CITY OF WOBURN
AUGUST 21, 2007 - 7:30 P.M.
REGULAR MEETING OF THE CITY COUNCIL

Roll Call

Ciriello	Galvin
Denaro	Gately
Drapeau	Gonsalves
Dwyer	Mercer-Bruen
Doherty	

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

MAYOR'S COMMUNICATIONS: None.

PUBLIC HEARINGS:

On the petition by Harout Avakian to further amend the 1985 Woburn Zoning Ordinances, as amended, as follows: that Section 7.1 of the 1985 Woburn Zoning Ordinance, as amended, be further amended by adding a new paragraph to the end of this Section as follows: "A residential structure used as a residence and conforming to the zoning district in which it lies, that is protected by the ten (10) year statute of limitations under Massachusetts General Laws Chapter 40A, Section 7 shall be considered for the purposes of this Section 7.1 a legal non-conforming structure." PUBLIC HEARING OPENED. A communication dated August 16, 2007 was received from Edmund P. Tarallo, Planning Director, Woburn Planning Board as follows:

Re: Harout Avakian – To amend Section 7.1 of the Zoning Ordinance by adding the following: "A residential structure used as a residence and conforming to the zoning district in which it lies, that is protected by the ten (10) year statute of limitations under Massachusetts General Laws Chapter 40A, Section 7 shall be considered for the purposes of this Section 7.1 a legal non-conforming structure."

Dear Mr. Campbell and Members of the City Council:

At the Planning Board meeting held on August 7, 2007, the Board voted to forward an unfavorable recommendation to the City Council regarding the proposed amendment to Section 7.1 filed by Harout Avakian because the amendment is not needed. The reason that the proposed amendment had been offered is to give legal status under Chapter 40A Section 7 to the existing non-conforming structure. However, it is clear that Chapter 40A

Section 7 gives lawful existence to such structures because Chapter 40A Section 6 states "… a zoning ordinance or by-law shall not apply to structures or uses lawfully in existence" and further states "Pre-existing nonconforming structures or uses may be extended or altered, provided, that no such extension or alteration shall be permitted unless there is a finding by the permit granting authority or by the special permit granting authority designated by ordinance or by-law that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming use to the neighborhood." The City of Woburn does that in Section 7. Section 7.1.6 allows an addition to single or two family houses by Special Permit of the Board of Appeal under Section 7.3. Section 7.3 requires the petitioner to provide proof that the structure was validly and legally established. Chapter 40A Section 7 established the validity and legality required and therefore the right to apply for a Special Permit under Section 7. The City Council may wish to convey this to the Board of Appeals to assist them in considering these types of cases.

If you have any questions or concerns regarding this matter, please feel free to contact me.

Sincerely, s/Edmund P. Tarallo, Planning Director

A communication dated July 30, 2007 was received from Attorney Joseph R. Taby III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: Petition of Harout Avakian, 5 Carmen Terrace, Woburn, Massachusetts

Dear Chairman Gately:

As you know, the proposed zoning amendment to Section 7.1 of the 1985 City of Woburn Zoning Ordinance filed by my client was discussed at the City Council Public Hearing on July 17, 2007. I have enclosed for review by the members of the Ordinance Committee as well as the other City Council members, proposed revised language for your review and comment. Again I would appreciate any input that any City Council member has on this matter. Thank you.

Very truly yours, s/Joseph R. Tarby III

Attached thereto was the following:

ORDERED Be it ordained by the City Council of the City of Woburn that Section 7.1 of the 1985 Woburn Zoning Ordinance, as amended, be further amended by adding a new paragraph to the end of this Section as follows:

"A single or two family dwelling constructed prior to the adoption of this Zoning Ordinance as either a single or two family dwelling and conforming to the zoning district in which it lies, that is protected by the ten (10) year statute of limitations under Massachusetts General Laws

Chapter 40A, Section 7 shall be considered for purposes of this Section 7.1 a legal non-conforming structure. Notwithstanding any other language contained in this Section 7.1, the extension or alteration of such dwelling shall require a finding by the City Council that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. In making the finding that the extension or alteration will not be substantially more detrimental, the City Council shall consider, without limitation, impacts upon the following:

Traffic volumes, traffic congestion, adequacy of municipal water supply and sewerage capacity, noise, odor, scale, character and visual effects.

Application to the City Council for such extensions or alterations shall be made in accordance with Section 11 of this ordinance and approvals shall require a two-thirds vote of the City Council."

Appearing for the petitioner was Attorney Joseph R. Tarby and he stated that the petitioner is the fourth person in the chain of title of his single family home, that the city solicitor rendered an opinion the matter was not properly before the Board of Appeals and suggested an amendment to the ordinances, that the revised language provides that the structure must have been built before the adoption of the 1985 zoning ordinances, that unless the City Council amends the zoning ordinance the petitioner requests that a communication be sent to the Board of Appeals for consideration, and that the matter could be continued in anticipation of that decision. Alderman Drapeau stated that the clerk of the council can forward a communication to the Board of Appeals to take up the Planning Board opinion and approve the petitioner's request for a special permit. Alderman Galvin stated that he in favor of sending the matter to the Board of Appeals for further review. Alderman Gately stated that the matter should be sent to the Board of Appeals and that the matter can be referred to committee until a decision is received from the Board of Appeals. Alderman Mercer-Bruen stated that the matter should be sent to the Board of Appeals for review. Alderman Ciriello stated that he wants information provided in committee as to examples of buildings that might be impacted by this proposal. IN FAVOR: None. OPPOSED: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON SEPTEMBER 25, 2007, all in favor, 9-0.

