

**CITY OF WOBURN  
JULY 19, 2011 - 7:00 P.M.  
REGULAR MEETING OF THE CITY COUNCIL**

Roll Call

Anderson	Gately
DiTucci	Haggerty
Drapeau	Mercer-Bruen
Gaffney	Raymond
Denaro	

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

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**MAYOR'S COMMUNICATIONS:**

**ORDERED** That the sum of \$31,326.00 be and is hereby appropriated as so stated from Insurance Reimbursement Acct #211-359000 \$31,326.00 to Elevator Maintenance Acct #0229604-535200 \$31,326.00 – Insurance Reimbursement for WMHS elevator.

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

s/Alderman \_\_\_\_\_

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**ORDERED** That the sum of \$150,000.00 be and is hereby transferred as so stated from BLS Receipts Acct #31359-595000 \$150,000.00 to Ambulance Maintenance Acct #0122054-544300 \$50,000.00, Ambulance Salaries Acct #0122051-513100 \$100,000.00.

I hereby approve the above: s/Scott D. Galvin, Mayor  
I have reviewed the above: Gerald W. Surette, City Auditor  
I hereby recommend the above: s/Paul Tortolano, Chief, Fire Department

s/Alderman \_\_\_\_\_

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**PUBLIC HEARINGS:**

On the petition by Town Fair Tire Centers of Massachusetts LLC, 460 Coe Avenue, East Haven, Connecticut 06512 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended, Sections 5.1.22b and 5.1.44 to modify two special permits dated May 27, 2010 1. To allow for an automobile and truck repair garage, and 2. To allow a retail establishment between 5,000 square feet to 15,000 square feet (7,600 square feet), by deleting the words “with a roof” from Condition 4 in both special permits thereby eliminating the requirement of a roof on the tire cage, at 420 Washington Street  
PUBLIC HEARING OPENED. A communication dated June 30, 2011 was received from Edmund P. Tarallo, Planning Director, Woburn Planning Board as follows:

Re: Town Fair Tire Centers of Massachusetts LLC – 420 Washington Street – To modify the Special Permit decisions dated May 27, 2010 regarding 420 Washington Street formerly known as 422-424 Washington Street by modifying Condition 4 by eliminating the requirement to enclose the Tire Cage with a roof

Dear Mr. Campbell and members of the City Council:

At the Planning Board meeting held on June 28, 2011, the Planning Board voted to send a favorable recommendation to the City Council on the Special Permit application of Town Fair Tire Centers of Massachusetts LLC, regarding the property at 420 Washington Street to allow for the modification of Condition 4 in both Special Permit decisions dated May 27, 2010 regarding 420 Washington Street formerly known as 422-424 Washington Street. Said modified condition 4 shall be as follows:

- 4. All used tires shall be stored inside an enclosed Tire Cage and be built on a cement pad. The used tire area shall be enclosed by a sight impervious fence without a roof and be within the area designated as tire cage as shown on plan SP-1. Landscaping shall be around the Tire Cage as approved by the Planning Board.

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

Sincerely, s/Edmund P. Tarallo, Planning Director

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On the petition by Oliver Enterprises, 278 Salem Street, Woburn, Massachusetts 01801 for a Special Permit pursuant to the 1985 Woburn Zoning Ordinances, as amended, as follows: 1. To allow for the alteration of the existing non-conforming use and structure (single family home) to provide for an addition to the existing structure to allow for the Petitioner’s landscaping business pursuant to Section 7.3, and 2. To allow for the overnight parking of commercial vehicles pursuant to Section 5.1.57b, at 5 Hancock Street. PUBLIC HEARING OPENED. A communication dated July 18, 2011 was received from Attorney Joseph R. Tarby, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: Oliver Enterprises, 5 Hancock Street, Woburn, MA

Dear Mr. Campbell:

Due to the fact that my client's engineer has not yet completed additional engineering work requested by the City Engineer, I respectfully request that the public hearing on this matter be continued from July 19, 2011 to August 9, 2011.

If you need any further information, please contact me. Thank you.

