

**CITY OF WOBURN
MAY 1, 2012 - 7:30 P.M.
REGULAR MEETING OF THE CITY COUNCIL**

Roll Call

Anderson	Gately
DiTucci	Haggerty
Drapeau	Mercer-Bruen
Gaffney	Raymond
Denaro	

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

Motion made and 2nd to take the following matter out of order and to allow His Honor the Mayor to speak on the issue, all in favor, 9-0.

ORDERED Whereas, at the Regular Meeting of the City Council on April 17, 2012, the City Council adopted a Resolution calling on His Honor the Mayor to submit an appropriation to fund much needed repairs to the roof of the police station; and

Whereas, an appropriation has not been submitted and the conditions of the police station roof have remained unresolved; and

Whereas, the Resolution adopted by the City Council at its Regular Meeting on April 17, 2012 was returned by His Honor the Mayor unsigned and without comment, such action leaving open to question the intention of the Administration in making repairs to the police station roof;

Now, Therefore, Be It Ordered by the City Council of the City of Woburn that a communication be directed to His Honor the Mayor requesting that he submit an appropriation to the City Council for the purposes of making much needed repairs to the roof at the Police Station Headquarters building on Harrison Avenue for the preservation of the building and protection of the public safety officials and members of the public who use the building on a daily basis and requesting in the alternative that His Honor the Mayor advise the City Council of the intentions of the Administration in addressing the needed repairs of the police station roof.

s/Alderman Gately

Mayor Galvin stated that the city does not consider this project to be a priority, that there are other issues at the Police Department that are priorities, that an appropriation in the sum of \$800,000.00 will be submitted to the City Council to update the Police Department dispatch center, that there is no public safety issue with the roof, that the leak has been contained to one area, that the dispatch center is a priority under federal government regulations, that there will be no leak in the dispatch center, that the roof is twenty years old, that the dispatch center is a higher priority project, that there are active leaks in the building, that the building is secure, that he will present a capital budget appropriation in two weeks, that he would be happy to entertain another appropriation for the repair of the police station roof once the City Council has had the opportunity to review the capital budget appropriation, that City Council will then understand the capital improvements budget and can decide whether the police station roof should be added at that time, that he believes the roof repair will be greater than \$300,000.00, that the leaks are being contained, that there is no public safety issue, that he could entertain amendments to the capital budget once it has been submitted by the City Council, that he has discussed the issue with the Police Chief, that the dispatch center has to be upgraded, that the dispatch center is a far more important public safety matter, and that there are no public health issues and no mold at the police station. Alderman Gately stated that the roof has been leaking for a number of years, that the gun range was flooded, that the Department of Public Works spent time and money to get the gun range back in order, and that there is no sense in upgrading the dispatch center if there will be leaks in the area. Alderman Drapeau stated that the dispatch center may be a necessary priority but he would support both the dispatch center and the roof repairs, that the city must maintain the building envelope and keep the building secure, that if there are active leaks in the building they must be addressed, that the city should not pick one over the other with these two projects, that there is a building that is leaking, that he disagrees that fixing a roof is not a priority, that a leaking roof is not a trivial issue, that this is a serious issue, that no one should put up with a leaking roof, and that a leaking roof is a serious issue with health and safety concerns. Alderman Mercer-Bruen stated that there were students in the Goodyear School for many years with a leaking roof, that their health was not in jeopardy, and that no one should think that the Mayor would put someone's life in jeopardy. Alderman DiTucci stated that she urges the Mayor to reconsider his position on making the roof a priority, that water leaks in a building lead to other health issues such as mold, that the city cannot have a building housing public safety officials with a leak, that the Goodyear roof should not have been leaking, that the roof should have been fixed and the students should not have been in a leaking building, and that there are strict requirements and mold can be an issue. Motion made and 2nd to return to the regular order of business, all in favor, 9-0.

MAYOR'S COMMUNICATIONS:

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

I hereby approve the above: s/Chris Kisiel, Acting Chairperson

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

s/President Denaro

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

ORDERED That the sum of \$30,000.00 be and is hereby transferred as so stated from Inspectional Salaries Acct #0125151-511000 \$30,000.00 to Mayor Outlay Acct #0112158-586585 \$30,000.00 – Purpose: Building Vehicle Replacement

I hereby recommend the above: s/Thomas Quinn,
Acting Building Commissioner
I have reviewed the above: Gerald W. Surette, City Auditor
I hereby approve the above: Scott D. Galvin, Mayor

s/President Denaro

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

PUBLIC HEARINGS:

On the petition by Kiwanis of Woburn, 10 Cedar Street, Suite 26, Woburn, Massachusetts 01801 for a special permit pursuant to Section 5.1.75 of the 1985 Woburn Zoning Ordinances, as amended, to allow for the annual Flag Day celebration and carnival on June 15-16, 2012 at Library Park. PUBLIC HEARING OPENED. A communication dated April 25, 2012 was received from Edmund P. Tarallo, Planning Director, Woburn Planning Board as follows:

Re: Kiwanis Club of Woburn – Library Park – To operate a carnival June 15 & 16, 2012 under Section 5.1.75

Dear Mr. Campbell and members of the City Council:

At the Planning Board meeting held on April 24, 2012, the Planning Board voted to send a favorable recommendation to the City Council regarding the Special Permit application of the Kiwanis Club of Woburn for their Annual Flag Day Festival at Library Park with the condition that the applicant comply with Section 5.1, Note 14 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

Appearing for the petitioner was Attorney Mark Salvati, 10 Cedar Street, Suite 26, Woburn, Massachusetts 01801 and he stated that this is an annual event, that the event will be held on Friday night and Saturday, that set-up will be on Thursday, and that volunteers are welcome. IN FAVOR: None. OPPOSED: None. Motion made and 2nd that the public hearing be closed, all in favor 9-0. Motion made and 2nd that the SPECIAL PERMIT be GRANTED, all in favor, 9-0.