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On the petition by Susan C. Levine, P.O. Box 360, North Salem, New Hampshire 03073 for a special permit pursuant to 1985 Woburn Zoning Ordinances, as amended Section 5.1.52 and Section 7.3 to construct a 3,400 square foot addition to an existing industrial use building at 11 Wheeling Avenue. PUBLIC HEARING OPENED. A communication dated August 20, 2007 was received from Attorney John D. McElhiney, McElhiney and Matson, 607 Main Street, Woburn, Massachusetts 01801 as follows:

Re: Request for continuance of Public Hearing

Petitioner: Susan Levine
Premises: 11 Wheeling Ave., Woburn, MA

Ladies and Gentlemen of the City Council:

On behalf of the petitioner, request is respectfully made to continue the public hearing (originally scheduled for tomorrow evening, August 21, 2007), to your meeting of September 25, 2007. There are issues which have been raised at the Planning Board level which are still being reviewed, and which has prevented this matter from being acted upon by the Planning Board.

We hope to have the Planning Board issues resolved at their meeting on September 11, 2007, and therefore suggest that your hearing be continued to September 25th. I will nevertheless be in attendance at your August 21st meeting if there are any questions on this request.

Thank you for your cooperation in this matter.

Sincerely, s/John D. McElhiney

IN FAVOR: None. OPPOSED: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON SEPTEMBER 25, 2007, all in favor 9-0.

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Motion made and 2nd for a five minute recess, all in favor, 9-0.

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President Doherty called the meeting back to order.

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On the petition by Pacer Electronics, Inc. to further amend the 1985 Woburn Zoning Ordinances, as amended, as follows: That a new Accessory Use be added to Section 5.1 as follows: "Section 5.1.67 Accessory Kennel used in conjunction with a retail establishment greater than 15,000 square feet". In addition, an "x" shall be inserted in the BI column and a "-" in all other columns. PUBLIC HEARING OPENED. A communication dated August 16, 2007 was received from Edmund P. Tarallo, Planning Director, Woburn Planning Board as follows:

Re: Pacer Electronics, Inc. – to add a new Accessory Use to Section 5.1: "Section 5.1.67 Accessory Kennel used in conjunction with a retail establishment greater than 15,000 square feet". In addition, an "x" shall be inserted in the BI column and a "-" in all other columns.

Dear Mr. Campbell and Members of the City Council:

At the Planning Board meeting held on August 7, 2007, the Board voted 3 to 2 to forward a favorable recommendation to the City Council on the Zoning Ordinance amendment to create a new accessory use under Section 5.1 as modified. The amendment as voted is as follows:

> "Section 5.1(67) Accessory Kennel used in conjunction with a retail pet store containing a minimum of 15,000 square feet of gross floor area providing day and overnight care for cats and dogs in an indoor facility located within said retail pet store. In addition, a "P" shall be inserted in the BI column and a "-" in all other columns."

If you have any questions or concerns regarding this matter, please feel free to contact me.

Sincerely, s/Edmund P. Tarallo, Planning Director

Appearing for the petitioner was Attorney Joseph R. Tarby, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 and he stated that a new accessory use will be added to the zoning ordinances, that the petitioner's parcel is 4.99 acres in area, that there is an existing building with a footprint of 69,000 square feet, that the building was formerly occupied by Pacer Electronics, that retail has been approved for the locus in excess of 15,000 square feet, that there will be a 45,000 square foot building to the rear and a 2,000 square foot building to the front of the property, that the 45,000 square foot building will house an OfficeMax retail store 18,000 square feet in area and a Petsmart retail store 27,000 square feet in area, that a Chipotle Grill Mexican restaurant will be located in the 2,000 square foot building, that Petsmart will provide day and overnight care for pets in a safe, comfortable and clean environment, that it is a pet hotel, that this is different than a typical kennel, that the pet hotel will be an accessory use as opposed to a primary use, that this use will only be allowed in conjunction with retail uses in excess of 15,000 square feet, that all of the facilities will be located inside the building and the use will require a special permit, that a special permit will be required for the primary and the secondary use, that conditions may be imposed relative to waste removal, sound and similar issues, that this is a high end use, that the demographics are great in this area for this use, that some cities and towns allow for use variances, that the city's zoning ordinances are twenty-two years old, that this is a new idea, that this is a reputable developer, that the City Council has the right to condition or deny a special permit for this use as necessary to protect a neighborhood, and that any retail use greater than 15,000 square feet in size in the B-I zoning district requires a special permit and this proposed ordinance is consistent with that requirement. Steve Healey of Petsmart stated that the average customer considers their pet as part of their family, that pets cannot always be taken on vacation, that this will be a pet hotel with 24 hour care, that the use has been well received in other communities, that they have not had to obtain additional state or local licenses in other communities, that the typical facility can accommodate 130 to 140 dogs and fifteen cats, that the normal capacity is 40%, that each hotel has a relief room for pet waste, that there is a toilet for use of the animals, that the waste component is completely self-contained in the facility, that the waste is flushed into the city sewer,

