restriction can be amended, that if this petitioner is allowed to have a billboard why would other property owners also not be allowed to have billboards with a local agreement, that if this petition is going to be allowed then the city will have to allow other property owners to install billboards, that if the city is not willing to do this then the city should accept the one MBTA billboard, and that there is no guaranty that if this petition is allowed and the petition wins the race to obtain a billboard before the MBTA that the MBTA will not install a billboard on its property. PUBLIC COMMENTS: Chris Owen, 3 Florence Terrace stated that he thought this petition was going to be denied at this meeting, that it appears the City Council is now considering the proposal, that if this petition is approved then further petitions for billboards will have to be approved, that this petitioner will not be able to meet the

timetable of the MBTA petition, and that the city should be a billboard free community. Motion made and 2<sup>nd</sup> that the public hearing be closed and the matter taken from the Committee on Ordinances, ROLL CALL: Anderson – Yes, Campbell – Yes, Concannon – Yes, Gaffney – Yes, Gately – Yes, Higgins – No, Mercer-Bruen – No, Tedesco – Yes, Haggerty – No, Motion passes. PUBLIC HEARING CLOSED. Motion made and 2<sup>nd</sup> that the ORDER be DENIED, ROLL CALL: Anderson – Yes, Campbell – Yes, Concannon – No, Gaffney – No, Gately – Yes, Higgins – Yes, Mercer-Bruen – Yes, Tedesco – Yes, Haggerty – Yes, Motion passes.

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On the petition by 600 MetroNorth Corporate Center to amend the 1985 Woburn Zoning Ordinances, as amended, by amending Section 13 Sign Regulations relative to billboards; and by adding a new Section 29 Billboards as set forth in the petition. PUBLIC HEARING OPENED. A communication dated February 15, 2017 was received from Tina P. Cassidy, Planning Board Director, Woburn Planning Board as follows:

Re: Proposed zoning text amendment to allow billboards as special permit use (City Council) in the OP-93 and IP-2 Zoning Districts/600 MetroNorth Corporate Center LLC

Dear Mr. Campbell:

At a meeting of the Woburn Planning Board held on Tuesday, February 14, 2017, members of the Board voted unanimously (6-0-0) to continue the public hearing to the Board's February 28, 2017 meeting.

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

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

A communication dated March 1, 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 permit billboards by City Council special permit on IP-2 and OP-93 Zoning lots that abut I-93/600 MetroNorth Corporate Center LLC

Dear Council:

The Planning Board conducted a public hearing on the above-referenced matter at its meetings on January 24, 2017, February 14, 2017 and February 28, 2017.

Following the close of the public hearing on February 28, 2017, members of the Board voted 5-0-1 (Edmonds, Ventresca, Callahan, Donovan and Doherty in favor, Turner abstaining) to recommend to the City Council that the above-referenced proposed zoning text amendments not be adopted.