On the petition by Larry G. Blomquist dba Fellsway Foreign Motors, 88 Eastway Road, Reading, Massachusetts 01867 for a special permit pursuant to Sections. 5.1.44, 7.3 and 15 of the 1985 Woburn Zoning Ordinances, as amended, to allow for the alteration of the existing nonconforming structure for an automobile and truck repair garage at 300 Cambridge Road. PUBLIC HEARING OPENED. A communication dated April 13, 2012 was received from Edmund P. Tarallo, Planning Director, Woburn Planning Board as follows:

Re: Larry G. Bloomquist d/b/a Fellsway Foreign Motors – 300 Cambridge Rd. – To allow for the alteration of the existing nonconforming structure for an automobile and truck repair garage pursuant to Sections 5.1.44, 7.3, and 15

Dear Mr. Campbell and members of the City Council:

At the Planning Board meeting held on April 10, 2012, the Planning Board voted to send a favorable recommendation to the City Council on the Special Permit application of Larry G. Bloomquist d/b/a Fellsway Foreign Motors, regarding the property at 300 Cambridge Road subject to the following conditions:

1. That repairs shall be limited to only Mercedes Benz cars and SUVs/ light trucks weighing less than 10,000 pounds;
2. That a maximum of 8 parking spaces shall be provided as shown on the site plan dated 2/17/12 revised 3/28/12 except that space 1 shall be a van accessible handicap space as required;
3. That no more than three cars shall be parked overnight in the bays with not more than eight cars parked overnight on the site;
4. That no work of any kind shall be performed in the parking lot;
5. All bay doors shall be closed when working with air guns;
6. That the landscaping shall be a minimum of 20% of the lot area and shall include a landscaped screen on Country Club Lane and at the rear property line abutting the nearest residential property;
7. That a landscaping plan shall be presented to the Planning Board for approval and the Planning Board shall retain jurisdiction over the landscaping;

8. That a 6-foot vinyl fence shall be located as shown on the site plan dated 2/17/12 revised 3/28/12 instead of a stockade fence;
9. That a landscape maintenance contract shall be filed with the Planning Board and Building Department and said contract shall be approved by the Planning Board as part of the Planning Board's retention of jurisdiction over the landscaping;
10. That no exit shall be allowed onto Cambridge Road and the driveways on Cambridge Road shall be signed as "Entrance Only";
11. That the driveway onto Country Club Road shall be used as an exit only and shall be signed as "Exit Only";
12. That the hours of operation shall be limited to Monday through Friday 7 AM to 7 PM and shall not be open on weekends;
13. That a lighting plan shall be filed and approved by the Building Department prior to occupancy said plan shall show lighting that is shielded from the residential area and the apartments next door;
14. That no vehicle inspections/stickers shall be issued at this site;
15. That no car sales shall be allowed at this site;
16. That no auto body work shall be performed at this site;
17. That no convenience store sales shall be allowed at this site;
18. That the Special Permit is limited to the petitioner and is not transferable;
19. That the City Council shall review compliance with this Special Permit at 6 months and 1 year after initial occupancy; and
20. That no old tires and parts shall be stored outside of the building and shall be removed from the site on a schedule approved by the Fire Department.

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 report was received from the Committee on Special Permits as follows: "back for action, with the following recommended conditions:

1. That repairs shall be limited to only Mercedes Benz cars and SUVs/ light trucks weighing less than 10,000 pounds;
2. That a maximum of 8 parking spaces shall be provided as shown on the site plan dated 2/17/12 revised 3/28/12 except that space 1 shall be a van accessible handicap space as required;
3. That no more than three cars shall be parked overnight in the bays with not more than seven cars parked overnight on the site;
4. That no work of any kind shall be performed in the parking lot;
5. All bay doors shall be closed when working with air guns;
6. That the landscaping shall be a minimum of 20% of the lot area and shall include a landscaped screen on Country Club Lane and at the rear property line abutting the nearest residential property;
7. That a landscaping plan shall be presented to the Planning Board for approval and the Planning Board shall retain jurisdiction over the landscaping;

8. That a 6-foot vinyl fence shall be located as shown on the site plan dated 2/17/12 revised 3/28/12 instead of a stockade fence;
9. That a landscape maintenance contract shall be filed with the Planning Board and Building Department and said contract shall be approved by the Planning Board as part of the Planning Board's retention of jurisdiction over the landscaping;
10. That no exit shall be allowed onto Cambridge Road and the driveways on Cambridge Road shall be signed as "Entrance Only";
11. That the driveway onto Country Club Road shall be used as an exit only and shall be signed as "Exit Only";
12. That the hours of operation shall be limited to Monday through Friday 7 AM to 7 PM and shall not be open on weekends or holidays;
13. That a lighting plan shall be filed and approved by the Building Department prior to occupancy said plan shall show lighting that is shielded from the residential area and the apartments next door;
14. That no vehicle inspections/stickers shall be issued at this site;
15. That no car sales shall be allowed at this site;
16. That no auto body work shall be performed at this site;
17. That no convenience store sales shall be allowed at this site;
18. That the Special Permit is limited to the petitioner and is not transferable;
19. That the City Council shall review compliance with this Special Permit at 6 months and 1 year after initial occupancy;
20. That no old tires and parts shall be stored outside of the building and shall be removed from the site on a schedule approved by the Fire Department;
21. That the petitioner shall allow one permanent sign (for the Woburn Country Club) to remain on the property, and said sign shall be upgraded and maintained by the Woburn Country Club. If the Country Club does not maintain the sign adequately, the petitioner may ask for this condition to be repealed;
22. That a color scheme plan be included;
23. That there shall be no neon signs;
24. That there shall be no parking on any side streets in the area;
25. That any compressor be housed in an insulated room; and
26. That a screened dumpster be located on the right side of the property, and shall be emptied during the hours of 10:00 am through 4:00 pm, Monday through Friday only, excluding holidays;
27. That the petitioner shall install electric lift(s), not pneumatic; and
28. That a snow plow removal plan be filed with the Department of Public Works."

