

**CITY OF WOBURN
DECEMBER 15, 2009 - 7:30 P.M.
REGULAR MEETING OF THE CITY COUNCIL**

Roll Call

Denaro	Gonsalves
Drapeau	Mercer-Bruen
Galvin	Raymond
Gately	Wall
Doherty	

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

The City Council observed a moment of silence in memory of Veteran's Agent Ralph Garvey who passed away.

MAYOR'S COMMUNICATIONS: None.

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. A communication dated December 15, 2009 was received from Building Inspector Thomas Quinn, Department of Inspectional Services as follows:

Re: 4 Ellis Court

With regard to the above referenced locus, the property owner Mr. Cremone and I have had a detailed conversation this day December 15, 2009 on the concerns that have been outlined at the City Council meeting of December 1, 2009.

As of this time Mr. Cremone will be supplying a written timeline as to how he plans on continuing to move in a positive direction to resolve matters related to the nuisance issue.

I have also done site visits from the Public Ways of Salem Street, Ellis Court and Campbell Street to monitor the site and it does appear that some action has taken place.

I would respectfully ask that this matter be continued for a period of time to allow the Inspectional Services Department to continue monitoring the matter.

If there are any concerns or feel the need to discuss this issue further as always do not hesitate to contact me.

Alderman Wall stated that it is good to see positive action in this matter so that a nuisance declaration does not become necessary, and that this matter should be continued to the first meeting in April 2010. IN FAVOR: None. OPPOSED: None. Motion made and 2nd that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON APRIL 6, 2010, all in favor 9-0.

Motion made to suspend the rules for the purposes of hearing from His Honor the Mayor Thomas L. McLaughlin, all in favor, 9-0. Mayor McLaughlin stated that he extended holiday wishes to the Aldermen, that he congratulates the newly elected and the re-elected Aldermen as well as Mayor-Elect Galvin, that there is a healthy tension between the City Council and the office of the Mayor, and that he is proud of his service to the community. The City Council extended best wishes to the Mayor. Motion made and 2nd to return to the regular order of business, all in favor, 9-0.

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 report was received from the Committee on Ordinances as follows: "Back for action". A communication dated December 4, 2009 was received from John E. Corey, P.E., City Engineer as follows:

Subject: Commerce Way Corridor Overlay District

We are in receipt of the City Council request to prepare a conceptual plan for infrastructure improvements necessary to support future development associated with the overlay district.

Based on the ordinance for the overlay district, the writer was under the impression that an infrastructure master plan would be developed by the developer. We could proceed with this assignment, however it would require a fairly detailed study and it would be impossible to produce this document by the December 7th meeting.

My apology if there was a misunderstanding in what we were requested to provide. Kindly contact me if there are any questions concerning this matter.

A communication dated December 7, 2009 was received from Attorney Jonathan M. Silverstein, Kopelman and Paige, P.C. relative to the affect of the proposed zoning amendment on the underlying zoning district. A communication dated December 14, 2009 was received from Attorney Jonathan M. Silverstein, Kopelman and Paige, P.C. relative to the affect of the proposed zoning amendment on the adult entertainment zoning district with respect to constitutional requirements. Alderman Mercer-bruen stated that there was a question as to the affect on the IP-2 zoning district if all of the property owners decided to take advantage of the CWCOD, that the city only has an obligation to provide and adequate area for adult zoning, and that the city will not be at risk by leaving the IP-2 zone where it is. Alderman Denaro stated that he does not want to see the adult entertainment zone to be moved to another area, and that the City Council should move forward with the adoption of this map. IN FAVOR: None. OPPOSED: None. Motion made and 2nd that the map entitled "Commerce Way Corridor Overlay District" dated December 1, 2009 prepared by the City of Woburn Engineering Department be adopted, all in favor, 9-0. [Note: President of the City Council Charles E. Doherty and City Clerk William C. Campbell signed the back of the map adopted by the City Council, said map also containing the time and date stamp of the "City Clerk's Office Woburn, MA 01801" on December 1, 2009 at 3:43 p.m.]

Presented to the Mayor: Dec. 18, 2009 s/Thomas L. McLaughlin Dec. 23, 2009

On the matter relative to Tax Classification for the City of Woburn. PUBLIC HEARING OPENED. Appearing was Andrew Creen, Chief Appraiser, Board of Assessors, and he offered a communication dated December 15, 2009 with a series of charts attached thereto entitled Fiscal Year 2010 Classification Hearing to the City Council as follows:

Dear President Doherty and Council Members:

The Board of Assessors is pleased to report that the valuation roll for fiscal year 2010 has been finalized after a reappraisal of all taxable properties was conducted by this office. The total assessed valuation for all real and personal property in the City effective January 1, 2009 is \$5.560 billion. This represents a decrease from the prior fiscal year's total of \$5.739 billion. This decline in taxable valuation is attributable to the softening of the real estate market as it impacts all classes of property.

