

**CITY OF WOBURN  
JUNE 5, 2012 - 7:30 P.M.  
REGULAR MEETING OF THE CITY COUNCIL**

Roll Call

Anderson	Gately
DiTucci	Haggerty
Drapeau	Mercer-Bruen
Gaffney	Raymond
Denaro	

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

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**MAYOR'S COMMUNICATIONS:**

ORDERED That the sum of \$220,000.00 be and is hereby transferred as so stated from Ambulance Receipts Acct #31359-595000 \$220,000.00 to Fire/Salary Acct #0122051-51100 \$220,000.00

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

s/President Denaro

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

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ORDERED That the sum of \$40,000.00 be and is hereby transferred as so stated from DPW/Water-Electric Acct #64252-52110 \$40,000.00 to Mayor/Water & Sewer Trucks Acct #64258-586532 \$40,000.00 – Purpose: 1 pickup truck

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

s/President Denaro

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

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ORDERED That the sum of \$65,000.00 be and is hereby transferred as so stated from DPW/Overtime Acct #0141151-513100 \$65,000.00 to Mayor/DPW Trucks Acct #0112158-586686 \$65,000.00 – Purpose: 2 pickup trucks

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

s/President Denaro

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

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ORDERED That the sum of \$35,000.00 be and is hereby appropriated from Cemetery Interest Fund and distributed as follows for Fiscal Year 2013 - \$5,000.00 to Utility Acct 0149052-521103, \$12,000.00 to New Equipment 0149058-586600, \$2,000.00 to Office Supplies 0149054-542000, \$6,000.00 to Equip/Bldg Maint 0149054-543000, \$10,000.00 to Tools/Supplies Acct 0149054-546100

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

s/President Denaro

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

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ORDERED That the sum of \$31,000.00 be and is hereby transferred as so stated from Police Holiday Pay Acct #0121051-514500 \$20,000.00, Police Salary Acct #0121051-51100, Total \$31,000.00 to Cruiser Outlay Acct #0112158-586681 \$31,000.00 – Purpose: equipped unmarked cruiser for Captain Rufo

I hereby request the above: s/Robert Ferullo, Jr., Chief of Police  
I have reviewed the above: s/Gerald W. Surette, City Auditor  
I hereby approve the above: s/Scott D. Galvin, Mayor

s/President Denaro

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

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ORDERED That the sum of \$12,000.00 be and is hereby transferred as so stated from Police Lighting Acct #0121052-521101 \$4,000.00, Police Salary Acct #0121051-511000 \$8,000.00, Total \$12,000.00 to Police Telephone Acct #0121052-534100 \$12,000.00 – Purpose: Reallocation of communication expenses to telephone accounts, additional cruisers with online laptops.

I hereby request the above: s/Robert Ferullo, Jr., Chief of Police  
I have reviewed the above: s/Gerald W. Surette, City Auditor  
I hereby approve the above: s/Scott D. Galvin, Mayor

s/President Denaro

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

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**PUBLIC HEARINGS:**

On the petition by Paul Carniero, 49 Olive Street, Methuen, Massachusetts 01844 for a special permit pursuant to Section 5.1.44 of the 1985 Woburn Zoning Ordinances, as amended, to allow for auto body repair at 3 Green Street. PUBLIC HEARING OPENED. A communication was received from the petitioner Paul Carniero as follows:

To the City Council:

Could you please postpone the hearing until the 12<sup>th</sup> of June due to more information needed for the 3 Green Street,

Thank you, s/Paul Carniero

IN FAVOR: None. OPPOSED: None. Motion made and 2<sup>nd</sup> that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON JUNE 19, 2012, all in favor 9-0.

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On the petition by Pier 1 Imports, Inc., 101 Pier 1 Place, Fort Worth, Texas for a special permit pursuant to Section 7.3, 8.7.2.10 and 13.5 of the 1985 Woburn Zoning Ordinances, as amended, to allow for the alteration of the existing nonconforming structure and use; use of a previously used loading dock as a loading ramp; and alterations to the petitioner’s nonconforming signage; said alterations include but are not limited to exterior design elements, entry doors, loading ramp and new signage, all at 425 Washington Street. PUBLIC HEARING OPENED. A communication dated June 1, 2012 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 Pier 1 Imports, Inc., 425 Washington Street, Woburn, Massachusetts

Dear Mr. Campbell:

I respectfully request that the City Council public hearing on this matter presently scheduled for June 5, 2012 be continued to the City Council meeting on June 19, 2012.

If you have any question, please contact me. Thank you.

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

IN FAVOR: None. OPPOSED: None. Motion made and 2<sup>nd</sup> that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON JUNE 19, 2012, all in favor 9-0.

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On the petition by William Scire, 505 Main Street, Woburn, Massachusetts 01801 for a special permit pursuant to Section 5.1.5 of the 1985 Woburn Zoning Ordinances, as amended, to allow for dwelling units above the first story in a commercial structure at 22 Everett Street. PUBLIC HEARING OPENED. A communication dated May 29, 2012 was received from Edmund P. Tarallo, Planning Director, Woburn Planning Board as follows:

Re: William Scire – 22 Everett Street – To allow for 4 dwelling units above first floor commercial structure pursuant to Section 5.1.5

Dear Mr. Campbell and members of the City Council:

At the Planning Board meeting held on May 22, 2012, the Planning Board voted to send a favorable recommendation to the City Council on the Special Permit application of William Scire, regarding the property at 22 Everett Street for two dwelling units above the first floor commercial structure pursuant to Section 5.1.5 subject to the following conditions:

1. That a plan showing the existing and proposed utilities shall be submitted to the department of public works for review prior to issuance of a building permit; and
2. That the proposed dumpster shall be enclosed by a sight impervious fence.

