

**CITY OF WOBURN  
DECEMBER 1, 2009 - 7:30 P.M.  
REGULAR MEETING OF THE CITY COUNCIL**

Roll Call

Denaro	Gonsalves
Drapeau	Mercer-Bruen
Galvin	Raymond
Gately	Wall
Doherty	

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

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**MAYOR'S COMMUNICATIONS:**

ORDERED That the sum of \$250,000.00 be and is hereby transferred as so stated from BLS Ambulance Receipts Acct #31359-595000 \$200,000.00 to Ambulance Salaries Acct #0122051-511500 \$200,000.00 and from ALS Ambulance Receipts Acct #31359-595000 \$50,000.00 to Ambulance Maintenance Acct #0122054-544300 \$50,000.00

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

s/President Doherty

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

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**PUBLIC HEARINGS:**

On the petition by Alderman Wall and Alderman Denaro concerning the structure or structures located in the City of Woburn, County of Middlesex, Commonwealth of Massachusetts known and numbered as 4 Ellis Court, 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 Wall

stated that during a walk-through of the Campbell Street area with various departments several violations were found, and that the city has not been able to resolve the issues with this property. PUBLIC COMMENTS: Robert Cremone, 4 Ellis Court stated that the property is Section 8 property, that the building is a three bedroom with three adults and an infant living in the three bedroom unit, that he has not denied the city access to the property, that tonight is the first that he has heard of this matter, that no one from the City Council has appeared at his home, that he also owns 29 Salem Street, 22 Campbell Street, 24 Campbell Street and 26 Campbell Street, that he has invested \$50,000.00 renovating two properties and has applied for a loan in the amount of \$50,000.00 for additional renovations, that the subject house was built in 1975, and that the locus was is surrounded by other properties that he owns. Alderman Wall stated that on September 15, 2008 the city received a letter from Mr. Cremone relative do issues that date back that far, that there are several additional letters in the file, and that it is not true that Mr. Cremone has not received any notice of these issues. Thomas C. Quinn, Building Inspector, City of Woburn stated that many city officials walked through the Campbell Street area on July 22, 2009 and looked at forty-five properties with possible non-conformities, that eleven out of the forty-five properties were identified as requiring action, that ten out of the eleven properties have made progress, that only this property located at 4 Ellis Court did not make any progress, that he is not aware of any building permits or inspections conducted at Mr. Cremone's properties for renovations, that he would like to see the broken down forklift truck removed from the property, that building materials removed from the front and side of the properties, that the siding and soffits be secured and that the trash be removed. Inspector Quinn offered photographs to the City Council for review. Motion made and 2<sup>nd</sup> that the photographs be received and made part of the record, all in favor, 9-0. Inspector Quinn stated that the city is trying to correct the "curb appeal" issues first, that the zoning issues also have to be addressed, that drums, staging equipment and debris are on the locus, that building materials are stored on the locus, that there were motorcycles on the locus but they have been removed, that the forklift remains on the locus, that notices were sent to Mr. Cremone by certified mail, and that Mr. Cremone refused to accept delivery of one of the notices. Alderman Drapeau stated that the property is a nuisance, that other properties in the city have been handled through this process, and that with a little cooperation the issues with other properties have been resolved. Alderman Gately stated that Mr. Cremone owns a lot of property in the area, that the locus is a dump, that the city has ordered buildings torn down that were in better condition than this property, and that the owner of the property has an obligation to the city and to his neighbors to keep his property in good order. Mr. Cremone stated that he welcomes the Aldermen to visit inside the property, that he has used quality building materials inside the building, and that he had to make a decision as to whether to use his money to repair the property that he purchased on Campbell Street or to repair this property. Alderman Gately stated that this property is a travesty and has to be cleaned up. Mr. Cremone stated that he was never notified about the concerns with this property. President Doherty stated that Mr. Cremone has responded to letters received from the Building Department and therefore there is a record of his having received notice of the issues, that Mr. Cremone made repairs to the building for which he never obtained permits, and that Mr. Cremone must work with the city to repair this property. Mr. Cremone stated that the staging was erected to repair glass in the Campbell Street