The City Council must now determine the relative tax burden to be borne by each class of property by selecting a "residential factor". To assist the Council in its deliberations, several charts have been prepared and are attached to this correspondence. These charts illustrate relevant valuation and tax levy data and the impact of your vote this evening.

By selecting a residential factor of "1" a single tax rate of \$14.91 results. Choosing a factor less than "1" results in a portion of the tax levy shifting from residential properties

to commercial, industrial and personal property taxpayers. For example, adopting a residential factor of “.69” means that residential class of property would pay 69% of the levy they would pay if there were no classification. Under this scenario, the levy increases for the other classes of property by a factor of 175 percent. The chart entitled “Classification Options” best illustrates the various scenarios available to you.

Woburn Board of Assessors
s/Robert E. Maguire, Chairman
s/George J. Berardi, Secretary
s/William F. Sullivan, Jr.

Mr. Creen stated that the real estate property tax increase is restricted by the provisions of Proposition 2½, that the city can raise property tax based on the prior year’s levy plus a 2.5% increase and new growth, that the levy limit for last year was \$78,916,596.00, that with the 2.5% increase and new growth of \$797,740.00 the 2010 levy limit is \$81,687,251.00, that the 2.5% increase is a consistent increase but the new growth can vary from year to year, that the new growth consists of 63% personal property tax, 25% commercial and industrial tax and 12% residential tax, that there has been a reduction in the residential valuation by class, that a factor of .69 results in a residential tax rate of \$10.32 and a commercial/industrial/personal property tax rate of \$26.10, that a factor of 100% results in a tax rate of \$14.91 for residential and commercial/industrial/personal property, that the median sales price of Woburn homes have overtaken the median price of homes in the Boston Metro area, that the average value of a home in Woburn is \$341,000.00, that the average value of a home in Woburn has decreased from both 2008 and 2009, that the result in 2010 is an average residential tax bill of \$3,526.00, that on average values have decreased, that condominium values have decreased 2.8%, that two family house values have decreased 6%, that three family house values have decreased 8% and that apartment values have decreased a little under 7%, that hotels value has decreased approximately 10% with increased vacancies and declines in revenues, that retail values have decreased 9%, that restaurant values have decreased 7% to 8%, that industrial values have decreased 4%, that warehouse values have decreased 3½%, residential values have decreased 3% and commercial/industrial values have decreased 4% overall, that the FY2010 levy is greater than the FY2009 levy, that if everything remained constant the tax would have to rise, that if the city relies on real estate tax for revenue and the values of the property did not change the only way to increase revenue would be to raise the tax rate, that the assessment of taxes on utility poles are included in the numbers but the issue is still subject to litigation and the revenue may not be available, that the overlay account would be available to cover any potential loss of that revenue, that the total levy requested is \$82,929,537.00 which reflects the levy limit and the debt exclusion, that the city relies on software to determine the value of all types of property except for personal property, that the software is provided by a company called Vision Appraisal, that the city has used this system since 1996, that they rely on the expertise of a senior staff member at Vision Appraisal to review economic data, that the city relied on the services of an outside appraiser relative to commercial and industrial property, that the city selected Hunneman & Company to work with Vision Appraisals, that adjustments were made to tables based on the expertise of Hunneman staff, that

