**CITY OF WOBURN**
**NOVEMBER 16, 2010 - 7:30 P.M.**
**REGULAR MEETING OF THE CITY COUNCIL**

Roll Call

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|---|---|
| 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:** None.

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**PUBLIC HEARINGS:**

On the petition by National Grid for a grant of right in a way to replace an existing underground regulator vault and associated piping on the corner of Montvale Avenue and Washington Street with a new prefabricated regulator station on Washington Street, approximately 150 feet north of Montvale Avenue and the installation of approximately 150 feet of six (6) inch plastic gas main from the intersection of Montvale Avenue to the new regulator station. PUBLIC HEARING OPENED. A communication dated October 25, 2010 was received from Acting Superintendent of Public Works Thomas Quinn as follows: "1. Night work only, hours 7:00 p.m. to 7:00 a.m.; 2. Replace all granite curb, if necessary; 3. Replace any concrete that is damaged; 4. Replace any sidewalk that is damaged; 5. Do not start any work without police details on site; 6. Control cabinets must be set for handicapped access on the sidewalk; 7. All plates on streets must be recessed (no exceptions)." Appearing for the petitioner was Thomas J. Finneral, Construction Manager, National Grid and he stated that this proposal is to replace and relocate a regulator vault within the sidewalk area and to replace 150 feet of gas main, that the work will begin in April or May 2011 and take approximately six to eight weeks to complete, that the present vault will be removed and the sidewalk replaced, that he will look at the pipe further down the street, that each year the petitioner performs a system-wide review of the pipes, that the petitioner replaced sixty miles of pipes this year, that the twelve responses to the area may not have been all leaks but could have been service cut-offs or other repairs, that the petitioner will look at this issue, that this proposal is a proactive replacement program, that the petitioner has hundreds of these units and they look to see what needs to be replaced, that this intersection is a traffic nightmare and the petitioner wants to complete all work possible to avoid further disruption, that the petitioner will

use its best efforts to look at other area of complaints but cannot guarantee immediate work in that area, that if it is a small vault it will be removed and if it is too large they will dig down eighteen inches and overfill with a sidewalk, and that the current vent posts will be removed. Acting Superintendent of Public Works Thomas Quinn stated that two vault regulators were replaced elsewhere in the city recently, that there have been calls regarding issues with 260 feet of gas line in this area, that the plans have not been drawn up for that project according to his discussions with National Grid, and that the work will be done in the sidewalk with some work at the intersection. Alderman Mercer-Bruen stated that there have been twelve calls regarding gas leaks on Washington Street north of this area, that at the corner of Utica Street and Washington Street there is a strong odor of gas, that she is concerned with the age of the pipe and issues caused when repairs have to be made to the pipe, that there are many issues nationally with accidents involving gas, that twelve calls to the location seems excessive, and that she would like the matter sent to committee to also review the area of complaint. Alderman Gately stated that there may not be enough space for the vent posts when the sidewalk snowplow is operating, that he would like to see this matter referred to committee for further review, and that moving the vent pipe chambers will help the city widen the intersection. Alderman Drapeau stated that the petitioner is trying to address an aging infrastructure, that the city wants this project completed, and that the city should be trying to work with the petitioner to address the concerns of the disruption caused by construction while getting the work done. Alderman Anderson stated that the petitioner should be prepared to discuss any leaks within the past year in that area, the work performed to address the issues, and construction plans that the petitioner has for the coming year. IN FAVOR: None. OPPOSED: Paul Meaney, Executive Director, Woburn Business Association, 10 Tower Office Park stated that the City Council should consider the intersection and the businesses that abut it, that the gas company dug up the area near the school and the bank but did not continue up to this intersection, that he does not understand why this work was not performed when this other work was being completed, that there are gas leaks in every ward of the city, and that before any courtesy is extended to the petitioner they should be required to fix these other issues. Kathy Bailey, 4 Utica Street stated that in June construction was performed at this intersection, that there was no notice of the work to be done, that the working was disturbing to the residents in the area including school age children, that the extra work should be done but it may mean that parts of Washington Street will have to be closed during construction, and that the petitioner should be mindful of the traffic conditions in that area. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON DECEMBER 7, 2010 AND THAT THE MATTER BE REFERRED TO THE COMMITTEE ON SPECIAL PERMITS, all in favor 9-0.

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On the petition by Ruth Lennon, 22 Hart Street, Woburn, Massachusetts 01801 for a special permit pursuant to Section 5.5 of the 1985 Woburn Zoning Ordinances, as amended, to allow import of approximately 300 cubic yards of gravel to raise elevation to 96.00 feet at 22 Hart Street. PUBLIC HEARING OPENED. A communication was received from Rick Lennon as follows:

Subject: 22 Hart Street Permit

Dear Sir,

I have a pending application to import fill at 22 Hart Street scheduled for Tuesday, November 16th, 2010. Due to lack of permit information, I respectfully request a continuance to Dec. 7th, 2010.

Thank you, Rick Lennon

IN FAVOR: None. OPPOSED: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON DECEMBER 7, 2010 AND THAT THE MATTER BE REFERRED TO THE COMMITTEE ON SPECIAL PERMITS, all in favor 9-0.

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On the petition by 2 Merrill Street LLC, 3 Merrill Street, Woburn, Massachusetts 01801 for a special permit pursuant to Section 7.3 of the 1985 Woburn Zoning Ordinances, as amended, to allow for the alteration of the existing non-conforming use and structure to provide for the addition of an approximately 34 foot by 22 foot cold storage unit to the rear of the existing building; an 8 foot by 10 foot hydraulic loading dock on the existing paved surface, and exterior building improvements as shown on plan filed with petition, at 3 Merrill Street. PUBLIC HEARING OPENED. A communication dated November 10, 2010 was received from Edmund P. Tarallo, Planning Director, Woburn Planning Board as follows:

Re: 2 Merrill Street LLC – 3 Merrill Street – To allow for the alteration of the existing non-conforming use and structure to provide for the addition of a 34'x 22' cold storage unit to the rear of the existing building; an 8'x10' hydraulic loading dock on the existing paved surface; and exterior building improvements pursuant to Section 7.3

Dear Mr. Campbell and members of the City Council:

At the Planning Board meeting held on November 9, 2010, the Board voted to send a favorable recommendation to the City Council to allow for the alteration of the existing non-conforming use and structure to provide for the addition of a 34'x 22' cold storage unit to the rear of the existing building; an 8'x10' hydraulic loading dock on the existing paved surface; and exterior building improvements pursuant to Section 7.3 at 3 Merrill Street based on the "Proposed Site Plan" DWG. NO 1 revised 11/9/10 subject to the following conditions:

1. That the proposed parking shall be for 11 spaces as shown on the revised plan;
2. That two dumpsters shall be enclosed by a sight impervious fence as shown on the revised plan;

3. That the permission from Massachusetts Water Resource Authority to cross the 20 foot wide easement that is required shall be provided to the City Engineer prior to the obtaining of a building permit;
4. That all construction shall be in compliance with the requirements of the Woburn Conservation Commission; and
5. That the Planning Board shall retain jurisdiction over the landscaping.