property, that the staging is resting along the fence in his property, that the forklift truck is for sale, that he owned a building in Boston that burned down and he won a court judgment that he will use to replace the siding on the building, that the yard of the locus cannot be seen because of fences surrounding the property, that the yard was messy but the fences surrounded the yard, that there are several poorly kept properties in the neighborhood, that he has a one yard dumpster that is emptied every week, that it has been vague as to what was wanted by the city, that he owns properties in Boston and Malden, that Inspector Quinn can visit the property and see that the cars have been removed, and that he is maintaining several properties. President Doherty stated that it is clear in the correspondence what the city wanted, and that there is no vagueness in that regard. Mr. Cremone stated that the letter does not cite particular issues except for the garage. President Doherty stated that there is a collectiveness in all of the correspondence from the city which make clear the problems with the property, and that the locus is being used as a dumping ground for building materials from the owner's other properties. Alderman Denaro stated that he suggests the owner work with the city to clean up the property in two weeks and that he invite city officials in to inspect the remedial action or the property should be torn down, and that the owner indicates that he is a contractor but he is operating illegally without obtaining permits. Inspector Quinn stated that the property is located in the R-2 zoning district and he believes that there are two legal units in the property. John Fralick, Health Agent, Woburn Board of Health stated that he was part of the team that conducted the Campbell Street area neighborhood walk, that a tenant at the locus asked for an interior inspection of the property, that the inspection was conducted on July 29, 2009, that the city's inspector cited six or seven issues none of which was major, that half of the issues have not been addressed, that his office took legal action with the District Court to resolve the three remaining issues, that a hearing has been scheduled for December 15, 2009 in the Concord District Court concerning the issues, that the owner has complied with several requests of his office but not all of the requests, that the bottom unit of the locus was inspected at the request of the tenant, that his department conducts inspections for enforcement, that these inspections are more thorough than inspections conducted to determine if a property is suitable for Section 8 housing, that at times a tenant will ask for inspections when there is a disagreement between the tenant and the landlord, that his office is not involved with the exterior nuisance but is pursuing remedy of the interior issues, that this inspection was conducted during the neighborhood watch review, that none of the issues involved the "material well-being of the occupant" of the unit, that there were issues such as carpeting which indicated leaks from the outside, and that there was mold growth on the carpet. Mr. Cremone stated that the tenant was being evicted for nonpayment of rent, that the tenant intentionally damaged the property, and that he has allowed the Board of Health agent to inspect the property. President Doherty stated that the City Council should allow the property owner two weeks to make the necessary repairs. Motion made and 2<sup>nd</sup> that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON DECEMBER 15, 2009, all in favor, 9-0. Motion made and 2<sup>nd</sup> that the property owner of 4 Ellis Court meet with all city departments that want access to the building including the fire department, building department, board of health and any other relevant city department by notifying the departments of when an inspection can be made, that the owner work with the departments on a plan of action to remedy any issues,

that the exterior of the property be cleaned, or the property may be declared a nuisance by the City Council, all in favor, 9-0.

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Motion made and 2<sup>nd</sup> that the public hearing on the next two petitions be held collectively, all in favor, 9-0.

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On the petition by Cummings Properties, LLC, as managing agent for Sudbury Research Center, LLC, 200 West Cummings Park, Woburn, Massachusetts 01801 for a special permit pursuant to Section 7.3 of the 1985 Woburn Zoning Ordinances, as amended, to extend and alter a pre-existing non-conforming structure to construct an elevated pedestrian walkway from the second floor of the subject building located at 34 Commerce Way to the second floor of the adjacent building at 8 Cabot Road. PUBLIC HEARING OPENED. Appearing for the petitioner was Attorney Craig Ziady, General Counsel, Cummings Properties, LLC and he stated that the special permit is to allow the construction of an elevated walkway connecting 8 Cabot Road and 34 Commerce Way, that the building at 8 Cabot Road is at substantial completion, that the principle objective of the proposal is to allow the tenant Calloway Drug Testing Laboratories to use both properties for its business, that the petitioners received a variance from the Board of Appeals to allow for the construction of the elevated walkway, that the tenant is engaged in clinical toxicology of urine samples, that the tenant had ten employees when they moved to 34 Commerce Way in 2006, that the tenant now employs 110 people and will hire an additional fifty to sixty employees after the expansion into the new building, that 8 Cabot Road is a first class building built to LEED standards, that the property is located in the O-P zoning district, that office use is allowed by right, that the proposal will meet the purposes of the zoning ordinances and will not be substantially more detrimental than the present use, that the building has been constructed in accordance with existing zoning requirements although the locus is located in the new CWCOD district, that similar elevated walkways have been constructed in other building in the city, that the petitioner is experienced in constructing elevated walkways, that the Fire Department approved the design of the walkway without any issues including clearance of the elevated walkway, that the construction design is based on the present elevated walkway at the petitioner's property in Beverly, that the proposal will eliminate some traffic coming out of 34 Commerce Way, that the walkway will serve the tenant Calloway exclusively, that the tenant's employees will be able to shuttle documents between the two buildings by way of the elevated walkway, that clinical laboratory licensing is by address, that the inspection process would involve inspections by 42 state regulatory agencies the cost of which would be approximately \$2,500,000.00, that this elevated walkway permits the tenant to maintain their address and therefore their laboratory approval without the additional expense, that the chain of custody for the papers and samples must be carefully tracked, that the billing department will move to 8 Cabot Road and the laboratory work will continue to be conducted at 34 Commerce Way, that the walkway will be approximately seventy-one feet long and thirteen feet six inches in height, that the city solicitor did not see the elevated walkway as its own use but an extension of the current use, that there will be no offices or bathroom facilities in the walkway, that this will be