Appearing for the petitioner was Attorney Joseph Tarby, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 and he stated that the petitioner seeks a special permit for an automobile and truck repair garage at the locus, that the Committee on Special Permits reviewed the matter, that a favorable recommendation was received from the Planning Board with twenty recommended conditions, that the Committee on Special Permits returned the matter for action with twenty-eight recommended conditions, that the petition was reviewed during the zoning amendment process and during the special permit review process, that there have been four neighborhood meetings, three public hearings and the Committee on Special Permits

review, that the City Engineer, Planning Director and Planning Board reviewed the proposal, that he requests the City Council act on the petition tonight, that he filed at this meeting a memorandum in support of the petition, and that he requests that the City Council adopt the proposed findings in the memorandum. Attorney Tarby filed a document entitled Memorandum of Petitioner dated May 1, 2012 with the City Council for review. Motion made and 2nd that the document be received and made part of the record, all in favor, 9-0. IN FAVOR: Matthew Maggiore, 30 Fairway Drive stated that he supports the petition, and that the conditions indicate an effort by the petitioner to mitigate issues that may arise. Tom Harmon, 28 Fairway Drive stated that he supports the petition, that the property has been an eyesore for years, that he reviewed the plans and met with the petitioner, that the conditions will result in minimal impacts on the abutters, and that the project will be beneficial for the whole area. Al Cirone, 1 LedgeWood Road stated that the property is an eyesore and the lot needs to be cleaned up, and that the work needs to be done to improve the area. Delwin Dickinson, 4 LedgeWood Road stated that the stated that the property needs to be cleaned, that the city will have another business on the tax rolls, and that the project will eliminate an eyesore. OPPOSED: None. Motion made and 2nd that the public hearing be closed, all in favor, 9-0. Alderman DiTucci read the proposed findings from the Memorandum of Petitioner dated May 1, 2012 into the record. Motion made and 2nd that the SPECIAL PERMIT be GRANTED, AS AMENDED with the conditions as follows: 1. That the twenty-eight conditions recommended in the report of the Committee on Special Permits be adopted as conditions of the special permit, and 2. That the Proposed Findings in Section V of the Memorandum of Petitioner dated May 1, 2012 be adopted, such findings reading as follows:

“Based on the unanimous recommendation of the Planning Board dated April 13, 2012 and the report of the City Engineer dated March 12, 2012, I respectfully request that the City Council make the following findings in its Decision:

The City Council finds that the grant of this Special Permit will result in a substantial public benefit to the City of Woburn in that a dilapidated property that has been vacant for approximately twenty-five (25) years will be cleaned up and upgraded and that the proposed use of the property as a limited and restricted automobile repair facility will not substantially derogate from the public good and does not impose any substantial detriment on the surrounding neighborhoods.

On the basis of all the submissions, testimony and evidence submitted, the City Council makes the following findings as required under Section 11.5 of the WZO:

- (i) Satisfactory ingress and egress to the Property will be provided from Cambridge Road (ingress) and Country Club Road (egress);
- (ii) There is adequate capacity in the water, sewerage and drainage facilities to service the Property;
- (iii) The Project contains sufficient off-street parking spaces. The proposed use will neither generate noise, glare, nor odor, nor have any discernable impact on adjoining properties;

- (iv) The Project provides for satisfactory provisions for refuse collection, disposal and service areas with particular reference to impacts on adjacent lots;
- (v) The Project provides for exterior lighting that does not create glare, traffic safety and is compatible and in harmony with properties in the zoning district.
- (vi) The Project provides sufficient screening and buffering of the proposed development from neighboring properties. In addition, the landscaping and fencing to be provided insure the privacy of adjacent existing uses.
- (vii) The proposed uses of property are generally compatible with neighboring properties in the zoning district.
- (viii) The proposed use and renovated structure will not be adverse to the general purposes of this ordinance.

In addition, the City Council makes the following specific findings relative to the compliance of the proposed use of the Project with Note 25 of Section 5.1 of the Zoning Ordinance as follows:

- a. Note 25 of Section 5.1 requires that the repair facility shall have frontage on a State numbered road under the jurisdiction of Mass Highway for design, construction, and maintenance as of January 1, 2012. The Project has frontage on a state numbered roadway under jurisdiction of the Massachusetts Department of Transportation as of January 1, 2012.
- b. Note 25 of Section 5.1 requires that the repair facility shall only be allowed at a location where a repair facility was once located. The property was formerly used as a repair facility.
- c. Note 25 of Section 5.1 requires that repairs shall be limited to automobiles; No repairs shall be allowed on vehicles, SUVs and light trucks weighing in excess of 10,000 pounds. Condition 1 requires the Petitioner to comply with this requirement.
- d. Note 25 of Section 5.1 requires that the square footage of the repair facility shall not exceed 2,000 square feet. The proposed facility does not exceed 2,000 square feet. The building is 1,622 square feet.
- e. Note 25 of Section 5.1 requires that no portion of the structure shall be located within forty (40) feet of a residential dwelling. The structure is located well beyond the 40 foot minimum from a residential dwelling. The structure is approximately 80.11 feet from the Country Club Apartment building and 140.9 feet away from the residential dwelling at 3 Country Club Road.