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 Joseph Tarby, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 and he stated that the revised plan adds three parking spaces in the front of the building and one parking space at the rear cold storage unit, that the petition is for a cold storage unit and a hydraulic loading dock, that the petitioner will eliminate the loading dock in the front of the building and provide one central entrance, that the 1970 zoning requirements were in effect when the building was constructed in 1974, that the building is a 6,844 square foot two-story building, that the petitioner have been located in this building since 1983 and operate as Giovanni's Veal, that before the petitioner Marshall Meat was operated from the building, that the petitioner receives de-boned veal and chicken and prepares cutlets for local restaurants in the area, that the petitioner has six employees, that the product is processed by hand, that the product is currently kept in a refrigeration truck on the side of the building, that the cold storage unit would allow access inside the building rather than the current access from outside the building, that the portable hydraulic lift sits in the ground and lifts up for loading when the truck arrives, that the second story of the building is used as a martial arts studio at night and on weekends, that the Conservation Commission issued an Order of Conditions for the property, that the Planning Board gave the matter a favorable recommendation, that the City Engineer reviewed the proposal and has no issues, that the project will improve the appearance of the building and the business operations, that there will be no impact on the traffic, and that the access around the building is not impacted by the hydraulic lift. Attorney Tarby offered a plan entitled "Proposed Building Addition, 3 Merrill Street, Woburn, Massachusetts" prepared by Engineering Alliance, Inc., dated October 14, 2010 with a revision date of November 9, 2010 to the City Council for review. Motion made and 2nd that the plan entitled "Proposed Building Addition, 3 Merrill Street, Woburn, Massachusetts" prepared by Engineering Alliance, Inc., dated October 14, 2010 with a revision date of November 9, 2010 be received and accepted as the plan of record, all in favor, 9-0. Attorney Tarby read into the record and offered to the City Council a communication dated November 8, 2010 from Brett F. Gonsalves, Senior Engineer, Engineering Department to Edmund Tarallo, Planning Director. Motion made and 2nd that the document be received and made part of the record, all in favor, 9-0. The communication dated November 8, 2010 from Brett F. Gonsalves, Senior Engineer, Engineering Department to Edmund Tarallo, Planning Director was received as follows:

Subject: 2 Merrill Street – Proposed Addition Special Permit – Special Permit Application Dated 10/15/2010

The applicant is seeking permission to alter an existing non conforming use and provide for a cold storage addition and a hydraulic lift at the rear of the existing building.

The submitted site plan shows the location of the proposed 34' x 22' addition and lift as well as drainage mitigation for the roof of the addition.

The applicants engineer has proposed a 700 gallon drywell to infiltrate the proposed roof. The drain line connecting the roof leaders to the drywell crosses and existing 20 foot wide MDC sewer easement.

The applicant will need permission from Massachusetts Water Resource Authority to cross the 20 foot wide easement.

This office takes no exception to the application as submitted. If you or the board have any questions concerning this information, do not hesitate to contact this office.

Giovanni Parrinello stated that he is the owner of the company, that there will be no additional water usage, noise or odor with the new improvements, and that the current refrigerated trailer will be removed from the site and not be returned. IN FAVOR: Paul Meaney, Executive Director, Woburn Business Association, Ten Tower Office Park stated that he is in favor of the petition and that this is a good business. 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, AS AMENDED with the conditions as follows: 1. That the recommendations of the Planning Board shall be adopted as conditions of the special permit, and 2. That the City Council finds that if the proposal is approved there will be no increase in traffic volume or congestion, no adverse impact on the water supply, there will not be an increase in noise, and therefore the proposal meets the requirements of the zoning ordinance, all in favor, 9-0.

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On the petition by Francis Sindoni, 76 Marlboro Road, Woburn, Massachusetts 01801 for a special permit pursuant to Section 7.3 of the 1985 Woburn Zoning Ordinances, as amended, to alter an existing non-conforming use, three (3) residential units and one (1) commercial unit on the first floor, to four (4) residential apartments at 58 Fowle Street. PUBLIC HEARING OPENED. A communication dated November 4, 2010 was received from Erin Rowe, City Planner, Woburn Planning Board as follows:

Re: Francis Sindoni – 58 Fowle Street – To alter existing non-conforming 3 residential units and first floor commercial unit building to 4 apartments

Dear Mr. Campbell and members of the City Council:

At the meeting held on October 19, 2010, the Planning Board voted to forward a favorable recommendation to the City Council on the Special Permit application of

Francis Sindoni, 58 Fowle Street, to alter existing non-conforming 3 residential units and first floor commercial unit building to 4 apartments, subject to the following conditions:

1. That Parcels A and B be required to be used as one lot in accordance with this Special Permit;
2. That the petitioner provide prior to occupancy an agreement for access to the parking from the abutting parking area;
3. That the parking aisle as shown on the plan shall be at least 24';
4. That the Planning Board shall approve a landscaping plan and the Board shall retain jurisdiction over the landscaping; and
5. That the dumpster shall be screened 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/Erin Rowe, City Planner

Appearing for the petitioner was Attorney Shaun Briere, Mawn and Mawn, 275 Mishawum Road, 4th Floor, Woburn, Massachusetts 01801 and he stated that the property is located in the R-2 zoning district, that the property is a non-conforming use with three residential units and one commercial unit, that the petitioner is seeking to change the use to four residential apartments which would reflect the current use of property, that the property was purchased in 1979 by the petitioner's father and conveyed to the sons in 1995, that the property was the original location of the Jim & Rose restaurant and catering business, that it was a commercial use since back in the 1930s, that the unit has been used as a residential unit since 1982, that the property has four water bills, four separate electric meters and the Board of Assessors has this listed as a four unit apartment building, and that this petition to recognize the four residential units will facilitate the sale of the building by reflecting what the conditions are at the property. Alderman Gately stated that this building has had four residential units since 1982, that the building is well maintained, that he does not have any concerns with the petition, and that he will support granting the petition at this meeting. 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, AS AMENDED with the conditions as follows: 1. That the recommendations of the Planning Board be adopted as conditions of the special permit, all in favor, 9-0.

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On the petition by 335 Washington Street LLC, 394 Washington Street, Woburn, Massachusetts 01801 for a special permit pursuant to Sections 7.3 and 57b of the 1985 Woburn Zoning Ordinances, as amended, to allow for the alteration of the pre-existing non-conforming use and structure containing approximately 53,379 square feet of gross floor area and 228 parking spaces to allow for: 1. An automotive parts store in Unit 3 consisting of approximately 7,000 square feet of net floor area, 2. The overnight parking of commercial vehicles, and 3. To provide for 221 parking spaces, at Unit 3, 335 Washington Street. PUBLIC HEARING OPENED. A communication dated November

12, 2010 was received from the Woburn Planning Board stating that the matter had been continued until the Planning Board's meeting on November 30, 2010. Appearing for the petitioner was Attorney Joseph Tarby, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 and he stated that the original plan of record showed 228 parking spaces, that the revised plan of record shows 232 parking spaces, that the property is located in the O-P zoning district, that this is an existing building constructed for office and warehouse use, that in 1986 a permit issued for use of the building by Staples as a business service establishment, that in 1992 a permit issued for CompUSA for business sales and service, that on November 20, 2003 the zoning ordinances were amended by adding language that a business service establishment could not include retail sales, that when the building tenants first located in Woburn the businesses were primarily serving businesses, that over time the uses changed to pure retail uses, that the Staples and CompUSA uses became non-conforming, that the petitioner will lease 7,000 square feet of the former CompUSA space for a consumer auto parts store, that the remaining area of the unit will remain vacant, that two-thirds of the customers will be business customers and one-third of the customers will be consumer customers, that the City Engineer reviewed the plan and has no issue with the proposal, that the Planning Board continued its review of the special permit until the Board's meeting on November 30, 2010, that he requests the matter be referred to committee for further review and the public hearing be continued to the Regular Meeting on December 7, 2010, that a variance was granted when CompUSA located in the building for a reduction in open space, and that he will provide a copy of the variance for the committee. Attorney Tarby offered a revised site plan entitled "Proposed Site Plan of Land, 335 Washington Street, Woburn, Massachusetts" prepared by Dana F. Perkins, Inc. dated October 14, 2010 with a revision date November 4, 2010 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. IN FAVOR: None. OPPOSED: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON DECEMBER 7, 2010 AND THAT THE MATTER BE REFERRED TO THE COMMITTEE ON SPECIAL PERMITS, all in favor 9-0.

