

**CITY OF WOBURN
JULY 17, 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:

A communication dated July 12, 2007 was received from His Honor the Mayor Thomas L. McLaughlin as follows:

Re: Industrial Development Financing Authority

Dear President Doherty and Members of the City Council:

As you may be aware, the Industrial Development Financing Authority has been inactive for the last several years. The City Clerk's research shows that the Authority was established in Woburn in 1974 under MGL Chapter 40D, Section 2.

Pursuant to Section 22 of the City Charter, this month I appointed myself as the fifth member of the existing four-member Authority in order to close out the business of the now-defunct Authority.

On July 9, 2007, the Authority held a meeting with one member absent, the Deputy Auditor in attendance, and the minutes recorded by my administrative assistant. At this meeting the board members voted (4-0 with 1 absent) to submit the question of dissolution of itself to the Mayor and the City Council because it has no property to administer, no outstanding obligations, and because the Board's consensus was that it had outlived its usefulness for a variety of reasons.

The above vote was taken pursuant to MGL Chapter 40D, Section 2, which states in part: "Whenever an industrial development financing authority determines that there is no further need for its existence, that it has no property to administer, other than funds or property, if any, to be paid or transferred to the municipality by which it was established,

and that all its outstanding obligations have been satisfied, it may by a majority vote of its directors submit the question of its dissolution... to the mayor and city council. If a municipality votes for such dissolution and the Massachusetts office of business development is satisfied of the existence of the facts required herein, it shall so certify to the state secretary and said authority shall be dissolved forthwith subject to the applicable provisions of section fifty-one of chapter one hundred and fifty-five.”

The Authority also voted (4-0 with 1 absent) that upon approval of dissolution, it will transfer any remaining funds to the City’s General Fund.

As Mayor I approve of the dissolution, and on behalf of the Authority I hereby submit the question of dissolution of the Industrial Development Financing Authority for your approval.

Sincerely, s/Thomas L. McLaughlin, Mayor

Motion made and 2nd that the MATTER be REFERRED TO COMMITTEE ON FINANCE and that a communication be directed to the mayor requesting an accounting spreadsheet from the Authority, all in favor, 9-0.

ORDERED That the sum of \$10,000.00 be and is hereby appropriated from Cemetery Interest Fund to Burial Sections Account 0149058-586601.

I hereby approve the above: s/Edmund McGrath, Chairperson
I hereby recommend the above: s/Mayor Thomas L. McLaughlin
I have reviewed the above: s/Gerald W. Surette, Auditor

s/President Doherty

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

PUBLIC HEARINGS:

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 was received from Attorney Joseph R. Tarby, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: Petition of National Development Acquisitions LLC, 112 Commerce Way, Woburn, Massachusetts

Dear Mr. Campbell:

Due to the fact that the Planning Board public hearing on this matter has been continued to August 7, 2007, I respectfully request that the public hearing on this matter be further continued to the City Council meeting scheduled for August 21, 2007. If you need any further information, please contact me. Thank you.

Very truly yours, s/Joseph R. Tarby III

Motion made and 2nd that the communication be received and made part of the record, all in favor, 9-0. Appearing for the petitioner was Attorney Joseph Tarby, and he stated that without the Planning Board recommendation it would be best to continue this public hearing. IN FAVOR: None. OPPOSED: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON AUGUST 21, 2007, all in favor 9-0.

On the petition by Alderman Richard Gately concerning the building or buildings located in the City of Woburn, County of Middlesex, Commonwealth of Massachusetts known and numbered as 111 Montvale Avenue, Woburn, Massachusetts for the purposes of determining whether said building or buildings 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 was sold, that the new owner is in the process of obtaining building permits for a complete renovation of the property, that the owner has met with the Historical Commission, that this is a good project for the neighborhood and restores a valuable property in the city, and that based on this he suggests that the matter be given leave to withdraw. IN FAVOR: None. OPPOSED: None. Motion made and 2nd that the public hearing be closed, all in favor, 9-0. PUBLIC HEARING CLOSED. Motion made and 2nd that the MATTER be GIVEN LEAVE TO WITHDRAW, all in favor, 9-0.