essentially a covered walkway between the two buildings, that the loading area at 8 Cabot Road is in a depressed area, that the walkway will not interfere with the loading dock, that truck traffic would not pass under the walkway as the hairpin turn into the area would be difficult, that the driveway under the elevated walkway would be thinly traveled and mostly for circulation around 34 Commerce Way, that two and one-half floors of 8 Cabot Road will be occupied by the tenant Calloway, that the petitioners are unable to merge the property because the parcels are owned by separate entities, that a draft easement agreement will be executed by both parties, that the technical owner of the elevated walkway will be the owner of 8 Cabot Road but costs of maintenance will be shared by both property owners, that there is no vehicle access between the two properties due to a landscaped strip between the properties, that the matter has not been before the Planning Board but the petitioner has been in contact with the Planning Board, and that the matter is beyond the required thirty day Planning Board review period. Attorney Ziady offered to the City Council for review a copy of a letter dated September 25, 2009 to Edward Robertson, Chairman, Board of Appeals from Chief Paul Tortolano, Woburn Fire Department as follows:

Subject: Proposed Elevated Walkway, 8 Cabot Rd. – 34 Commerce Way

Dear Sir;

We are in possession of a Site Plan for a Proposed Elevated Pedestrian Walkway, 8 Cabot – 34 Commerce, Woburn, Massachusetts, dated August 28, 2009. After review of the plan and meeting on site with Mr. Michael Aveni representing Cummings Properties, the Fire Department approves of the plan as submitted and has no further recommendations at this time.

If we can be of further assistance please call at anytime.

Sincerely, s/Paul Tortolano, Chief of Department

Motion made and 2<sup>nd</sup> that the matter be received and made part of the record, all in favor, 9-0. Dennis Clarke, President and CEP, Cummings Properties, LLC stated that it would be acceptable that the special permit be conditioned on the variance surviving the appeal period before the special permit issues, that they will concur to installing height warning signs on the walkway to the satisfaction of the City Engineer, that traffic from 8 Cabot Road will not pass through 34 Commerce Way, that it may be prudent for an appropriately sized truck to pass under the walkway at 34 Commerce Way to get from the east lot to the west lot but there is no pass through to 8 Cabot Road, and that the owners of the buildings have as much interest in not having the walkway struck by truck traffic as anyone else. Alderman Raymond stated that this walkway will permit a 50% growth in the tenant's employment, that he uses an elevated walkway in campus buildings where he works in Cambridge, that the area should be clearly marked so that trucks do not travel under the elevated walkway, and that the protection of the walkway from truck traffic can be accomplished with the appropriate signs on site. Alderman Denaro asked if the appeal period for the variance has expired. Alderman Gonsalves stated that she wants to see a

mutually agreeable easement between the properties, and that the appeals period associated with the variance must be expired before the city can act on a special permit and therefore the City Council cannot act at this meeting on the matter. Alderman Drapeau stated that he is in favor of the proposal as it retains jobs in Woburn and will not be a detriment to the area. Alderman Mercer-Bruen stated that she supports the proposal, and that he spoke to the Planning Director who expressed only minor issues of concern to the Planning Board. Alderman Gately stated that the signs for traffic flow should be prominent on the locus, that thirteen feet is not high, that a tractor-trailer truck could barely fit under the walkway, that truck drivers will generally not be deterred by tight turns, that trucks must have their height marked on the side, and that it is up to the owner to manage truck traffic on site. Mr. Clarke stated that no vehicles on 8 Cabot Road would pass under the walkway. President Doherty stated that traffic under the walkway should be eliminated. Alderman Gonsalves stated that the matter can be worked on in committee, and that the City Council can wait until the December 15, 2009 meeting to act. Alderman Denaro stated that the matter should be referred to committee for two weeks to comply with the zoning ordinances relative to the issuance of the variance and to work on the conditions. President Doherty stated that the special permit does not become effective until the variance appeal period ends. Alderman Wall stated that the matter should not be before the City Council until the variance appeal period ends. Alderman Galvin stated that the special permit will not be in compliance with the zoning ordinance with respect to the issuance of the variance and that the best alternative is not to issue the special permit until the approval period has expired. IN FAVOR: Paul Meaney, Executive Director, Woburn Business Association, Ten Tower Office Park, Woburn stated that the tenant company has been in the city for a long time, that this proposal will increase employment in the city, that these are good jobs, and that the Raytheon property in the area also has an elevated walkway that is visually appealing. OPPOSED: None. Motion made and 2<sup>nd</sup> that the public hearing be closed, all in favor, 9-0. Motion made and 2<sup>nd</sup> that the SPECIAL PERMITS be AMENDED, WITH THE CONDITIONS AS FOLLOWS: 1. That all requirements of the Board of Appeals decision filed November 23, 2009 with the Office of the City Clerk with respect to variances issued for 8 Cabot Road and 34 Commerce Way shall be adopted as conditions of the special permit, 2. That no trucking access larger than eleven feet in height shall be permitted to pass under the walkway, 3. That the locus shall be clearly marked for truck travel and height measurements shall be marked on the exterior of the walkway, 4. That a mutually agreed upon access easement between Sudbury Research Center, LLC and Woburn Properties, LLP regarding the elevated walkway tied to 8 Cabot Road shall be executed by Sudbury Research Center, LLC and Woburn Properties, LLP, that the access easement shall be available for inspection by the City Council, and that the access easement shall be recorded at the Middlesex South District Registry of Deeds, and 5. That pursuant to Section 11.3.1 of the 1985 Woburn Zoning Ordinances, as amended, the special permit shall not be effective until the appeal period for the variance decisions of the Board of Appeals filed with the Office of the City Clerk on November 23, 2009 relative to 8 Cabot Road and 34 Commerce Way has expired, all in favor, 9-0. Motion made and 2<sup>nd</sup> that the SPECIAL PERMIT be GRANTED, AS AMENDED, 8 in favor, 1 opposed (Denaro opposed).