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On the petition by Oliveiras Steak House, 428 Main Street, Woburn, Massachusetts 01801 for a special permit pursuant to Section 5.1.29 and Section 5.1 Note 16 of the 1985 Woburn Zoning Ordinances, as amended to allow a restaurant at 428 Main Street. PUBLIC HEARING OPENED. A communication dated November 4, 2010 was received from Erin Rowe, City Planner, Woburn Planning Board as follows:

Re: Oliveiras Steak House – 428 Main Street – To transfer ownership from Bahamas Grill to Oliveiras Steak House

Dear Mr. Campbell and members of the City Council:

At the meeting held on October 19, 2010, the Planning Board voted to forward a favorable recommendation to the City Council on the Special Permit application of

Oliveiras Steak House, 428 Main Street, to transfer ownership from Bahamas Grill to Oliveiras Steak House, subject to the following conditions:

1. That the hours of operation shall be limited to between 6:00 A.M. and 11:00 P.M.; and
2. That the Special Permit is for Oliveiras Steak House only and shall not be transferable.

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

Sincerely, s/Erin Rowe, City Planner

Appearing for the petitioner was Edilson Paulo de Oliveira and he stated that this is a Brazilian steak house, that they will have an all you can eat buffet and weigh the plate alternative, that he has a similar restaurant in East Boston, that they will be open seven days per week, that the hours of operation will be 11:00 a.m. to 10:00 p.m., that they will serve lunch and dinner, and that there will be no changes inside the building. 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, AS AMENDED with the conditions as follows: 1. That the recommendations of the Planning Board, as amended, be adopted as conditions of the special permit, and 2. That Planning Board recommendation number 1 be amended to read "That the hours of operation shall be limited to between 11:00 a.m. and 10:00 p.m., seven days per week", all in favor, 9-0.

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On the petition by Monarch Homes, Inc., 13 Wheeling Avenue, Woburn, Massachusetts 01801 for two special permits pursuant to 1985 Woburn Zoning Ordinances, as amended, as follows: 1. Pursuant to Section 22.E.d to allow for a 33 unit, 35 bed Alzheimer's Residence, and 2. Pursuant to Sections 8.6.2 and 22.H.2 to allow for an exception to the area and landscaping requirements in Section 8.6.2, at Lot A, 859 Main Street. A communication dated November 12, 2010 was received from the Woburn Planning Board stating that the matter had been continued until the Planning Board's meeting on November 30, 2010. PUBLIC HEARING OPENED. Appearing for the petitioner was Attorney Joseph Tarby, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 and he stated that the proposal is to construct a two story, thirty-five bed Alzheimer's care facility, that there will be thirty-nine rooms capable of handling thirty-five residents, that there will be shared access to the site with St. Anthony's Church, that the building will look like a residential property from the outside, that it is important that the facility not have an institutional look, that the residents will not have vehicles, that the largest shift will be nine employees, that the City Engineer reviewed the special permit plan and its impact on water, sewer and drainage and has no issue to those aspects of the proposal, that the traffic study is being finalized and will be submitted to the Planning Board and the City Council, that they are reviewing final drafts of the easement agreement with the Archdiocese for the shared access, that copies of the easement agreement will be provided to the City Council, that the petitioner asks that the

matter be referred to the Committee on Special Permits for further review and that the public hearing be continued to the Regular Meeting on December 7, 2010, that he believes the easement agreement with the Archdiocese will be completed by the December 7th meeting, that there are fifteen parking spaces and this does meet the zoning requirements, and that the ordinances require underground utilities where practicable. Attorney Tarby offered and artist's rendering and lot layout to 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. Paul Maggiore, 13 Wheeling Street, Woburn stated that the petitioner will use the existing church driveway as shared access and will not need an additional curb cut, that the drainage and sewer will be hooked up to the city services, and that there are two existing utility poles on the parcel that will likely be used with the rest of the utilities being underground. David Errico of Monarch Homes stated that Woburn has a requirement of fifteen parking spaces, that the rule of thumb for this type of facility is .4 parking spaces per unit, that there will be nine employees, that it is not likely all employees will drive to the resident but will use public transportation, that visitors to residents tends to be low, that the petitioner has been developing six or seven assisted living facilities in the greater Boston area, and that the parking ratio has been used for those facilities. Alderman Mercer-Bruen stated that her experience with those facilities is that the parking is not an issue. IN FAVOR: Paul Meaney, Executive Director, Woburn Business Association, Ten Tower Office Park stated that this is an important resource for the community and the developer is a quality company. Susan Nocella, 25R West Street stated that she wants to know the time table for City Council and Planning Board review. John Martini, 169 Place Lane stated that the units are needed in the area, that the developer has a good track record in this field, and that he hopes this is the first step in completion of the St. Anthony project. John Scalley, 18 Dartmouth Street stated that he would prefer to see the building constructed of brick, and that otherwise he is in favor of the proposal. OPPOSED: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON DECEMBER 7, 2010 AND THAT THE MATTER BE REFERRED TO THE COMMITTEE ON SPECIAL PERMITS, all in favor 9-0.

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**CITIZEN'S PARTICIPATION:** None.

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**COMMITTEE REPORTS:**

**FINANCE:**

On the Order to transfer the sum of $25,000.00 from BLS Ambulance Receipts Account to Ambulance Maintenance Account, committee report was received "ought to pass". Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.
**Presented to the Mayor: November 18, 2010 s/Scott D. Galvin Nov. 18, 2010**

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On the Order to appropriate the sum of $117,341.75 from Overlay Reserve Account to Sick Leave Buy Back Teamsters Local Union 25 Account, committee report was received "ought to pass". Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.
**Presented to the Mayor: November 18, 2010 s/Scott D. Galvin Nov. 18, 2010**

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On the Order to purchase certain real property owned by Northeastern University for a total purchase price of $6,700,000.00 and to authorize the acceptance of a Land and Water Conservation Fund Act in the sum of $500,000.00, committee report was received "ought to pass". Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, ROLL CALL: Anderson – Yes, DiTucci – Yes, Drapeau – Yes, Gaffney – Yes, Gately – No, Haggerty – Yes, Mercer-Bruen – Yes, Raymond – Yes, Denaro – Yes, MOTION PASSES.
**Presented to the Mayor: November 18, 2010 s/Scott D. Galvin Nov. 18, 2010**

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On the Order to declare a permanent and perpetual restriction on the use of the land to be acquired from Northeastern University, committee report was received "ought to pass". Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, ROLL CALL: Anderson – Yes, DiTucci – Yes, Drapeau – Yes, Gaffney – Yes, Gately – Yes, Haggerty – Yes, Mercer-Bruen – Yes, Raymond – Yes, Denaro – Yes, MOTION PASSES.
**Presented to the Mayor: November 18, 2010 s/Scott D. Galvin Nov. 18, 2010**

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On the Order to amend the authorization to borrow $7,000,000.00 to acquire Whispering Hill Property adopted on June 1, 2010, committee report was received "ought to pass". Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, ROLL CALL: Anderson – Yes, DiTucci – Yes, Drapeau – Yes, Gaffney – Yes, Gately – No, Haggerty – Yes, Mercer-Bruen – Yes, Raymond – Yes, Denaro – Yes, MOTION PASSES.
**Presented to the Mayor: November 18, 2010 s/Scott D. Galvin Nov. 18, 2010**

