

**CITY OF WOBURN  
FEBRUARY 28, 2012 - 7:30 P.M.  
REGULAR MEETING OF THE CITY COUNCIL**

Roll Call

Anderson	Gately
DiTucci	Haggerty
Drapeau	Mercer-Bruen
Gaffney	Raymond
Denaro	

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

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Motion made and 2<sup>nd</sup> to suspend the rules for the purposes of hearing from Director of Veteran's Services relative to the new Veterans' Memorial to be constructed on Woburn Common, all in favor, 9-0. A communication dated February 21, 2012 was received from Director of Veteran's Services Larry Giuseppe as follows:

Subject: New War Memorial on Common

I am very sorry for the short notice. I need to request time at the next City Council meeting on February 28, 2012 to give the Council a quick update on the project. I was just notified today that the electrical contractor and the demolition contractor would like to start work on the common as early as next week.

I do not want anything to start until the Mayor and the City Council have been brought up to date. I am meeting with the Building Commissioner first thing tomorrow regarding necessary permits and licenses. The committee is meeting this evening and we are being presented with a model of the monument from our design and engineering firm of this project, which I would like to present to the City Council next Tuesday.

Thank you for your consideration.  
Larry Guiseppe, Director of Veteran's Services

Appearing was Director of Veteran's Services Larry Giuseppe and he stated that he was appearing as a member of the Friends of Woburn Veterans group, that final plans have been prepared for the new memorial to be constructed on Woburn Common, that paperwork has been filed with the Building Commissioner and they are waiting for a few final signatures, that the current memorial will not be touched until all approvals for the new memorial have been obtained, that the memorial will be constructed of all granite material, that the footprint and size of the memorial will be the same as the current memorial, that there will be two wings added to the westerly side of the monument, that

close to 14,000 names have been identified from the Revolutionary War to current conflicts, that John Flaherty is providing funding for the project and Robert Shure of Skylight Studios, Inc. is the sculptor, that Mr. Shure has prepared many of the memorials in the city, that a 17,000 piece mailing went out to all residents of the city this week asking for assistance in identifying veterans, that they committee is using many methods to raise awareness of the project, that it is likely that additional names will be added in the next few years, as awareness of the project spreads, that they have also used resources outside of the city to increase awareness of the project, that it is unlikely that there will be more than 16,000 names when the project is complete, that the committee has raised \$20,000.00 to date, that the committee will continue to fundraise, that the committee has filed for but not yet received approval as a 501(c)(3) corporation, that the funds will be used for maintenance of the memorial and adding names, that the funds will be used to support the work of the Parks Department in caring for the memorial, and that the committee will work on other veterans' memorials in the city as well. Robert Shure of Skylight Studios, Inc. stated that the basis design of the memorial is the same as the current memorial but has been modernized and will be built with enduring materials, that the memorial will be essentially maintenance free, that the main wall will be 36 feet wide, 1½ feet thick and 8 feet high, that the two wings will each be 8 feet wide, 7 feet high and 1½ feet deep, that the memorial will be the center of a veterans park, that the brickwork will be continued around the memorial to unify the area, that seating benches will be placed in the area, that this will establish a small veterans' park within the common, that the memorial has been designed so as not to damage the sight lines of the other monuments on the Common or infringe on traffic sight lines, that panels of polished black granite will contain the names of the veterans, that images will be incorporated into the panels, that the memorial will be designed to allow the addition of names in the future, that there will be ground lighting in the plaza with four spotlights on the front and back of the main wall and on spotlight on the front and back of each smaller side wall, that the utility cabinet behind the current memorial will be taken out and relocated in a box on the side lawn, and that there has been no determination as to whether flags will be incorporated into the design. John Flaherty stated that the cost of the memorial will be approximately \$400,000.00. Alderman Drapeau stated that this is a good project and he supports the work. Alderman DiTucci stated that she supports the project, that the current memorial is not a fitting memorial, and that the new memorial will be a good addition to the Common and an appropriate memorial for the city's veterans. President Denaro stated that he appreciates the work on the project and the consideration of the other conditions on the Common in designing the memorial. Motion made and 2<sup>nd</sup> to return to the regular order of business, all in favor, 9-0.