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On the petition by Cummings Properties, LLC, as managing agent for Woburn Properties, LLP, 200 West Cummings Park, Woburn, Massachusetts 01801 for a special permit pursuant to Sections 5.1.30b and 5.1.41 of the 1985 Woburn Zoning Ordinances, as amended, to amend a special permit granted on May 19, 2009 to construct an elevated pedestrian walkway from the second floor of subject building located at 8 Cabot Road to the second floor of existing adjacent building at 34 Commerce Way. PUBLIC HEARING OPENED. SEE RECORD NOTES OF PRECEDING MATTER. Motion made and 2<sup>nd</sup> that the public hearing be closed, all in favor, 9-0. Motion made and 2<sup>nd</sup> that the SPECIAL PERMITS be AMENDED, WITH THE CONDITIONS AS FOLLOWS: 1. That all requirements of the Board of Appeals decision filed November 23, 2009 with the Office of the City Clerk with respect to variances issued for 8 Cabot Road and 34 Commerce Way shall be adopted as conditions of the special permit, 2. That no trucking access larger than eleven feet in height shall be permitted to pass under the walkway, 3. That the locus shall be clearly marked for truck travel and height measurements shall be marked on the exterior of the walkway, 4. That a mutually agreed upon access easement between Sudbury Research Center, LLC and Woburn Properties, LLP regarding the elevated walkway tied to 8 Cabot Road shall be executed by Sudbury Research Center, LLC and Woburn Properties, LLP, that the access easement shall be available for inspection by the City Council, and that the access easement shall be recorded at the Middlesex South District Registry of Deeds, and 5. That pursuant to Section 11.3.1 of the 1985 Woburn Zoning Ordinances, as amended, the special permit shall not be effective until the appeal period for the variance decisions of the Board of Appeals filed with the Office of the City Clerk on November 23, 2009 relative to 8 Cabot Road and 34 Commerce Way has expired, all in favor, 9-0. Motion made and 2<sup>nd</sup> that the SPECIAL PERMIT be GRANTED, AS AMENDED, 8 in favor, 1 opposed (Denaro opposed).

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On the petition by President Doherty to further amend the 1985 Woburn Zoning Ordinances, as amended, by adding to Section 23.5.4 Hours of Operation the following: "Section 5.4 Hours of Operation - Except by the grant of a special permit by the City Council, the hours of operation for supermarkets, retail uses, fast food restaurants and gasoline service stations shall be from 5:00 a.m. to midnight." PUBLIC HEARING OPENED. A communication dated November 24, 2009 was received from Edmund P. Tarallo, Planning Director, Woburn Planning Board as follows:

Re: City Council President Charles Doherty – Zoning Ordinance Amendment – to add to Section 23.5.4 Hours of Operation the following: "Section 5.4 Hours of Operation – Except by the grant of a special permit by the City Council, the hours of operation for supermarkets, retail uses, fast food restaurants and gasoline service stations shall be from 5:00 a.m. to midnight."

Dear Mr. Campbell and Members of the City Council:

At the Planning Board meeting held on November 17, 2009, the Board voted to forward a favorable recommendation to the City Council subject to the following modification that “5:00 a.m. to midnight” be replaced with 6 A.M. to 11 P.M.”

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

Sincerely, s/Edmund P. Tarallo, Planning Director

A report was received from the Committee on Ordinances as follows: “back for action”. President Doherty stated that this section had been left open for further work. Alderman Raymond stated that he does not agree with the Planning Board recommendation, that Anderson Station is open from 4:00 a.m. to 12:00 midnight, and that the proposed hours of 5:00 a.m. to 12:00 midnight seem fair. IN FAVOR: None. OPPOSED: None. Motion made and 2<sup>nd</sup> that the public hearing be closed, all in favor, 9-0. Motion made and 2<sup>nd</sup> that the Order be amended as follows: 1. That the recommendations of the Planning Board to establish hours of operation of 6:00 a.m. to 11:00 p.m. be adopted, 3 in favor, 6 opposed (Denaro, Drapeau, Galvin, Gately, Raymond, Wall opposed). Motion made and 2<sup>nd</sup> that the ORDER be ADOPTED, 8 in favor, 1 opposed (Mercer-Bruen opposed).