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

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 stated that the petitioner is an entity of National Development, that he filed a memorandum regarding the petition, that all billboards under the ordinance would require a special permit from the city and comply with state and federal requirements, that the billboards must comply with the Massachusetts outdoor advertising board regulations, that the billboard would have a sign face of not greater than 700 square feet, that the message duration would be not less than ten seconds, that the billboard would blend with natural surroundings, that the support stanchions would be landscaped and enclosed by a fence no less than eight feet in height, that the billboard would be equipped with sight line technology that would only be visible from vehicles traveling on the interstate highway, that there will be no adverse impact on surrounding areas because of the sight line technology and due to the proposed locations of the signs, and that the proposal would require 1,000 feet distance between the billboards. Motion made and 2<sup>nd</sup> to accept and make part of the record the memorandum from Attorney Joseph R. Tarby, III entitled "Petition of 600 MetroNorth Corporate Center to amend Section 13 and Section 29 of the 1985 City of Woburn Zoning Ordinance", all in favor, 9-0. Drew Hoffman, Total Outdoor stated that the billboard would not be visible at certain angles due to the sight line technology, that the billboard would only be visible from the highway, that the billboard must be a distance of 500 feet from the off ramp and 1,000 feet from another billboard, that only two billboards could be installed under the current proposal, that additional signs would have to be located within 500 feet from two businesses, be 1,00 feet from another billboard and be at least 500 feet from a highway interchange. Alderman Anderson stated that if this petition is approved the city will have to look at allowing billboards along interstate I-95/Route 128, and that billboards provide a steady stream of income that other property owners would want. Alderman Gately stated that the City Council at this meeting denied a petition to locate a billboard on interstate I-95/Route 128 and is now being asked to approve billboards on interstate I-93, that the city does not support billboards, and that there are already too many distractions on the highway. Alderman Mercer-Bruen stated that for all the reasons previously stated during this matter and in regard to the other billboard petition heard at this meeting she cannot support this proposal, and that there are residential properties located near both of the proposed billboard locations. Alderman Campbell stated that the city has worked hard to keep out billboards, that she does not want billboards in the city, and that the only reason she may have supported the previous petition for a billboard presented at this meeting is that the billboard would be smaller but that she does not want billboards in the city. Attorney Tarby asked that the petition be given leave to withdraw without prejudice. PUBLIC COMMENTS: Chris Owen, 3 Florence Terrace stated that allowing these billboards will put them near the borders of neighboring communities which would not be conducive to cooperating with neighboring communities on this issue, that a 700 square foot face on a billboard is larger than the face of a single family home, that there may be a 1,000 feet distance requirement between electronic billboards but if these are not electronic billboards then it is possible that the

distance between billboards may be closer, and that the city should investigate through the Planning Department and the City Solicitor how to make the city billboard free. Tim Swain, 29 Dragon Court stated that the government says drivers cannot text and drive but that it is acceptable to look up and read billboards while driving, and that he is against billboards of any kind. Motion made and 2<sup>nd</sup> to close the public hearing, all in favor, 9-0. PUBLIC HEARING CLOSED. Motion made and 2<sup>nd</sup> that the MATTER be GIVEN LEAVE TO WITHDRAW WITHOUT PREJUDICE, ROLL CALL: Anderson – No, Campbell – Yes, Concannon – Yes, Gaffney – Yes, Gately – Yes, Higgins – No, Mercer-Bruen – No, Tedesco – Yes, Haggerty – Yes, Motion passes.

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On the petition by Park Avenue Solar Solutions, 102 Greenwich Avenue, Greenwich, Connecticut 06830 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended Section 26 to install an approximately 586 kW carport solar array over existing parking lot at 300 Wildwood Avenue. PUBLIC HEARING OPENED. Appearing for the petitioner was Kirt Mayland and he stated that the petitioner continued their work with the Conservation Commission, that the petitioner addressed 45 concerns of the Conservation Commission, that the Conservation Commission closed the public hearing and will vote on the order of conditions on March 9, 2017, that the site plan offered to the City Council at this meeting is the final site plan which is now before the Conservation Commission, that this process has taken longer than expected but if the project is mechanically complete by the end of 2017 the project will be eligible under the current solar energy program with lower incentives but still economically feasible, that it will take a maximum of three months for construction, and that the electric hookup will take longer but does not involve heavy equipment. Mr. Mayland offered a copy of a plan entitled “Site Development Plan for Wildwood Solar in Woburn, Massachusetts” dated October 12, 2016, revised February 22, 2017 prepared by CivilTech, Inc., 124 Padelford Street, Berkley, Massachusetts 02779 for review by the City Council. Motion made and 2<sup>nd</sup> that the plan be received and made part of the record, all in favor, 9-0. Stuart Clark, CivilTech, Inc. stated that there will be 100,000 square feet of panels, that the drainage will not change, that rain will drain from the panels onto the ground and into the drains, that the Conservation Commission requested an amended drainage system, that the petitioner solved the drainage issue to the satisfaction of the Conservation Commission, that there will be increased site maintenance with four sweeps of the lot each year rather than two, that a snow storage plan was provided, that there is no tire stop along the wetland but there is a bituminous curb, that there is an existing drainage plan, and that the sumps and inverts had to be cleared. Alderman Mercer-Bruen stated that there are four residential properties across from the locus. 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 SPECIAL PERMIT be GRANTED, AS AMENDED with the condition as follows: 1. That the Conservation Commission Order of Conditions be made part of the record, all in favor, 9-0.