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

Appearing for the petitioner was Attorney Mark Salvati, 10 Cedar Street, Suite 26, Woburn, Massachusetts 01801 and he stated that the plan was amended to allow two

residential units above the first floor commercial space, that there will be parking for two cars on each side of the building, and a new plan has been filed. IN FAVOR: None. OPPOSED: None. Motion made and 2<sup>nd</sup> that the public hearing be closed, all in favor, 9-0. Motion made and 2<sup>nd</sup> that the SPECIAL PERMIT be GRANTED, AS AMENDED, all in favor 9-0.

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**CITIZEN'S PARTICIPATION:**

Request from Kevin McDonough, Trustee of 295 Salem Street Condominium Association, 295 Salem Street, Woburn, Massachusetts 01801 relative to the installation of water meters for irrigation purposes and reclassification of the sewer charges assessed to the property's clubhouse. Motion made and 2<sup>nd</sup> that the MATTTTER be REFERRED TO COMMITTEE ON LIAISON, all in favor, 9-0.

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Request from David DeMambro, 13 Center Street, Woburn, Massachusetts 01801 relative to the easement that runs from Center Street to Manns Court to be repaired to a safe condition. Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO COMMITTEE ON LIAISON, all in favor, 9-0.

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**COMMITTEE REPORTS:**

**FINANCE:**

On the Order for a \$6,000,000.00 borrowing authorization for the purpose of payment of all costs associated with replacing the water meters throughout the city, committee report was received "back for action". Alderman Drapeau stated that the amendment offered is confusing, that he is not certain what the bonds being offset by the metals charges refers to, and that he needs clarification of the amendment. Alderman Gately stated that he opposes the water meter program, that through the adoption of related ordinances the City Council will set the rates to be charged, that the City Council has control over the water meter issue to ensure the project is completed quickly, that the does not appreciate having the threat of the Administrative Consent Order (ACO) hanging over the City Council, and that would be a large battle to fight the Department of Environmental Protection (DEP) on this issue. Alderman Haggerty stated that there will be some "pay-as-you-go" aspect to the program which will save some interest charges, that it is time for the city to move on from this issue, and that the DEP has prevailed over the city in this instance. President Denaro stated that bond counsel wrote the proposed amended form of the Order based on questions raised by the Aldermen. Alderman DiTucci stated that everyone is beyond the question as to whether the city has to install residential meters, that the question now is how to pay for the meters, that governments at all levels get into trouble by borrowing too much or borrowing only because there is borrowing capacity available, that if the metals charge is \$2,000,000.00 then the bond should only be for \$4,000,000.00, that the City Council is authorizing the borrowing of \$6,000,000.00 and the residents will pay for

the meters, that the City Council should know first what money will be collected for the meters charge before authorizing the bond amount, and that she is uncomfortable with the language of the proposed amended Order. Alderman Gaffney stated that the city has to get the funding mechanism in place, that the city has 21 months before the meters will be put in, and that this gives the city 21 months to decide the other details such as the type of meter and the rates to be charged but that there has to be a funding mechanism in place in order to do so. Alderman Anderson stated that there is time to determine the details but one way or another the residents will pay for the meters whether through the bond, the residents paying the installation charges or the city paying the installation charges which will ultimately be paid for by the residents, that she is not happy about the situation with the ACO but the appropriation has to be approved, and that the other details of the program can be discussed later. Alderman Raymond stated that the bond authorization has to be the total amount of the project, and that the city has between \$120,000,000.00 and \$160,000,000.00 in bond authorizations that have been allowed but has only borrowed \$88,000,000.00 against those authorizations. Alderman Drapeau stated that it is understood that the water meters have to be installed, that the installation of the water meters is necessary due to the provisions of the ACO and to get a better accounting of water use for detecting leaks in the system and encouraging conservation, that an Order for a borrowing authorization is before the City Council, that some Aldermen are advocating to authorizing the borrowing and determining the details later, that the city cannot authorize borrowing without knowing the details, that the language of the amendment is vague, that if the charges for installation will be borne by the residents then that is what the Order should state, that he would prefer to use the \$5,000,000.00 surplus in the Water and Sewer Enterprise Fund (WSEF) before going to the residents to pay for the costs of the water meters, that not enough information has been presented to authorize \$6,000,000.00 in borrowing, and that he will not support the Order without the details being provided. Alderman Mercer-Bruen stated that it is probably a waste of time to fight the installation of the meters in view of the legal opinions rendered, that the city should work collaboratively with the DEP, that she has never supported a bond authorization without knowing what the details were, that all of the money for a project has to be approved at the beginning, that the City Council reviewed all the details of the Goodyear School, the water treatment plant and the water upgrades before authorizing borrowing for those projects, that she cannot support this Order without the details, and that she will support the Order if the right package of information is supplied to the City Council for review. Alderman Haggerty stated that he understands what the borrowing authorization is about, that other Aldermen may not understand the program but he does, that he has filed resolutions asking for more information which were adopted and he received the requested information, that no other action has been taken to obtain additional information, that whatever money is spent is taxpayers money, and that he is not happy to be in a position having to vote for the Order but the city has to take action due to the provisions of the ACO. Alderman Anderson stated that a number of experts have been before the City Council providing information about this project, that this Order gives the additional authority over the borrowing, that the City Council has never had this authority under prior bonds, that the city has been working with the DEP since at least 2006 on this issue, that he understands what is being requested in this Order, that it is time for the city to move on this matter, and that he likes the water billing system the way it is now but he