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#### **MAYOR'S COMMUNICATIONS:**

A communication dated February 15, 2012 was received from His Honor the Mayor Scott D. Galvin relative to an information overview of the new Water Treatment Plant and the Rag Rock water tank. Alderman Gately stated that he does not want the letter placed in the permanent records of the City Council, that the letter is not factually correct, that notice of the February 13, 2012 Committee on Infrastructure and Municipal Lands was

only to relevant department heads and did not ask for the appearance of representatives from CDM or Weston & Sampson, that the notice of the meeting also only requested the attendance of those department heads who could attend, that the City Engineer could not attend the meeting because of a previously scheduled meeting but that he does not run the water department in any event, that the City Engineer does excellent work and runs a good department, that the other department heads and department representatives should have been at the meeting, and that he did not ask for representatives of CDM or Weston & Sampson to attend the meeting as that would have been an unnecessary expense. Alderman Drapeau stated that if notice of a meeting is sent out then a written reply should be returned to the committee confirming attendance or if the individual cannot attend a stated reason why he or she cannot attend, and that sometimes a telephone call is made but that it is difficult to have this information conveyed to the committee. Motion made and 2<sup>nd</sup> that the MATTER be RECEIVED AND PLACED ON FILE, 4 in favor, 5 opposed (DiTucci, Drapeau, Gaffney, Gately, Raymond opposed), Motion Fails.

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### **PUBLIC HEARINGS:**

On the petition by Alderman Gately relative to the structure or structures located at 320 Main Street aka 286 Main Street, Woburn, Massachusetts commonly referred to as the Woburn Armory Building for the purposes of prescribing the disposition, alteration or regulation of said structure or structures located in the City of Woburn, County of Middlesex, Commonwealth of Massachusetts, as said terms are used in Mass. General Laws Ch. 139, Sec. 1, and entering any enforcement Order or Orders as the City Council deems necessary to remedy the condition of the property, said property on October 19, 2010 having been declared a public nuisance, a nuisance to the neighborhood, and dilapidated or dangerous buildings or other structures after public hearing and ordered to be brought into decent standard by the and at the expense of the landowner, the condition of the property having not been improved. PUBLIC HEARING OPENED. A communication dated February 17, 2012 was received from Frances Gould, MHC Legal Counsel, Massachusetts Historical Commission, 220 Morrissey Boulevard, Boston, Massachusetts 02125 as follows:

Dear Council President Denaro:

It has come to the attention of the Massachusetts Historical Commission (MHC) that the Woburn City Council (Council) is considering whether the Council may order the demolition of the Woburn Armory located 320 Main Street/aka 286 Main Street (Armory) pursuant to G.L. c. 139. As you were informed by MHC Executive Director and State Historic Preservation Officer Brona Simon by letter dated December 2, 2011, it is the opinion of the MHC that the Armory is a historically significant building and every effort should be made to preserve the site.

As you know, the armory is listed in the Inventory of Historic and Archaeological Assets of the Commonwealth and is individually eligible for listing in the National and State Registers of Historic Places. As transfer of the property out of state ownership without

adequate restrictions on the deed would adversely affect the Armory, the historic covenant was placed on the property. See G.L. c. 9, §§26-27C; see also 950 CMR 71. MHC provided the Woburn City Clerk with a copy of the historic covenant, as well as other related documents, in October, 2010.

It is my understanding that the City Council takes the position that the authority of the Council pursuant to G.L. c. 139 would supersede any conflicting authority held by virtue of a private deed restriction. The historic covenant on the property is not a “private deed restriction” but a covenant placed on the property by the Division of Capital Asset Management (DCAM) as a means of mitigating the adverse effect of transferring the property out of state ownership. The purpose of G.L. c. 9, §§26-27C is to eliminate, minimize, or mitigate adverse effects to properties listed in the State Register of Historic Places. An adverse effect may occur upon the transfer or sale of a State Register property without adequate conditions or restrictions regarding preservation, maintenance or use. 950 C.M.R. 71.05.

To permit the demolition of the historically significant Armory would result in frustration of the public policy intended to protect the public interest in the Armory by means of the historic covenant. See Weston Forest & Trail Ass’n v. Fishman (2006) 66 Mass. App. 564, *review denied* Weston Forest & Trail Ass’n v. Fishman (2006) 447 Mass. 1110. Therefore, I must disagree that the authority of the City Council supersedes the historic covenant. The decision of MHC and DCAM to enter into the historic covenant with the property owner is the result of the recognition of the public benefit in preserving the historic assets of the Commonwealth.