The City Council has the authority under Note 25 of Section 5.1 to impose, in its discretion, reasonable conditions and restrictions and limitations in order to provide for appropriate buffering, parking, egress, access, signs, lighting and landscaping. The conditions set forth in this Decision have been specifically fashioned to minimize, to the extent necessary, any potential impacts on abutting and neighboring properties to insure compliance with the applicable provisions of the WZO and to protect other valid zoning interests.

The City Council hereby finds that the proposed improvements as depicted on the Plan filed with the Petition as modified during the Special Permit process and the conditions imposed by this Decision (i) will not be substantially more detrimental than existing conditions; (ii) will not derogate from the character of the zoning district; (iii) are not detrimental or offensive or otherwise objectionable, (iv) are not otherwise injurious to the abutters or their property or dangerous to public health safety, and (v) will not substantially affect vehicular or pedestrian safety or traffic, and the Special Permit is hereby granted”, 7 in favor, 2 opposed (Drapeau and Mercer-Bruen opposed).

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. Appearing for the petitioner was Attorney Mark Salvati, 10 Cedar Street, Suite 26, Woburn, Massachusetts 01801 and he stated that the petitioner will raze the current structure and construct a new building with commercial on the first floor and residential units above the first floor, that this use is consistent with the downtown zoning, that issues have been raised relative to handicap accessibility required with four units, that the petitioner is investigating whether to reduce the residential units to two, and that he therefore requests that the matter be continued. IN FAVOR: None. OPPOSED: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON JUNE 5, 2012 AND THAT THE MATTER BE REFERRED TO THE COMMITTEE ON SPECIAL PERMITS, all in favor 9-0.

On the petition by FJ Catalano Ent. Inc., 188 Ayer Road, Harvard, Massachusetts 01451 for a special permit pursuant to Sections 5.1.23, 5.1.29, 5.1.63a, 7.3 and 8.5 of the 1985 Woburn Zoning Ordinances, as amended, to amend a special permit issued September 29, 2011 by modifying as follows: 1. That Condition One of the Decision which states that “The Proposal, parking and landscaping shall be in accordance with the proposed plan dated August 29, 2011” be modified by deleting “August 29, 2011” and replacing with “March 29, 2012” at 880 Main Street. PUBLIC HEARING OPENED. A communication dated April 25, 2012 was received from Edmund P. Tarallo, Planning Director, Woburn Planning Board as follows:

Re: FJ Catalano Ent. Inc. – 880 Main Street – To modify the City Council Special Permit dated September 29, 2011 by substituting in Condition 1 the Plan of Record dated “August 29, 2011” with a new Plan dated “March 29, 2012” said new plan provides for certain site modifications including realignment of the drive through aisle, modifications to landscaping, the relocation of a utility pole and other modifications to the site pursuant to Section 5.1.23, 5.1.29, 5.1.63a, 7.3, and 8.5

Dear Mr. Campbell and members of the City Council:

At the Planning Board meeting held on April 24, 2012, the Planning Board voted to send an unfavorable recommendation to the City Council regarding the modification of condition #1 of the Special Permit dated September 29, 2011 of FJ Catalano Ent. Inc. regarding the property at 880 Main Street.

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 April 24, 2012 from Brett F. Gonsalves, Senior Engineer, Engineering Department to Edmund Tarallo, Planning Director was received as follows:

Subject: 880 Main Street – Dunkin Donuts Modification to Special Permit Revised Plan Dated March 29, 2012

The applicant has submitted a revised plan showing modifications to the drive-thru lane as well as an expanded landscaped area, building length, modification to parking in the front of the building, and concrete walk with handicap improvements.

Under the previously approved design, the site provided two lanes, one for the drive-up window and the other for a thru lane. The revised plan shows the change in building limits which extends an additional 5.7 +/- feet over the previous design. This revision also shows 23 feet of clearance between the building and a single parking space. However with the additional building length, the existing utility pole that is located approximately 17 feet off the building affects the through lane.

It would appear that the location of the existing utility pole may interfere with the thru lane traffic and could cause a potential hazard with the vehicles in the drive-up window lane.

To eliminate any potential conflicts, the existing utility pole near the single parking space should be relocated to an area that it will not interfere with any vehicle movement.

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

Appearing for the petitioner was Attorney Joseph Tarby, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 and he stated that this is a request to modify a special permit granted September 29, 2011 which allowed for the alteration of a nonconforming use to relocate the Dunkin Donuts from the right side of the building to the left side, that the petitioner is requesting to substitute a new plan of record, that due to a miscommunication there was a 5.7 foot error in the length of the building, that twenty feet was to be taken from the building but the architectural plans showed fourteen feet, that the requested modifications do not change the use or any of the conditions, that there