**Presented to the Mayor: December 8, 2009 s/Thomas L. McLaughlin Dec. 10, 2009**

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On the petition by President Charles Doherty to further amend the 1985 Woburn Zoning Ordinances, as amended, by deleting in Section 23.2.2.1 the dashes between the words “CWCOD dated” and “and as may be amended” and inserting in its place the effective date of this ordinance and to amend the Woburn Zoning Map by establishing the Commerce Way Corridor Overlay District generally bordered by the Wilmington Town Line to the north; Route 93, Dragon Court, and Commerce Way to the east; Mishawum Road to the south; and the MBTA commuter rail tracks and Newberg Avenue to the west. PUBLIC HEARING OPENED. A communication dated November 24, 2009 was received from Edmund P. Tarallo, Planning Director, Woburn Planning Board as follows:

Re: City Council President Charles Doherty – Zoning Ordinance & Map Amendment – to delete in Section 23.2.2.1 the dashes between the words “CWCOD dated” and “and as may be amended” and inserting in its place the effective date of this ordinance and to amend the Woburn Zoning Map by establishing the Commerce Way Corridor Overlay District generally bordered by the Wilmington Town Line to the north; Route 93, Dragon Court, and Commerce Way to the east; Mishawum Road to the south; and the MBTA commuter rail tracks and Newberg Avenue to the west.

Dear Mr. Campbell and Members of the City Council:

At the Planning Board meeting held on November 17, 2009, the Board voted to forward a favorable recommendation to the City Council to delete in Section 23.2.2.1 the dashes between the words “CWCOD dated” and “and as may be amended” and inserting in its

place the effective date of this ordinance and to amend the Woburn Zoning Map by establishing the Commerce Way Corridor Overlay District subject to the following amendments that the R-2 zone on Dragon Court be excluded from the Commerce Way Corridor Overlay District; that the land that is zoned OS be excluded from the Commerce Way Corridor Overlay District; and that the portion of B-I District at the intersection of Mishawum Road and Commerce Way be excluded from the Commerce Way Corridor Overlay District.

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

Sincerely, s/Edmund P. Tarallo, Planning Director

A communication dated December 1, 2009 with attachment was received from Brett F. Gonsalves, Senior Engineer as follows:

Subject: Commerce Way Corridor Overlay District Modifications

As per your request, attached are 9 copies of the Commerce Way Corridor Overlay District modifications.

The modifications that were made are as follows:

- Removal of the R-2 zone on Dragon Court
- Removal of the OS zone on Mishawum Road abutting 10 Commerce Way and Cabot Road

I trust these modifications will suffice your needs. If you have any questions, do not hesitate to contact this office.

Attached thereto was a map entitled "Commerce Way Corridor Overlay District" dated December 1, 2009 prepared by City of Woburn Engineering Department. A report was received from the Committee on Ordinances as follows: "back for action." Alderman Denaro stated that according to the Planning Board as to the parcel zoned for adult uses if the overlay district is approved it will control the development, and that if the underlying zone is not built out then the adult use exists. Alderman Galvin stated that the property owner is not precluded from developing the property under the old zoning district. Alderman Mercer-Bruen stated that the property can be developed under the old zoning district but if the property is built out under the CWCOD then the underlying zoning is no longer available to the property owner, that she personally delivered a copy of the proposed zoning map to Mr. Owens and advised him when meetings were being held, and that this matter should be sent to committee for further review if necessary to receive the residents' input. President Doherty stated that the zoning amendment is publically available, that there is an existing buffer off Dragon Court and only the I-P zoning district in that area is part of the overlay district, that the overlay district overlays the underlying

district, that the map is not finalized until the City Council votes on the map, and that no further encroachment into the residential areas will be permitted under the CWCOD.