The City may wish to consider whether adaptive re-use of the Armory is possible. The National Trust for Historic Preservation currently has information available on restoration and re-use of armories.

Very truly yours, s/Frances Gould, MHC Legal Counsel

Alderman Gately stated that plans have been received from the landowner and reviewed, that the Massachusetts Historical Commission (MHC) letter is contrary to the opinion of the former City Solicitor, that there have been some recent suggestions to rehabilitate the property however until there is a plan proposed and how zoning may be affected the City Council will not know what changes are needed to do so, that currently there is no intention to tear the whole building down, that the only petition in place is the city’s Order declaring the property a nuisance and adding conditions, that the owner has spent much money on the building, and that the matter should be continued but the public testimony be received. Alderman Anderson stated that the MHC has done nothing to enforce the covenant and is derelict in their duty, and that the MHC should indemnify the city for any injury or damage brought about by the building condition. Alderman DiTucci stated that the MHC should take action to improve the condition of the property. President Denaro stated that the city has not issued any permits on the property since the Commonwealth sold the building, and that there have been many ideas for the property but no permits issued. PUBLIC COMMENTS: Mark Sanborn, 12 Caulfield Road stated

that he is an abutter to the property, that there have been many meetings concerning the property, that the zoning of the property has been an issue, that if the building is torn down the zoning should be amended so that what is to be constructed is known, and that he wants to know if there is any enforcement provision to the MHC covenant if the landowner fails to maintain the property. Sue Ellen Holland, 2 Strawberry Lane stated that she is a member of the Woburn Historical Commission, that the building is historic and protected by historic covenants, that if the owner wants to sell the property the property should be sold to someone who wants to work within the parameters of the covenants, that the current owner has owned the building for a long time and done little with the building, that the landowner knew what he was purchasing and the parameters of the historic covenants, and that she thought that the landowner had obtained a special permit to construct condominiums at the site. Motion made and 2<sup>nd</sup> that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON APRIL 3, 2012 AND THAT THE MATTER BE REFERRED TO THE COMMITTEE ON LIAISON, all in favor 9-0.

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On the petition by Alderman Anderson relative to the structure or structures located at 30 Union Street, Woburn for the purposes of determining whether said building or buildings are a nuisance, a nuisance to the neighborhood, a dilapidated or dangerous building or buildings or other structure, as said terms are used in Mass. General Laws Ch. 139, Sec. 1, and if so, enter an order adjudging it to be a nuisance to the neighborhood, or dangerous, and prescribing its disposition, alteration or regulation. PUBLIC HEARING OPENED. Alderman Anderson stated that he spoke to the lender's attorney, that a foreclosure judgment has been obtained, that the foreclosure sale is scheduled for March 28, 2012, and that the matter can be continued until after that date. IN FAVOR: None. OPPOSED: None. Motion made and 2<sup>nd</sup> that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON APRIL 3, 2012, all in favor 9-0.

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On the petition by Alderman Gately concerning a vacant parcel of land located in the City of Woburn, County of Middlesex, Commonwealth of Massachusetts on Green Street near the intersection with Main Street and the abandoned railroad bed further identified with Assessors' Map ID Number 59-04-04 containing approximately 5,800 square feet of land more or less, Woburn, Massachusetts for the purposes of determining whether said vacant parcel is a public nuisance or a nuisance to the neighborhood, 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 Gately stated that the owners have cleared the property, removed the rubbish and dead trees, and leveled the lot, and that the locus was a blighted lot and dangerous but is now clean. 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 MATTER be PLACED ON FILE, all in favor, 9-0.