understands the city has to install water meters. Alderman Mercer-Bruen stated that the City Council has not received all the details despite the experts that have been paraded before the City Council, that she has not received the information that she needs to decide the issue, and that she will not support adopting the proposed Order. Alderman DiTucci stated that the initial bond authorization was for \$4,000,000.00 and that now the requested amount is \$6,000,000.00, and that no serious details was provided to the City Council. Alderman Gately stated that he would not endorse this proposal without knowing the details, that as Chair of the Water Committee he has conducted hundreds of hours of meetings on water issues, that people may not know what the program is about other than 11,000 water meters must be installed, and that 21 months is not a lot of time to put the project together with public meetings, approving ordinances and other related issues, and that the City Council should approve the borrowing authorization and the city get to work. Alderman DiTucci stated that she is concerned that the bond authorization will be approved and the City Council will have not authority to manage or control the project, that the current ordinances presumes that the residents will pay for water meters, and that she wants to know how to resolve those issues tonight. President Denaro stated that the metals charges component of the proposed Order gives the City Council authority to reduce the cost of installing the meters, and that the ordinances currently require the residents to pay for the installation of the water meters. Alderman Drapeau stated that he has no information that the water meters will cost \$6,000,000.00, that when the City Council approved the borrowing authorizations for the Goodyear School there were many other issues that were resolved before the City Council approved the borrowing for the project, that he does not understand why an Alderman would approve this Order to borrow before the answers to these questions is obtained, and that all the details of the program should be spelled out before the bond is authorized. Alderman Mercer-Bruen stated that the City Council has responsibility to do this right and that this requires getting answers to the questions raised, and that the City Council should meet with representatives of the DEP which will be the city's partner for many years. Alderman Gately stated that the City Council approved a \$6,700,000.00 borrowing authorization without seeing a plan for a surface drainage project. Aldermen DiTucci stated that she recalls the details of the \$6,700,000.00 bond authorization, that the City Council has no input in projects once the borrowing is authorized, and that she does not want those restrictions with this issue. Motion made and 2<sup>nd</sup> that the ORDER be ADOPTED, AS AMENDED, as follows:

**ORDERED** That the City of Woburn appropriate the sum of Six Million Dollars (\$6,000,000) for the purpose of purchasing, installing, or replacing residential water meters throughout the City, including the payment of all costs associated there with, and that to meet this appropriation, the Treasurer, with the approval of the Mayor, is authorized to borrow said sum under and pursuant to Chapter 44, Section 8(7A) of the General Laws, or any other enabling authority; and the Treasurer, with the approval of the Mayor, is authorized to use any Federal or State Grants and Loans for the project or the financing thereof. The total amount authorized to be borrowed pursuant to this order shall be reduced by any funds collected for any associated metal/materials charge as required by

Ordinance. Although any bonds or notes issued pursuant to this order shall constitute general obligations of the City, it is the intention of this Council that in each year, any such bonds or notes shall be repaid, in the first instance, from funds derived from the metal/materials charge associated therewith.

ROLL CALL: Anderson – Yes, DiTucci – No, Drapeau – No, Gaffney – Yes, Gately – Yes, Haggerty – Yes, Mercer-Bruen – No, Raymond – Yes, Denaro – Yes, MOTION PASSES.

**Presented to the Mayor: June 8, 2012**

**s/Scott D. Galvin June 8, 2012**

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On the Order to transfer the sum of \$50,000.00 from BLS Ambulance Receipts Acct to Fire Department Overtime Acct and Ambulance Maintenance Acct, committee report was received “ought to pass”. Motion made and 2<sup>nd</sup> that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.

**Presented to the Mayor: June 8, 2012**

**s/Scott D. Galvin June 8, 2012**

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On the Order to transfer the sum of \$170,000.00 from BLS Ambulance Receipts Acct to Ambulance Maintenance Acct, committee report was received “ought to pass”. Motion made and 2<sup>nd</sup> that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.

**Presented to the Mayor: June 8, 2012**

**s/Scott D. Galvin June 8, 2012**

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**ORDINANCES:**

On the Order to amend Title 2, Article XXVII, Section 2-181(A) of the 1989 Woburn Municipal Code, as amended, relative to the base salary of the Superintendent of Public Works, committee report was received “ought to pass”. Motion made and 2<sup>nd</sup> that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.