IN FAVOR: Paul Meaney, Executive Director, Woburn Business Association, Ten Tower Office Park, Woburn stated that he is in favor of the petition, and that he wants to see this proposal expedited with copies of the map made available to the public. Timothy Dever, 20 Squanto Road stated that when he was on the City Council he worked with Alderman Galvin to establish an adult use zoning district in the city to protect the schools, day cares and houses of worship from these uses, that this protected the city by allowing a use in an area of the city that likely would not be developed in that manner, and that he suggests that City Council request a legal opinion on the question as to whether the adoption of the overly district will affect the adult use zoning as if it does this could be detrimental to the city. OPPOSED: Chris Owen, 3 Florence Terrace stated that he is not certain what areas the map affects, that the map that he has is two weeks old and had the district going down the center of Dragon Court, that no resident in the area is in favor of the proposal, that this is a zoning change in that it supersedes the underlying district, that the buffer zones should not get any smaller, and that it was clear that the overlay district was being pursued by developers for developers. Tim Swain, 29 Dragon Court stated that there is still noise, trash, speeding motor vehicles and drainage issues on Dragon Court. Motion made and 2<sup>nd</sup> that a communication be forwarded to the City Solicitor requesting a legal opinion as to the affect of a proposed overlay zoning district on the underlying zoning district, all in favor, 9-0. Motion made and 2<sup>nd</sup> that a communication be forwarded to the Director of the Planning Board for an opinion as to the affect of the proposed Commerce Way Corridor Overlay District on the adult entertainment zoning district, all in favor, 9-0. Motion made and 2<sup>nd</sup> that the matter be referred to the Committee on Ordinances for further review and that the Committee on Ordinances meet on the matter on December 7, 2009, all in favor, 9-0. Motion made and 2<sup>nd</sup> that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON DECEMBER 15, 2009, all in favor, 9-0. Motion made and 2<sup>nd</sup> that a communication be forwarded to the City Engineer requesting that he prepare a conceptual map as to the proposed infrastructure improvements that will be made in the Commerce Way Corridor Overlay District under the zoning ordinance with reference to the proposed zoning map for the Committee on Ordinance meeting on December 7, 2009, all in favor, 9-0.

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**CITIZEN'S PARTICIPATION:** None.

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**COMMITTEE REPORTS:** None.

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**NEW PETITIONS:**

Proposed Grant of Easement to the City of Woburn from Ting-Lei Gu and Xin Zhao, owners of Unit 1, 7 Mikalia Way, Andres H. Ceballos, Catatalin De La Torre, owners of

Unit 2, 9 Mikailia Way, Sanson H. Fong and Sheila Wong, owners of Unit 1 of the 6-8 Earl Stokes Circle Condominium, Kristen M. Burns, owner of Unit 2 of the 6-8 Earl Stokes Circle Condominium, S.M. Kuchibhotla and Padmaja S. Charla, owners of Unit 1 of the 9-10 Earl Stokes Circle Condominium, Ralph Fayad and Elham Fayad, owners of Unit 2 of the 9-10 Earl Stokes Circle Condominium, and David Tracy, Richard Cooney and Philip Perschek, Trustees of the 32 Webster Street Realty Trust u/d/t dated October 29, 1999, to the City of Woburn for the perpetual right and easement, to use in common with the Grantors and others from time to time entitled to use the same that strip of land lying within the area labeled "Water and Sewer Main Easement" on a plan entitled Easement Plan of Land dated may 18, 2009 by Edward J. Farrell PLS, to be recorded with the instrument, for underground water lines, including the right to use said strip for the purpose of installing, maintaining, replacing, removing and using water mains and related equipment, with the necessary manholes or conduits. Motion made and 2<sup>nd</sup> that the GRANT OF EASEMENT be ACCEPTED, all in favor, 9-0.

**Presented to the Mayor: December 8, 2009 s/Thomas L. McLaughlin Dec. 10, 2009**

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Petition by Abdelaziz Ilaj dba Woburn Motors, 104 Winn Street for transfer of Second Class Motor Vehicle License from Tracy M. Batten dba Winn Street Auto Sales, 104 Winn Street and for renewal of said Second Class Motor Vehicle Sales License. Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO COMMITTEE ON POLICE AND LICENSES, all in favor, 9-0.

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A communication dated November 30, 2009 was received from Attorney Joseph R. Tarby III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: Minor Modification to Notice of Special Exception Dated July 8, 1986 – 14  
Arlington Road, Woburn, Massachusetts

Dear Mr. Campbell:

Please be advised that I represent NUPATH, INC. (formerly known as CMARC) of 147 New Boston Street, Woburn, Massachusetts. On October 2, 2009, my client purchased the property formerly owned by Robert and Susan Nelson at 14 Arlington Road, Woburn, Massachusetts for purposes of providing housing for four physically handicapped persons.

The property at 14 Arlington Road, Woburn, Massachusetts is a legal three family dwelling. On July 8, 1986, the Woburn City Council granted a Special Exception to allow for the conversion of the dwelling at 14 Arlington Road to a three family dwelling (copy enclosed). At the present time, my client is allowed to occupy the first two floors of the dwelling but not the third floor. The Commonwealth of Massachusetts Department of Developmental Services requires two means of egress from all floors. As a result, my

client needs to make a minor exterior alteration to the structure by adding a door at the third floor egress and to construct stairs to meet the existing deck at the second floor.

The Building Commissioner has taken the position that since the property is a pre-existing non-conforming structure, the City Council must make a finding that the proposed minor alterations to the structure are not substantially more detrimental than the existing non-conforming structure.