On the petition by Anthony Cierri, 1 North Maple Street, Woburn, Massachusetts 01801 for a special permit pursuant to Section 5.1.57a of the 1985 Woburn Zoning Ordinances, as amended, to allow for the accessory storage of a trailer on the property at 1 North Maple Street. PUBLIC HEARING OPENED. A communication dated July 5, 2007 was received from Edmund P. Tarallo, Planning Director, Woburn Planning Board as follows:

Re: Anthony Cierri – 1 North Maple Street – To allow for the accessory storage of a trailer under Section 5.1.57 of the Woburn Zoning Ordinance

Dear Mr. Campbell and Members of the City Council:

At the Planning Board meeting held on June 26, 2007, the Board voted to forward a favorable recommendation to the City Council on the Special Permit request to allow for the accessory storage of a trailer at 1 North Maple Street under Section 5.1 (57a) of the Woburn Zoning Ordinance for a period of one year.

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

Sincerely, Edmund P. Tarallo, Planning Director

Appearing for the petitioner was Attorney Joseph Tarby, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 and he stated that this is located in an industrial park, that the property is well-maintained, that the trailer will be parked at the rear of the lot, that the trailer will be used for storage of the petitioner's equipment, that there are similar trailers located in the city, and that this use will be consistent with the uses in the neighborhood. Alderman Ciriello stated that the property is in immaculate condition, that he has no issues with the petition, and that the property is set back from any residences. IN FAVOR: Paul Meaney, Executive Director, Woburn Business Association (WBA), 10 Tower Office Park, Woburn stated that the WBA is in favor of the petition. OPPOSED: None. Motion made and 2nd that the public hearing be closed, all in favor, 9-0. PUBLIC HEARING CLOSED. Motion made and 2nd that the SPECIAL PERMIT be GRANTED, all in favor 9-0. Motion made and 2nd to reconsider the vote, all in favor, 9-0. Motion made and 2nd that the SPECIAL PERMIT be GRANTED, AS AMENDED with the condition as follows: 1. That the recommendations of the Planning Board be adopted as conditions of the special permit, all in favor, 9-0.

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 communication dated July 5, 2007 was received from Edmund P. Tarallo, Planning Director, Woburn Planning Board as follows:

Re: Robert & Greg Adams – 239 Main Street – To replace two multi-family buildings with one building containing 5 dwelling units

Dear Mr. Campbell and members of the City Council:

At the meeting held on June 26, 2007, the Planning Board voted to table this matter until their August 7, 2007 meeting, because the additional information requested of the applicant had not been provided to the Board.

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

Sincerely, s/Edmund P. Tarallo, Planning Director

A copy of a communication dated June 25, 2007 to Edmund Tarallo, Planning Director from Brett F. Gonsalves, Senior Engineer, 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

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.

Appearing for the petitioner was Attorney Mark Salvati, 10 Cedar Street, Suite 26, Woburn, Massachusetts 01801 and he stated that the petitioner asks to continue this public hearing as it is pending before the Planning Board, that some changes have been made to the plan which may affect drainage, and that additional survey work is being completed. Alderman Denaro stated that he will support the continuance but is hesitant to do so as the building is dangerous and must be razed. Alderman Gately stated that neighbors to this property continue to complain about unauthorized access to the property, that this is a dangerous situation, that the City Council may have to order a fire watch for the rest of the summer, and that the building has to be torn down. IN FAVOR: None. OPPOSED: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON AUGUST 21, 2007, all in favor 9-0.

Motion made and 2nd to hold the public hearing on the next two matters collectively, all in favor, 9-0.

On the petition by Lannan Family LLC, 831 Rogers Street, Lowell, Massachusetts 01852 for a special permit pursuant to Section 5.1 and Section 7.3 of the 1985 Woburn Zoning Ordinances, as amended, to allow for the demolition of the existing building and construction of a proposed showroom parking lot at 56 Winn Street. PUBLIC HEARING OPENED. A communication dated July 5, 2007 was received from Edmund P. Tarallo, Planning Director, Woburn Planning Board as follows:

Re: Lannan Family LLC – 56 Winn Street – To raze existing single family house and to allow the property to be used for the sale or rental of autos, trucks, and other vehicles under Section 7.3 and Section 5.1 of the Woburn Zoning Ordinance

Dear Mr. Campbell and Members of the City Council:

At the Planning Board meeting held on June 26, 2007, the Board voted to forward a favorable recommendation to the City Council on the Special Permit request to allow the property at 56 Winn Street to be used for the sale or rental of autos, trucks, and other vehicles under Section 7.3 and Section 5.1 of the Woburn Zoning Ordinance in accordance with the following conditions:

1. That the approval shall be in accordance with the Proposed Site Plan dated 4-12-07 Sheet S1 prepared by Duran Associates;
2. That the Planning Board shall retain jurisdiction over the landscaping;
3. That the lot shall not be used for customer parking or for vehicles that are damaged or under repair;
4. That there shall be no egress to or from the site from Winn Street or Harrison Ave. except in case of an emergency;
5. That an infiltrator shall be provided if required by the Engineering Department;
6. The existing water and sewer services shall be cut and capped at their respective mains in accordance with the Department of Public Works regulations;
7. In accordance with Section 18.2 of the Woburn Zoning Ordinance the applicant shall provide a mitigation payment to the traffic infrastructure fund;
8. That this Special permit for use of the lot shall be allowed only in conjunction with the property at 40 Winn Street; and
9. This Special Permit is subject to receiving any required licenses from the City Council and any further stipulations that those licenses may impose.

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

Motion made and 2nd that the communication be received and made part of the record, all in favor, 9-0. A copy of a communication dated June 25, 2007 to Edmund Tarallo, Planning Director from Brett F. Gonsalves, Senior Engineer, Engineering Department was received as follows:

Subject: 56 Winn Street – Lannan Chevrolet Special Permit – Special Permit Dared May 14, 2007 – Site Plans Dated April 12, 2007 – Drainage Plans Dated April 3, 1987

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

The applicant is proposing to demolish the existing house and lower the grade of the surrounding lot. The engineer of record included pre and post site runoff plans.

There is no formal drainage that is proposed for this area, and the engineer indicates there would be a slight increase in site runoff due to the increased pavement. However, the proposed grading of the lot will be in such a manner that runoff would be directed back on to the applicant's property. Although minimal, there is an increase in drainage runoff and an infiltrator should be considered if soil conditions warrant.

The applicants engineer has a notation on the plans that state that the existing water and sewer services would be cut and capped at their respective mains. This is in accordance with the Department of Public Works regulations.

It would appear that the proposed improvements to the subject parcel is in contiguous ownership to the abutting lot and would increase the overall parking by 23 spaces and would be subject to Section 18.2 of the Woburn Zoning Ordinance. The Engineering Department believes that mitigation is in order and our primary concern in this area is traffic.

The applicants engineer should address the runoff and mitigation concerns.

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

Motion made and 2nd that the communication be received and made part of the record, all in favor, 9-0. Appearing for the petitioner was Attorney Steven Cicatelli, Cicatelli & Cicatelli, 266 Main Street, Stoneham, Massachusetts 02180 and he stated that this building is a single family dwelling, that it is a nonconforming use because it is located in a business zone, that the lot is 8,500 square feet in area, that the petitioner will raze the building and create an outdoor display area for the dealership, that the lot will not be used for employee parking, that this will be an improvement of the lot, that the lot will be more conforming as it will be removing a nonconforming use, that the petitioner agrees to conform to mitigation requirements as requested by the City Engineer, that there will be twenty-three display spaces on the lot, that this will not necessarily increase business at the site, there will be no egress or access to the lot from the street, that the dealership currently surrounds this property, that this will not be a parking lot but a display area, that an employee of the petitioner will move the cars on and off this lot, that there will be no customer parking on the lot, that the house on the lot ruins the line of sight at the intersection, that customers will walk onto the lot to look at the cars, that the plan is to keep the plantings trimmed so as not to impact the line of sight, that there will be a buffer between the street and the lot, that that there will be bollards and chains and low plantings, that the employees of the dealership will water the plantings, and that the petitioner has made a payment to Boston Affiliates for the preservation work. Jay Duran of Duran Associates stated that he was the project manager, that the mitigation to be paid will be 3% of \$30,000.00 which will be the cost of demolition and site improvement, that there will be a planting plan, that there will be low plantings to avoid impact on visibility, that there is an existing curb cut and handicapped access to the sidewalk, that most of this will be closed, that this is an existing handicapped accessible ramp at the intersection, that the property will be graded to level with Harrison Avenue, that the petitioner will put