that there is a very rigid maintenance program, that most rooms are cleaned more than once a day, that there is no outside walking of the pets, that the only time there will be pets outside is when they are entering or leaving the facility, that the store will carry food and accessories for dogs, cats, birds, fish and reptiles, that 5% to 10% is the average portion of business generated by the hotel and 90% to 95% is the average portion of business generated by the retail operation, that the location of a facility is based on many factors, that this is a desirable location for a pet store, that the buildings are 100% soundproof, that co-tenants in the same building would not hear barking from their unit, that day stays for pets make up some portion of the business as well as the overnight stays, the stays are typically three to seven days although this varies seasonally and with the travel plans of the owners, that there are typically ten to fifteen dogs per day in a daycare setting, that there will be grooming, dog training and a hotel component on site, that most customers are in tune with the temperament of their pets, that some evaluation of pet temperament takes place, that pet vaccination information is verified before a pet is allowed in the facility, that the pets enter through the front door of the facility, that the retail store component encourages owners to bring their leashed pets to the store for everyday shopping, that Petsmart operates just over 900 stores, that the hotel component is not a requirement for the store, that it helps build customer loyalty, that the hotel component is a recent model being developed, that not every location is right for a dog hotel, that virtually every hotel which has been opened has required approval, that there is also a full service veterinary clinic offered in some facilities, and that there are no plans at this time to operate a veterinary clinic at the facility. Mr. Healey offered documents to the City Council for review. Motion made and 2nd that the documents be received and made part of the record, all in favor, 9-0. Bryan Clancy of National Development stated that OfficeMax is a co-tenant in this building, that they will be a typical retail office supply store, that this project is located squarely on a Superfund site, that this is Class B land, that there are not a lot of tenants seeking to locate on this site, that this is one of the most difficult sites to develop, that this will bring quality to the site, that there is currently a dilapidated building on the site, that all other areas that have been developed at the Superfund site has been Class A land, that this is Class B land in that it had a building located on it, and that development of the property can result in issues as the land is not fully tested due to the current building on the site. Alderman Gately stated that there is a heavily used sewer system in that area, and that the City Council will have to be certain that that sewer system can absorb this use. Alderman Gonsalves stated that she is concerned about potential noise from barking at this type of facility, that she would support sending this to committee for further review, and that information can be gathered on issues such as the volume of waste generated from the site as well as sound emissions for review in committee. Alderman Dwyer stated that he is concerned about the impact of such as use if it were allowed in the B-I zoning district near the Middlesex Canal area on the residents in the area, and that he supports sending this to committee for further review and discussion. Alderman Mercer-Bruen stated that an upscale dog hotel component is a favorable use, that she contacted the petitioner's stores in other communities in Massachusetts, that the only other store that had the hotel component was in Framingham, that it does not appear that the hotel component is a requirement for the store, that she has no problem with the use in that area, that there is an issue as kennels are allowed already under the zoning amendment, that there does not seem to be a high

demand for this use, that the City Council is being asked to change the zoning for the whole city for this one developer, that this use would be a draw for other businesses, that she would not support the proposal at this meeting but will consider it in committee, that this is a wonderful use for that area, that she is not concerned about a use in that area, that she is concerned with a city-wide change for this one project, that she has not seen the benefits to the entire city by making this change, that the city is being asked to change the zoning code which will affect the entire city, that there are many places in the city that could potentially be the site of future kennel operations if this ordinance is passed, and that there must be a compelling argument made as to how this will benefit the community. Alderman Galvin stated that this is a good use, that he is willing to support this proposal at this meeting in view of the special permit requirement, that if this was a primary use he would not support this but supports this as an accessory use, that this is a large retail use with a small kennel component, that the special permit requirement provides protection in other areas of the city, that this is not spot zoning as it is not for one developer, that the special permit process will provide the protection needed, that it is the zoning change that is under consideration and not the particular use that is the genesis of the change, that the particular use will be addressed in the special permit process, that this is not a stand alone kennel but an accessory to a retail operation, and that it is not a by-right use but a use requiring a special permit. Alderman Denaro stated that the zoning ordinances need to be "tweaked and changed" over time, that the proposal is clearly a different use than any presented in the past, and that he does not believe that the City Council should question someone's business plan. Alderman Drapeau stated that the City Council has to consider the zoning change itself. IN FAVOR: Paul Meaney, Executive Director, Woburn Business Association, Ten Tower Office Park, Woburn stated that he has faith this developer, and that they will not allow a use in that area which will decrease the value of their properties. OPPOSED: None. Motion made and 2nd that the MATTER be REFERRED TO COMMITTEE ON ORDINANCES AND THAT THE PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON SEPTEMBER 4, 2007., all in favor 9-0.

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President Doherty stepped down from the chair and Alderman Galvin assumed the chair.

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On the petition by Manuel Jose and Maria Celeste Jose, 7 Dewey Avenue, Woburn, Massachusetts 01801 for a special permit pursuant to Section 7.3 of the 1985 Woburn Zoning Ordinances, as amended to allow the alteration of a pre-existing nonconforming three-family residence to allow for a re-configuration of units basement and parking at 40-42 Porter Street. PUBLIC HEARING OPENED. A report was received from the Committee on Special Permits as follows: "Back for action". Appearing for the petitioner was Attorney Mark Salvati, 10 Cedar Street, Suite 26, Woburn, Massachusetts 01801 and he stated that this was discussed in committee, and that this is being used as a three family residence currently but he is not certain as to the number of residents in the building. Alderman Denaro stated that he spoke to the neighbors and that the neighbors are not pleased with the concept but believe that the proposal is the best that will be put forward. President Doherty stated that he hoped that the changes will have a positive

impact to the neighborhood, that the property is a legal three family residence as it was previously approved as a three family residence in the past, and that the owner believed that this was a five family residence. Alderman Drapeau stated that he wants to see automatic review of the special permit if there is unruly behavior and police action becomes excessive at the locus. IN FAVOR: None. OPPOSED: Janet Newsome, 12B Lawrence Street stated that she just purchased neighboring property, that there are excessive people, noise and cars at the residence, that this conditions exists even late on week nights, and that she believed that the locus was a two family residence consistent with the area. Deborah Barnes-Guzman, 12 Lawrence Street stated that she purchased her building as a two family residence and converted it to two condominium units, that she spoke in opposition to a prior petition for the locus, that vehicles park in front of the locus although there is a large parking area on the lot that is not fully utilized, that this is a narrow street, and that she purchased property, rehabs the property and sells the units as condominiums. Motion made and 2nd to close the public hearing, all in favor, 9-0. Motion made and 2nd that the SPECIAL PERMIT be GRANTED, AS AMENDED, with the amendments as follows:

1. That the plans dated May 20, 2007 shall be the plans of record;
2. That the interior walls in the basement shall be removed pursuant to the plan of record dated May 20, 2007 creating a large storage area only with no living space;
3. That both kitchens shall be removed from the basement including cabinets and counters and the utilities shall be cut and capped in accordance with the instructions of the Woburn Plumbing Inspector;
4. That only one bathroom shall remain in the basement;
5. That new interior walls shall be installed separating units one and two storage and access to the remainder of the basement pursuant to the plan of record;
6. That the third floor shall have only one bedroom and the remaining area shall be for storage only;
7. That a three (3) foot fence shall be installed between the driveway area with the property on the southerly side and shall run the length of the paved area;
8. That the pavement shall be removed and grass established in front of the property pursuant to the plan of record;
9. That the petitioner shall plant a natural buffer between the rear parking area and westerly property line;
10. That the petitioner shall maintain the natural buffer and fence at the rear of the property;
11. That the rear driveway shall slope away from the abutters property and an asphalt berm shall be installed on the westerly side of the driveway at the rear to address drainage issues;
12. That all snow shall be plowed internally towards the petitioner's property and not towards abutters property;
13. That the electrical meter shall be brought to code and three (3) individual electrical meters shall be installed for the three (3) tenant units;
14. That there shall be an inspection by the Fire Department to ensure installation of smoke detectors and carbon dioxide detectors;
15. That there shall be a maximum of eight (8) off-street parking spaces on the locus;

16. That the recommendations of the Planning Board in their communication dated June 26, 2007 shall be adopted as conditions of the special permit excluding Planning Board condition 1 relative to parking and further in so far as they are not inconsistent with the City Council conditions;
17. That the recommendations of the City Engineer shall be adopted as conditions of the special permit;
18. That the Planning Board shall retain jurisdiction over the landscaping;
19. That a communication shall be forwarded to the Traffic Commission requesting that the commission look into the feasibility of establishing parking restrictions on Porter Street;
20. That a communication shall be forwarded to the Department of Public Works informing the department of three (3) water meters at the locus and a communication shall be forwarded to the Board of Assessor relative to there being three residential units at the locus; and
21. That the special permit shall be reviewed one (1) year from the date of issue.

all in favor, 9-0.

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Alderman Galvin stepped down from the chair and President Doherty assumed the chair.

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On the petition by Graybar Electric Company Inc., 34 N. Meramec Avenue, St. Louis, Missouri 63105 for two special permits pursuant to 1985 Woburn Zoning Ordinances, as amended as follows: 1. Pursuant to Section 5.1.42 to allow for warehouse and distribution use and 2. Pursuant to Section 5.1.57b to allow for the parking of commercial vehicles, both at Lot 6C, Draper Street. PUBLIC HEARING OPENED. A communication dated July 31, 2007 was received from Brett F. Gonsalves, Senior Engineer, Woburn Engineering Department as follows:

Subject: 6C Draper Street Warehouse Use & Commercial Vehicle Parking Special Permit
Special Permit Application Dated July 6, 2007
Revised Site Plans Dated September 2, 2004, 2007

This office has reviewed the special permit application for the above referenced location and offers the following comments.

The special permit application and revised Development Impact Statement outlines the proposed warehouse distribution and parking commercial vehicles outside of the existing building. The applicant is also seeking a modification of a previously approved special permit dated June 18, 2007 which stipulated no outside storage of materials on premises.

The supplied information does not state the amount of warehouse that is being used or if this deviates from the previously approved plans, nor does the applicant specify the amount of parking spaces needed and their location on the site plan.

This additional information is necessary in order to determine if there are sufficient parking spaces for the remaining uses and if any additional mitigation is required.

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

A communication dated August 20, 2007 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 Graybar Electric Company, Inc., Lot 6C, Draper Street

Dear Mr. Campbell:

Due to the fact that the Planning Board has not yet reviewed the above-referenced petition, I hereby request that the City Council public hearing on this matter be rescheduled from August 21, 2007 to September 25, 2007. Thank you.

Very truly yours, s/Joseph R. Tarby III

IN FAVOR: None. OPPOSED: George Harris, 49 Nashua Street stated that he is familiar with the petitioner, that they are a large electronics product company, that he is concerned that there will be heavy traffic with this business, and that he is concerned with businesses requiring special permits and that perhaps it would be beneficial to wait for a business which will not require a special permit. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON OCTOBER 2, 2007, all in favor 9-0.

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On the petition by Robert Adams and Greg Adams, c/o Attorney Mark J. Salvati, 10 Cedar Street, Suite 26, Woburn, Massachusetts 01801 for a special permit pursuant to Section 7.3 of the 1985 Woburn Zoning Ordinances, as amended, to replace two multi-family buildings with one building containing five dwelling units at 239 Main Street . PUBLIC HEARING OPENED. A copy of a communication dated July 31, 2007 to Edmund P. Tarallo, Planning Director, was received from Brett F. Gonsalves, Senior Engineer, Woburn Engineering Department as follows:

Subject: 239-241 Main Street – Proposed 5 Townhouse Special Permit
Special Permit Application Dated 4/10/07
Plans Dated April 9, 2007 & 11/1/2006
Previous Memo Dated May 7, 2007
Previous Memo Dated June 25, 2007

This office has reviewed the special permit application for the above referenced location and finds that this office has not received any additional information since our previous memo dated May 7, 2007.