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Boomers Family Fun Center LLC dba Boomers Lazer Tag, 5 Cedar Street, Burlington, Massachusetts 01803 for a special permit pursuant to Section 5.1.64 of the 1985 Woburn Zoning Ordinances, as amended, to allow for coin operated recreational and entertainment machines to be used in connection with its Lazer Tag entertainment center at 10 Micro Drive. 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 petitioner uses 9,738 square feet of area, that there will be 35 automatic amusement devices within the facility, that a special permit is required for amusement devices, that no special permit is required for the lazer tag facility because the area of the facility is less than 15,000 square feet, that lazer tag is the primary use, that there will be a small café and the facility will be used for birthday parties and other occasions, that the business will operate seven days per week, that the petitioner will have 15 to 20 employees, that the Planning Board voted to send a favorable recommendation with two conditions as follows: 1. That the coin operated recreational and entertainment machines shall be limited to no more than 35; and 2. That the hours of operation shall be limited to Monday through Thursday 9:30 a.m. to 10:00 p.m., Friday and Saturday 9:30 a.m. to 12 midnight, and Sunday 9:30 a.m. to 10:00 p.m., that the use is consistent with another lazer tag facility in the city which has 36 automatic amusement devices, that the License Commission also has to issue a license for the machines with a fee charged for the units, that this is a multi-use facility, and that the petitioner does not object to a condition prohibiting the sale of alcohol at the facility. Alderman Haggerty stated that he wants a condition prohibiting the sale of alcohol on the site. Alderman Mercer-Bruen stated that she supports the petition, that there is a large sign at the location which has to be removed, and that any signs must comply with the zoning amendments. IN FAVOR: Paul Meaney, Woburn Business Association, 10 Tower Office Park stated that he is in favor of the petition, that the building is 30 to 35 years old, that this is a large building, that the owner of the building has spent a lot of money improving the building, that the companies in the building are doing good business, and that this is an isolated area and the business will not affect anybody. OPPOSED: Joseph Seaver stated that he owns 9 Micro Drive, that he does not object to the proposed use but is concerned about the safety issue that will be created by any additional traffic brought onto Holton Street, that this is an extremely narrow street, and that he has advised his tenants to avoid using Holton Street because of the danger created by the narrow street. Motion made and 2<sup>nd</sup> that the public hearing be closed, all in favor, 9-0. Motion made and 2<sup>nd</sup> that the SPECIAL PERMIT be GRANTED, AS AMENDED with the conditions as follows: 1. That the coin operated recreational and entertainment machines shall be limited to no more than 35; and 2. That the hours of operation shall be limited to Monday through Thursday 9:30 a.m. to 10:00 p.m., Friday and Saturday 9:30 a.m. to 12 midnight, and Sunday 9:30 a.m. to 10:00 p.m., all in favor, 9-0

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On the petition by Gold Star Homes, LLC, 83 Cambridge Street, Suite 2D, Burlington, Massachusetts 01803 for a special permit pursuant to Section 7.3 of the 1985 Woburn Zoning Ordinances, as amended, to allow for the change, extension and alteration of the existing nonconforming structure and nonconforming use (three family dwelling) to

allow for the construction of a four family dwelling at 960 Main Street. 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 that the petitioner will remove the three-family dwelling at the locus and construct a four-family dwelling, that the change will not be substantially more detrimental than the current structure, that the property is located in the R-2 zoning district, that a 15,000 square foot lot is required and the locus is 19,089 square feet, that 125 feet of frontage is required and the locus has 174.9 feet of frontage, that a 20 foot setback is required and the locus has a 21 foot setback, that a 30 foot rear setback is required and the locus has a 55 rear setback, that the current structure is 15 feet from the street and is therefore a non-conforming structure, that the current structure was constructed in 1850, that the non-conformity of the structure is due to the front yard setback and the use, that the petitioner will demolish the current building and construct four two-story townhouses, that the units will have a garage and two additional parking spaces for each unit and the locus will have four additional parking spaces, that other uses in the area included single and multi-family houses, apartment buildings and businesses, that the Planning Board continued its review of the proposal, and that the City Engineer report was received today and therefore there has not been enough time to review the report. Attorney Tarby offered an elevation plan and plot plan of the proposal for the City Council to review. Motion made and 2<sup>nd</sup> that the documents be received and made part of the record, all in favor, 9-0. IN FAVOR: Paul Meaney, Executive Director, Woburn Business Association, Ten Tower Office Park stated that the petitioner has constructed several projects in the city, that most of these projects have been single family dwellings, and that the petitioner is a good developer who will do good work. Michael Mulrenan, 937 Main Street stated that he is in favor of the project. OPPOSED: None. Motion made and 2<sup>nd</sup> that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON MARCH 20, 2012 AND THAT THE MATTER BE REFERRED TO THE COMMITTEE ON SPECIAL PERMITS FOR MARCH 12, 2012, all in favor 9-0.