in an infiltrator if found necessary after soil testing, and that this will be a drywell infiltration system. Alderman Denaro stated that he wants the line of sight at the intersection improved as that is a dangerous intersection. Alderman Galvin stated that the petitioner has been cooperative on the project, that this is a good plan, that the plan removes a house that is a detriment to visibility, that the house has fallen into disrepair, and that he would like to move on the petition at this meeting. Alderman Gonsalves stated that there should be attached to the motor vehicle sales license a figure limiting the number of used cars allowed under the license, that she is concerned that this will turn into a used car lot at some point in the future, and that this can be a matter of discussion at the time of renewal of the license. President Doherty stated that none of the first class motor vehicle sales licenses have a number limit on the number of vehicles permitted under the license. Alderman Ciriello stated that the Historical Commission visited the house, that it was determined that the building was constructed in 1840 or 1850, that it is built in the Greek Revival style, that the commission walked through the building, that the commission found that the house outlived its usefulness based on where it is located in relation to encroaching business, and that Boston Affiliates will document the building before it is demolished. IN FAVOR: Paul Meaney, Woburn Business Association, 10 Tower Office Park, Woburn stated that he is in favor of the petition, that the petitioner has been involved in the community for many years, that the petitioner creates employment, that the garage on the lot was built on the city right of way, and that this project will straighten out the corner. OPPOSED: None. Motion made and 2nd that the public hearing be closed, all in favor, 9-0. PUBLIC HEARING CLOSED. Motion made and 2nd that the SPECIAL PERMIT be GRANTED, AS AMENDED, with the conditions as follows: 1. That the recommendations of the Planning Board be adopted as conditions of the special permit, 2. That the recommendations of the City Engineer be adopted as conditions of the special permit, and 3. That the petitioner pay the cost of the historical survey of the property by Boston Affiliates, all in favor, 9-0.

On the petition by Lannan Chevrolet, Inc. fka Lannan Chevrolet-Olds, Inc., 40 Winn Street and 56 Winn Street to amend First Class Motor Vehicle Sales License to include the property at 40 Winn Street and 56 Winn Street. PUBLIC HEARING OPENED. See record notes from preceding meeting. Motion made and 2nd that the public hearing be closed, all in favor, 9-0. PUBLIC HEARING CLOSED. Motion made and 2nd that Rule 20a be suspended, all in favor, 9-0. Motion made and 2nd that the FIRST CLASS MOTOR VEHICLE SALES LICENSE be AMENDED TO INCLUDE 40 WINN STREET AND 56 WINN STREET, all in favor 9-0. Motion made and 2nd that Rule 20a be restored, all in favor, 9-0.

Presented to the Mayor: July 19, 2007 s/Thomas L. McLaughlin July 20, 2007

On the petition by Lorraine A. Jenks dba Elements Therapeutic Massage, 12 Tarbox Lane, North Reading, Massachusetts 01864 for a special permit pursuant to Section 5.1.33b of the 1985 Woburn Zoning Ordinances, as amended, to operate and conduct a muscular therapy facility at 446 Main Street. PUBLIC HEARING OPENED. A

communication dated July 5, 2007 was received from Edmund P. Tarallo, Planning Director, Woburn Planning Board as follows:

Re: Lorraine A. Jenks, dba Elements Therapeutic Massage – 446 Main Street – To operate and conduct a muscular therapy facility under Section 5.1 (33b) of the Woburn Zoning Ordinance

Dear Mr. Campbell and Members of the City Council:

At the Planning Board meeting held on June 26, 2007, the Board voted to forward a favorable recommendation to the City Council on the Special Permit request to allow a muscular therapy facility at 446 Main St. by a duly licensed massage therapist under Section 5.1 (33b) of the Woburn Zoning Ordinance.

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

A copy of a communication dated June 25, 2007 to Edmund Tarallo, Planning Director from Brett F. Gonsalves, Senior Engineer, Engineering Department was received as follows:

Subject: 446 Main Street – Therapeutic Massage Special Permit – Special Permit Dated June 4, 2007 – Mortgage Inspection Plan Dated June 17, 1987

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

The special permit application seeks to operate a massage therapy business at the above referenced location. There does not appear to be any exterior improvements and after reviewing the application, this office does not take any exception to the special permit as submitted.

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

Appearing for the petitioner was Attorney John McElhiney, McElhiney and Matson, 607 Main Street, Woburn, Massachusetts 01801 and he stated that the use is allowed with a special permit, that massage therapy is carried out by a licensed massage therapist, that the therapist must be licensed by the local board of health, that there is a State effort to transfer the authority from the local boards of health to the State, that a local ordinance still has this requirement regardless of the change at the State level, that the petitioner is also licensed in Middleton and North Reading, that the proposal is to locate the business in a building near Hairmates, that there are four tenant spaces, that three units are presently rented and one is vacant, that the location was previously a florist shop and a