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On the Order to authorize a bond in the sum of $1,250,000.00 for roof repairs at the Joyce Middle School, committee report was received "ought to pass". Alderman Gately stated that he asked the Mayor for a guarantee that the reimbursement for the work will be forthcoming from the Massachusetts School Building Authority, that approximately 50% of the costs may be reimbursed, that if this reimbursement money does not come through the city will not be able to afford both of these projects, and that the city may have to proceed with the Kennedy project only. Alderman Drapeau stated that the Green Building Repair Program is new, that this Order is asking that the bond be authorized, that if the city does not adopt the Order then the city cannot be considered for a grant, that the city will likely not go forward with the two roof projects if this grant is not received, that the Order should be approved so that the city can get in line for the grant, and that the Kennedy School is the top priority if only one roof can be completed. Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, ROLL CALL: Anderson – Yes,

DiTucci – Yes, Drapeau – Yes, Gaffney – Yes, Gately – Yes, Haggerty – Yes, Mercer-Bruen – Yes, Raymond – Yes, Denaro – Yes, MOTION PASSES.
**Presented to the Mayor: November 18, 2010 s/Scott D. Galvin Nov. 18, 2010**

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On the Order to authorized a bond in the sum of $1,650,000.00 for roof repairs at the Kennedy Middle School, committee report was received "ought to pass". Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, ROLL CALL: Anderson – Yes, DiTucci – Yes, Drapeau – Yes, Gaffney – Yes, Gately – Yes, Haggerty – Yes, Mercer-Bruen – Yes, Raymond – Yes, Denaro – Yes, MOTION PASSES.
**Presented to the Mayor: November 18, 2010 s/Scott D. Galvin Nov. 18, 2010**

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On the Order to rescind an Order adopted May 11, 2010 to authorize borrowing of $1,700,000.00 for roof repairs at the Kennedy Middle School, committee report was received "ought to pass". Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, ROLL CALL: Anderson – Yes, DiTucci – Yes, Drapeau – Yes, Gaffney – Yes, Gately – Yes, Haggerty – Yes, Mercer-Bruen – Yes, Raymond – Yes, Denaro – Yes, MOTION PASSES.
**Presented to the Mayor: November 18, 2010 s/Scott D. Galvin Nov. 18, 2010**

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**ORDINANCES:**

On the Order to add a new Section 9-17D to the 1989 Woburn Municipal Code, as amended, relative to signs on Woburn Common, committee report was received "ought to pass". Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.
**Presented to the Mayor November 18, 2010 and ten days having elapsed without same being approved, said ordinance became effective without his signature on November 30, 2010**

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**PERSONNEL:**

On the appointment of Angela Amato as a Member of the Woburn Council on Aging, committee report was received "ought to pass". Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.
**Presented to the Mayor: November 18, 2010 s/Scott D. Galvin Nov. 18, 2010**

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**POLICE AND LICENSES:**

On the petition to allow the transfer of an Inflammable License to Global Companies LLC at 23 Pleasant Street, committee report was received "ought to pass, with the conditions as follows: 1. That the conditions of the previous license at the location be

adopted, and 2. That the license shall be non-transferable." Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.
**Presented to the Mayor November 18, 2010 and ten days having elapsed without same being approved, said license became effective without his signature on November 30, 2010**

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On the petition to allow the transfer of a Second Class Motor Vehicle Sales License to Capelo's Garage Inc. at 22 Winn Street, committee report was received "ought to pass, with the conditions as follows: 1. That the conditions of the previous license be adopted, and 2. That the license shall be non-transferable." Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.
**Presented to the Mayor November 18, 2010 and ten days having elapsed without same being approved, said license became effective without his signature on November 30, 2010**

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On the petition by Ram Electrical Consulting & Contracting Corporation for a new Livery License, committee report was received "ought to pass, with the conditions as follows: 1. That the license shall be non-transferable, 2. That the license shall be subject to the applicable provisions of the Woburn Municipal Code, 3. That the company shall be in good standing with the Office of the Massachusetts Secretary of State, and 4. That the vehicle shall be registered in Woburn." Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.
**Presented to the Mayor November 18, 2010 and ten days having elapsed without same being approved, said license became effective without his signature on November 30, 2010**

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**NEW PETITIONS:**

A communication dated November 4, 2010 was received from Attorney Mark J. Salvati, 10 Cedar Street, Suite 26, Woburn, Massachusetts 01801 as follows:

Re: Perennial Landscape Co., 22 Torrice Drive

Dear Alderman Gately and Council Members:

Request is made for a removal of condition #2 of a special permit granted on March 25, 2010 for the property at 22 Torrice Drive. That condition stated that:

> "prior to a building permit or Occupancy permit whichever occurs first, the petitioner shall provide to the City a certification by a registered engineer of the stability of the slope at the side and rear property lines and that all storm water runoff shall be retained on site."

That slope has been graded at the side and rear area for over 6 months and has proven to be well established and stable. It is our position that the stability of the slope has been established to a degree of certainty which would render an engineer's certification unnecessary. The storm water runoff has also proven to be completely contained on site.

Therefore, we would respectfully request that condition #2 be permanently removed from the special permit approval.

Very truly yours, s/Mark J. Salvati

Alderman Gately stated that he has visited the site on three occasions, that the rip-rap bank is outstanding, that that runoff in the parking lot has been contained, that the engineer's study is not necessary, and that Condition 2 of the special permit should be removed. Alderman Drapeau stated that the City Council must be careful with this request, that the condition likely originated from the Planning Board, that if the opinion was that an engineer sign-off was requested then the work of the Planning Board in making the recommendation is negated, that perhaps this requirement should have been discussed more when the special permit was originally granted, and that an expert's opinion should be obtained as to whether the study is required. Alderman Anderson stated that this is a substantive change to the special permit which should include a new petition, notice and filing fee, and that it is not within the jurisdiction of the City Council to act on this request with this communication. Alderman Mercer-Bruen stated that the City Council has accepted minor modifications in the past in this manner however the process should be started over for this request. Alderman Gately stated that the special permit required the condition, that this is not a structure requiring an engineer's report, and that if a new petition is required by the City Council then this can proceed in this manner. Alderman Haggerty stated that the City Council has removed conditions from special permits in this manner, that the matter can be forwarded to committee on other departments can be brought in as necessary, and that he does not want to see the petition have to start over. Alderman Mercer-Bruen stated that petitioners will take advantage of the City Council when it is trying to assist with issues such as this. Alderman Anderson stated that the matter is not properly before the City Council until a new petition is filed, that this may have been done in the past but it should not continue as a practice, and that this was a specific condition that was required after the special permit process. Alderman Raymond stated that if the permit has to be amended then a new petition should be presented. Alderman DiTucci stated that this is a substantive change and an engineer's input is needed, and that the City Council should require a new petition to amend the special permit. President Denaro stated that the communication is in the record, and that special permit review can be asked for or a new petition to amend can be required. Alderman Gately stated that the matter should be sent to the Committee on Special Permit Review. Motion made by Alderman Gately and 2nd by Alderman Mercer-Bruen to remove Condition 2 from the special permit was withdrawn. Motion made and 2nd that a communication be forwarded to the attorney for the petitioner advising that a new petition be filed with the City Council in order to amend the special permit by removing Condition 2, all in favor, 9-0.

**********

A communication dated November 15, 2010 was received from John Beauchamp and Anne Beauchamp, 224 School Street

Dear Mr. Campbell and members of the City Council,

Please find the following amendment to the condition attached to the special permit related to the installation of a fence @ 222-224 School St.