**Presented to the Mayor: June 8, 2012**

**s/Scott D. Galvin June 8, 2012**

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**PERSONNEL:**

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

**Presented to the Mayor: June 8, 2012**

**s/Scott D. Galvin June 8, 2012**

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**NEW PETITIONS:**

Request by City Solicitor Ellen Callahan Doucette for a public hearing at the City Council Regular Meeting on June 19, 2012 relative to a Remand Order of the Land Court



in the matter of A.L. Prime Energy Consultant, Inc. d/b/a A.L. Prime Energy v. Charles E. Doherty, Member of Woburn Council City of Woburn, et. al., found at Docket No. 08-MISC-370678(KFS). Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO PUBLIC HEARING AT REGULAR MEETING OF CITY COUNCIL ON JUNE 19, 2012, all in favor, 9-0.

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Petition by NSTAR Electric Company for a grant of right in a way to install conduit in Locust Street southeasterly from pole 50/2 a distance of approximately 95 feet southwest of South Bedford Street a distance of about 31 feet. Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO PUBLIC HEARING AT THE REGULAR MEETING ON JUNE 19, 2012, all in favor, 9-0.

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Petition by Light Tower Fiber Networks, 80 Central Street, Boxborough, Massachusetts 01719 for a grant of right in a way to install one four inch conduit in Main Street from Salem Street to Harlow Court. Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO PUBLIC HEARING AT THE REGULAR MEETING ON JUNE 19, 2012, all in favor, 9-0.

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Petition by Lannan Family LLC, 831 Rogers Street, Lowell, Massachusetts 01852 for a special permit pursuant to Sections 7.2 and 15 of the 1985 Woburn Zoning Ordinances, as amended, to alter the existing non-conforming vehicle service showroom and administrative building by demolishing a portion of the building and constructing a building addition and to allow for property within the Groundwater Protection Overlay District to have more than 15% of the site as impervious cover, at 40 Winn Street. Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO PUBLIC HEARING AT THE REGULAR MEETING ON JULY 10, 2012, all in favor, 9-0.

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Petition by Hannaford & Dumas Corporation, 26 Conn Street, Woburn, Massachusetts 01801 for a special permit pursuant to Sections 5.1.42, 7.3, 8.7.10 and 15 of the 1985 Woburn Zoning Ordinances, as amended, to modify a special permit issued January 31, 2012 to allow for the alteration of the existing nonconforming structures and use as follows: 1. The construction of two additions providing for a combined total of approximately 14,388 additional gross floor area to be used for office (7,000 s.f. g.f.a.), warehouse space (16,448 s.f. g.f.a.), and light manufacturing (20,046 s.f. g.f.a.), 2. Construction of the additions within the Groundwater Protection District, and 3. Allow for loading space to front on Conn Street, at 24-26 Conn Street. Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO PUBLIC HEARING AT THE REGULAR MEETING ON JULY 10, 2012, all in favor, 9-0.

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Petition by 859 Main Development, LLC, 57 Russell Street, Woburn, Massachusetts 01801 for a special permit pursuant to Sections 11.3.12 and 22 of the 1985 Woburn

Zoning Ordinances, as amended, to modify a special permit issued January 12, 2012 to allow change from previously approved 98 unit condominium development to allow construction of a 49 unit condominium building on Main Street with 40 townhomes for a total of 89 residential units, at 859 Main Street. Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO PUBLIC HEARING ON JULY 10, 2012 , all in favor, 9-0.

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**COMMUNICATIONS AND REPORTS:**

A communication dated May 18, 2012 was received from Charles L. O'Connor, Parking Clerk, Police Headquarters, 25 Harrison Avenue as follows:

In accordance with Massachusetts General Laws Chapter 90, Section 20½, I am submitting a report to you on the parking violations in the City of Woburn for the period ending April 2012: number of parking violations issued 299, number of violations paid 142, number of violations outstanding 141, amount collected and submitted to the Office of the Collector \$11,447.20. There exists a backlog of 5,900 tickets for 1982 through 2011. Demand will be sent until all tickets have been paid. Parking violations referred to the Handicapped Commission to date \$1,150.00.

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

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

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A communication dated June 1, 2012 was received from Joanne Collins, Director, Woburn Council on Aging along with a copy of the Director's Report and the minutes of the Council on Aging for the month of May 2012. Motion made and 2<sup>nd</sup> that the MATTER be RECEIVED AND PLACED ON FILE, all in favor, 9-0.

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A communication dated May 18, 2012 was received from the Woburn Traffic Commission as follows:

Re: Proposed Traffic Code

At its regular meeting held on May 17, 2012, the Woburn Traffic Commission voted to send the proposed form of Woburn Traffic Code to the City Council with the request that the Aldermen review the document and return comments to the Traffic Commission by September 4, 2012. The Traffic Commission has continued the matter until its meeting to be held in September 2012.

Please note that the proposed form of Code was submitted to the City Council at its Regular Meeting on May 15, 2012.

Thank you for your attention to this matter.

s/William C. Campbell, City Clerk

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

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A communication dated May 21, 2012 was received from City Solicitor Ellen Callahan Doucette as follows:

Re: Open Meeting Law/Rule 19, Rules and Orders of the City Council

The City Council has requested a legal opinion regarding Rule 19 of its Rules and Orders and whether it is consistent with the requirements of the "Open Meeting Law" ("OML"), M.G.L. c.30A, §§18-25, inclusive. A copy of the Council's request is attached hereto for reference.