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

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On the petition by 859 Main Development, LLC, 57 Russell Street, Woburn, Massachusetts 01801 for a special permit pursuant to Section 22 of the 1985 Woburn Zoning Ordinances, as amended for a proposed 98 unit condominium development at 859 Main Street. PUBLIC HEARING OPENED. A communication dated July 14, 2011 was received from Shaun W. Briere, Mawn and Mawn, P.C., 275 Mishawum Road, 4<sup>th</sup> Floor, Woburn, Massachusetts 01801 as follows:

Dear Mr. Campbell and Members of the City Council:

The Petitioner respectfully requests a continuance of the above referenced matter scheduled for public hearing by the City Council at its upcoming meeting on July 19, 2011, The Petitioner requests said continuance in order to afford the Planning Board time to complete their review of the Special Permit Petition. The Petitioner requests a continuance to the next meeting of the City Council on August 9, 2011.

Please feel free to contact the undersigned should you have any questions or require any additional information regarding the above. Again, I thank you for your consideration and respect in this matter,

Very truly yours, s/Shawn W. Briere

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On the petition by Peterson Party Center, Inc., 139 Swanton Street, Winchester, Massachusetts for a special permit pursuant to Section 5.1.57b of the 1985 Woburn Zoning Ordinances, as amended, to allow for the overnight parking of commercial vehicles at 36 Cabot Road. PUBLIC HEARING OPENED. A communication dated June 30, 2011 was received from Edmund P. Tarallo, Planning Director, Woburn Planning Board as follows:

Re: Peterson Party Center Inc. – 36 Cabot Rd. - To allow for the overnight parking of commercial vehicles pursuant to Section 5.1.57b

Dear Mr. Campbell and members of the City Council:

At the Planning Board meeting held on June 28, 2011, the Planning Board voted to send a favorable recommendation to the City Council on the Special Permit application of Peterson Party Center Inc., regarding the property at 36 Cabot Rd. to allow for the overnight parking of commercial vehicles pursuant to Section 5.1.57b subject to the following conditions:

1. That up to 44 commercial vehicles be allowed to park overnight on the site;
2. That an emergency management plan requiring said vehicles parked overnight on the site to be relocated as shown on the "Emergency Parking Plan" Sheet SK-1 dated 6/24/11 during any forecasted storm that has the potential of flooding the site. Said plan shall be filed with the Woburn Police Department, Woburn Fire Department, the City Engineer and Public Works Director with the names and phone numbers of all responsible parties required to execute the emergency management plan; and
3. That said vehicles shall be registered within the City of Woburn.

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

Sincerely, s/Edmund P. Tarallo, Planning Director

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On the petition by New Cingular Wireless PCS, LLC by AT&T Mobility Corporation, 550 Cochituate Road, Framingham, Massachusetts 01701 for a special permit pursuant to Sections 5.1.80b and 5.6 of the 1989 Woburn Zoning Ordinances, as amended, to add three like antennas and accessories to an existing wireless communications site at 397 Main Street. PUBLIC HEARING OPENED. A report was received from the Committee on Special Permits as follows: "ought to pass with the condition 1. That any non-useable equipment be removed by the petitioner."

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On the petition by Alderman Michael Raymond and Alderman Richard Gately to amend the 1985 Woburn Zoning Ordinances, as amended, by establishing a new Section 26 entitled Solar Overlay District as set forth in the petition [Note: a full recitation of the proposed Ordinance is printed in the Journal of the June 7, 2011 Regular Meeting of the City Council]. PUBLIC HEARING OPENED. A communication dated July 18, 2011 was received from Erin Rowe, City Planner, Woburn Planning Department stating that the Planning Board public hearing on the proposed ordinance will be held on August 2, 2011.

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**CITIZEN'S PARTICIPATION:** None.  
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**COMMITTEE REPORTS:**

**POLICE AND LICENSES:**

On the petition by United Dominion Realty LP dba UDD Inwood LLC for transfer from Avalon Bay Communitis Inc. an Inflammable License to allow above ground storage of 735 gallons of gasoline in garage units (49 cars @ 15 gallons each) at Inwood Drive, Lot 1, committee report was received “ought to pass”.

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On the petition by SureRide for a Taxi Cab License, committee report was received “ought not to pass”.

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**NEW PETITIONS:**

A communication dated July 18, 2011 with attachments was received from Attorney Joseph R. Tarby III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: J.C. Auto Sales, 84-86 Winn Street, Woburn, Massachusetts

Dear Mr. Campbell:

Please be advised this office represents Capelo’s Auto Service, Inc. d/b/a J.C. Auto Sales, doing business at 84-86 Winn Street, Woburn, Massachusetts.