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On the petition by Mike Fantasia and Maryellen Fantasia, 11 Winn Valley Drive, Burlington, Massachusetts 01803 for a special permit pursuant to Section 5, Paragraph 15 to convert a 1,984 s.f. area of the basement into a garage at 0 Cpl. Charles J. McMahon Drive. PUBLIC HEARING OPENED. Appearing were the petitioners Maryellen Fantasia and Michael Fantasia. Ms. Fantasia stated that they are looking to construct a larger than normal garage, that the vehicles will enter the garage from one side and exit from the other side with a driveway through the structure, that a family medical issue prevents one of the drivers from turning around while backing, that they are in the real estate business and auto repair business, and that there are windows in the garage that will ventilate the garage as well. Mr. Fantasia stated that a vehicle can drive into the garage and park, that the family member with the medical issue would be able to get into her car and drive out, that there will be a circular driveway half of which will be under the dwelling, that the Planning Board suggested limiting the number of vehicles permitted in the garage, that the special permit is required because of the large size of the garage, that only three vehicles will be parked in the garage but the vehicles will be able to drive through the structure, that there is a fire hydrant between the second garage and

the neighbor's property, that there is at least eight feet of clearance from the fire hydrant, that he has talked to the contractor George Gately about completing the cul-de-sac, that he has no intention of performing auto repairs in the building, that the garage will be a convenience, that he would never attempt to operate an auto body repair business in a residential building, that there will be increased fire protection in the building because of the garage to be built under, that there will be ventilation with the two garage doors, that the construction materials to be used in the building will also provide fire protection, that his family will reside in the house, that fans are designed to automatically turn on to ventilate the garage, and that it will take four days to put the house together after it is delivered from Pennsylvania. Eddy Jabbre appeared with the petitioners and stated that a structural engineer worked on this project, that the Building Department has looked at the project, that a full plan is no file with the Building Department, that the Planning Board recommended approval with a limitation of three vehicles parked under the structure, that the Building Commissioner suggested a foundation permit and then amend as needed to conform with the special permit, that the single garage doors are eight feet wide and nine feet high, that the petitioner does not require an additional location for his business, that the City of Woburn is a green city with the adoption of the Stretch Code, that there will be a whole-house fans installed, that the ventilation in the building will be checked, that the building is the same as any other three car garage in the city, that this is a modular house, that the petitioners have time for further review, that this project is not precedent setting as there is another garage in the neighborhood with an oversized garage, and that the Planning Board has completed its review of the project. Alderman Gaffney stated that this project is a novel idea, that he hopes that with the completion of this project then cul-de-sac can now be finished with the lights and sidewalks, that the street needs lights and the final coat of hot top after the building is completed, that he knows the petitioners will not jeopardize their own family's health, and that he supports the petition. Alderman Raymond stated that he is concerned about three cars running in the garage at the same time, and that he wants assurances that the living space is safe. Alderman Gately stated that he wants to speak to the Building Commissioner about the project, that this is a unique situation, and that he is concerned about safety. Alderman Drapeau stated that he did speak to the Building Commissioner, that there is some concern with setting a precedent with this design, that the City Council has to review each case on its own, and that he is concerned about the potential of oversize garages being converted to business uses or illegal apartments. Alderman DiTucci stated that she supports the concept once the health issues have been addressed adequately, and that sometimes people will take advantage of a situation and therefore the City Council is expressing concern. IN FAVOR: None. OPPOSED: None. Motion made and 2<sup>nd</sup> that the PUBLIC HEARING be CONTINUED TO THE REGULAR MEETING OF THE CITY COUNCIL ON MARCH 20, 2012 AND THAT THE MATTER BE REFERRED TO THE COMMITTEE ON SPECIAL PERMITS ON MARCH 12, 2012, all in favor 9-0.

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**CITIZEN'S PARTICIPATION:** None.