Best Buy market, that the owner of the building has done a lot to improve his business and the downtown, that he is looking for a permanent tenant with a viable business, that this will be the principal use in the building, that the use is allowed by special permit at this location, that the use is allowed by right as an accessory use in many other zoning districts in the city, that the hours of operation are 9:00 a.m. to 7:00 p.m. or 8:00 p.m. seven days per week, that there may be fewer hours on Saturday and Sunday, that the Board of Health Agent has not had any concerns with other massage therapy businesses in the city, that all massage therapists would be licensed and would have to go through license screening with the Board of Health, Rachel Harris is a registered nurse and will be on the premises managing the operation full time, that there will be six rooms for massage therapy plus on manager on site at any given time, that the petitioner will likely form a business corporation, and that the petitioner would not object to a transferability restriction as long as it is limited to the petitioner or any entity of which the principal is a principal owner. Attorney McElhiney offered two photographs to the City Council for review. Motion made and 2nd that the photographs be received and made part of the record, all in favor, 9-0. Lorraine Jenks stated that she is a licensed massage therapist, that they will provide massage therapy by appointment however at first they may take walk-in clients until the business is established, that the typical workday is 9:00 a.m. to 8:00 p.m., and that the last appointment is generally taken at 7:00 p.m. Alderman Dwyer stated that he did some research, that he has no concerns with the petition, and that he will support the petition. Alderman Gately stated that he has no concerns with the project, that the petitioner will have difficulty with parking in that area, and that the employees will not be able to park in the street or there will not be enough parking for their clients. IN FAVOR: David George, Forest Park Road stated that this use will fit in well in Woburn Center, and that it is an upscale use with upscale clientele. Dante Mitano stated that he owns Hairmates in Woburn Center, that there is a hair salon and nail salon in this area, that this use will serve the needs of the clientele of those businesses, and that this use adds variety to the center. OPPOSED: None. Motion made and 2nd that the public hearing be closed, all in favor, 9-0. PUBLIC HEARING CLOSED. Motion made and 2nd that the SPECIAL PERMIT be GRANTED, AS AMENDED, with the conditions as follows: 1. That the hours of operation shall be limited to between 9:00 a.m. and 8:00 p.m. seven days per week, 2. That all massage therapists shall be licensed massage therapists, and 3. That the special permit is only for Lorraine A. Jenks and is not transferable with the exception of a transfer to an entity of which Lorraine Jenks is the primary or principal owner, all in favor 9-0.

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. Appearing for the petitioner was Attorney Joseph Tarby, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 and he stated that this change

affects a number of properties in the city not just the petitioner, that the petitioner purchased property on Carmen Terrace in 1987, that he has operated a jewelry business in the city since 1982, that the proposed amendment will add language to the Section 7.1 of the zoning code, that the change would affect one and two family structures, that in 1990 the City Council adopted a similar amendment to the zoning code, that the building commissioner at the time determined that if a landowner wanted to add a deck but the lot was not conforming because it was not of a minimum lot size then the applications were being denied and the amendment was made to provide relief, that the petitioner's dwelling was constructed under the 1970 zoning ordinances with a twenty foot side setback and a 12,000 square foot lot area, that the zoning ordinances were amended in 1985, that when the petitioner applied to construct a 12 foot by 20 foot one story addition to the house it appeared that the property was nonconforming, that the property was to have a twenty-two foot setback when it was constructed when at the time the requirement was for twenty foot setback, that eleven feet and fifteen were the actual setbacks when constructed, that the house was not constructed according to the original side yard setback on the building application and was contrary to the 1970 zoning ordinances, that the petitioner did not construct the house and was at least the third owner since it was built, that the house was constructed in 1975, that the property is protected against forced demolition by the statute of limitations, that the petitioner wants the property to be deemed a nonconforming use so that he can seek a special permit from the Board of Appeals to modify the structure, that the petitioner was an innocent purchaser and is seeking to put an addition on the house, that the petitioner wasn't to appear before the Board of Appeals to seek the special permit after this amendment is allowed, that the petitioner needed to prove that the building is a legal nonconforming structure but was unable to do so given the facts that were determined, that the city solicitor did not agree that the petitioner could obtain a special permit with these facts, that the petitioner will not be able to obtain to obtain a variance with the strict application of the variance law by this Board of Appeals, that if the amendment was adopted it would affect a house protected by the ten year statute of limitations and the Board of Appeals would have to issue a special permit for any alterations, that the property is not considered a legal nonconforming structure, that it is an illegal structure protected against forced demolition by the statute of limitations, that this does not do away with the special permit process, that this will allow the building to be altered with a special permit as a legal nonconforming structure, that the landowner will still have to file a petitioner, notify abutters and have a public hearing before the Board of Appeals, that the use as a residence will have to conform to the district, that this ten year statute of limitations deals with structures, that there is a six year statute of limitations that deals with uses, that the Board of Appeals was inclined to vote in favor of the petition, that further research was conducted and that issue arose and was disclosed, that the legal opinion of the city solicitor halted further action by the Board of Appeals, that there may be thousands of properties in the city affected by this circumstance, and that an honest petitioner could not go forward with an application before the Board of Appeals with these facts. Attorney Tarby 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. Alderman Drapeau stated that he knows the petitioner, that he owned property at 7 Carmen Terrace and 9 Carmen Terrace at one point, that he needs to understand this request, that the builder