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On the petition by Alderman Gately concerning the structure or structures located in the City of Woburn, County of Middlesex, Commonwealth of Massachusetts known and

numbered as 52-54 High Street, Woburn, Massachusetts, for the purposes of determining whether said structure or structures are a public nuisance, a nuisance to the neighborhood, a dilapidated or dangerous building or other structure, as said terms are used in Massachusetts General Laws Ch. 139, Sec. 1, and if so, enter an order adjudging it to be a nuisance to the neighborhood, or dangerous, and prescribing its disposition, alteration or regulation. PUBLIC HEARING OPENED. Alderman Gately stated that the property has been an issue for some time, that there have many public safety calls to the property, that the front porch has been knocked off the building, that there is no screen on the front door, that there are holes in the roof, that the property is in dilapidated condition, that he is concerned that the roof will collapse, that an elderly woman resides in the property, that the holes in the roof will cause mold in the house, that the garage doors are broken and hanging, that the previous owner lost the property to foreclosure, and that the house is beyond repair. Alderman Gately offered photographs of the property for the City Council to review. Motion made and 2<sup>nd</sup> that the photographs be received and made part of the record, all in favor, 9-0. Alderman Anderson stated that the City Solicitor targeted the property to have a receiver appointed, that if appointed the property will be vacated, repaired and sold, that the City Solicitor is working with the Board of Health, and that the City Solicitor suggests holding off on further action pending the appointment of a receiver. 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 the PROPERTY LOCATED AT 52-54 HIGH STREET be DECLARED A NUISANCE PURSUANT TO M.G.L. CHAPTER 139, SECTION 1, ET. SEQ., that a communication be forwarded to the City Solicitor regarding the status of the receivership proceeding, and that further action on the nuisance declaration be deferred for sixty (60) days pending the receivership proceedings by the City Solicitor, all in favor, 9-0.

**Presented to the Mayor March 9, 2017 and ten days having elapsed without same being approved, said Order became effective without his signature on March 21, 2017.**

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**CITIZEN'S PARTICIPATION:** None.

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**COMMITTEE REPORTS:**

**FINANCE:**

On the Order to authorize borrowing in the sum of \$1,900,000.00 for the purposes of purchasing parcels of land and constructing a parking lot at 455-465 and 467-471 Main Street, committee report was received "ought to pass". Alderman Campbell stated that additional downtown parking is needed, that there are questions that need to be answered before she can vote on the matter, that she is pleased that the Mayor supports funding for downtown parking, that she requested at the last meeting a copy of the letter of intent and the appraisal of the property value, that the letter of intent was received but not the appraisal, that the Committee on Finance meeting it was suggested that the appraisal was done in house by the Assessing Department, that she contacted the Chief Appraiser in the

Assessing Department who stated that an appraisal was not done in house and that the department does not perform in house appraisals, that she is not certain whether \$1,500,000.00 is a good price or not, that she wants to know if environmental site testing has been performed under M.G.L. Chapter 21E because a gasoline station was located across the street from the property, that there was any contamination it is possible that it could have leached to this parcel, that she is not aware whether there is or is not any contamination on the parcel, and that the Mayor responded with an email as follows:

Subject: Main Street property

Joanne,

The seller will produce the required 21E Report which is a condition of the signed letter of intent.