The New Condition shall read as such:

Two - 8' foot sections of 4' white vinyl fence will be installed along the westerly property line beginning 28 feet from the property line along School street and continuing at a height of 6' for the remaining length of the property.

Please advise if you have any questions

Thank you.

John & Anne Beauchamp

Alderman Gately stated that a chain link fence was required under the special permit, tht the petitioner wants to install a different type of fence, that the neighbor knew that they would have to protest if they objected to this new style of fence, that no protest has been received, and that this proposed fence will be more expensive than the chain link fence and will look better. Alderman Raymond stated that the petitioner and neighbors met and agreed on the property line and the fence type. Alderman Anderson stated that this fence has been an issue since the special permit was granted, that there is no property line change, that the only change is the character of the fence, that the neighbor has agreed with the new style of the fence, and that the fence will look better than a chain link fence. Alderman Mercer-Bruen stated that this amendment can be made without a new special permit filing as there was a committee meeting on this matter and public discussion with all parties at which the issue was discussed. Alderman Gately stated that the other special permit amendment considered at this meeting required action by a third party engineer. Motion made and 2nd that Condition 1 of the special permit issued July 10, 2009 to Anne M. Beauchamp and John J. Beauchamp for the property located at 222 School Street be amended to read as follows: “Two eight (8) foot sections of four (4) foot white vinyl fence will be installed along the westerly property line beginning twenty-eight (28) feet from the property line along School Street and continuing at a height of six (6) feet for the remaining length of the property”, all in favor, 9-0.

**********

Petition by NSTAR Electric Company and Verizon New England, Inc. for a grant of right in a way to install two new poles 187/3, 187/4 on Massachusetts Avenue southeasterly side approximately 275 feet northeast of Wheeling Street. Motion made and 2nd that the MATTER be REFERRED TO PUBLIC HEARING, all in favor, 9-0.

**********

Petitions for renewal of First Class Motor Vehicle Sales Licenses by Lawless Chrysler Jeep, Inc., 196 Lexington Street; R.C. Olsen Cadillac, Inc., 199-201 Cambridge Road; Woburn Foreign Motors, Inc., 394 Washington Street; and Woodco Machinery, Inc., 22 North Maple Street. Motion made and 2nd that the MATTERS be REFERRED TO COMMITTEE ON POLICE AND LICENSES, all in favor, 9-0.

**********

Petitions for renewal of Second Class Motor Vehicle Sales Licenses by Bob McSheffrey Auto Sales, 891 Main Street; C.N. Wood Company, Inc., 200 Merrimac Street; EC Inc. dba XPress Fuel, 505 Main Street; Jeffrey Pollock dba Exclusive Automobiles, 7 Independence Drive; George J. Hamilton dba George's Auto Body, 19 Jefferson Avenue, Unit C; J.C. Auto Sales, 84-86 Winn Street; Joseph P. Mahoney Co., Inc., 293 Salem Street; Oliver M. McDermottroe dba McDermottroe Auto Sales, 229 Lexington Street; Velozo Enterprises, Inc. dba Rogers Radiator; Francis Garbino dba Tom's Auto Body, 10R Green Street; Donald J. Socorelis dba Woburn Glass Co., 243 Main Street; David Dellarocco dba Woburn Auto Sales, 5 Crescent Avenue #4. Motion made and 2nd that the MATTERS be REFERRED TO COMMITTEE ON POLICE AND LICENSES, all in favor, 9-0.

**********

Petition for renewal of Third Class Motor Vehicles Sales License by Woburn Truck and Auto, Inc., 1095R Main Street. Motion made and 2nd that the MATTERS be REFERRED TO COMMITTEE ON POLICE AND LICENSES, all in favor, 9-0.

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**COMMUNICATIONS AND REPORTS:**

A communication dated October, 2010 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 September 2010: number of parking violations issued 963, number of violations paid 508, number of violations outstanding 331, amount collected and submitted to the Office of the Collector $39,890.80. There exists a backlog of 5,188 tickets for 1982 through 2009. Demand will be sent until all tickets have been paid. Parking violations referred to the Handicapped Commission to date $8,000.00.

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

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

**********

A communication dated October 29, 2010 with attachments was received from Joanne Collins, Director, Woburn Council on Aging along with the minutes of the October meeting of the Council on Aging and the Director's report for the month of October. Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE, all in favor, 9-0.

**********

A communication dated November 5, 2010 was received from Edmund P. Tarallo, Planning Director, Woburn Planning Board as follows:

Re: 159-175 Main Street – Special Permit – Review of Compliance

Dear Mr. Campbell and Members of the City Council:

The Woburn Planning Board voted at their October 19, 2010 meeting to request that the City Council review the special permit granted by the City Council on April 15, 2009 to the property at 159-175 Main Street. The Planning Board is presently reviewing compliance with condition 3 based on a complaint from Alderman Gately. However, the Board believes that the City Council should also conduct a complete review of the entire decision for compliance with the decision.

If Council members have any questions regarding the above matter, please feel free to contact me.

Sincerely, s/Edmund P. Tarallo, Planning Director

Alderman Gately stated that he will bring the matter in to the Committee on Special Permits for review in January 2011. Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE, all in favor, 9-0.

**********

A communication dated October 20, 2010 was received from City Solicitor John D. McElhiney as follows:

Re: Woburn Armory – 320 Main Street (aka 286 Main Street)

Dear Members of the Council:

This is in response to your request for an opinion regarding how the restrictions and/or covenant on the deed to the above referenced property will affect the City of Woburn, and also as to whether the property can be taken by eminent domain.

Historic Covenants in Deed

The Deed to the current owner, from the Commonwealth of Massachusetts, contains several historic covenants (a copy of which deed and covenants is attached hereto), which

covenants have the effect of requiring advance written approval from the Massachusetts Historical Commission (hereafter "MHC") before any structural change can be made to the Armory. A demolition would fall within that term "structural change."

Private deed restrictions are generally enforceable between the parties only, or their successors in interest, meaning that the owners of the property, as well as succeeding owners, are bound by the restrictions, which are enforceable against them by the party which imposed the restrictions, in this case the Commonwealth of Massachusetts, acting through the MHC.

The Council, of course, is in the midst of a proceeding under G.L. Chapter 139, relative to the declaration of a nuisance and the appropriate remedy or action to be imposed. It is my understanding that the Council has already voted to declare the property a nuisance, but has continued the question of what specific remedial action it will order, for a period of ninety (90) days. Assuming that the Council may be contemplating an order to demolish the building, the question arises as to whether the deed restrictions will preclude the same. For the reasoning set forth below, I am of the opinion that they would not.

There are no cases of which I am aware which address the specific issue at hand, i.e. does a City Council order to demolish a building, made pursuant to G.L. Chapter 139, have the effect of superseding or trumping a private deed restriction which requires the approval of a prior owner in order to demolish the structure?

In the absence of any such case law, and notwithstanding that the holder of the right to enforce the historic covenants is a public agency (MHC), I would lean towards giving more weight to the statutory authority of a City Council to abate and remove a nuisance pursuant to the G.L. Chapter 139, which, in my view, would effectually supersede any conflicting authority held by virtue of a private deed restriction. The City of Woburn is not a party to the deed. Thus while the existence of such a private deed restriction may well prevent the owner, or any subsequent owner, from voluntarily demolishing the building without prior approval from the MHC, the Council has separate and distinct authority with which to avail itself of the full range of remedies provided under the nuisance statute (G.L. Chapter 139) including an Order relative to the demolition or removal of any "burnt, dangerous, or dilapidated building or structure, or the securing of the same."