Rule 19 requires the City Clerk to prepare an "Order of the Day" for each Council meeting. The Order of the Day must include all "Ordinances, Petitions, Committee reports, Communications from City Official or Others, Orders and Resolution (sic)" filed by 1:00 p.m. on the Monday before the meeting. Committee reports which are filed before 1:00 p.m. on the day of the meeting may be "read by the City Clerk into the Order of the Day . . . and may be taken up by the City as a timely filed matter."

To the extent that the materials received under Rule 19 are related to the subject matter of an item already included on the posted notice, Rule 19 does not run afoul of the OML. However, where the practice under Rule 19 permits the City Council to "take up" materials which are not included or referenced on the notice which must be posted at least 48 hours before the City Council's meeting, the potential for an OML violation clearly exists.

M.G.L. c.30A, §20(b), the "Open Meeting Law", provides in part that;

[e]xcept in an emergency, in addition to any notice otherwise required by law, a public body shall post notice of every meeting at least 48 hours prior to such meeting, excluding Saturdays, Sundays and legal holidays. In an emergency, a public body shall post notice as soon as reasonably possible prior to such meeting. Notice shall be printed in a legible, easily understandable format and shall contain the date, time and place of such meeting and a listing of topics that the chair reasonably anticipates will be discussed at the meeting." (emphasis supplied)

Listing the reasonably anticipated topics in the notice provides members of the public with necessary information so that they may decide whether to attend the meeting. In addition, the Attorney General's OML regulations require that topics "shall have

sufficient specificity to reasonably advise the public of the issues to be discussed at the meeting." This regulation is intended to ensure that a reasonable member of the public could read the topic and understand the anticipated nature of the public body's discussion. See, 940 CMR 29.03(b).

Though c.30A, §20(b) requires the posting of a notice 48 hours in advance of a public meeting, it must be noted that the Division of Open Government of the Attorney General's office has posted seemingly conflicting advice on its website. Specifically, one of the so-called "FAQs" states that "[w]hile not required under the Open Meeting Law, public bodies are encouraged to make a revised list of topics to be discussed available to the public in advance of the meeting if the body intends to discuss topics that come up after posting but before the meeting convenes." As I stated in a recent email to the City Council, this statement or "FAQ", is not based upon statutory language but is referenced regularly by the Attorney General in determinations issued in response to OML complaints that are based upon a local board's discussion of matters that are not included in the posted notice.

To further confuse the issue, the Attorney General's office has determined that;

[i]f a meeting topic is proposed after the meeting notice is posted, public bodies are encouraged to update their posting to provide the public with as much notice as possible of what subjects will be discussed during a meeting. Although a public body may consider a topic that was not listed in the meeting notice if unanticipated, the Attorney General strongly encourages public bodies to postpone discussion and action on topics that are controversial or may be of particular interest to the public if those topics were not listed in the meeting notice.

Attorney General Determinations, OML 2012-19 (March 12, 2012)

It appears that the Attorney General has carved out an exception to the statutory requirement for the posting of a notice at least 48 hour before a public meeting for topics that are "unanticipated" and therefore not included in the notice to be discussed, though the local board is "encouraged" to postpone discussion on the topic.

Apart from the fact that the Attorney General's position is not in my opinion, supported by the statute, I also disagree with the advice or FAQ provided for the following additional reasons. First, to permit the City Clerk to accept various documents for filing, and to include them in the Order of the Day after notice has been posted, appears to encourage late filings and invite attempts to circumvent the OML. Second, at some point in time the practice of accepting documents after the notice is posted cannot properly be categorized as "unanticipated" when in fact, it has become routine and expected.

After considering all of the above, it is my recommendation that the City Council amend its Rules and Regulations by removing Rule 19 to avoid the possibility of an OML complaint. In the alternative, Rule 19 could be amended to require that all documents to

be taken up at the next Council meeting be filed by a time certain on the Thursday before a meeting so that there is time to properly reference them in the notice (and for the Council members to review them). Topics which are not included on the notice and posted at least 48 hours prior to the meeting should not be taken up and discussed unless of course, there is an emergency.

If you have additional questions or require further assistance regarding this matter, please don't hesitate to contact me.

<sup>1</sup> Although Rule 19 specifies "Committee Reports", it is my understanding that the Council's practice has been to accept documents other than Committee Reports prior to 1:00 p.m. on the day of the meeting.

Very truly yours, s/Ellen Callahan Doucette

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

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

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**APPOINTMENTS AND ELECTIONS:** None.

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**MOTIONS, ORDERS AND RESOLUTIONS:**

ORDERED That the Woburn Agricultural Commission be authorized pursuant to Section 2-252(4) of the Woburn Municipal Code, to lease a 1.0± acre portion of the Spence Farm property to Soluna Garden Farm, LLC of 693 Washington Street, Winchester, MA for the purpose of operating an organic farm, and for providing educational instruction on organic farming and agriculture.

s/Alderman Anderson (per request)

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

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ORDERED That the Woburn City Council hereby authorizes the Mayor to utilize a Departmental Revolving Fund under M.G.L. Chap. 44, Sec. 53E½. Mayor may spend funds received without further appropriation during Fiscal Year 2013 with the purpose of encouraging the wellness and healthy lifestyles in the City of Woburn. The "Be Well Woburn Committee Departmental Revolving Fund", is to be credited with all fees and charges not to exceed \$50,000.00 received during Fiscal Year 2013 from donations and money raised. Any remaining balance at June 30, 2013 is to revert to

the General Fund, unless the fund is re-established. The “Be Well Woburn Committee Departmental Revolving Fund”, under M.G.L. Chap. 44, Sec. 53E½ must be re-established on a year-to year basis. The City Council, upon recommendation of the Mayor, must have an annual vote prior to the start of the Fiscal Year. This authorization makes the approved Departmental Revolving Fund effective for the ensuing Fiscal Year only.