We will complete our review upon submission of the requested information.

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

A communication dated August 13, 2007 with attachments was received from Attorney Mark J. Salvati, 10 Cedar Street, Suite 26, Woburn, Massachusetts 01801 as follows:

Re: 239-241 Main Street – Special Permit Petition

Dear Sir/Madam:

Enclosed please find 12 copies of the revised site plan and 12 copies of the unit drawings, as well as one copy of the drainage calculations for the above property for your review. Be advised that the require number of copies of the same have been provided to the Engineering office and Planning Board.

Thank you for your cooperation and please call with any questions.

Very truly yours, s/Mark J. Salvati

A communication dated August 22, 2007 was received from Attorney Mark Salvati as follows:

Re: 239 Main Street

Dear Sir or Madam:

Request is made to continue this matter, scheduled for August 22, 2007, until a scheduled meeting after September 11 in order for the Planning Board to review newly submitted material and make a recommendation to the Council.

Thank you for your cooperation and please call with any questions.

Very truly yours, s/Mark J. Salvati

IN FAVOR: None. OPPOSED: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON OCTOBER 2, 2007, all in favor 9-0.

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On the petition by SAR Woburn Food Inc. dba Sarku, 300 Mishawum Road, Space #210, Woburn, Massachusetts 01801 for a special permit to allow a fast food use at 300 Mishawum Road, #210. PUBLIC HEARING OPENED. A copy of a communication dated July 31, 2007 to Edmund Tarallo, Planning Director, was received from Brett F. Gonsalves, Senior Engineer, Woburn Engineering Department as follows:

Subject: 300 Mishawum Road SAR Fast Food Special Permit
Special Permit Application Dated July 23, 2007

This office has reviewed the special permit application for the above referenced location and offers the following comments.

The special permit application requests a special permit for a fast food restaurant in unit #210 of the Woburn Mall located at #300 Mishawum Road.

The proposed fast food restaurant is subject to mitigation as per section 18 of the City of Woburn Zoning Ordinance. A development Impact Statement in accordance with this section will need to be prepared and submitted to this office for review.

This office will complete our review upon submission of the above referenced materials.

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

A communication dated August 20, 2007 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 SAR Woburn Food Inc. d/b/a Sarku
300 Mishawum Road, Woburn, Massachusetts

Dear Mr. Campbell:

Due to the fact that the Planning Board has not yet reviewed the above-referenced petition, I hereby request that the City Council public hearing on this matter be rescheduled from August 21, 2007 to September 25, 2007. Thank you.

Very truly yours, s/Joseph R. Tarby III

IN FAVOR: None. OPPOSED: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON September 25, 2007, all in favor 9-0.

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On the petition by Koffler/GID Woburn LLC, One Providence Washington Plaza, Ninth Floor, Providence, Rhode Island 02903 for a special permit to modify a special permit

dated October 9, 2003 pursuant to Section 5.1.23 of the 1985 Woburn Zoning Ordinances, as amended, to allow for a further amended site plan and an additional 2,500 square feet of gross floor area at 300 Mishawum Road. PUBLIC HEARING OPENED. A communication dated August 20, 2007 was received from Attorney Joseph R. Tarby III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: Special Permit Petitions of Koffler/GID Woburn LLC
300 Mishawum Road, Woburn, Massachusetts

Dear Mr. Campbell:

Due to the fact that the Planning Board has not yet reviewed the above-referenced petition, I hereby request that the City Council public hearing on this matter be rescheduled from August 21, 2007 to September 25, 2007. Thank you.

Very truly yours, s/Joseph R. Tarby III

IN FAVOR: None. OPPOSED: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON September 25, 2007, all in favor 9-0.

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On the petition by Koffler/GID Woburn LLC, One Providence Washington Plaza, Ninth Floor, Providence, Rhode Island 02903 for a special permit to modify a special permit dated October 9, 2003 further amended by special permit dated August 21, 2006 said modification being pursuant to Section 8.2.5 of the 1985 Woburn Zoning Ordinances, as amended to allow for 1,283 parking spaces at 300 Mishawum Road. PUBLIC HEARING OPENED. A communication dated August 20, 2007 was received from Attorney Joseph R. Tarby III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: Special Permit Petitions of Koffler/GID Woburn LLC
300 Mishawum Road, Woburn, Massachusetts

Dear Mr. Campbell:

Due to the fact that the Planning Board has not yet reviewed the above-referenced petition, I hereby request that the City Council public hearing on this matter be rescheduled from August 21, 2007 to September 25, 2007. Thank you.

Very truly yours, s/Joseph R. Tarby III

IN FAVOR: None. OPPOSED: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON September 25, 2007, all in favor 9-0.

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On the petition by Chair 5 Restaurants-Woburn LLC dba Qdoba Mexican Grill, 572 Washington Street, Suite 17A, Wellesley, Massachusetts 02482 for a special permit pursuant to Section 5.1.29 of the 1985 Woburn Zoning Ordinances, as amended, to allow for a fast food restaurant and building signage at 300 Mishwum Road. PUBLIC HEARING OPENED. A communication dated August 20, 2007 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 Chair 5 Restaurants – Woburn LLC d/b/a
Qdoba Mexican Grill, 300 Mishawum Road, Woburn, Massachusetts

Dear Mr. Campbell:

Due to the fact that the Planning Board has not yet reviewed the above-referenced petition, I hereby request that the City Council public hearing on this matter be rescheduled from August 21, 2007 to September 25, 2007. Thank you.