who constructed the building was not a reliable builder and that he had lots of problems with him, that he is not surprised that this issue occurred with this builder, that he supports the petitioner moving forward but needs to be aware of the full impact of the ordinance, that the City Council has not heard from others about this issue however this does not become an issue unless someone wants to make a change to their residence, and that the petitioner should look at the possibility of obtaining a variance from the Board of Appeals. Alderman Denaro stated that there are many buildings in the city which as constructed do not meet up with the plans of record, that perhaps the petitioner can come to the City Council for a special permit instead of the Board of Appeals, and that this may negate the need for changing the ordinance. Alderman Gately stated that the will be a tough amendment to support, that the City Council cannot jump in without a thorough review, that he understands that this is an issue all over the city, and that he feels for the petitioner but the issue will require more work. Alderman Galvin stated that for every deserving case there are ten that are not deserving, that once the ordinance is changed then “the horse is out of the barn”, that this seems too permissive given what the city has tried to do in the area of land use, and that he would like to help the petitioner but the City Council must be cautious. Alderman Mercer-Bruen stated that the Board of Appeals said no to the petition and this is being proposed as a way to yes, that the City Council must be cautious as this is a change to the zoning amendment for one landowner, that the petitioner has stated that more properties are affected by this change however the City Council is not hearing from anyone else on this issue, and that more work is needed. IN FAVOR: Paul Meaney, 1Brandt Drive stated that there are not thousands of properties in the city affected by this situation, that the plot plan certification requirement in real estate transactions did not come in until around 1977, that most real estate transfers now have more research conducted on the property than thirty years ago, that the City Council has broad power to issue special permits, that the amendment can be passed with a sunset clause after a fixed period of time, that there will only be a handful of properties affected, that the petitioner had no part in creating this issue, and that this is an extremely unusual situation. OPPOSED: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE CITY COUNCIL REGULAR MEETING ON AUGUST 21, 2007 AND THAT THE MATTER be REFERRED TO COMMITTEE ON ORDINANCES, all in favor 9-0.

CITIZEN’S PARTICIPATION: None.

COMMITTEE REPORTS: None.

NEW PETITIONS:

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

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

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

COMMUNICATIONS AND REPORTS:

A communication dated July 12, 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 June 2007: number of tickets issued 994, number of tickets paid 934, number of hearings scheduled 530, number of tickets voided or dismissed 81, number of tickets outstanding 279, number of tickets issued by motorcycle officers 0, total dollar amount collected and turned into the Treasurer's Office \$36,257.60. There exists a backlog of 4,930 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 \$5,710.00.

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.

A communication dated June 28, 2007 with attachments was received from Joanne Collins, Director, Woburn Council on Aging along with reports from the June meeting of the Council on Aging and the Director's report for the month of June. Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE, all in favor, 9-0.

A communication dated June 11, 2007 was received from Attorney Michele E. Randazzo, Kopelman and Paige, P.C. relative to Massachusetts Health Care Reform Law. Motion

made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE with a copy to all Aldermen, all in favor, 9-0.

A copy of a communication to the Cemetery Commission from Mayor Thomas L. McLaughlin was received extending thanks to the Cemetery Commission and its staff for the condition of the Woodbrook Cemetery grounds for the Memorial Day exercises. Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE, all in favor, 9-0.

A communication was received from Massachusetts Executive Office of Energy & Environmental Affairs, Department of Environmental Protection, One Winter Street, Boston, Massachusetts 02108 relative to notice of availability of MassDEP Waste Site Cleanup Technical Assistance Grants. Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE with a copy to Grant Writer, all in favor, 9-0.