Hunneman had the final call on the valuation of the properties, that some property values did increase due to the valuation process, that offices typically decreased 7% to 8% but this year the decrease for offices was on average 3% because of the increased valuation determined for some properties, that the Avalon project will be on line next year and several partial assessments will be made for some buildings that have not been completed by January 1, 2010, and that there are no big ticket projects coming on line. Mr. Creen offered a document entitled "Sampling of Assessments/Taxes (FY2008 – Proposed FY2010) 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. Alderman Galvin stated that the City Auditor's estimate of local receipts is conservative, that the city has to submit a recap sheet to the State with the expenditures balanced, and that he will hold the line on expenditures when he assumes the mayor's office. Alderman Drapeau stated that the city sealed its fate when it passed the budget in May of this year, that the taxpayers cannot absorb any more increases in taxes, that the city could utilize free cash or some other method to decrease the tax burden, and that he will look to cut the budget to be formulated in the Spring 2010. President Doherty stated that if free cash is used now then the city may be in an unfavorable position if further State local aid cuts are made. Alderman Denaro stated that the time to deal with keeping the tax bill down is in the Spring during budget deliberations, and that once the budget is set the city must meet its obligations. PUBLIC COMMENTS: Denise Caprio, 29 Hudson Street stated the taxes should be lowered, and that if the city can build five new schools then there is significant money not to raise taxes. Paul Meaney, Executive Director, Woburn Business Association, Ten Tower Office Park, Woburn stated that spending affects the tax rate, that new growth is an issue, that no larger projects are forecast for the near future, that people are working more and receiving less money for their efforts, that vacancies in office buildings are now approximately 22% to 23%, that this is the worst economy that the members of this City Council have seen, that this is not an easy time, that the country is at war, and that the City Council should work to keep Woburn affordable. Motion made and 2nd that the public hearing be closed, all in favor, 9-0. PUBLIC HEARING CLOSED. Motion made and 2nd that a TAX CLASSIFICATION FACTOR OF 175% be ADOPTED, ROLL CALL: Denaro – Yes, Drapeau – Yes, Gately – No, Galvin – Yes, Gonsalves – Yes, Mercer-Bruen – Yes, Raymond - No, Wall – Yes, Doherty – Yes, MOTION ADOPTED.

Presented to the Mayor: Dec. 18, 2009 s/Thomas L. McLaughlin Dec. 22, 2009

CITIZEN'S PARTICIPATION: None.

COMMITTEE REPORTS:

FINANCE:

On the Order to transfer the sum of \$200,000.00 from BLS Ambulance Receipts Account to Ambulance Salaries Account and the sum of \$50,000.00 from ALS Ambulance Receipts Account to Ambulance Maintenance Account, committee report was received

“back for action.” Motion made and 2nd that the committee report be received, all in favor, 9-0. Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.

Presented to the Mayor: Dec. 18, 2009 s/Thomas L. McLaughlin Dec. 22, 2009

POLICE AND LICENSES:

On the petition for renewal of First Class Motor Vehicle Sales License by Azure Dynamics US Inc., 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: Dec. 18, 2009 s/Thomas L. McLaughlin Dec. 22, 2009

On the petition for renewal of Second Class Motor Vehicle Sales Licenses by EC Inc. dba XPress Fuel; Robert Khouzami; Tracy M. Batten dba Tracy’s Auto Sales; and Wassim (Sam) Nicolas dba Woburn Square Mobil, 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: Dec. 18, 2009 s/Thomas L. McLaughlin Dec. 22, 2009

On the petition for transfer of a Second Class Motor Vehicle Sales License from Tracy M. Batten dba Winn Street Auto Sales to Abdelaziz Ilaj dba Woburn Motors and for renewal of said License, 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: Dec. 18, 2009 s/Thomas L. McLaughlin Dec. 22, 2009

NEW PETITIONS:

Petitions for renewal of Second Class Motor Vehicle Sales Licenses by Robert Fucarile dba Classic Auto Sales, 9 Salem Street; Francis Garbino dba Tom’s Auto Body; and Kenneth L. O’Connor dba City Line Motors, 30R Torrice Drive. Motion made and 2nd that the MATTER be REFERRED TO COMMITTEE ON POLICE AND LICENSES, all in favor, 9-0.

Petition by Perennial Landscape Corp., 955 Main Street, Unit 204, Winchester, Massachusetts for special permits pursuant to the 1985 Woburn Zoning Ordinances, as amended, as follows: 1. Pursuant to Section 5.1.43 to allow for open or outside storage of new or used building materials or equipment, and 2. Pursuant to Section 5.1.57b to allow for accessory storage or parking of commercial motor vehicles, both at 22 Torrice Drive. Motion made and 2nd that the MATTER be REFERRED TO PUBLIC HEARING, all in favor, 9-0.

COMMUNICATIONS AND REPORTS:

A communication dated 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 November, 2009: number of parking violations issued 1,531, number of violations paid 797, number of violations outstanding 490, amount collected and submitted to the Office of the Collector \$51,720.80. There exists a backlog of 4,707 tickets for 1982 through 2008. Demand will be sent until all tickets have been paid. Parking violations referred to the Handicapped Commission to date \$8,650.00.

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 December 2, 2009 with attachments was received from Joanne Collins, Director, Woburn Council on Aging along with the minutes of the November 2009 meeting of the Council on Aging and the Director’s report for the month of November 2009.. Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE, all in favor, 9-0.