is a net difference in an increase of 292 square feet, that this represents a 2.12% increase in the gross area from the original submitted documentation, and that the second drive thru window was removed long ago. Attorney Tarby offered a copy of a letter dated March 30, 2012 from Mark Humphrys, RA, Aharonian & Associates, Inc. to Steve Catalano, Catalano Companies for the City Council to review. Motion made and 2nd that the document be received and made part of the record, all in favor, 9-0. Bruce Ringwall, Goldsmith, Prest & Ringwall, Inc., 39 Main Street, Ayer, Massachusetts 01432 stated that five parking spaces were removed from the north side of the property to allow two lanes of traffic, that they have installed improved sidewalks along the front of the building with handicapped accessible ramps, that all utilities have been removed from the utility pole as of today, that a guardrail is to be installed to separate the drive thru traffic from the parking area on the southeast corner of the lot, that the rear door is for employee access to the dumpster at the rear of the Dunkin Donuts building, that the parking has not changed from the original approval, that his firm developed the full site plan and the architect worked on the portion of the building from the convenience store south, that the builder submitted their plans for the permit but during the building process the builder was using the architect's plans, that the second drive thru window was removed two months ago, that they have the ability to increase the leaching area which will improve the drainage, that the fire and water service will be brought in from Tidd Avenue due to the age of the water service from Main Street, that a survey was completed, that the property and building were surveyed as to the exterior of the building, that they were told how much of the building was to be removed, that this resulted in taking twenty feet off the building, that the architect had an interior point from which the construction would start, that the outside survey did not account for the interior of the building, that the building did not grow it just did not shrink as much as anticipated, that there is plenty of space for vehicles to pass through the lot, that moving the guardrail further south would put the parking spaces on the adjoining lot too close to the gasoline pumps, and that there are parking spaces next to the guardrail for use at the gasoline station. Alderman Raymond stated that the explanation of how the error occurred does not make sense, that he does not understand how a plan was approved and a different plan was used, that he is concerned that no one noticed the error during the building process, that the proposal was intended to improve this building, that if the Dunkin Donuts could be moved the landowner said that he would improve the entire building, that he supported this proposal because the building and the lot would be cleaned and updated, that this proposal would never have passed if the building and lot were not cleaned up and updated, that if a plan is approved that is what the building is supposed to look like, that an independent person has looked at the conditions, that if the utility pole is removed there is sufficient room for the traffic to pass according to the City Engineer's report, that moving the pole mitigates the issue, that the special permit could be conditioned that the occupancy permit not issue until the pole is removed, the signs installed and the landscaping put in place, and that the signs are important for instructions to drivers navigating the locus. Alderman Mercer-Bruen stated that nothing was done to correct the error until the petitioner was caught, that this was a controversial proposal, that she does not support the larger building, and that a second drive thru window was also installed which had not been approved. Alderman Drapeau stated that he does not want to approve the permit until the utility pole is removed, that the utility pole causes access issues that jeopardizes public safety, that he

does not understand how no one recognized that the building was six feet bigger than it should have been, and that he wants a condition that the utility be removed from the lot before the occupancy permit is issued. Alderman Anderson stated that the five or six feet being lost in the travel lane is critical as it makes the travel lanes very tight, that there is nothing malevolent on the part of the landowner or the petitioner, that someone on the site was responsible for this error, that there is a small travel lane on the south side of the building, that it may be painful to move the wall but a month from now the work will be done, that if the other units in the building have businesses that generate a lot of traffic this could cause problems at the locus, and that this is not a minor modification as minor modifications are limited to clerical errors. Alderman Haggerty stated that the utility pole has to be removed from the locus, that he is not pleased that this matter is before the City Council but the project still improves the building and is good for the area, and that the City Council has required a full review of the proposal through the special permit process and therefore denied this change as a minor modification. Alderman Gately stated that 5.7 feet is a large error, that he will not say that six feet of the building have to be torn down, that the utility pole can be taken out now as all the utility connections have been removed, that this mistake should not have been made, that due to site conditions and the relationship of the owners of the adjoining lots this modification could be allowed and the petitioner is fortunate for these facts, that if the petitioner is required to take down the building to resolve the issue it may take two years for the project to be completed as the matter goes through the courts, and such a court case would keep the building closed. Alderman Gaffney stated that the petitioner should consider moving the guardrail as the egress seems too tight. Alderman DiTucci stated that she would like to see this situation avoided in the future. IN FAVOR: Paul Meaney, Woburn Business Association, Ten Tower Office Park stated that the City Council members are not mean-spirited, that he appreciates that the City Council did not handle this as a minor modification, that the fact that the abutting property is owned by the same landowner is the only reason that there can be a resolution of this matter in this manner, that the architect should be fined for this action, that it is hard to say that no one noticed this error, that the landowner and petitioner are good people, that he believes that the landowner and petitioner did not know that this issue had arisen, that the request is not a light decision to be made by the City Council, that the landlord and petitioner should not be blamed for the issue, and that the City Council should act in the best interest of the landowner and the petitioner. John Flaherty, 28 West Street stated that he wants to see buildings along Main Street be improved, that there was no intent by the landowner or the petitioner to do this, that this was a mistake, and that the mistake can be fixed. Art Duffy, 38 Alfred Street stated that he is in favor of the proposal and supports the petition. Rob McSheffrey, 1 Red Leaf Lane stated that his family owns the property, that he worked two years on this proposal, that they decided to take down twenty feet of the building, that he does not believe that the building was measured, and that the building has needed to be improved for ten or fifteen years. OPPOSED: Mike Cudoni, 12 Hight Avenue stated that this will be a problem with all of the other developments in the area, that people should be held responsible, that this same condition could happen at other buildings as this request will set a precedent, and that there will be repercussions if this request is approved. Bob Rafferty, 3 Banks Street stated that it is a bad precedent to allow this change, that other developments could also make changes by mistake, that the building should be brought back to where it

should be, that taking the utility pole down is required to make this proposal work not because the petitioner is trying to be a good neighbor, that there are two options: 1. Take the wall down to conform to the original approval, or 2. That the drive-thru use is prohibited, that the should be fixed and rebuilt to what was originally approved, that the Planning Board has already said twice that the project should not be approved, and that the matter should be decided at this meeting. President Denaro stepped down from the chair and Alderman Drapeau assumed the chair. President Denaro stated that he cannot support this proposal, that the proposal needs committee review to get into the issues, that there was a mistake and it has to be fixed, that when there are mistakes with city buildings they have to be fixed before the building can progress, and that private developers should not be allowed to change plans after such an exhaustive review of the original plan. Motion made and 2nd that the public hearing be closed, all in favor, 9-0. Motion made and 2nd that the SPECIAL PERMIT be GRANTED, AS AMENDED with the conditions as follows: 1. That the plan entitled "Commercial Development, Exhibit Plan, 880 Main Street, Woburn, MA" dated June 2011, revised 8/29/11, revised 3/29/12 prepared by Goldsmith, Prest & Ringwall, Inc. be the plan of record, 2. That the utility pole on the southerly side of the property shall be removed from the locus, and 3. That all required signs shall be erected, ROLL CALL: Anderson – No, DiTucci – Yes, Drapeau – Yes, Gaffney – Yes, Gately – Yes, Haggerty – Yes, Mercer-Bruen – No, Raymond – Yes, Denaro – No, Motion Passes.