Very truly yours, s/Joseph R. Tarby III

IN FAVOR: None. OPPOSED: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON September 25, 2007, all in favor 9-0.

CITIZEN'S PARTICIPATION: None.

COMMITTEE REPORTS:

ORDINANCES:

On the Order to further amend Title 3, Article VI, Section 3-26 of the 1989 Woburn Municipal Code, as amended, relative to Water and Sewer Enterprise Fund indirect charges, committee report was received as follows: "ought to pass." Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.
Presented to the Mayor: August 24, 2007 s/Thomas L. McLaughlin August 24, 2007

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On the Order to further amend Title 3 of the 1989 Woburn Municipal Code, as amended, relative to appropriations, transfers or loans, committee report was received as follows: "ought to pass." Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.
Presented to the Mayor: August 24, 2007 s/Thomas L. McLaughlin August 24, 2007

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On the Order to further amend Title 13 of the 1989 Woburn Municipal Code, as amended, relative to water and sewer charges, On the Order to further amend Title 3 of the 1989 Woburn Municipal Code, as amended, relative to water and sewer charges, committee report was received as follows: "ought to pass." Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.
Presented to the Mayor: August 24, 2007 s/Thomas L. McLaughlin August 24, 2007

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On the Order to further amend Title 20, Section 20-7 of the 1989 Woburn Municipal Code, as amended, relative to fees of the Sealer of Weights and Measures, committee report was received: "That the Order be adopted follows:

ORDERED Be it ordained by the City Council of the City of Woburn that Title 20, Section 20-7 of the 1989 Woburn Municipal Code, as amended, "Fees of Sealers" be further amended by striking the section in its entirety and inserting in its place the following:

The City Council shall periodically review and adopt fees for the various items required to be performed by the Sealer of Weights and Measures. The fees established by the City Council are as follows:

Balances & Scales	
over 10,000 Lbs	$125.00
5,000 - 10,000 Lbs	$100.00
1,000 - 5,000 Lbs	$100.00
100 - 1,000 Lbs	$ 75.00
10 - 100 Lbs	$ 75.00
under 10 Lbs	$ 25.00
Weight	
Avoirdupois (each)	$ 2.00
Metric (each)	$ 2.00
Apothecary (each)	$ 2.00
Troy (each)	$ 2.00
Capacity Measures	
Vehicle tank (each indicator)	$ 15.00
" (each 100 gal. of fraction)	$ 10.00
Liquid (1 gallon or less)	$ 5.00
" (over 1 gallon)	$ 10.00
Liquid Measuring Meters	

Except water meters	
Meter (1/2" or less)	$ 15.00
Meter (1/2" - 1")	$ 25.00
Meter (over 1") vehicle tank - pump	$100.00
Meter (over 1") vehicle tank - gravity	$100.00
Bulk Storage	$125.00
Bulk Storage with prover cert.	$100.00
Gasoline pumps - each grade	$ 50.00
Oil Truck	$ 20.00
Linear or Area	
Each device	$ 15.00
Yard Sticks	$ 10.00
Tapes	$ 10.00
Scanners	
1-3 registers/terminals	$ 75.00
4-11 registers/terminals	$150.00
More than 11 registers/terminals	$250.00
Other Devices	
Taximeter	$ 65.00
Reverse vending machines	$ 45.00
Odometer/Hubometer	$ 35.00
Wire/Rope/Cordage	$ 40.00
Fabric measuring	$ 40.00
Leather measuring (semi-annual)	$ 40.00
Timing devices	$ 40.00
Mass flow meter - gaseous	$100.00

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Report of Committee on Ordinances

Motion made and 2nd that the MATTER be LAID ON TABLE until the next Regular Meeting of the City Council, all in favor, 9-0.

NEW PETITIONS:

Petition by Francis Velozo and Joann Velozo, Trustees of Main Street Realty Trust, 70 Georgia Road, Tewksbury, Massachusetts 01876 for a special permit pursuant to Sections 7.3 and 5.1.44 of the 1985 Woburn Zoning Ordinances, as amended, so as to construct and utilize a four bay addition on to their existing automotive repair/radiator parts and

service station business 936 Main Street. Motion made and 2nd that the MATTER be REFERRED TO COMMITTEE ON POLICE AND LICENSES, all in favor, 9-0.

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COMMUNICATIONS AND REPORTS:

A communication dated August 14, 2007 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 20A½, I am submitting a report to you on the parking violations in the City of Woburn for the period ending July 2007: number of tickets issued 1,060, number of tickets paid 999, number of hearings scheduled 551, number of tickets voided or dismissed 89, number of tickets outstanding 262, number of tickets issued by motorcycle officers 0, total dollar amount collected and turned into the Treasurer's Office $39,965.80. There exists a backlog of 4,946 tickets for 1982 through 2006. Demands will be sent out until all tickets have been cleared. Parking violations turned over to Handicap Commission to date $6,010.00.

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

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

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A communication dated July 31, 2007 with attachments was received from Joanne Collins, Director, Woburn Council on Aging along with the minutes of the July meeting of the Council on Aging and the Director's report for the month of July. Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE, all in favor, 9-0.