Please note that the current Second Class Motor Vehicle Sales License is in the name of J.C. Auto Sales. On behalf of my client I respectfully request that the License be transferred to Capelo’s Auto Service, Inc., d/b/a J.C. Auto Sales, doing business at 84-86 Winn Street, Woburn, Massachusetts.

In addition, my client respectfully requests the condition stating that “No Building on Site” be removed.

Enclosed please find for filing the following:

1. 10 copies of current Second Class Motor Vehicle Sales License
2. Original and 10 copies of Application for New or Renewal License
3. Filing fee in the amount of \$300.00
4. Certificate of Treasurer/Collector

If you need any further information, please do not hesitate to contact me. Please let me know when this matter will be scheduled for review by the City Council. Thank you.

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

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A communication dated July 15, 2011 with attachments was received from Attorney Joseph R. Tarby, III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: Boston Street Associates LLC v. City of Woburn City Council, Pacific Packaging Products, Inc. and Graceland Realty Trust, Middlesex County Superior Court Civil Action No. 11-1776

Dear Mr. Campbell:

Please be advised that I represent Pacific Packaging Products, Inc. ("Pacific"). As you know, on May 3, 2011, the City Council granted a Special Permit to Pacific to allow for a warehouse and distribution center pursuant to Section 5.1.42 of the 1985 City of Woburn Zoning Ordinance as amended (the "WZO") and to allow for the overnight parking of commercial vehicles pursuant to Section 5.1.57(b) of the WZO at 331 New Boston Street, Woburn, Massachusetts.

Subsequently, New Boston Street Associates LLC, the owner of property at 323 and 325 New Boston Street, Woburn, Massachusetts filed an appeal of the Special Permit Decision to the Middlesex County Superior Court.

On July 14, 2011, the Court ruled on an Emergency Motion to Remand Special Permit Decision filed by Pacific and Graceland Realty Trust ("Graceland") and remanded to the City Council for rehearing (a) for consideration of modifications to the Site Plan which were previously submitted to the City Council in connection with the Decision as requested by Pacific Packaging Products, Inc. in its revised Site Plan dated June 14, 2011 and (b) for consideration of Plaintiff's objections to the Decision as set forth in the herein Complaint.

On behalf of Pacific and Graceland, I hereby request the rehearing on this matter be held at the City Council meeting scheduled for Tuesday, August 9, 2011 at 7:00 p.m. In connection with this request I am enclosing the following:

1. 10 copies of Order on Emergency Motion to Remand Special Permit Decision
2. 10 copies of the Emergency Motion to Remand Special Permit Decision
3. 10 copies of Plaintiff's Partial Assent and Partial Objection
4. 10 copies of revised Site Plan
5. Copy of Certified Abutters List and 2 sets of Mailing Labels
6. Check in the amount of \$200.00 for advertising

If you need any additional information, please do not hesitate to contact me. Thank you.

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

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Petition by Stephanie A. Maggiore, 6 Stafford Court, Haverhill, Massachusetts 01835 for a special permit pursuant to Section 5.1.35 of the 1985 Woburn Zoning Ordinances, as amended, to allow a dog daycare business at 167-171B Merrimac Street.

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A communication dated July 10, 2011 with attachments was received from Attorney Michael J. Newhouse, Law Office of Michael J. Newhouse & Associates, P.C., 20 Middlesex Avenue, Wilmington, Massachusetts 01887 as follows:

Re: Our client: ACT Leasing, Inc.  
Address: 215 Salem Street, Suite 10  
License: Second Class Motor Vehicle Sales License  
Request: Amendment to Existing Class II License

Dear Mr. Campbell:

Kindly accept this letter as a request for an amendment to the existing Second Class Motor Vehicle Sales License currently held by ACT Leasing, Inc. Enclosed for your convenience are copies of the following:

1. Current license held by ACT Leasing, Inc.
2. 540 CMR 18.02. Specifically, reference 540 CMR 18.02(2)(a)4.

By way of explanation, in keeping with the conditions set forth in its license, ACT Leasing, Inc. ("ACT") has the ability to engage in retail sales of used motor vehicles. However, it typically does not do so. Rather, ACT typically sells the vehicles in question at the expiration of their lease terms, either (s) directly to the customer (or to the customer's employee); or (b) to a used vehicle wholesaler either directly or at auction. As a matter of course, ACT simply does not maintain a "retail lot" by which it sells its used vehicles to the general public.