The proposed minor modifications do not change or extend the nature of the use of the property as a three family dwelling. The work that is to be completed includes some minor interior renovations and the addition of a new exterior door and a set of stairs to meet the existing deck at the second floor. I have enclosed with this correspondence ten (10) copies of the following plans:

1. Site Plan entitled "CMARC Residence, 14 Arlington Road, Woburn, Massachusetts" dated November 20, 2009 prepared by Eisenberg Haven Architects, Inc., 123 North Washington Street, Boston, Massachusetts 02114, scale 1" = 30'.
2. Plan entitled "CMARC - 14 Arlington Road, Woburn, Massachusetts" dated September 23, 2009 prepared by Eisenberg Haven Architects, Inc., 123 North Washington Street, Boston, Massachusetts 02114. This plan shows both the minor interior and exterior alterations.

On behalf of NUPATH, INC., I respectfully request that the City Council allow for the proposed alterations as a minor modification to said Notice of Special Exception. In addition, I request that the City Council act on this request at its meeting on December 1, 2009. Thank you.

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

Motion made and 2<sup>nd</sup> to suspend the rules for the purposes of hearing from Attorney Tarby, all in favor, 9-0. Attorney Tarby stated that the petitioner has tenants occupying the first floor, that tenants will soon occupy the second floor, that all three floors can be occupied however a second means of egress is required for the third floor to be occupied, and that this will permit the building to be modified to with a second means of egress on the third floor. Motion made and 2<sup>nd</sup> to return to the regular order of business, all in favor, 9-0. Motion made and 2<sup>nd</sup> that the MINOR MODIFICATION OF THE SPECIAL EXCEPTION GRANTED BY THE CITY COUNCIL ON JULY 8, 1986 be GRANTED, all in favor, 9-0.

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Petition for renewal of First Class Motor Vehicle Sales License by Azure Dynamics US, Inc., 9 Forbes Road. Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO COMMITTEE ON POLICE AND LICENSES, all in favor, 9-0.

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Petition for renewal of Second Class Motor Vehicles Sales Licenses by EC, Inc. dba XPress Fuel, 505 Main Street, Tracy M. Batten dba Tracy's Auto Sales, 62R Winn Street, and Wassim (Sam) Nicolas dba Woburn Square Mobil, 23 Pleasant Street. Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO COMMITTEE ON POLICE AND LICENSES, all in favor, 9-0.

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Petition by Clear Wireless LLC, 4400 Carillon Point, Kirkland, Washington 98022 for a special permit pursuant to Section 5.6 of the 1989 Woburn Zoning Ordinances, as amended, to construct a telecommunications stealth flagpole structure at 92 Merrimac Street. Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO PUBLIC HEARING, all in favor, 9-0.

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**COMMUNICATIONS AND REPORTS:**

A communication dated November 17, 2009 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 October 2009: number of parking violations issued 1,432, number of violations paid 752, number of violations outstanding 495, amount collected and submitted to the Office of the Collector \$47,763.00. There exists a backlog of 4,718 tickets for 1982 through 2008. Demand will be sent until all tickets have been paid. Parking violations referred to the Handicapped Commission to date \$8,355.00.

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

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

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A communication dated November 16, 2009 was received from Attorney Katharine I. Doyle, Kopelman and Paige, P.C. relative to important recent decisions regarding lapse of variances and special permits. Motion made and 2<sup>nd</sup> that the MATTER be RECEIVED AND PLACED ON FILE with a copy referred to the Committee on Special Permits, all in favor, 9-0.

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

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**APPOINTMENTS AND ELECTIONS:** None.

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**MOTIONS, ORDERS AND RESOLUTIONS:**

None.

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

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**ORDERED** That the sum of \$150,000.00 be and is hereby appropriated as so stated from City Stabilization Fund Acct #704059-596100 \$150,000.00 to New Boston Street Bridge Acct #0112158-588110 \$150,000.00

I hereby approve the above: s/Thomas L. McLaughlin, Mayor  
I hereby recommend the above: s/John E. Corey, City Engineer  
I have reviewed the above: s/Gerald W. Surette, City Auditor

s/Alderman Raymond

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

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**SPECIAL PERMITS:**

On the petition by Nextel Communications of the Mid-Atlantic Inc., c/o Clear Wireless, LLC, 960 Turnpike Street, Suite 28, Canton, Massachusetts 02021 for a special permit pursuant to Section 5.6 of the 1985 Woburn Zoning Ordinances, as amended, to allow a wireless communications link on the NSTAR Electric Company utility structure at 168 Rear Lexington Street, committee report was received "ought to pass with the condition: That the petitioner contribute the sum of \$5,000.00 for the City of Woburn wireless communication facilities study fund". A communication dated November 24, 2009 was received from Edmund P. Tarallo, Planning Director, Woburn Planning Board as follows:

Re: Clear Wireless, LLC – 168 Rear Lexington Street – To allow 3 panel antennas, 2 backhaul antennas, an equipment rack inside the existing Nextel shelter, and 1 GPS antenna pursuant to Section 5.6

Dear Mr. Campbell and members of the City Council:

At the Planning Board meeting held on November 17, 2009, the Board voted to forward a favorable recommendation to the City Council on the Special Permit application of Clear Wireless, LLC, regarding the property at 168 Rear Lexington Street, subject to the following conditions:

1. That the petitioner shall post a bond for future removal of all equipment requested as part of this Special Permit; and
2. That the hours to access this site shall be limited to Monday through Friday 8:00 A.M. to 5:00 P.M., except in the case of an emergency.