Whether the drastic step of demolition is appropriate under all the circumstances is a decision left to the sound discretion of the City Council. It may well be hoped, of course, that the next ninety days will produce a resolution which will avoid such action, and which will not put the action of the Council in conflict with the terms of the private deed restriction. In the event that a conflict cannot be avoided, however, it is my view that action pursuant to the public nuisance statute would prevail over the ability of MHC to enforce the private deed restriction.

I would note, however, that any order of demolition under the public nuisance statute would not necessarily relieve the city from compliance with its own "Demolition Delay

Ordinance," presently set forth in Title 15, Article V. The Ordinance has the force of law, and is binding on all who seek to voluntarily demolish buildings over seventy-five years of age. There is, as you may know, provision within the Demolition Delay Ordinance for an "emergency demolition" if, after inspection, the Building Commissioner finds that the building subject to the Ordinance poses "an immediate threat to the public health or safety due to its deteriorated condition and that there is no reasonable alternative to the immediate demolition of the building or structure." Short of such a finding by the Building Commissioner, however, any voluntarily demolition by the City following an Order under the nuisance statute would require compliance with the normal provisions of the Demolition Delay Ordinance, i.e. Woburn Historical Commission approval, or the passage of one year from an application to demolish.

Eminent Domain

As to the issue of whether the property can be taken by eminent domain, virtually any property within the City can, in theory, be taken by eminent domain, provided that requisite steps are taken under G.L. Chapter 79, which steps include the requirement that an appraisal be performed in order to determine fair market value. Following such an appraisal, the Council could, if it saw fit, adopt an Order of Taking, which Order must state the purpose for which the property is being taken, and must also set forth an award of damages for the fair value of the property so taken. The Mayor and City Council would also have to appropriate the necessary monies to pay the damages which have been ascertained.

Normally, a taking by eminent domain wipes out any easements or restrictions that are held on the property. There is an open question, however, as to whether such a taking would have the effect of wiping out the historic covenants. In other words, if the City becomes the new owner of the property by virtue of taking it by eminent domain, there is a special statute that might allow the covenants to endure and be enforceable against the City. G.L. Chapter 79, Section 5A indicates that no property "owned, preserved, and maintained by any historical organization as property of historical or antiquarian interest shall be taken without leave of the general court." While the MHC does not, in a practical sense, "own, preserve, and maintain" the Armory, it does "own and maintain" certain rights to the property, i.e. the rights to enforce the historical covenants. Whether the holding of those covenants is enough to bring MHC within the provisions of Section 5A, meaning the covenants would survive an eminent domain taking, is a debatable question. I will respectfully defer further answering that question at present. If the Council should seriously wish to pursue the eminent domain process, however, I would be glad to revisit the question, and attempt to provide a more definitive answer.

In summary as to the eminent domain question, the City could theoretically take the property by eminent domain if it goes through the appraisal process, determines fair damages, appropriates the money for the same, and designates a public purpose for which the property is taken. An open question remains on whether the City would still be subject in such event to the historic covenants on the deed.

I am hopeful that this provides the Council with some guidance in this matter, and I stand ready to be of further assistance.

Sincerely, s/John D. McElhiney

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

**********

A communication dated November 9, 2010 with attachments was received from City Solicitor John D. McElhiney as follows:

Re: Special Legislation Allowing the Acceptance of Streets as Public Ways

Dear Members of the Council:

Enclosed please find a revised Order relative to the Special Legislation to allow the City to accept streets as public ways in a relatively simplified manner. I believe the revised Order addresses the comments which had previously been forwarded by the State Delegation. In addition, there is attached to the Order "Exhibit A" which contains a list of the streets which might be subject to the new procedure.

Please note that even if the legislation is passed, each street on the list would have to separately go through the process. However, the legislation would allow that process to be somewhat expedited and simplified.

Thank you for your anticipated cooperation in adopting the Order.

Sincerely, s/John D. McElhiney

Motion made and 2nd that the communication be accepted and made part of the record, all in favor, 9-0.

Attached thereto was the following Order:

ORDERED The City of Woburn hereby petitions the Great and General Court of the Commonwealth of Massachusetts to enact the following proposed Special Act:

<u>An Act relative to the Acceptance of Streets as Public Ways in the City of Woburn</u>

Section 1. Notwithstanding sections 1-13, inclusive, of chapter 82 of the General laws, or any other general or special law to the contrary, the city of Woburn may accept as public ways, in accordance with the terms hereof, any one or more of the

streets and ways listed on Exhibit A, attached hereto and incorporated herein, provided, however, that acceptance as a public way shall become final only after:

a. The layout of the way has been ordered and approved by the city council after a duly called public hearing of which 14 days prior notice in a newspaper of general circulation in the city has been given, and of which notice is sent by mail, postage prepaid, to the owners of record, as determined by assessors' records, who abut said street or way; and

b. An order of layout has been filed in the office of the city clerk, containing a description of or reference to a plan showing, the boundaries and measurements of the way, which may be an already existing approved and recorded definitive subdivision plan; and

c. Either (1) the city council has determined that the city already holds land or easements for the purposes of the public way and has filed that determination with the City Clerk, provided that there shall be a presumption that the city already holds said easements or land for these purposes with respect to any way that has been opened to public use and maintained by the city for 20 years or more; or (2) the city council has determined it is necessary to acquire land or easements for the purposes of the public way and the City Council has acquired said land or easements by gift, purchase or eminent domain, provided further, notwithstanding chapter 79 of the General Laws, no appraisal of damages shall be required prior to any taking for the purposes of this Act.

Section 2. This Act shall take effect upon its passage.

EXHIBIT A - STREETS FOR ACCEPTANCE CONSIDERATION

| | Street | From Street to Street |
|---|---|---|
| 1 | ADELE ROAD | NEW INDUSTRIAL ROAD - CUL_DE_SAC |
| 2 | ALBERT DRIVE | MILL STREET - DEAD END |
| 3 | ALTAVESTA CIRCLE | MAIN STREET - CUL_DE_SAC |
| 4 | ANTHONY DRIVE | BEACH STREET - CUL_DE_SAC |
| 5 | ARROW DRIVE | WILDWOOD ROAD - DEAD END |
| 6 | ATLANTIC AVENUE | COMMERCE WAY - DEAD END |