Motion made and 2<sup>nd</sup> that the communication be received and made part of the record, all in favor, 9-0. Alderman Campbell stated that the city has the opportunity to perform environmental testing on the parcel but is not required to do so under the letter of intent, that the city should make certain that the parcel is clean, that she is not against parking but she wants to be certain the City Council has done its due diligence before committing to purchasing the property, that if a private party wanted to purchase the parcel a bank would require 21E testing before lending \$1,900,000.00 to the buyer, that the matter should be returned to the Committee on Finance pending the 21E testing, that there is sufficient time to have the 21E testing performed, that if the City Council still wants to move forward with the Order at this meeting she wants a condition added that the appropriation be conditioned on the 21E testing being conducted with satisfactory results. Alderman Tedesco stated that the city used the assessed value of \$1,200,000.00 for the purchase price of the parcel, that the commercial property and future income has value, that the price is based on what the petitioner could obtain for the property, that the price is not a concern, and that 21E testing is required. Alderman Mercer-Bruen stated that she heard in committee that the purchase price was based on the assessed value, that the issue of 21E testing was raised in committee, that if the property has a toxic condition the purchase would not move forward, that 21E testing will be conducted, that the Mayor said the petitioner will provide the 21E testing report, and that the issue was discussed in committee. President Haggerty stated that he would support a condition requiring 21E testing. Alderman Higgins stated that the Mayor said the city has every opportunity to walk away from the purchase if the 21E testing is not satisfactory. Alderman Gately stated that the gasoline station nearby closed because the tanks were leaking, that the Department of Environmental Protection (DEP) had the property cleaned and made probes to ensure the contamination did not leach to other nearby locations, that the contractor took considerable soil from the gasoline station property, and that he is not concerned that the parcel would have contamination. Alderman Anderson stated that the price for constructing a parking garage would be \$38,000.00 per parking space, that the price for this parking lot will be \$15,000.00 per parking space, and that although this is a high price for parking spaces in the parking lot it is lower than the price for a parking garage. Alderman Campbell stated that she wants to be certain that 21E testing is a



- a. Mayor Appointed Offices: Whenever a vacancy occurs in any office now filled by appointment by the Mayor, the Mayor shall appoint a person in the manner of the original appointment, to fill such a vacancy and to hold office for the balance of the unexpired term and until a successor is appointed and qualified. Whenever any person holding office appointed by the Mayor shall be temporarily unable to discharge the duties of the office, the Mayor may appoint a person to discharge such duties until the Mayor determines that such inability has ceased. The Mayor shall notify the City Council of such appointment within forty-eight (48) hours.
  - b. City Council Appointed Offices: Whenever a vacancy occurs in any office now filled by appointment by the City Council, the City Council shall appoint a person in the manner of the original appointment, to fill such a vacancy and to hold office for the balance of the unexpired term and until a successor is appointed and qualified. Whenever any person holding office appointed by the City Council shall be temporarily unable to discharge the duties of the office, the City Council may appoint a person to discharge such duties until the City Council determines that such inability has ceased. The City Clerk shall notify the Mayor of such appointment within forty-eight (48) hours.
2. Definitions – The following shall apply to Section 2-9:
- a. "Appointed" shall mean the act of naming or designating someone to a position or office.
  - b. "Temporarily unable to discharge the duties of the office" shall mean the position holder is not able to perform the duties required of the office. Any officer that is unable to perform the duties required of the office due long-term illness, long-term sickness, long-term disability, or leave under the Family Medical Leave Act ("FMLA"), shall be determined by the Human Resources Director. After such determination, the Human Resources Director shall notify the Mayor and the City Council of such determination.
  - c. "Temporary vacancy" shall mean the position holder is unable to discharge the duties of the office. A temporary vacancy may occur as a result of a suspension, serious illness of long duration, or a leave of absence. An example of such an absence includes situations under the FMLA. A temporary vacancy is not created when the position holder is on vacation or out sick for a short period of time.
  - d. "Vacancy" or "vacant" shall mean the position is currently unoccupied. If permanent, a position is rendered vacant usually, as a result of the resignation, retirement or termination of the occupant, leaving the position to be newly filled or appointed."

Motion made and 2<sup>nd</sup> that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.