I hereby recommend the above: s/Scott D. Galvin, Mayor

s/President Denaro

Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO COMMITTEE ON FINANCE and that a communication be forwarded to the City Auditor requesting a report be provided of money received and expended from the revolving account during the current fiscal year, all in favor, 9-0.

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ORDERED That the Woburn City Council hereby authorizes the Board of Health to utilize a Departmental Revolving Fund under M.G.L. Chap. 44, Sec. 53E½. The Board of Health may spend funds received without further appropriation during Fiscal Year 2013 for the purpose of purchasing additional compost bins. The “Board of Health Revolving Fund”, is to be credited with all fees and charges not to exceed \$2,500.00 received during Fiscal Year 2013 from persons purchasing compost bins. Any remaining balance at June 30, 2013 is to revert to the General Fund, unless the fund is re-established. The “Board of Health Revolving Fund”, under M.G.L. Chap. 44, Sec. 53E½ must be re-established on a year-to year basis. The City Council, upon recommendation of the Mayor, must have an annual vote prior to the start of the Fiscal Year. This authorization makes the approved Revolving Fund effective for the ensuing Fiscal Year only.

I hereby recommend the above: s/Scott D. Galvin, Mayor

s/President Denaro

Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO COMMITTEE ON FINANCE and that a communication be forwarded to the City Auditor requesting a report be provided of money received and expended from the revolving account during the current fiscal year, all in favor, 9-0.

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ORDERED That the Woburn City Council hereby authorizes the Board of Health to utilize a Departmental Revolving Fund under M.G.L. Chap. 44, Sec. 53E½. The Board of Health may spend funds received without further appropriation during Fiscal Year 2013 for the purpose landfill closure. The “Board of Health Revolving Fund”, is to be credited with all fees and

charges up to \$400,000.00 received during Fiscal Year 2013. Any remaining balance at June 30, 2013 is to revert to the General Fund, unless the fund is re-established. The "Board of Health Revolving Fund", under M.G.L. Chap. 44, Sec. 53E½ must be re-established on a year-to year basis. The City Council, upon recommendation of the Mayor, must have an annual vote prior to the start of the Fiscal Year. This authorization makes the approved Revolving Fund effective for the ensuing Fiscal Year only.

I hereby recommend the above: s/Scott D. Galvin, Mayor

s/President Denaro

Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO COMMITTEE ON FINANCE and that a communication be forwarded to the City Auditor requesting a report be provided of money received and expended from the revolving account during the current fiscal year, all in favor, 9-0.

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**ORDERED** That the Woburn City Council hereby authorizes the Office of the Mayor to utilize a Departmental Revolving Fund under M.G.L. Chap. 44, Sec. 53E½. The Office of the Mayor may spend funds received for cable television and telecommunications franchise fees as required under the CATV operator license agreement with the City of Woburn without further appropriation during Fiscal Year 2013 for the purpose of paying the salary, benefits and related expenses of the M.I.S. Director and to pay the Woburn Public Media Center contract fee. The "Cable Television and Telecommunications Revolving Fund", is to be credited with all fees and charges up to \$500,000.00 received during Fiscal Year 2013. Any remaining balance at June 30, 2013 is to revert to the General Fund, unless the fund is re-established. The "Cable Television and Telecommunications Revolving Fund", under M.G.L. Chap. 44, Sec. 53E½ must be re-established on a year-to year basis. The City Council, upon recommendation of the Mayor, must have an annual vote prior to the start of the Fiscal Year. This authorization makes the approved Revolving Fund effective for the ensuing Fiscal Year only.

I hereby recommend the above: s/Scott D. Galvin, Mayor

s/President Denaro

Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO COMMITTEE ON FINANCE and that a communication be forwarded to the City Auditor requesting a report be provided of money received and expended from the revolving account during the current fiscal year, all in favor, 9-0.

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ORDERED That the Woburn City Council hereby authorizes the Conservation Commission to utilize a Departmental Revolving Fund under M.G.L. Chap. 44, Sec. 53E ½. The Conservation Commission may spend funds received without further appropriation during Fiscal Year 2013 for the purpose of environmental public benefit and open space acquisitions and/or protection. The “Conservation Commission’s Revolving Fund”, is to be credited with all fees and charges not to exceed \$10,000.00 received during Fiscal Year 2013 from gifts, donations and monies raised. Any remaining balance at June 30, 2013 is to revert to the General Fund, unless the fund is re-established. The “Conservation Commission’s Revolving Fund”, under M.G.L. Chap. 44, Sec. 53E½ must be re-established on a year-to year basis. The City Council, upon recommendation of the Mayor, must have an annual vote prior to the start of the Fiscal Year. This authorization makes the approved Revolving Fund effective for the ensuing Fiscal Year only.

I hereby recommend the above: s/Scott D. Galvin, Mayor

s/President Denaro

Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO COMMITTEE ON FINANCE and that a communication be forwarded to the City Auditor requesting a report be provided of money received and expended from the revolving account during the current fiscal year, all in favor, 9-0.