A communication dated November 30, 2009 was received from Joseph E. Connarton, Executive Director, Massachusetts Public Employee Retirement Administration Commission, 5 Middlesex Avenue, Suite 304, Somerville, Massachusetts 02145 advising that the amount of \$4,662,616.00 must be appropriated for the city’s retirement system for Fiscal Year 2011. Motion made and 2nd that the MATTER be RECEIVED AND REFERRED TO COMMITTEE ON FINANCE, all in favor, 9-0.

A communication dated December 10, 2009 was received from Attorney Ricardo M. Sousa, Prince Lobel Golvsky & Tye, LLP, 100 Cambridge Street, Suite 2200, Boston, Massachusetts 02114 was received as follows:

Re: Applicant: Clear Wireless, LLC
Address of Property: 92 Merrimac Street, Woburn, MA
Request for Withdrawal without Prejudice

Dear Honorable Members of the City Council, Mr. Clerk and Mr. Tarallo:

This firm represents the above-captioned Applicant, Clear Wireless, LLC, in connection with its application before the City Council for a proposed wireless telecommunications

facility at the property located at 92 Merrimac Street, Woburn, MA. In an effort to resolve a certain issue associated with the subject property before pursuing the zoning relief for the facility, the Applicant respectfully requests that this application be withdrawn without prejudice.

If you should have any questions, please do not hesitate to call me.

Sincerely, s/Ricardo M. Sousa

Motion made and 2nd that the MATTER be GIVEN LEAVE TO WITHDRAW WITHOUT PREJUDICE, all in favor, 9-0.

A communication dated December 14, 2009 was received from Jamie Brambila, President of Operations, Corral, Inc., dba Let's Go Burrito Mexican Grill as follows:

Re: 340 West Cummings Park, Woburn, MA (formerly LoFat/Know Fat Restaurant)

Dear Mr. Campbell:

Please permit me to introduce myself and reintroduce my brother, Jose Brambila. Jose and I have recently assumed the space at 340 West Cummings Park, Woburn, which previously had been occupied by LoFat/KnowFat Restaurant. Previously LoFat/KnowFat had been operating under a special permit for a 5,000 square foot space at Units 339 and 340 West Cummings Park. Our landlord, Cummings Properties, LLC, has partitioned off 2,500 square feet of this space and leased it to our newly established corporation, Corral, Inc. Accordingly, we plan on operating a fast food-take out Mexican burrito grill requiring only one-half of the permitted space occupied formerly by LoFat/KnowFat. Jose and I are very experienced in the Mexican-style restaurant business as I have owned and operated Ixtapa Cantina Mexican Restaurant in Lunenburg for several years while Jose is known to the City of Woburn for owning and operating another sister Ixtapa Cantina Mexican Restaurant here in Woburn for the last three years.

Our concept is to bring the same excellent Mexican cuisine we offer in our restaurant to the lunch clientele in and around Cummings Park in the form of burritos and salads to go. We plan to use the existing space (as partitioned in half) with minimal cosmetic changes. In addition, we intend to create local employment opportunities for approximately 8-12 staff members. No liquor service is contemplated at this stage.

As Jose and I are eager to bring this concept to the City of Woburn, we would greatly appreciate swift action on our special permit application.

Sincerely, s/Jamie Brambila, President of Operation, Corral, Inc. dba Let's Go Burrito Mexican Grill

A further communication dated December 15, 2009 was received from Jamie Brambila, President of Operations, Corral, Inc., dba Let's Go Burrito Mexican Grill as follows:

Re: Minor Modification of Special Permit to Corral, Inc. dba Let's Go Burrito Mexican Grill

Dear Mr. Campbell:

In supplementation to our letter of intent submitted to you yesterday, this is to define more specifically our request to the City Council at tonight's hearing.

Corral, Inc. is seeking only a minor modification of the Special Permit granted to our predecessor LoFat/KnowFat, Inc., on June 11, 2004, specifically to modify Paragraph 2 of the Conditions listed in your Decision and Notice of Special Permit dated June 11, 2004 indicating "that the Special Permit shall not be transferable to any other business". All other Conditions would not be affected.