Recently, like many Class II license holders located in the Commonwealth, ACT was contacted by the Registry of Motor Vehicles, Department of Vehicle Safety and Compliance Services ("RMV") relative to its location at 215 Salem Street, Suite 10. Specifically, the RMV expresses concern that the building at 215 Salem Street does not have a separate and exclusive entrance for the conduct of ACT's business as a Second Class license holder,

Our position is that since ACT exchanges vehicles solely on a wholesale basis, a separate and exclusive entrance is unnecessary. However, rather than argue the point, the simplest way to address the concerns of the RMV is to memorialize the fact that ACT does not engage in retail sales, by doing so in writing as a condition of the license.

Therefore, my client respectfully requests that the City Council amend the license by inserting the following specific condition: The holder of this license may sell or exchange

used vehicles solely on a wholesale basis. While this condition represents a substantive change to the license, it will not materially changes ACT's business operations.

Based upon our recent discussion, it is my understanding that you would anticipate this matter being included on the City Council's agenda for its July 19<sup>th</sup> meeting. To that end, if you or the Council has any questions, or if you require any additional information, do not hesitate to contact me by telephone or email.

Thank you in advance for your time and consideration.

Very truly yours, s/Michael J. Newhouse

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**COMMUNICATIONS AND REPORTS:**

A communication dated June 23, 2011 was received from Charles L. O'Connor, Parking Clerk, Police Headquarters, 25 Harrison Avenue as follows:

In accordance with Massachusetts General Laws Chapter 90, Section 20½, I am submitting a report to you on the parking violations in the City of Woburn for the period ending May 2011: number of parking violations issued 720, number of violations paid 357, number of violations outstanding 294, amount collected and submitted to the Office of the Collector \$26,993.00. There exists a backlog of 5,607 tickets for 1982 through 2010. Demand will be sent until all tickets have been paid. Parking violations referred to the Handicapped Commission to date \$6,700.00.

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

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A communication dated June 28, 2011 was received from Joanne Collins, Director, Woburn Council on Aging along with a copy of the Director's Report and the minutes of the Council on Aging for the month of June 2011.

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A communication dated July 18, 2011 was received from Attorney Joseph R. Tarby III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: Petition of Accurate Auto Services, 7 Harrison Avenue, Woburn, Massachusetts

Dear Mr. Campbell:

Please be advised that I represent Accurate Auto Services in connection with the above-referenced Petition seeking approval from the City Council to operate an automobile repair garage at 7 Harrison Avenue, Woburn, Massachusetts. On behalf of my client, I respectfully request leave to withdraw without prejudice of the above-referenced petition

which has been scheduled for a public hearing on August 9, 2011. It has been determined that a variance for street frontage is required.

If you need any further information, please do not hesitate to contact me. Thank you.

Very truly yours, s/Joseph R. Tarby III

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

**APPOINTMENTS AND ELECTIONS:**

A communication dated June 27, 2011 was received from His Honor the Mayor Scott D. Galvin as follows:

Dear City Clerk Campbell:

By the power vest in me as Mayor of the City of Woburn, I hereby appoint Patricia A. Rossetti, 16 Robert Avenue, Woburn, to the Handicapped and Disabled Citizens Commission, with a three-year term to expire on Dec. 31, 2015: subject to approval by the City Council.

The appointment fills the vacant seat of Edward Quinn, who recently resigned from the Commission.

Sincerely, s/Scott D. Galvin, Mayor

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**MOTIONS, ORDERS AND RESOLUTIONS:**

**ORDERED** That pursuant to Massachusetts General Laws Chapter 148, Section 13, the City Clerk shall schedule a public hearing before the City Council for the purposes of revoking the following Inflammable Licenses for the reasons stated:

1. Rohm and Haas Company at 185 New Boston Street – At request of license holder;
2. Amerifit Pharma Inc. at 11 State Street – At request of license holder;
3. Waste Management of Boston North at 204 Merrimac Street – At request of license holder;
4. Stephen & Adeline Dagata at 211 New Boston Street – At request of license holder;
5. Matthew Aucoin at 25 Garfield Avenue – Failure to register;
6. Francis P. McHugh at 26 Jefferson Avenue – Failure to register;
7. Automotive Service Center at 146 Main Street – Failure to register;

8. William Spence & Sons, Inc. at 30 Wyman Street – Failure to register.

Further, that the City Clerk shall give notice by certified mail return receipt requested to the license holder to the last known address of license holder and by causing notification of the hearing to be published once in a newspaper of general circulation in the City at least ten (10) days prior to the hearing.