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A copy of a communication dated August 16, 2007 with attachments to Mayor Thomas L. McLaughlin was received from City Engineer John E. Corey, Jr., PE, as follows:

Subject: Reeves School Demolition – Project Status

On August 8, 2007, a construction progress meeting was held with representatives of North American Site Development, the contractor for the project, the writer, and Brian McCormick of Weston & Sampson, the City's consultant for the project. Based on that meeting and our discussions in a subsequent meeting, the following is a status report on the progress of the various elements of work and action items that are in progress:

The contractor found that the mastic holding the Styrofoam insulation to the interior foundation walls contain asbestos. This was substantiated by testing performed by our consultants, Weston and Sampson. Preliminary discussions with the DEP indicate that they want the foundation removed in its entirety rather than leaving it in place. We could submit a work plan allowing us to leave a portion of the foundation in place to save cost,

however, the DEP would take several weeks to review and approve such a plan resulting in the project running past the school opening date. A work plan that removes the foundation altogether will be approved quickly and allow the work to be completed prior to school opening.

The estimated cost of the additional work is approximately $193,000.00 based on the enclosed estimate received from North American Site Development. The change order for the work will be based on time and materials actually expended using the unit prices indicated. Weston & Sampson has submitted the work plan to the DEP and is preparing the change order for the work noted. The work falls under the category of latent and changed field conditions and short of demolishing a portion of the building prior to construction, there was no way of knowing that the mastic contained asbestos. Had it been discovered during the preparation of plans and specifications, the additional cost would have been reflected in the bids received. The matter was discussed with Mark Reich per the attached Email to ensure conformance with MGL Chapter 30, Section 39N.

There are sufficient funds under the original appropriation to proceed with the work. A recapitulation of the funding for the project to date is as follows:

Appropriations to Date

Reeves School Funds (Residuals from original appropriation)	$ 139,000
City Council Appropriation for Demolition Work	$1,500,000
Transfers to other School Work	$ 400,000
Available Funds	$1,239,000

Encumbrances to Date

Engineering Fees all phases	$ 117,355
Construction Costs Base Bid	$ 292,250
Costs to Date	$ 409,605
Change Order No. 1	$ 193,000
Total Project Cost	$ 602,605

On the basis of the foregoing, no additional funds are required to proceed with the work as outlined. The primary goal at this time is to authorize the contractor to proceed to ensure that the work is completed prior to school opening.

A portion of the residual funding will be used for the recreational component of the project for which City Council approval will be required. The recreational component is described in a separate memorandum for your approval prior to City Council action.

I trust the foregoing information suffices for your current needs. Should you have any questions or comments, please do not hesitate to contact me.

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

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A communication dated August 16, 2007 with attachments to Mayor Thomas L. McLaughlin and Alderman Drapeau was received from City Engineer John E. Corey, Jr., PE, as follows:

Subject: Reeves School – Project Progress Report Recreational Master Plan

On August 14, 2007, the writer and Rory Lindstrom met with the Cheri Ruane of Weston & Sampson, Alderman Drapeau, Maureen Fumicello and Mary-Gayle Sweeney of the Reeves PTO to review the finalized conceptual recreational master plan for the Reeves School site.

A copy of the plan and budget information has been attached.

The revised plan includes the following elements wherein facilities will be comparable to those at other school districts within the City. The primary components consist of:

- A student drop off driveway for buses at the main entrance to the school.
- A satellite parking area closer to the building and access to the area of the building used during elections for improved voter access, particularly for elderly individuals.
- The existing play area equipment for younger children has been relocated to the recreational area.
- A new play area has been provided for older children and the play equipment will be installed under this contract using PTO collected funds.
- Regrade the disturbed portion of the site based on post demolition survey to provide gentle slopes and meet all applicable ADA requirements.
- Transition roadway sections have been provided where the access road for service vehicles bisects the play area and the pedestrian path for safety purposes.
- A new basketball court where the existing swing set is located has been located on the existing pavement with fencing.
- An informal field area has also been defined.
- Landscaping on existing sloped areas and all disturbed areas has been provided.

The final plan received favorable comments from the meeting participants.

The existing asbestos abatement and demolition contract will be completed prior to school opening. Following completion of the demolition contract, site topographic surveys can be performed prior to the winter for use in the recreational site design. The actual design of the recommended plan would occur during the winter months with bidding for the construction contract in the spring of 2008. It would have to be determined as to whether or not the construction work would occur at the end of the school year during the summer months for school children's safety purposes. The PTO

parents indicated that construction during non school times would be prudent. We will also consult with the School Department on this matter. This would allow time for shop drawing reviews and fabrication of play equipment subsequent to contract award during the winter months. A proposed project schedule has been attached that can be modified to meet school and City needs.

The next step in the process is to make a presentation to the City Council relative to overall project costs and funding. Although there is an existing appropriation for the school demolition, it was the Council's desire that we meet with them to gain plan acceptance prior to moving forward with other elements of the program. It is envisioned that we would only need a portion of the residual funds to implement the program as outlined. Total project costs to date are as follows:

Engineering Design and Recreational Plan	$ 55,235.00
Asbestos Abatement & Demolition Contract	$ 292,250.00
Project Bidding and Construction Oversight	$ 62,120.00
Change Order No 1	$ 193,000.00
Total Encumbrances to date	$ 409,605.00
Final Design of Recreation Plan	$ 40,000.00
Recreational Plan Construction	$340,000.00
Total Project Cost	$789,605.00

The total amount of funds appropriated to date including prior school residuals of $139,000.00 is $1,639,000.00, less transfers of $400,000.00 result in a balance of $1,229,000 at this time. On this basis, all proposed work could be implemented and a surplus of approximately $440,000 would remain upon completion.

The writer also requested that the consultant submit a design phase engineering services agreement for the work in anticipation of plan approval.

I trust the foregoing information suffices for your current needs. Should you have any questions or comments, please do not hesitate to contact me.