A communication dated July 10, 2007 entitled "Decision" was received from the Surface Transportation Board relative to the matter of New England Transrail, LLC. Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE with a copy to all Aldermen, all in favor, 9-0.

UNFINISHED BUSINESS OF PRECEDING MEETING: None.

APPOINTMENTS AND ELECTIONS:

A communication dated June 19, 2007 was received from His Honor the Mayor as follows:

Re: John Paladino – Historic District Commission

Dear Mr. Campbell:

By the power vested in me as Mayor of the City of Woburn, I hereby appoint John Paladino of 72 Pearl Street as a member of the Historic District Commission for a period of three years.

Mr. Paladino will replace Gregory Dubell, who has resigned from the Commission.

Mr. Paladino's appointment will be effective on the date of confirmation by the City Council, and his year term will expire three years from that date.

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 pursuant to 1989 Woburn Municipal Code, as amended, Title 3, Article I, Section 3-6 the Department of Inspection Services is hereby authorized to dispose of a Canon 6230 copier machine which the Building Commissioner has determined is of no value to the department and which no other department has expressed an interest in obtaining.

s/President Doherty

Motion made and 2nd that the ORDER be ADOPTED, all in favor, 9-0.

Presented to the Mayor: July 19, 2007 s/Thomas L. McLaughlin July 20, 2007

RESOLVED That His Honor the Mayor instruct the Superintendent of Public Works to repave Cliffside Terrace the entire length side to side.

s/Alderman Gately

Motion made and 2nd that the RESOLVE be ADOPTED, all in favor, 9-0.

Presented to the Mayor: July 19, 2007 s/Thomas L. McLaughlin July 20, 2007

RESOLVED That the Traffic Commission establish a no heavy trucking restriction on Carter Street from the intersection with Bryant Street to the intersection with Garfield Avenue; and

Further, that the Traffic Commission meeting on this matter be held after 5:30 p.m. on a weekday.

s/Alderman Gately

Motion made and 2nd that the RESOLVE be ADOPTED, all in favor, 9-0.

Presented to the Mayor: July 19, 2007 s/Thomas L. McLaughlin July 20, 2007

RESOLVED That the Traffic Commission establish a no heavy trucking restriction on Arlington Street from the intersection with Carter Street to the intersection with Stoneham Street; and

Further, that the Traffic Commission meeting on this matter be held after 5:30 p.m. on a weekday.

s/Alderman Gately

Motion made and 2nd that the RESOLVE be ADOPTED, all in favor, 9-0.

Presented to the Mayor: July 19, 2007 s/Thomas L. McLaughlin July 20, 2007

RESOLVED That the Traffic Commission review and amend as necessary the two hour parking restriction between the hours of 8:00 a.m. and 6:00 p.m. on Monday through Friday presently in force on Bennett Street in order to accommodate the needs of residents who reside on Bennett Street, including but not limited to establishing a resident parking permit so as to allow residents to park on the street for longer than two hours as presently limited.

s/Alderman Gately

Motion made and 2nd that the RESOLVE be ADOPTED, all in favor, 9-0.

Presented to the Mayor: July 19, 2007 s/Thomas L. McLaughlin July 20, 2007

RESOLVED A RESOLUTION TO FILE AND ACCEPT GRANTS WITH AND FROM THE COMMONWEALTH OF MASSACHUSETTS, EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS FOR THE OUTDOOR RECREATION PROJECTS SELF-HELP AND STRATEGIC URBAN RECREATION FUND FOR THE DEVELOPMENT OF THE FORMER MCGARR SCHOOL SITE INTO A TODDLER PARK

Whereas, the development of a toddler park at the former McGarr School site located at Fowle and South Streets in South Woburn. Ownerships history according to the Woburn Assessor records show the property is owned by the City of Woburn since 1/1/1901 and registered in Book 1027/ Page 284 in the Middlesex South Registry of Deeds; and

Whereas, the construction of a toddler park with swings with both baby and toddler seats, large play set, slides, jungle fort, ornamental iron benches, ornamental iron decorative trash containers, concrete walkways that are handicapped accessible, granite curbing, provision for both handicapped and regular vehicle parking, ornamental iron fencing at entrances to the park, play set area and memorial, irrigation system, new landscaping, loaming and seeding and architectural plantings, drinking fountain with water service, engineering and contingency costs; and

Whereas, the overall cost of the project and the fiscal constraints prevented the City from proceeding forward with implementation of development of this project; and