s/President Denaro

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ORDERED WHEREAS, there presently exists a structure or structures located in the City of Woburn, Massachusetts known and numbered as 30 Union Street; and

WHEREAS, the said building or buildings and the property is generally not being properly maintained;

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

s/Alderman Anderson

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RESOLVED Whereas, the United States Senate is considering passage of bill S. 883, the National Liberty Memorial Act, to authorize the construction of an entirely citizen-funded National Liberty Memorial to African Americans of the Revolutionary War at a location in the monumental core of Washington, D.C.; and

Whereas, from 1775 to 1783, an estimated 5,000 to 10,000 slaves and free persons served as soldiers, marines and patriots in the Revolutionary War in addition to tens of thousands of men, women and children who provided civilian assistance, ran away from slavery and petitioned courts and legislatures for freedom; and

Whereas, more than 1,570 African Americans served in the Revolutionary War from 194 of 351 municipalities and all 14 counties of Massachusetts; and

Whereas, according to the National Mall Liberty Fund, D.C., sixteen African American soldiers and patriots from Woburn participated in the struggle for independence; and

Whereas, although the original memorial was not constructed, and the authority to do so has lapsed, genealogical research and the publication of hundreds of books over more than two decades reaffirm the significant contributions made by African Americans of the post-colonial period and validates their influence on the patriotism of future generations and the movement for civil rights; and

Whereas, beginning in 1984, landmark legislation was approved by Congress, including Public Law 98-245 commemorating African American patriotism and Public Laws 99-558 and 100-265 that authorize a national memorial and declare the history of “preeminent historical and lasting significance to the nation.”

Now, Therefore, Be It Resolved by the City Council of the City of Woburn that the that the City Council of the City of Woburn encourages volunteers to discover the names of still-unknown African American Revolutionary War soldiers, sailors and patriots, enlarge the body of knowledge about their lives and forward the information to National Mall Liberty Fund D.C. for inclusion in a database that will celebrate the trail blazers of the City of Woburn together with those of hundreds of proud American communities; and

Be It Further Resolved that the City Council of the City of Woburn urges the Massachusetts Delegation to the United States Congress to work for the enactment of the National Liberty Memorial Act and to spread knowledge of the history to institutions in Massachusetts while promoting its potential for understanding and unity throughout the nation; and

Be It Further Resolved that the Clerk of Woburn City Council forward certified copies of this Resolution to the entire Massachusetts Delegation to the United States Congress, the Governor of the Commonwealth of Massachusetts, the Speaker and President of the 187<sup>th</sup> General Court and the Superintendent of the Woburn Public Schools, the Director of the Woburn Public Library, the Woburn Historical Commission, and the Woburn Historical Society.

s/Alderman Raymond

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RESOLVED Whereas, Chief Philip L. Mahoney has had a long and distinguished career as an officer of the Woburn Police Department; and

Whereas, Chief Mahoney served in the United States Navy from 1965 to 1969 as a Communication Technician 2<sup>nd</sup> Class stationed in Japan, Taiwan, the Philippines and Vietnam, and after an honorable discharge from military service completed his undergraduate studies at Northeastern University, and received advanced training in the criminal justice and law enforcement disciplines; and

Whereas, during his career Chief Mahoney rose through the ranks of the police force having been appointed a Reserve Patrolman on December 13, 1970, a Regular Patrolman on August 1, 1971, a Sergeant on February 27, 1977, a Lieutenant on March 9, 1980, Acting Police Chief on September 21, 1986, and Police Chief on April 12, 1987; and

Whereas, Chief Mahoney oversaw the modernization of the Woburn Police Department, including the construction of a state of the art police headquarters, advances in communications and technology, and the accreditation of the department to ensure and improve service to the community and protection of the life, safety and property of the residents and businesses located in the City of Woburn; and

Whereas, Chief Mahoney was held in high regard by the citizens of the City of Woburn and within the police community throughout the Commonwealth for his knowledge, compassion, and his willingness to serve and assist others in their time of need;

Now, Therefore, Be It Resolved by the City Council of the City of Woburn that the Woburn City Council recognizes the many contributions of Chief Philip L. Mahoney to the City of Woburn during his career as an officer of the Woburn Police Department, offers thanks and appreciation for his dedicated and professional service to the city, and on behalf of the citizens of Woburn extends him the best wishes of the community for continued health, happiness and success upon his retirement.

s/President Denaro

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Motion made and 2<sup>nd</sup> to ADJOURN.