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ORDERED That the Woburn City Council hereby authorizes the Council on Aging to utilize a Departmental Revolving Fund under M.G.L. Chap. 44, Sec. 53E½. The Council on Aging may spend funds received without further appropriation during Fiscal Year 2013 for the purpose of operating the Senior Center. The “Council on Aging Revolving Fund”, is to be credited with all fees and charges received during Fiscal Year 2013 up to \$70,000.00. Any remaining balance at June 30, 2013 is to revert to the General Fund, unless the fund is re-established. The “Council on Aging Revolving Fund”, under M.G.L. Chap. 44, Sec. 53E½ must be re-established on a year-to year basis. The City Council, upon recommendation of the Mayor, must have an annual vote prior to the start of the Fiscal Year. This authorization makes the approved Revolving Fund effective for the ensuing Fiscal Year only.

I hereby recommend the above: s/Scott D. Galvin, Mayor

s/President Denaro



Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO COMMITTEE ON FINANCE and that a communication be forwarded to the City Auditor requesting a report be provided of money received and expended from the revolving account during the current fiscal year, all in favor, 9-0.

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ORDERED That the Woburn City Council hereby authorizes the Department of Public Works to utilize a Departmental Revolving Fund under M.G.L. Chap. 44, Section 53E½ . The Department of Public Works may spend funds received without further appropriation during Fiscal Year 2013 for the purpose of the Liberty Elm Tree Program. The “Liberty Elm Tree Revolving Fund”, is to be credited with all fees, charges and donations not to exceed \$10,000.00 received during Fiscal Year 2013 from donations and monies collected. Any remaining balance at June 30, 2013 is to revert to the General Fund, unless the fund is re-established. The “Liberty Elm Tree Revolving Fund” under M.G.L. Chap. 44 Section 53E½ must be re-established on a year-to-year basis. The City Council, upon recommendation of the mayor, must have an annual vote prior to the start of the Fiscal Year. This authorization makes the approved Revolving Fund effective for the ensuing Fiscal Year only.

I hereby recommend the above: s/Scott D. Galvin, Mayor

s/President Denaro

Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO COMMITTEE ON FINANCE and that a communication be forwarded to the City Auditor requesting a report be provided of money received and expended from the revolving account during the current fiscal year, all in favor, 9-0.

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ORDERED That the Woburn City Council hereby authorizes the Recreation Department to utilize a Departmental Revolving Fund under M.G.L. Chap. 44, Sec. 53E½. The Recreation Department may spend funds received without further appropriation during Fiscal Year 2013 for the purpose of purchasing playground equipment and related items for Leland Park only. The “Kids’ Kingdom Revolving Fund”, is to be credited with all fees and charges not to exceed \$2,500.00 received during Fiscal Year 2013 from donations and monies raised. Any remaining balance at June 30, 2013 is to revert to the General Fund, unless the fund is re-established. The “Kids’ Kingdom Revolving Fund”, under M.G.L. Chap. 44, Sec. 53E½ must be re-established on a year-to year basis. The City Council, upon recommendation of the Mayor, must have an annual vote prior to the start of the Fiscal Year. This authorization makes the approved Revolving Fund effective for the ensuing Fiscal Year only.

I hereby recommend the above: s/Scott D. Galvin, Mayor

s/President Denaro

Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO COMMITTEE ON FINANCE and that a communication be forwarded to the City Auditor requesting a report be provided of money received and expended from the revolving account during the current fiscal year, all in favor, 9-0.

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ORDERED That the Woburn City Council hereby authorizes the Parks Department to utilize a Departmental Revolving Fund under M.G.L. Chap. 44, Sec. 53E½. The Parks Department may spend funds received without further appropriation during Fiscal Year 2013 for the purpose of construction and a maintenance of a street hockey rink at Leland Park. The “Leland Park Street Hockey Revolving Fund”, is to be credited with all fees and charges not to exceed \$2,500.00 received during Fiscal Year 2013 from gifts, donations and monies raised. Any remaining balance at June 30, 2013 is to revert to the General Fund, unless the fund is re-established. The “Leland Park Street Hockey Revolving Fund”, under M.G.L. Chap. 44, Sec. 53E½ must be re-established on a year-to year basis. The City Council, upon recommendation of the Mayor, must have an annual vote prior to the start of the Fiscal Year. This authorization makes the approved Revolving Fund effective for the ensuing Fiscal Year only.

I hereby recommend the above: s/Scott D. Galvin, Mayor

s/President Denaro

Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO COMMITTEE ON FINANCE and that a communication be forwarded to the City Auditor requesting a report be provided of money received and expended from the revolving account during the current fiscal year, all in favor, 9-0.

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ORDERED That the Woburn City Council hereby authorizes the Woburn Police Department School Resources Officer to utilize a Departmental Revolving Fund under M.G.L. Chap. 44, Sec. 53E ½. The Woburn Police Department School Resources Officer may spend funds received without further appropriation during Fiscal Year 2013. The “Woburn Police Department School Resources Officer Revolving Fund”, is to be credited with all fees and charges not to exceed \$25,000.00 received during Fiscal Year 2013 from donations and money raised. Any remaining balance at June 30, 2013 is to revert to the General Fund, unless the fund is re-established. The “Woburn Police Department School Resources Officer Revolving Fund”, under M.G.L. Chap. 44, Sec. 53E½ must be re-

established on a year-to year basis. The City Council, upon recommendation of the Mayor, must have an annual vote prior to the start of the Fiscal Year. This authorization makes the approved Revolving Fund effective for the ensuing Fiscal Year only.