**Presented to the Mayor March 9, 2017 and ten days having elapsed without same being approved, said Order became effective without his signature on March 21, 2017.**

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**PUBLIC SAFETY AND LICENSES:**

On the petition by Gevorg Melikyan dba Milano Jewelry for a new Pawn Brokers License, committee report was received “ought not to pass”. A communication dated March 7, 2017 was received from Gevorg Melikyan, Milano Jewelry, 490 Main Street, Unit B, Woburn, Massachusetts 01801 as follows:

To Whom It May Concern:

This letter is in response to the decision made by the City Council not to provide me with a Pawn Shop License. I would like to submit a motion to dismiss this without prejudice. I understand that due to the Zoning restrictions, a permit is not able to be provided, but it may be in the future. Please let me know if there is anything else I have to provide.

Thank you, s/Gevorg Melikyan

Motion made and 2<sup>nd</sup> that the communication be received and made part of the record and the MATTER be GIVEN LEAVE TO WITHDRAW WITHOUT PREJUDICE, all in favor, 9-0.

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On the petitions for renewal of Common Carrier Licenses by M&L Transit Systems Inc. and TransAction Corporate Shuttles, Inc., 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: March 9, 2017**                      **s/Scott D. Galvin March 9, 2017**

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On the petition by EC Inc. dba Xpress Fuel for renewal of a Second Class Motor Vehicles Sales 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: March 9, 2017**                      **s/Scott D. Galvin March 9, 2017**

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**NEW PETITIONS:**

Petitions for renewal of a Secondhand Dealers and Secondhand Collectors License by Gevorg Melikyan dba Milano Jewelry, 494 Main Street, Unit B; GameStop #3315, 103 Commerce Way, Suite B; and Musto Jewelers, 186 Cambridge Road, #9. Motion made and 2<sup>nd</sup> that the MATTERS be REFERRED TO COMMITTEE ON PUBLIC SAFETY AND LICENSES, all in favor, 9-0.

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Petition by Robson Dias, 2 Westgate Drive #202 for renewal of a Livery License. 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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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. Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO PUBLIC HEARING, all in favor, 9-0.

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

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Petition by WMK, LLC dba MobilityWorks, 299 C&E Washington Street, Woburn, Massachusetts 01801 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. Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO PUBLIC HEARING, all in favor, 9-0.

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**COMMUNICATIONS AND REPORTS:**

A communication dated February 24, 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 January 2017: Number of violations issued 106, Numbers of violations paid 37, Number of violations outstanding 64, Amount collected and submitted to Collectors Office \$6,804.80, Parking fines referred to the Handicap Commission \$3,700.00.

There is a backlog of 1,652 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 communication dated February 16, 2017 was received from Police Chief Robert J. Ferullo, Jr. as follows:

Subject: Request to install flag pole

The city of Woburn Police Department would have no issue with a flag pole being installed in memory of Officer Jack Maguire provided all other regulatory requirements of such an installation are complied with.

s/Robert J. Ferullo, Jr., Chief of Police

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 communication dated February 22, 2017 was received from Thomas J. Tinlin, Administrator, MassDOT, Ten Park Plaza, Suite 4160, Boston, Massachusetts 02116 as follows:

Re: Woburn – MassDOT Project 608067: Intersection Reconstruction at Route 3 (Cambridge Road), Bedford Street and South Bedford Street

Dear Mr. Campbell:

In response to your February 13<sup>th</sup> letter regarding the City Council's request that MassDOT place the referenced project on the Transportation Improvement Program (TIP), the decision to program funding in this region is made by the Boston Area Metropolitan Planning Organization (MPO) as part of their annual TIP development process. While the Secretary and Chief Executive Officer of MassDOT serves as the Chair, the MPO is comprised of 22 voting members, including MassDOT Highway Division, Metropolitan Area Planning Council (MAPC), the Massachusetts Bay Transit Authority (MBTA), MBTA Advisory Committee, the Massachusetts Port Authority (Massport), the Regional Transportation Advisory Council, the Cities of Beverly, Boston (2), Everett, Newton, Somerville and Woburn, and the towns of Arlington, Bedford, Braintree, Framingham, Lexington, Medway and Norwood. The MPO is the federally

designated entity charged with developing transportation plans and programs for this region.