Sincerely, s/Jamie Brambila, President of Operation, Corral, Inc. dba Let's Go Burrito Mexican Grill

Motion made and 2nd to suspend the rules for the purposes of hearing from the petitioner, all in favor, 9-0. Appearing for the petitioner was Attorney Nicholas Felici stated that the petitioner is seeking a minor modification of a condition of a special permit issued to LoFat/KnowFat, Inc., that there are no major changes including cosmetic changes, that the petitioner seeks a modification of the special permit to allow this business to operate, and that the petitioner will be before the License Commission on December 17, 2009 in order to obtain a common victualler's license. Motion made and 2nd that the **CONDITION 2 OF THE SPECIAL PERMIT ISSUED JUNE 11, 2004 TO LoFat/KnowFat, INC. be AMENDED TO READ: 2. THAT THE SPECIAL PERMIT SHALL BE FOR CORRAL, INC. DBA LET'S GO BURRITO MEXICAN GRILL AND SHALL NOT BE TRANSFERABLE TO ANY OTHER BUSINESS WITHOUT CITY COUNCIL APPROVAL, THAT THIS SHALL BE A MINOR MODIFICATION, AND THAT ALL OTHER CONDITIONS REMAIN THE SAME,** all in favor, 9-0.

ORDERED That Paul Tobin of 10 Stevin Drive be reappointed as a Member of the Woburn Recreation Commission for a term expiring April 1, 2013.

s/Alderman Denaro

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

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

UNFINISHED BUSINESS OF PRECEDING MEETING: None.

APPOINTMENTS AND ELECTIONS: None.

MOTIONS, ORDERS AND RESOLUTIONS:

ORDERED That in accordance with Massachusetts General Laws Chapter 54, as amended, the City Clerk is hereby authorized and directed to notify and to warn such of the inhabitants of the City of Woburn as are qualified to vote in Special State Elections to assemble at the polling places in the City of Woburn as designated herein, on TUESDAY, the NINETEENTH OF JANUARY, 2010 from 7:00 a.m. to 8:00 p.m., then and there to cast their votes in the Special State Election for the candidates for the office of SENATOR IN CONGRESS FOR THE COMMONWEALTH at the following polling places:

<u>Ward-Precinct</u>	<u>Polling Place Location</u>
1-1	Joyce Middle School Library, 55 Locust Street
1-2	Clapp Elementary School Cafeteria, Hudson Street and Arlington Road
2-1	Shamrock Elementary School Gymnasium, 60 Green Street
2-2	Shamrock Elementary School Gymnasium, 60 Green Street
3-1	Hurd Elementary School Gymnasium, 75 Bedford Road
3-2	Hurd Elementary School Gymnasium, 75 Bedford Road
4-1	Wyman Elementary School Auditorium, Main Street and Eaton Avenue
4-2	White Elementary School, 36 Bow Street
5-1	Kennedy Middle School Gymnasium Lobby, 41 Middle Street
5-2	Kennedy Middle School Gymnasium Lobby 41 Middle Street
6-1	Altavesta Elementary School Gymnasium,

990 Main Street

6-2 Altavesta Elementary School Gymnasium,
990 Main Street

7-1 Reeves Elementary School Gymnasium,
240 Lexington Street

7-2 Reeves Elementary School Gymnasium,
240 Lexington Street

s/President Doherty

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

Presented to the Mayor: Dec. 18, 2009 s/Thomas L. McLaughlin Dec. 22, 2009

ORDERED That due to the Municipal Election the Regular Meeting of the City Council scheduled for January 19, 2010 is hereby cancelled..

s/President Doherty

Motion made and 2nd that the ORDER be ADOPTED, AS AMENDED with the amendment as follows: 1. That the meeting be rescheduled for January 26, 2010 at 7:30 p.m., all in favor, 9-0.

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

POLICE AND LICENSE:

A communication dated December 15, 2009 with attachments was received from His Honor the Mayor Thomas L. McLaughlin as follows:

Re: Battle Road Land and Easements

Dear President Doherty and Distinguished Members of the City Council:

I am very pleased, as one of my last official acts in my term as mayor, to submit to you for consideration, all the paperwork necessary to secure easements and land that abuts the "Old Battle Road" in West Woburn.

This acceptance will require a "Resolution" from the Council to accept the land and easements along with a subsequent vote by the Woburn Historical Commission to accept the land under the provisions of G.L. Chapter 40D, Section #8.

I would like to thank Mr. Robert W. Murray, the Trustee of Lexington Trust, Attorney John McElhiney of McElhiney and Matson, the Woburn City Council and the Woburn Historical Commission for making this all possible, in order that we may preserve the integrity of one of Woburn's foremost historical locations.