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

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A communication dated August 16, 2007 was received from Paul J. Meaney, Executive Director, Woburn Business Association, Ten Tower Office Park, Woburn requesting to meet with the City Council Committee on Ordinances relative to a further amendments to the Order relative to fees charged by the sealer of weights and measures. Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE, all in favor, 9-0.

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A copy of a communication dated August 1, 2007 was received from Michael F. McBride, LeBoeuf, Lamb, Greene & MacRae, LLP relative to the matter of New England Transrail. Motion made and 2nd that the MATTER be RECEIVED AND PLACED FILE, all in favor, 9-0.

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A copy of a communication dated July 30, 2007 to the Surface Transportation Board was received from Massachusetts Office of the Attorney General relative to the matter of New England Transrail. Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE, all in favor, 9-0.

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A copy of a communication to the Surface Transportation Board was received from Attorney J. Patrick Berry and Attorney Jeffrey M. Bauer of Baker Botts LLP entitled Motion for a Protective Order relative to the matter of New England Transrail. Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE, all in favor, 9-0.

UNFINISHED BUSINESS OF PRECEDING MEETING: None.

APPOINTMENTS AND ELECTIONS:

A communication dated August 13, 2007 was received from His Honor the Mayor as follows:

Re: Edward R. Quinn – Handicapped Commission

Dear Mr. Campbell:

By the power vested in me as Mayor of the City of Woburn, I hereby reappoint Edward R. Quinn of 4 Laurel Street as a Member of the Handicapped Commission.

Mr. Quinn's previous term expired December 31, 2006, and his reappointment will expire December 31, 2009. This appointment is subject to confirmation by the City Council.

If you have any questions, please feel free to contact me.

Sincerely, s/Thomas L. McLaughlin, Mayor

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

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A communication dated August 13, 2007 was received from His Honor the Mayor as follows:

Re: John Harney – Handicapped Commission

Dear Mr. Campbell:

By the power vested in me as Mayor of the City of Woburn, I hereby reappoint John Harney of 48 Mishawum Road as a Member of the Handicapped Commission.

Mr. Harney's previous term expired December 31, 2006, and his reappointment will expire December 31, 2009. This appointment is subject to confirmation by the City Council.

If you have any questions, please feel free to contact me.

Sincerely, s/Thomas L. McLaughlin, Mayor

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

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A communication dated August 13, 2007 was received from His Honor the Mayor as follows:

Re: David S. Ryan – Sign Review Board

Dear Mr. Campbell:

By the power vested in me as Mayor of the City of Woburn, I hereby appoint David S. Ryan of 17 Hart Street as a Member of the Sign Review Board for a period of five years.

Mr. Ryan's term will expire August 1, 2012. This appointment is subject to confirmation by the City Council.

If you have any questions, please feel free to contact me.

Sincerely, s/Thomas L. McLaughlin, Mayor

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

MOTIONS, ORDERS AND RESOLUTIONS:

ORDERED That in accordance with Massachusetts General Laws Chapter 54, as amended, the City Clerk is hereby authorized and directed to notify and to warn such of the inhabitants of the City of Woburn as are qualified to vote in Municipal Elections to assemble at the polling places in their respective wards as designated herein, on TUESDAY, the EIGHTEENTH DAY OF SEPTEMBER 2007 from 7:00 a.m. to 8:00 p.m., then and their to cast their votes in the MUNICIPAL PRELIMINARY ELECTION for the candidates for the following offices:

WARD SIX	WARD ALDERMAN
WARD SEVEN	WARD ALDERMAN

Ward-Precinct	Polling Place Location
6-1	Altavesta School Gymnasium, 990 Main Street
6-2	Altavesta School Gymnasium, 990 Main Street
7-1	Reeves School Gymnasium, 240 Lexington Street
7-2	Reeves School Gymnasium, 240 Lexington

s/President Doherty

Motion made and 2nd that the ORDER be ADOPTED, all in favor, 9-0.
Presented to the Mayor: August 24, 2007 s/Thomas L. McLaughlin August 24, 2007

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RESOLVED That the Department of Public Works provide the results of Inflow and Infiltration (I&I) sump pump reports for the entire west side of the city, including names and addresses.

s/Alderman Drapeau

Motion made and 2nd that the RESOLVE be ADOPTED, all in favor, 9-0.
Presented to the Mayor: August 24, 2007 s/Thomas L. McLaughlin August 27, 2007

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RESOLVED That High Street and Buck Street be added to Phase II of the South End Water Improvement Plan.

s/Alderman Gately

Motion made and 2nd that the RESOLVE be ADOPTED, all in favor, 9-0.
Presented to the Mayor: August 24, 2007 s/Thomas L. McLaughlin August 24, 2007

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RESOLVED That the Department of Public Works adopt and implement the drain plan prepared by the City Engineer in 2006 for the Auburn Street and Jefferson Avenue neighborhood.

s/Alderman Gately

Motion made and 2nd that the RESOLVE be ADOPTED, all in favor, 9-0.
Presented to the Mayor: August 24, 2007 Returned Unsigned August 30, 2007

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RESOLVED That His Honor the Mayor seek an appropriation in the amount of $300,000.00 for the purpose of funding the preliminary Architectural and Building Consultant expenses for the library expansion and renovation project.

s/Alderman Denaro and
Alderman Galvin

Motion made and 2nd that the RESOLVE be ADOPTED, all in favor, 9-0.
Presented to the Mayor: August 24, 2007 s/Thomas L. McLaughlin August 24, 2007

Motion made and 2nd to ADJOURN, all in favor, 9-0. Meeting adjourned at 9:36 p.m.

A TRUE RECORD ATTEST:

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