On the petition by Alderman Mercer-Bruen concerning the structure or structures located in the City of Woburn, County of Middlesex, Commonwealth of Massachusetts known and numbered as 11 Montvale Road, Woburn, Massachusetts, for the purposes of determining whether said structure or structures are a public nuisance, a nuisance to the neighborhood, a dilapidated or dangerous building or other structure, as said terms are used in Massachusetts General Laws Ch. 139, Sec. 1, and if so, enter an order adjudging it to be a nuisance to the neighborhood, or dangerous, and prescribing its disposition, alteration or regulation. PUBLIC HEARING OPENED. Alderman Mercer-Bruen stated that there is a lot of trash at the location, that the property will be cleaned up slightly and then the problems increase again, that it looks as if one of the buildings on the locus are structurally unsound, that it is rare for a property to be declared a nuisance at the first hearing, that this issue cannot be allowed to continue through the summer, that there are businesses in the city that the landowner can engage to remove the trash, that the garage should be painted, that the unregistered cars should be removed from the locus, that the matter should be reviewed at the next City Council meeting, that the landowner has had seven years to deal with this problem and a long range plan should be offered by the next meeting, that the property should be cleaned within two weeks, that she expects the trash to be removed from the property and not just moved around the property, that the unregistered vehicles should be removed, that doors of the garage should be painted, and that two weeks is sufficient time to accomplish these tasks. Alderman Mercer-Bruen offered a report dated April 5, 2012 from Thomas C. Quinn, Acting Building Commissioner for the City Council to review. Motion made and 2nd that the document be received and made part of the record, all in favor, 9-0. Thomas Quinn, Building Inspector, Inspectional Services Department stated that the landowner has been brought

into court twice for unregistered vehicles on the property, that the property has been the subject of zoning and building safety issues, that he has not been on the site but the conditions are visible from the public way, that the Clerk Magistrate at the Woburn District Court fined the petitioner \$300.00 per day for two days which was paid, that the Inspectional Services Department cannot give perpetual care to the issue, that something must be done to address the zoning issues, that there is a detached garage that looks like you could not get into it because of the debris, that there were two court cases and the second case was continued without a finding because the vehicles were subsequently registered, that the landowner complies with requests for a short period of time, that he is not certain if children reside in the house, that no chickens are kept in the chicken coop, that there was a plan established two years ago that was not adhered to, and that it is possible that there was a vast improvement in the conditions since he visited the property yesterday and it could have been motivated by the fact that the day after this meeting is trash collection day. Alderman Gately stated that he would have no problem declaring this property a nuisance and ordering the property cleaned, that the landowner is fortunate if this matter is continued, that the property may be clean now but it could be a problem again, and that if the landowner says he will do the necessary work then the work should be done. Alderman Drapeau stated that unfortunately the Inspectional Services Department can only go so far and then the issue depends upon the action of other departments, that there should be more action with the health issues, that he concurs that something must be done with the property, that this is more than an issue of someone pulling himself up by his bootstraps, that the landowner should be given the time to go in the right direction, that expecting years of issues to be resolved in two weeks may be difficult, that he does not know the landowner's financial condition and ability to have this work completed in two weeks, and that some people are in situations beyond their control. Alderman DiTucci stated that the petitioner could work with the Inspectional Services Department on a plan to clean the property. Henry Pahl, 11 Montvale Road appeared and stated that he is the landowner, that this is a nice neighborhood and he has caused distress, that he understands that he must clean up the property and apologizes to the neighborhood, that he has photographs that show the yard is now clean, that he is approximately 50% complete in cleaning the yard, that the garage is structurally sound, that the house needs paint and a roof, that he is working on raising money, that he is a "pack rat", that he likes to restore items and does not get to as many projects as he believes he will, that he will continue to reduce the trash on the property, that at the moment the property does not look bad, that he can report to Alderman Mercer-Bruen the progress he makes, that he would prefer further review at the end of the summer, that he would be willing to work with the Inspectional Services Department on a plan, that a number of trash bags were put out for trash collection last week, and that he had twenty-five more bags to put out with the trash. Mr. Pahl offered three large 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. PUBLIC COMMENTS: Harrison McLeod, 18 Montvale Road stated that the situation goes back a number of years, that he has a letter from the Building Commissioner dated in 2004 and the conditions cited remain, that the value of his house has decreased because of the condition of the subject property, that he has photographs of the subject property that were taken a week ago, that there was a lot of work accomplished in one week according to the photographs of the landowner, and

that he does not think all of the work can be accomplished in two weeks. Mr. McLeod offered thirteen small photographs for the City Council to review. Motion made and 2nd that the photographs be received and made part of the record, all in favor, 9-0. Karen Hurst, 40 Pine Street stated that this is a good neighborhood, that the subject property drags the neighborhood down, that the house and garage are falling down, that a child resides in the house, and that the issue is not about the homeowner but about the home. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON MAY 15, 2012, all in favor 9-0.

CITIZEN’S PARTICIPATION: None.

COMMITTEE REPORTS:

FINANCE:

On the Order to transfer the sum of \$2,000.00 from Concerts & Entertainment Account to Fence/Recreation Account, committee report was received “ought to pass”. Motion made and 2nd that the ORDER be ADOPTED, all in favor, 9-0.