Sincerely, s/Thomas L. McLaughlin, Mayor

RESOLVED That the City Council of the City of Woburn hereby authorizes the Mayor to accept on behalf of the City, by gift and for general municipal purposes, from Robert W. Murray, Trustee of Lexington Trust, the fee interest in and to a parcel of land located on Old Lexington Street, which land is shown as "Lot 292" on Land Court Plan No. 5711-37 and is a portion of the premises described in Certificates of Title No. 244840 and 241545 filed with the Middlesex South Registry District of the Land Court; and take all actions necessary or convenient to accomplish the foregoing acquisition.

s/Alderman Drapeau

Motion made and 2nd that the RESOLVE be ADOPTED, 8 in favor, 0 opposed, 1 abstained (Wall abstained).

Presented to the Mayor: Dec. 18, 2009 s/Thomas L. McLaughlin Dec. 22, 2009

Alderman Mercer-Bruen stated that she would abstain from the following matter due to a family relationship and left the Council Chamber.

A communication dated December 15, 2009 was received from Attorney Joseph R. Tarby III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: Second Class Motor Vehicle Sales License/ACT Leasing Inc., 215 Salem Street, Woburn, Massachusetts

Dear President Doherty:

Due to a prior commitment, I cannot attend the City Council meeting this evening. As you know, on September 1, 2009, the above referenced application was sent to the Committee on Police and License pending a review by the Committee of the various renewal applications. It is my understanding that the second class license formerly held at 306 Montvale Avenue, Woburn, Massachusetts by Robert McSheffrey was not renewed and is now available. On behalf of ACT Leasing Inc., I respectfully request that the City Council take the Application of ACT Leasing Inc. ("ACT") from Committee and issue the Second Class License to ACT.

As you know, on September 1, 2009, the City Council unanimously voted to grant a Special Permit to ACT for the sale and rental of motor vehicles at 215 Salem Street, Suite 10, Woburn, Massachusetts. As we explained at the public hearing, ACT leases approximately 1,250 square feet in the building at 215 Salem Street. ACT is a full service automobile and small truck commercial Lessor. Its business is Commercial/Corporate in nature and as such it does not have any customers coming to its location to conduct business. ACT has all outside sales personnel who solicit business at the customer's place of business. All of its automobile and truck leasing is long term. The minimum lease term is twelve months but most of its leases are 36-60 month terms. The majority (75%) of its leases are structured so the customer takes possession of the vehicle at the end of the lease term. The remaining 25% are structured so that ACT owns them at the end of the lease and remarkets them using independent auctions in the local area. It does not retail automobiles to the general public so there is no customer traffic at its location. An example should help in explaining how ACT operates its business:

- The long term lease is signed at the client's place of business, then ACT acquires a new vehicle(s) from a local dealership(s).
- The vehicle is either delivered to the customer directly by the dealership or delivered to ACT and it delivers the vehicle to the customer.
- If ACT delivers the vehicle, it may remain a day or two at this location while arrangements are being made.
- At the end of the lease (only the 25% that ACT owns and disposes of), the vehicle is returned to ACT and arrangements are made for that vehicle to be sent to a local auction for disposal.
- Since ACT pays off the vehicle with the bank in order to get the title and turn in the plates to the Registry of Motor Vehicles, it is important to sell the vehicle at auction as soon as possible to recoup its money.
- On average, ACT has up to ten (10) leased vehicles on the premises.
- In addition, ACT would also like to be able to have up to thirty (30) vehicles on the premises waiting to go to auction.

I thought that the above outline would be helpful to you in refreshing your recollection on this Application. If the City Council sees fit to grant the Second Class License this evening, my client has no issue with the same conditions that are attached to the Special Permit being attached to the License. Thank you.

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

Motion made and 2nd that the matter be taken from Committee on Police and Licenses, 8 in favor, 0 opposed, 1 abstained (Mercer-Bruen abstained). Motion made and 2nd that the

MATTER be REFERRED TO COMMITTEE ON POLICE AND LICENSES, 8 in favor, 0 opposed, 1 abstained (Mercer-Bruen abstained).

Alderman Mercer-Bruen returned to the Council Chamber.

President Doherty presented plaques to Alderman Galvin, Alderman Gonsalves and Alderman Wall, thanked them for their services to the community and wished them well in their future endeavors. Alderman Galvin presented a plaque to President Doherty, thanked him for his service as both a member and president of the City Council, and wished him well in his future endeavors.

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

Motion made and 2nd to ADJOURN, all in favor, 9-0. Meeting adjourned at 8:54 p.m.

A TRUE RECORD ATTEST:

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