| | | |
|---|---|---|
| 7 | BATTLEMARCH WAY | SYLVANUS WOOD LANE - CUL_DE_SAC |
| 8 | BELFORD CIRCLE | STEVIN DRIVE - CUL_DE_SAC |
| 9 | BIRCHWOOD LANE | MISHAWUM ROAD - CUL_DE_SAC |
| 10 | BLUEBERRY HILL ROAD | GARFIELD AVENUE - DEAD END |
| 11 | BONNIE WAY | ROCK STREET - CUL_DE_SAC |
| 12 | BRADFORD ROAD | BLUEBERRY HILL ROAD - CUL_DE_SAC |
| 13 | BRIARWOOD ROAD | WINTER STREET - CUL_DE_SAC |
| 14 | BURLWOOD LAND | STONEWALL DRIVE - DEAD END |
| 15 | CABOT ROAD | COMMERCE WAY - DEAD END |
| 16 | CARMEN TERRACE | PINE STREET - CUL_DE_SAC |
| 17 | CEDARWOOD ROAD | BRIARWOOD ROAD - CUL_DE_SAC |
| 18 | CHANDLER STREET | WOOD STREET - PACKARD STREET |
| 19 | COLUMBUS ROAD | CUL_DE_SAC - LOCUST STREET |
| 20 | COMMONWEALTH AVENUE | COMMERCE WAY - DEAD END |
| 21 | EMELINE STREET | EDITH STREET - CUL_DE_SAC |
| 22 | EVERBERG ROAD | NEW INDUSTRIAL ROAD - CUL_DE_SAC |
| 23 | FOX ROAD | BLUEBERRY HILL ROAD - CUL_DE_SAC |
| 24 | HENRY AVENUE | PAUL AVENUE - WILLIAM AVENUE |
| 25 | HERITAGE DRIVE | RIDGEWOOD LANE - CUL_DE_SAC |
| 26 | KATIE WAY | ROCK STREET - CUL_DE_SAC |
| 27 | KOSCIUSKO CIRCLE | SYLVANUS WOOD LANE - CUL_DE_SAC |
| 28 | LAKE CIRCLE | LAKE TERRACE - CUL_DE_SAC |
| 29 | LAKE TERRACE | DEAD END - LAKE AVENUE |
| 30 | LAUREL STREET | HARVARD STREET - DEAD END |
| 31 | LOKER LANE | MAPLE AVENUE - CUL_DE_SAC |
| 32 | LYDON COURT | MAIN STREET - DEAD END |
| 33 | MANNY TERRACE | PLEASANT STREET - CUL_DE_SAC |
| 34 | MCDEVITT DRIVE | BURLWOOD LAND - CUL_DE_SAC |
| 35 | MORNINGSIDE CIRCLE | NEW VILLAGE ROAD - CUL_DE_SAC |
| 36 | MORNINGSIDE DRIVE | NEW VILLAGE ROAD - HIGHVIEW ROAD |
| 37 | NASON CIRCLE | WASHINGTON CIRCLE - CUL_DE_SAC |
| 38 | NEW INDUSTRIAL ROAD | NEW BOSTON STREET - MISHAWUM ROAD |
| 39 | NEW VILLAGE ROAD | CAMBRIDGE STREET - DEAD END |
| 40 | OAKKNOLL ROAD | RAG ROCK DRIVE - CUL_DE_SAC |
| 41 | OREGON AVENUE | DEWEY AVENUE - DEAD END |
| 42 | PIGEON ROAD | EAGLE ROAD - CUL_DE_SAC |
| 43 | RAG ROCK DRIVE | BEDFORD ROAD - CUL_DE_SAC |
| 44 | RIDGEWOOD LANE | WALTHAM STREET - CUL_DE_SAC |
| 45 | SONAR DRIVE | GARFIELD AVENUE - CUL_DE_SAC |
| 46 | SPARTAN CIRCLE | PENTO ROAD - CUL_DE_SAC |
| 47 | STATE STREET | OLYMPIA AVENUE - DEAD END |

| | | |
|---|---|---|
| 48 | STEPHANIE CIRCLE | SALEM STREET - CUL_DE_SAC |
| 49 | STEVIN DRIVE | RUSSELL STREET - WINDSOR DRIVE |
| 50 | STRAWBERRY LANE | LEXINGTON STREET - CUL_DE_SAC |
| 51 | SYLVAN ROAD | BURLINGTON TOWN LINE - DEAD END |
| 52 | SYLVANUS WOOD LANE | CAMBRIDGE STREET - CUL_DE_SAC |
| 53 | TEDESCO DRIVE | MERRIMAC STREET - CUL_DE_SAC |
| 54 | TORY ROW | SYLVANUS WOOD LANE - DEAD END |
| 55 | WESTVIEW TERRACE | SALEM STREET - DEAD END |
| 56 | WILLIAM AVENUE | MONTVALE AVENUE - PAUL AVENUE |
| 57 | WINDSOR DRIVE | STEVIN DRIVE - DEAD END |

s/Alderman Drapeau

Motion made and 2nd that the ORDER be ADOPTED, all in favor, 9-0. Motion made and 2nd that the matter be referred to Committee on Municipal Lands, all in favor, 9-0.
**Presented to the Mayor: November 18, 2010 s/Scott D. Galvin Nov. 18, 2010**

**********

A copy of a communication dated November 4, 2010 with attachment to His Honor the Mayor Scott D. Galvin was received from Maureen T. Marcucci, Retirement Administrator, Woburn Retirement System as follows:

Re: Updated Funding Schedule and FY11 Appropriation/Woburn Retirement System

Dear Mayor Galvin:

Attached you will find a copy of the latest Public Employee Retirement Administration Commission (PERAC) approved funding schedule as most recently adopted by the Woburn Retirement Board after conducting an updated January 1, 2010 Actuarial Valuation of the City of Woburn Contributory Retirement System. A copy of the complete updated valuation report is enclosed.

This PERAC approved funding schedule includes a FY11 Employer Cost amounting to $4,662,616.00. The City of Woburn's share of this appropriation equals $4,464,665.00 as previously verified in our December 4, 2009 written notice to the City Auditor for inclusion in the City of Woburn FY11 Budget. However, the FY11 Budget adopted by the City included an amount equal to $4,333,616.00, a $131,049.00 shortfall from the required appropriation. Note the G.L. c. 32, s. 22(7)(c)(iv) states:

If any governmental unit fails to include any amounts so certified in its appropriations for such fiscal year, the assessors or other taxing authorities shall nevertheless include such amounts in the next tax levy. All amounts so certified shall be a legal obligation of any such governmental unit and may be recovered in an action or contract by the retirement board of any such contributory retirement system.

Since the approved funding schedule is predicated on receipt of the full appropriation in each fiscal year, and the statute requires inclusion of any amounts so certified, this $131,049.00 shortfall is currently due and payable to the City of Woburn Contributory Retirement System.

Very truly yours, Woburn Retirement Board
s/Maureen T. Marcucci, Retirement Administrator

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

**********

A copy of a communication dated November 2, 2010 with attachments to Woburn Retirement System was received from Joseph E. Connarton, Executive Director, Massachusetts Public Employee Retirement Administration Commission as follows:

Re: Appropriation for Fiscal Year 2012

Required Fiscal Year Appropriation: $4,913,904

This Commission is hereby furnishing you with the amount to be appropriated for your retirement system for Fiscal Year 2012 which commences July 1, 2011.

Attached please find summary information based on the present funding schedule for your system and the portion of the Fiscal Year 2012 appropriation to be paid by each of the governmental units within your system.

If your System has a valuation currently in progress, you may submit a revised funding schedule to PERAC upon its completion. The current schedule is/was due to be updated by Fiscal Year 2014.

If you have any questions, please contact PERAC's actuary, Jim Lamenzo.

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

**********

A communication dated October 25, 2010 was received from Jack Ahern, Professor, University of Massachusetts Amherst, Department of Landscape Architecture and Regional Planning, 109 Hills North, 111 Thatcher Road, Ofc 1, Amherst, Massachusetts 01003-9357 as follows:

Dear Mayor Galvin, Council President Denaro and Planning Director Tarallo,

Enclosed are 20 copies of our report on the Western Greenway Study for Woburn – including specific comments and recommendations pertaining to the potential acquisition

of Whispering Hill and Shannon Farm, and for recommended use(s) for the new city property at Winning Farm. The report was devised to respond to specific comments from Planning Director Tarallo. I am also including a digital pdf copy of the full report, which can be distributed electronically, or printed if additional copies are needed.

With this submission the contract agreement is complete and the balance of $2500 is payable to: Dept. of Landscape Architecture and Regional Planning, 109 Hills North, University of Massachusetts, Amherst, MA 01003.

Thank you all for this opportunity, I wish each of you and your fine city all the best for the future, and thank you for this rewarding opportunity.