During the TIP development process, MassDOT will advocate for this project. The City of Woburn is encouraged to submit written or oral comments to the MPO regarding this project. MassDOT is also developing its Capital Investment Plan (CIP) for state fiscal years 2018-2022. This document outlines MassDOT's spending program and will reflect projects programmed on the TIP. Comments or suggestions on current or future transportation projects, programs, priorities and concerns can be submitted using MassDOT's online comment tool available on our website.

If you have further questions regarding this matter or the TIP development process, please contact District 4 Highway Director Paul Stedman.

Sincerely, s/Thomas J. Tinlin, Administrator

Alderman Campbell stated that this letter is good news for the city, that Police Traffic Safety Officer Mooney has stated that this intersection has the most accidents of any in the city, that the letter recognizes that there is an issue and possibly the city can move forward to resolve the issues, that the Planning Director is on the Metropolitan Planning Organization which determines which projects are placed on the Transportation Improvement Program (TIP) list, that she encourages the Planning Director to aggressively promote this project for a place on the TIP list, that the city may have to fund the costs of the improvements but this is worth the investment because of the public safety issues at the intersection, that comments or suggestions can be submitted to MassDOT through their website, and that if many residents comment on the record on the need for the intersection improvements the matter may move ahead. Alderman Higgins stated that this letter is a big step towards addressing the issues at the intersection, that the Traffic Commission has supported the improvements, and that the project has been placed on the Capital Improvement Project (CIP) list. Motion made and 2<sup>nd</sup> that the MATTER be RECEIVED AND PLACED ON FILE and that a copy be sent to the Planning Director with a request that she advocate at the Metropolitan Planning Organization for the advancement of the project, all in favor, 9-0.

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#### **UNFINISHED BUSINESS OF PRECEDING MEETING:**

On the Veto Message relative to the Order to amend Title 14, Article I, Section 14-7 of the 1989 Woburn Municipal Code, as amended, Trash Removal and Recycling – Condominium Associations. Motion made and 2<sup>nd</sup> that the MATTER be RECEIVED AND PLACED ON FILE, 8 in favor, 1 opposed (Concannon opposed), 0 absent.

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#### **APPOINTMENTS AND ELECTIONS:**

A communication dated February 28, 2017 was received from His Honor the Mayor Scott D. Galvin as follows:

Dear City Clerk Campbell:

By the power vested in me as Mayor of the City of Woburn, I hereby appoint Shannon Ryan, 139 School Street, with three-year term to expire March 30, 2018, to the Woburn Board of Registrars of Voters; subject to approval by the City Council.

Ms. Ryan's appointment fills the seat of Oliver C. Galante, who recently passed away.

Respectfully, s/Scott D. Galvin, Mayor

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

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A communication dated February 28, 2017 was received from His Honor the Mayor Scott D. Galvin as follows:

Dear City Clerk Campbell:

By the power vested in me as Mayor of the City of Woburn, I hereby appoint Jonathan W. Surette, 15 Donna Road, to the Woburn Golf and Ski Authority, subject to confirmation by the City Council, with a term to expire Dec. 31, 2017.

Mr. Surette's appointment fills the seat of Richard Lynch, who recently resigned from the Authority

Respectfully, s/Scott D. Galvin, Mayor

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

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A communication dated February 28, 2017 was received from His Honor the Mayor Scott D. Galvin as follows:

Dear City Clerk Campbell:

By the power vested in me as Mayor of the City of Woburn, I hereby appoint Charles J. Natale Jr., 2 Kathleen Drive, to the Woburn Golf and Ski Authority, subject to confirmation by the City Council, with a six-year term to expire Dec. 31, 2021.

Mr. Natale's appointment fills the seat of Robert Dunnigan, who recently resigned from the Authority.

Respectfully, s/Scott D. Galvin, Mayor

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

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

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Motion made and 2<sup>nd</sup> to ADJOURN, all in favor, 9-0. Meeting adjourned at 9:01 p.m.

A TRUE RECORD ATTEST:

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