I hereby recommend the above: s/Scott D. Galvin, Mayor

s/President Denaro

Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO COMMITTEE ON FINANCE and that a communication be forwarded to the City Auditor requesting a report be provided of money received and expended from the revolving account during the current fiscal year, all in favor, 9-0.

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ORDERED That the Woburn City Council hereby authorizes the Recreation Department to utilize a Departmental Revolving Fund under M.G.L. Chap. 44, Sec. 53E½. The Recreation Department may spend funds received without further appropriation during Fiscal Year 2013 for the purpose of a basketball league. The “Recreation Basketball Revolving Fund”, is to be credited with all fees and charges not to exceed \$40,000.00 received during Fiscal Year 2013 from donations and monies raised. Any remaining balance at June 30, 2013 is to revert to the General Fund, unless the fund is re-established. The “Recreation Basketball Revolving Fund”, under M.G.L. Chap. 44, Sec. 53E½ must be re-established on a year-to year basis. The City Council, upon recommendation of the Mayor, must have an annual vote prior to the start of the Fiscal Year. This authorization makes the approved Revolving Fund effective for the ensuing Fiscal Year only.

I hereby recommend the above: s/Scott D. Galvin, Mayor

s/President Denaro

Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO COMMITTEE ON FINANCE and that a communication be forwarded to the City Auditor requesting a report be provided of money received and expended from the revolving account during the current fiscal year, all in favor, 9-0.

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ORDERED That the Woburn City Council hereby authorizes the Mayor to utilize a Department Revolving Fund under M.G.L. Chap. 44, Sec. 53E1/2. Mayor may spend funds received without further appropriation during Fiscal Year 2013. The “Spence Farm Revolving Fund”, is to be credited with all fees and charges not to exceed \$50,000.00 received during Fiscal Year 2013 from donations and money raised. Any remaining balance at June

30, 2013 is to revert to the General Fund, unless the fund is re-established. The "Spence Farm Revolving Fund", under M.G.L. Chap. 44, Section 53E½ must be re-established on a year-to-year basis. The City Council, upon recommendation of the mayor, must have an annual vote prior to the start of the Fiscal Year. This authorization makes the approved Revolving Fund effective for the ensuing Fiscal Year only.

I hereby recommend the above: s/Scott D. Galvin, Mayor

s/President Denaro

Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO COMMITTEE ON FINANCE and that a communication be forwarded to the City Auditor requesting a report be provided of money received and expended from the revolving account during the current fiscal year, all in favor, 9-0.

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ORDERED WHEREAS, there presently exists a structure or structures located in the City of Woburn, Massachusetts known and numbered as 34 Orange Street a/k/a 29 Hawthorne Street; and

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

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

s/Alderman Mercer-Bruen

Alderman Mercer-Bruen stated that this has been an issue for some time, that there may be a court hearing through actions of the Building Department, that the Building Commissioner requests that the matter be kept open, and that the conditions may improve without the hearing. Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO PUBLIC HEARING ON JULY 10, 2012, all in favor, 9-0.

**Presented to the Mayor June 8, 2012 and ten days having elapsed without same being approved, said Order became effective without his signature on June 19, 2012.**

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Motion made and 2<sup>nd</sup> to suspend the rules for the purpose of adding the following late filed matters to the Order of the Day, all in favor, 9-0.

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ORDERED That the sum of \$3,610.00 be and is hereby transferred as so stated from Senior Tax Workoff Program Acct #0154157-579920 \$3,610.00 to Senior Van Acct #0154158-585190 \$3,610.00 – Purpose: extended warranties for new senior vans.

I hereby recommend the above: s/Joanne Collins, Director, Senior Center

I have reviewed the above: s/Gerald W. Surette, City Auditor

I hereby approve the above: s/Scott D. Galvin, Mayor

s/President Denaro

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

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RESOLVED That the City Council send a communication to Kraft regarding recent complaints of odors emitting from the building on Hill Street and to remind the company of their agreement to mitigate the issue.

s/Alderman Mercer-Bruen

Alderman Mercer-Bruen stated that she has received many constituent complaints about odor emanating from the facility recently. Alderman Anderson stated that this is an example of why the City Council should not accept late filed matters and discuss them as Kraft has not been notified that this matter is before the City Council. Motion made and 2<sup>nd</sup> that the RESOLVE be ADOPTED, all in favor, 9-0.

**Presented to the Mayor June 8, 2012 and ten days having elapsed without same being approved, said Resolve became effective without his signature on June 19, 2012.**

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Petition to transfer Second Class Motor Vehicle Sales License from Abdelaziz Ilaj dba Woburn Motors to Luis Jean Brunet dba Woburn Motors at 104 Winn Street. Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO COMMITTEE ON PUBLIC SAFETY AND LICENSES, all in favor, 9-0.

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

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Motion made and 2<sup>nd</sup> to ADJOURN, all in favor, 9-0. Meeting adjourned at 8:31 p.m.

A TRUE RECORD ATTEST:

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