Sincerely, s/Jack Ahern, Professor

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

**********

A communication dated October 27, 2010 was received from Gary Fuller, Chairman, Festival on the Common, as follows:

Dear Members of the Council,

The members of Festival on the Common respectfully request the opportunity to address the City Council. This matter simply regards the Committee's desire to openly thank the city of all the support given to this event. We are truly appreciative and would like to acknowledge the mayor, council members and the city as a whole.

Respectfully, s/Gary Fuller, Chairman, Festival on the Common

Motion made and 2nd to suspend the rules for the purposes of hearing from Gary Fuller, all in favor, 9-0. Appearing was Gary Fuller, Chairman, Festival on the Common and he stated that this is the sixteenth year of the Festival on the Common due to the support of Mayors, Aldermen, businesses and service clubs of the community, that the committee thanks the city for its support, and that they ask for continued support of this event. Motion made and 2nd to return to the regular order of business, all in favor, 9-0.

**********

A communication dated November 10, 2010 was received from Mary F. Piazza and Frank C. Piazza, 15 Cummings Avenue requesting the assistance of the City Council in resolving a public safety issue relative to a bush blocking line of sight to vehicles. Motion made and 2nd that the MATTER be ACCEPTED with a copy to the Building Commissioner with a request that his department investigate the matter, all in favor, 9-0.

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

**APPOINTMENTS AND ELECTIONS:** None.

**MOTIONS, ORDERS AND RESOLUTIONS:**

ORDERED That the Regular Meeting of the City Council to be held on December 21, 2010 shall begin at 7:00 p.m.

s/President Denaro

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

**********

ORDERED That pursuant to the 1989 Woburn Municipal Code, as amended, Title 3, Article I, Section 3-6 the City of Woburn Police Department request to dispose of a 2007 Dodge Charger Police Cruiser (VIN #2B3KA43G47H648406) which the police department has determined is of no value to the department and which no other department has expressed an interest in obtaining.

s/President Denaro

Motion made and 2nd that the ORDER be ADOPTED, all in favor, 9-0.
**Presented to the Mayor: November 18, 2010 s/Scott D. Galvin Nov. 18, 2010**

**********

ORDERED That pursuant to the 1989 Woburn Municipal Code, as amended, Title 3, Article I, Section 3-6 the City of Woburn Police Department request to dispose of the following undercover police vehicles that are no longer operational and which the police department has determined is of no value to the department and which no other department has expressed an interest in obtaining. Both of these vehicles were seized during narcotics investigations and were obtained at no cost to the city of Woburn.

1. 1995 Ford Bronco Utility VIN #1FMEU15H7SLA67061 mileage in excess of 100,000 miles.
2. 1990 Toyota Sedan VIN #JT2SV21E2L0351456 mileage in excess of 150,000 miles.

s/President Denaro

Motion made and 2nd that the ORDER be ADOPTED, all in favor, 9-0.
**Presented to the Mayor: November 18, 2010 s/Scott D. Galvin Nov. 18, 2010**

**********

ORDERED That due to increased costs of advertising, the filing fee for petitions to the City Council for special permits, inflammable licenses and zoning amendments shall be $200.00 effective January 1, 2011.

s/President Denaro

Alderman Raymond stated that all of the city's fees are low, and that there may need to be a study of the fees compared to other communities. Alderman Drapeau stated that it is not bad that the city's fees are lower than other communities, that if there is a reason to raise fees because costs are not being met then that is reasonable, and that if the costs are being sustained then the rates should not be raised. Motion made and 2nd that the MATTER be REFERRED TO COMMITTEE ON ORDINANCES, all in favor, 9-0.

_____

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.

_____

RESOLVED Whereas, the Ward Alderman and Planning Director met with representatives concerning the property located at 275 Salem Street; and

Whereas, all requirements set forth in the special permit decision will be completed on or before November 30, 2010;

Now, Therefore, Be it Resolved that a communication be forwarded to the Planning Board requesting that no further action be taken on the resolution adopted by the City Council at its Regular Meeting held on October 19, 2010.

s/Alderman Mercer-Bruen

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

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RESOLVED Whereas, the Planning Director was to prepare a list of decisions affected by Section 173 of Chapter 56 of the Acts of 2010 "An Act Relative to Economic Development & Reorganization" in particular the language extending any local approvals or permits which were in effect or in existence at any time between August 15, 2008 through August 15, 2010 automatically for an additional two years;

Now, Therefore, Be It Resolved that a communication be forwarded to the Planning Director requesting that the report be filed with the City Council.

s/Alderman Mercer-Bruen

Motion made and 2nd that the RESOLVE be ADOPTED, all in favor, 9-0.
**Presented to the Mayor November 18, 2010 and ten days having elapsed without same being approved, said Resolve became effective without his signature on November 30, 2010**

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Petitions for renewal of Second Class Motor Vehicle Sales Licenses by ACT Leasing, Inc., 215 Salem Street, Suite 10 and Southside Associates, Inc. dba Burke's Garage, 71 Main Street. Motion made and 2nd that the MATTER be REFERRED TO COMMITTEE ON POLICE AND LICENSES, all in favor, 9-0.

**********

ORDERED That the sum of $5,000.00 be and is hereby transferred as so stated from Senior Center Replace Furnace Acct #0112158-586590 $5,000.00 to Office Equipment/Repairs Acct #0154154-543000 $5,000.00, Total $5,000.00 – Purchase new computers for C.O.A. office.

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

**********

ORDERED That the Woburn City Council hereby authorizes the Mayor to utilize a Department Revolving Fund under M.G.L. Chap. 44, Sec. 53E 1/2. Mayor may spend funds received without further appropriation during Fiscal Year 2011. The "Spence Farm Revolving Fund", is to be credited with all fees and charges not to exceed $50,000.00 received during Fiscal Year 2011 from donations and money raised. Any remaining balance at June 30, 2011 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 53E ½ 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 approved the above: s/Scott D. Galvin, Mayor
I have reviewed the above: s/Gerald W. Surette, City Auditor

s/President Denaro

Alderman Haggerty stated that he wants to know what has been spent at the property in recent months. Alderman Drapeau stated that the city is taking possession of another large parcel of land in December, that he would like to see similar action at the Whispering Hill site, and that the city should know how the city will deal with the property once it takes possession. Alderman Raymond stated that he is going to request a list of expenditures at the farm, and that the account with facilitate this. Alderman Gately stated that the Department of Public Works and the Parks Department will be short of funds in the spring for the improvements made at the farm. Alderman Haggerty stated that the City Council wants to know what is being spent and for what. Motion made and 2nd that the MATTER be REFERRED TO COMMITTEE ON FINANCE, all in favor, 9-0.

**********

ORDERED That the sum of $131,049.00 be and is hereby transferred as so stated from DPW/Asphalt-Concrete Acct #0141754-553100 $3,257.00, DPW/Street Floodlights Acct #0142052-521104 $50,000.00, DPW/Gas Acct #0143054-548100 $20,000.00, DPW/Repairs Acct #0143252-524601 $10,000.00, DPW/Utilities Acct #0143552-521501 $10,000.00, Windows/Senior Center Acct #0143658-585228 $37,792.00, Total $131,049.00 to Retirement Acct #0197051-517700 $131,049.00.

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

s/President Denaro

Alderman Haggerty stated that the committee should have the Retirement Administrator and the Mayor available to explain why this is being funded in this manner this year. Motion made and 2nd that the MATTER be REFERRED TO COMMITTEE ON FINANCE, all in favor, 9-0.

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

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Motion made and 2nd to ADJOURN, all in favor, 9-0. Meeting adjourned at 9:37 p.m.

A TRUE RECORD ATTEST:

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