Presented to the Mayor: May 3, 2012 s/Scott D. Galvin May 3, 2012

On the Order to transfer the sum of \$5,551.78 from Election & Registration Workers Account to City Clerk Office Supplies Account, committee report was received “ought to pass”. Motion made and 2nd that the ORDER be ADOPTED, all in favor, 9-0.

Presented to the Mayor: May 3, 2012 s/Scott D. Galvin May 3, 2012

PUBLIC SAFETY AND LICENSES:

On the petition by American Classic Limousine Inc. to renew Livery License, committee report was received “ought to pass”. Motion made and 2nd that the ORDER be ADOPTED, all in favor, 9-0.

Presented to the Mayor May 3, 2012 and ten days having elapsed without same being approved, said License became effective without his signature on May 15, 2012.

NEW PETITIONS:

Petition by National Grid for a grant of right in way to replace the existing regulator station in School Street opposite Lord Terrace with a new prefabricated regulator station around the corner in School Street at Merrimac Street, install approximately 375 feet of 4 inch PL 25 psig main to feed inlet of new regulator station to existing 4 inch PL 25 psig main, install approximately 150 feet of 6 inch PL 2 psig to connect outlet of new

regulator station to existing 6 inch PL 2 psig main. Motion made and 2nd that the MATTER be REFERRED TO PUBLIC HEARING AT REGULAR CITY COUNCIL MEETING ON MAY 15, 2012, all in favor, 9-0.

Petition by Lytron, Inc., 55 Dragon Court to amend an Inflammable License to allow storage of the following flammables: Acetylene, flammable gas, 5,000 cubic feet, cylinder; Hydrogen, flammable gas, 788 cubic feet, cylinder, at 55 Dragon Court. Motion made and 2nd that the MATTER be REFERRED TO PUBLIC HEARING AT REGULAR CITY COUNCIL MEETING ON MAY 15, 2012, all in favor, 9-0.

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. Motion made and 2nd that the MATTER be REFERRED TO PUBLIC HEARING AT REGULAR CITY COUNCIL MEETING ON JUNE 5, 2012, all in favor, 9-0.

COMMUNICATIONS AND REPORTS:

A communication dated April 20, 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 March 2012: number of parking violations issued 268, number of violations paid 128, number of violations outstanding 125, amount collected and submitted to the Office of the Collector \$9,018.00. There exists a backlog of 5909 tickets for 1982 through 2011. Demand will be sent until all tickets have been paid. Parking violations referred to the Handicapped Commission to date \$950.00.

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 copy of a communication dated April 13, 2012 to Timothy Donovan, City Treasurer was received from Larry Means, Treasurer, Northeast Metropolitan Regional Vocational School District, 100 Hemlock Road, Wakefield, Massachusetts 01880-3597 with a copy of the District's FY2013 Budget and advising that the assessment for the City of Woburn

will be \$925,746.00. Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE, all in favor, 9-0.

A copy of a communication dated April 25, 2012 to Jefferson Smith, Legislative Director, Massachusetts Department of Transportation, 10 Park Plaza, Room 3170, Boston, Massachusetts 02166 was received from State Representative James J. Dwyer and State Representative Jay R. Kaufman requesting MassDOT to study and re-time the traffic lights at the intersection of Washington Street and Olympia Avenue. Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE, all in favor, 9-0.

A communication dated April 29, 2012 was received from Jean Cronin, 18 Mayflower Road in support of maintaining librarian staffs in the school libraries. Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE, all in favor, 9-0.

UNFINISHED BUSINESS OF PRECEDING MEETING: None.

APPOINTMENTS AND ELECTIONS: None.

MOTIONS, ORDERS AND RESOLUTIONS:

ORDERED That the Mayor be and is hereby authorized to accept a perpetual and permanent nonexclusive easement in the name of the City of Woburn from McDonald's Real Estate Company over and upon the property located at 187 Cambridge Street for the purpose of installing a water booster pump station for the Shaker Glen area.

s/Alderman Drapeau

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

Presented to the Mayor: May 3, 2012 s/Scott D. Galvin May 3, 2012

ORDERED That the Mayor be and is hereby authorized to accept an easement in the name of the City of Woburn from David B. Larsen and Dorothy F. Larsen over and upon the property located at 72 Nashua Street for the purpose of installing a sidewalk.

s/President Denaro

Alderman Mercer-Bruen stated that the sidewalks have been constructed and this is an easement to allow passage over the sidewalks. Motion made and 2nd that the ORDER be ADOPTED, all in favor, 9-0.

Presented to the Mayor: May 3, 2012

s/Scott D. Galvin May 3, 2012

RESOLVED That the temporary drop-off and the temporary drop-off fence at Flemming Field on Hudson Street be removed as previously agreed upon;

Be It Further Ordered that the park at Flemming Field be restored completely to its previous state, including:

- Repair of original playground equipment
- Removal of broken equipment (equipment brought from the Goodyear School)
- Relocation of playground equipment to its original site
- Return of the memorial benches to their original sites
- Remove the fence surrounding the drop-off and return it to its original location on the Hudson Street boundary
- Any and all other repairs to bring the park back to its original condition

s/Alderman Gately

Alderman Gately stated that in August 2011 a resolution was sent to the Mayor asking for the restoration of Flemming Field at the former Clapp School site, that none of the work set forth in this resolution has been completed, that there is \$14,000.0 remaining in the account for this work, that the Department of Public Works should not be required to do the work, that the School Department indicated that they would perform the work and should do so, that he has heard that the Department of Public Works may be asked to perform the work but the Department of Public Works was not to have anything to do with this work, that the School Department made promises to restore the area and should do so, and that the area where the portable units were located should be reseeded.