Whereas, the Executive Office of Energy and Environmental Affairs is offering reimbursable grants to cities and towns to support the purchasing of land, the restoration and development of urban parks through the Outdoor Recreation Projects Self-Help and Strategic Urban Recreation Fund; and

Whereas, the development of a McGarr Toddler Park is estimated by the Woburn Engineering Department to cost approximately \$150,000.00 (One Hundred Fifty Thousand Dollars) and the City Council intends to allocate the sum of \$150,000.00 through transfer from the Free Cash account of which fifty-eight percent will be reimbursed to the City of Woburn upon submittal of invoices to the Commonwealth of Massachusetts Executive Office of Energy and Environmental Affairs;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WOBURN

1. That the Mayor be and is hereby authorized to file and accept grants from the Massachusetts Executive Office of Energy and Environmental Affairs; and
2. That the Mayor be and is hereby authorized to take such other actions as are necessary to carry out the terms, purposes and conditions of this grant to be administered by the Parks and Recreation Department; and
3. That this resolution shall take effect upon passage.

s/Alderman Gately

Motion made and 2nd that the RESOLVE be ADOPTED, all in favor, 9-0.

Presented to the Mayor: July 19, 2007 s/Thomas L. McLaughlin July 20, 2007

Schedule of Committee Reports Filed with the Office of the City Clerk on July 17, 2007 pursuant to Rule 19 of the Rules and Orders of the City Council.

COMMITTEE REPORTS:

PERSONNEL:

On the appointment of Daniel J. Gately as a member of the Woburn Housing Authority, committee report was received "ought to pass." Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.

Presented to the Mayor: July 19, 2007 s/Thomas L. McLaughlin July 20, 2007

On the appointment of Jose Santiago as a member of the Human Rights Commission, committee report was received "ought to pass." Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.

Presented to the Mayor: July 19, 2007 s/Thomas L. McLaughlin July 20, 2007

On the appointment of Jan Robbins Cox as a member of the Human Rights Commission, committee report was received "ought to pass." Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.

Presented to the Mayor: July 19, 2007 s/Thomas L. McLaughlin July 20, 2007

On the appointment of Ralph Coakley as a member of the Human Rights Commission, committee report was received "ought to pass." Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.

Presented to the Mayor: July 19, 2007 s/Thomas L. McLaughlin July 20, 2007

On the appointment of Carl Batchelder as a member of the Human Rights Commission, committee report was received "ought to pass." Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.

Presented to the Mayor: July 19, 2007 s/Thomas L. McLaughlin July 20, 2007

FINANCE:

On the Order to transfer the sum of \$269,999.00 from I&I Reserve Sewer Enterprise Fund Account to various Department of Public Works Accounts, committee report was received "ought to pass." Alderman Mercer-Bruen stated that \$290,000.00 had been carried over from FY2007 by the Department of Public Works, that the Superintendent of Public Works provided a list of bills yet to be paid with those funds, that there are \$193,000.00 in bills that will be paid out of the \$290,000.00 carry-over funds, that she received a copy of the estimate for the cost of the generator, that the Superintendent of Public Works was not notified until last Friday of the Committee on Finance meeting, and that she would move to table this matter if she saw fit. Alderman Mercer-Bruen 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. President Doherty stated that there is a conflict as to whether money should come out of the existing I&I account or carry-over balances based on information provided by the city auditor, and

that some of the data has been supplied by the Superintendent of Public Works but there are additional questions outstanding. Alderman Denaro stated that the Order was signed by the mayor, city auditor and the department head and that the City Council should move forward with approval. Motion made and 2nd that the ORDER be ADOPTED, 4 in favor, 5 opposed (Ciriello, Doherty, Galvin, Gately, Mercer-Bruen opposed). Motion made and 2nd that the MATTER be LAID ON TABLE, 7 in favor, 2 opposed (Denaro, Dwyer opposed).

On the Order to appropriate the sum of \$400,000.00 from Demolition of Reeves School Account to Woburn Memorial High School Account, committee report was received “ought to pass, as amended with the amendments as follows: 1. That money be used for contingency purposes only to do with finishing the current existing project at Woburn Memorial High School sports field, as documented or existing site plan, 2. That any excess is to be returned to the school stabilization account upon completion of project.” Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0. **Presented to the Mayor: July 19, 2007 s/Thomas L. McLaughlin July 20, 2007**

Motion made and 2nd to ADJOURN, all in favor, 9-0. Meeting adjourned at 9:09 p.m.

A TRUE RECORD ATTEST:

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