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

Sincerely, s/Edmund P. Tarallo, Planning Director

Motion made and 2<sup>nd</sup> that the COMMITTEE REPORT be ADOPTED, AS AMENDED with the additional condition: 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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**FINANCE:**

On the Order to appropriate the sum of \$18,000.00 to the Historical Commission for survey and planning, committee report was received “ought to pass.” Motion made and 2<sup>nd</sup> that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.

**Presented to the Mayor: December 8, 2009 s/Thomas L. McLaughlin Dec. 10, 2009**

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On the Order to appropriate the amount of \$54,000.00 to the Election and Registration Budget, committee report was received “ought to pass.” Motion made and 2<sup>nd</sup> that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.

**Presented to the Mayor: December 8, 2009 s/Thomas L. McLaughlin Dec. 10, 2009**

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On the Order to appropriate the sum of \$45,000.00 for insurance claims, committee report was received “ought to pass.” Motion made and 2<sup>nd</sup> that the COMMITTEE REPORT be ADOPTED, 7 in favor, 2 opposed (Drapeau, Mercer-Bruen opposed).

**Presented to the Mayor: December 8, 2009 s/Thomas L. McLaughlin Dec. 10, 2009**

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**POLICE AND LICENSES:**

On the petitions for renewal of First Class Motor Vehicle Sales Licenses by Lawless Chrysler Jeep, Inc., M&L Transit Systems, Inc., and R.C. Olsen Cadillac, Inc., committee report was received “ought to pass.” Motion made and 2<sup>nd</sup> that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.

**Presented to the Mayor: December 8, 2009 s/Thomas L. McLaughlin Dec. 10, 2009**

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On the petitions for renewal of Second Class Motor Vehicle Sales Licenses by Anchor Body Corp., Enterprise Rent-A-Car Company of Boston, LLC, George J. Hamilton dba

George's Auto Body, Joseph P. Mahoney Co., Inc., Larade's Collision Repair Center, Inc., McDermottroe Auto, Robert McSheffrey dba Bob McSheffrey Auto Sales, McSheffrey Auto Sales, Inc., Nicolas Saba dba Montvale Service, Ollies Service Center, and Southside Associates, Inc. dba Burke's Garage, committee report was received "ought to pass." Motion made and 2<sup>nd</sup> that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.

**Presented to the Mayor: December 8, 2009 s/Thomas L. McLaughlin Dec. 10, 2009**

\*\*\*\*\*

On the petition for renewal of Third Class Motor Vehicle Sales License by Woburn Truck and Auto, Inc., committee report was received "ought to pass." Motion made and 2<sup>nd</sup> that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.

**Presented to the Mayor: December 8, 2009 s/Thomas L. McLaughlin Dec. 10, 2009**

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**LIAISON:**

On the Citizens Participation Request by Chris Smith of Sal's Pizza, committee report was received as follows: "no action." Motion made and 2<sup>nd</sup> that the MATTER be RECEIVED AND PLACED ON FILE, all in favor, 9-0.

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From the Traffic Commission:

ORDERED MEMORIAL DRIVE – No left turn shall be permitted to Salem Street.

Motion made and 2<sup>nd</sup> to suspend Rule 29 and to ADOPT, all in favor, 9-0.

**Presented to the Mayor: December 8, 2009 s/Thomas L. McLaughlin Dec. 10, 2009**

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From the Traffic Commission:

ORDERED MAPLE AVENUE – That a four way stop sign restriction be established on Maple Avenue at the intersection with Lillian Street and Sunset Avenue.

Motion made and 2<sup>nd</sup> to suspend Rule 29 and to ADOPT, all in favor, 9-0.

**Presented to the Mayor: December 8, 2009 s/Thomas L. McLaughlin Dec. 10, 2009**

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Petition by Robert Khouzami, 317 Montvale Avenue for renewal of a Second Class Motor Vehicles Sales License. Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO THE COMMITTEE ON POLICE AND LICENSES, all in favor, 9-0.

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A report entitled “MWRA Local Pipeline Assistance Program Financial Assistance Application – City of Woburn Water System Improvements – Cleaning and Lining Program – Year 4 and Salem Street and Pine Street Cleaning and Lining” dated November 2009 was received from John E. Corey, Jr., PE, City Engineer. Motion made and 2<sup>nd</sup> that the MATTER be RECEIVED AND PLACED ON FILE, all in favor, 9-0.

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

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Motion made and 2<sup>nd</sup> to ADJOURN, all in favor, 9-0. Meeting adjourned at 10:03 p.m.

A TRUE RECORD ATTEST:

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