Alderman Mercer-Bruen stated that she support the resolution, that she received a communication from the Mayor indicating that he was meeting with the Ward One Alderman at the site, that communications are taking place regarding the issue, and that the issues are being addressed. Alderman DiTucci stated that she was abstaining from participating in this matter. Motion made and 2nd that the RESOLVE be ADOPTED, 8 in favor, 0 opposed, 1 absent (DiTucci absent).

Presented to the Mayor: May 3, 2012

Returned Unsigned May 3, 2012

On the Order relative to a communication to His Honor the Mayor requesting an appropriation for the purposes of making repairs to the Police Station roof. Alderman Anderson stated that there are many financial considerations, that the City Council should wait two weeks for financial documents to be submitted by the Mayor. Alderman Gately

stated that the Order is to remind the Mayor of the issue. Alderman Haggerty stated that the matter could be forwarded to the Committee on Finance so that it will remain on the City Council docket. Motion made and 2nd that the MATTER be REFERRED TO COMMITTEE ON FINANCE, all in favor, 9-0.

RESOLVED That the City Solicitor provide a written opinion as to whether the provisions of Rule 19 of the Rules and Orders of the City Council is consistent with the provisions of the Open Meeting Law.

s/Alderman Anderson

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

Presented to the Mayor: May 3, 2012 **s/Scott D. Galvin May 3, 2012**

Motion made and 2nd 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.

A communication dated April 30, 2012 with attachment was received from His Honor the Mayor Scott D. Galvin as follows:

Dear President Denaro and members of the Woburn City Council:

I am submitting for your review and approval a bond authorization in the amount of \$4 million for the purchase and installation of residential water meters.

This appropriation is required under the Department of Environmental Protection Administrative Consent Order ACOP-NE08-5D004, signed by the previous Administration in August 2008. The Administrative Consent Order obligates the City to take continuing action on water quality issues, namely the construction of the new water treatment plant, and set very specific deadlines for a series of steps and actions to be taken with respect to the installation of residential water meters.

The Administrative Consent Order requires written documentation of the bond authorization by May 21, 2012. I will be available on May 7, 8 or 14 to discuss in Committee.

Respectfully, s/Scott D. Galvin

Attached thereto was the following Order:

ORDERED That the City of Woburn appropriates the sum of Four Million Dollars (\$4,000,000) to pay costs of replacing water meters throughout the City,

including the payment of all costs associated therewith, 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.

s/Scott D. Galvin, Mayor

s/President Denaro

Alderman Drapeau stated that he will not support sending this matter to committee, that he does not support water meters, that he understands the ACO but installing water meters is not favorable to the average ratepayer in the city, that if the matter is sent to committee it would be better to send to Committee on Public Lands and Infrastructure rather than Committee on Finance, that there should be a discussion first to address the numerous related issues, and that if it is determined that water meters should be installed an appropriation should be submitted. Alderman Haggerty stated that not many people support water meters, that if the city does not act there will be worse repercussions because of the ACO, that the cost, funding and spending plan have to be discussed, that the city should look at taking \$2,000,000.00 out of the surplus \$5,000,000.00 to \$6,000,000.00 in the Water and Sewer Enterprise Fund (W&SEF) for this work, that the cost of the bond will be borne by the ratepayers, that the city cannot reduce the rates with the surplus in the W&SEF but could fund some of this work with the surplus, that a communication could be sent to the City Auditor about the possibility of using the surplus in the W&SEF for this work, and that he understands there are low interest rates currently but it may be better to use the surplus rather than borrow more money. Alderman Mercer-Bruen stated that she will support sending the matter to committee but is unlikely to support the proposal. Alderman Anderson stated this matter illustrates the reason why the City Council must review the provisions of Rule 19, and that the City Council is engaged in a discussion relative to an important matter that no one knows is before the City Council because it is a late filing. Alderman DiTucci stated that this proposal is no small matter, that the proposal affects all residents of the community, that there is no one present to discuss the matter, and that there are a lot of issues that have to be discussed. Alderman Gately stated that he will not support the proposal, that the city has been “under the gun” because of the ACO, that this matter should have been submitted months ago by the Administration, that this is not an issue that can be resolved by May 21, 2012, and that there are many questions that have to be answered. President Denaro stated that the matter can be sent to the Committee on Public Lands and Infrastructure but has to also be forwarded to the Committee on Finance. Motion made and 2nd that the MATTER be REFERRED TO COMMITTEE ON FINANCE AND TO COMMITTEE ON PUBLIC LANDS AND INFRASTRUCTURE, 6 in favor, 3 opposed (Drapeau, Gaffney, Gately opposed).

ORDERED That the sum of \$780.00 be and is hereby transferred from Library Snow Removal Account #0161052-529300 to Library Telephone Account #0161052-534100.

That the sum of \$1000.00 be and is hereby transferred from Library Binding/Microfilm Account #0161052-531400 to Library Records (AV) Account #0161054-5558704.

I hereby recommend the above: Scott D. Galvin, Mayor
I hereby approve the above: s/Kathleen O'Doherty, Library Director
I have reviewed the above: Gerald W. Surette, City Auditor

s/President Denaro

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

ORDERED That the sum of \$80,000.00 be and is hereby transferred as so stated from Police Salary Acct #0121051-511000 \$80,000.00 to Police Overtime Acct #0121051-513100 \$80,000.00

I hereby recommend the above: s/Robert J. Ferullo, 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 2nd that the MATTER be REFERRED TO COMMITTEE ON FINANCE, all in favor, 9-0.

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

Motion made and 2nd to ADJOURN, all in favor, 9-0. Meeting adjourned at 9:50 p.m.

A TRUE RECORD ATTEST:

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