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**FINANCE:**

On the Order to transfer the sum of \$20,000.00 from Cemetery Interest Fund to various Cemetery Accounts, 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: March 2, 2012**                      **s/Scott D. Galvin March 2, 2012**

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On the Order to appropriate the sum of \$47,000.00 from Traffic Safety & Infrastructure Account to Upgrade to MWRA Meter 230, committee report was received “ought to pass”. Alderman Gately stated that the project will move the meter aboveground, that this is part of a collaboration between the MWRA and the city to make these improvements in the system, that a request for proposals will have to be issued for an outside firm as this work will be beyond the scope of the Department of Public Works, that this is part of a larger improvement project, and that this a bigger project than simply taking out an old meter. Motion made and 2<sup>nd</sup> that the COMMITTEE REPORT be ADOPTED, AS AMENDED with the amendment as follows: 1. That upon completion of the work a detailed expense report of the project be filed with the City Council, including but not limited to the work completed, the equipment used and obtained, supplies purchased and any vendor payments, all in favor, 9-0.

**Presented to the Mayor: March 2, 2012**                      **s/Scott D. Galvin March 2, 2012**

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On the Loan Order to allow the Treasurer, with the approval of the Mayor, to refinance outstanding bonds for interest cost savings, 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: March 2, 2012**                      **s/Scott D. Galvin March 2, 2012**

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**PUBLIC SAFETY AND LICENSES:**

On the petition by Robert Fucarile for renewal of Second Class Motor Vehicle Sales Licenses, 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 Mayor on March 2, 2012 and ten days having elapsed without same being approved, said License became effective without his signature on March 13, 2012.**

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On the petition by Wade Y. Suleiman and Mourad ElBaciti for a new Common Carrier License, committee report was received “motion to approve the petition pending availability of the license.” Alderman Haggerty stated that this should be returned to committee, that the City Solicitor should be asked to provide an opinion as to a clear definition of what a common carrier is and the role of the City Council in that process, that the city has not ordinances regarding common carrier licenses, that the petitioners’ proposal does not meet the requirements of a common carrier law as he reads it, and that

there may need to be clearer language in the ordinances. Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO COMMITTEE ON PUBLIC SAFETY AND LICENSES and that a communication be forwarded to the City Solicitor requesting an opinion providing a clear definition of what a common carrier license is under Massachusetts law and the role of the City Council in that process, all in favor, 9-0

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### **NEW PETITIONS:**

A communication dated February 23, 2012 with attachments was received from Attorney Mark Salvati, 10 Cedar Street, Suite 26, Woburn, Massachusetts 01801 as follows:

Dear President Denaro and Council Members:

Please be advised that I represent Kravings Etc, a restaurant located at 106 Winn Street. This business operated pursuant to two special permits granted to Kravings ETC, Robert Haykal Manager and David and Jayne Tracy, landowners. One special permit is to allow for 7 off site parking spaces and was granted in October of 2008. The other is to allow for a fast food restaurant and was granted in June of 2009. Copies of both decisions are attached hereto and contain the following first provision:

1. That this special permit shall be exclusive to Kravings Etc, Robert Haykal, Manager and terminate if this operation ceases.

My client intends to transfer the business to a new individual who will keep Kravings Etc as an ongoing business with no change as to name, seating, parking, or signage. The remaining 13 conditions, which are identical on both permits, shall not be changed. Condition #3 (parking lease with neighboring property) shall be re-executed and provided to the Council if this request is granted. Landowners, David and Jayne Tracy, shall not change.

Request is made to amend both special permits to remove the designation "Robert Haykal, Manager" and allow for the continuation of both permits under the name Kravings Etc only. This will allow the continuity of a business that is experiencing a change in ownership, but not operation. It is our position that the operation as set forth in the first condition is not ceasing and therefore the special permits should be allowed to continue.

Thank you for your attention to this matter and please call with any questions.

Very truly yours, s/Mark J. Salvati

Alderman Gately stated that there is a manager's name attached to the special permit, that every time the manager changes the special permit will have to be amended, that the petition requests that the name of the manager be stricken from the special permit, and that the operation of the business will remain the same under a new manager. President

Denaro stated that underlying this request is a transfer of ownership not just the management. Alderman Drapeau stated that the request seems to override the non-transferability of this special permit. Alderman Gately stated that this will be the same business with a different owner. Alderman Anderson stated that the request is asking that the manager's name be removed from the petition, and that there is a question as to whether Kravings Etc. is a legal entity itself. Alderman Mercer-Bruen stated that the City Council needs to know that Kravings Etc. is in good standing. Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO COMMITTEE ON SPECIAL PERMITS WITH A COMMITTEE MEETING ON MARCH 12, 2012, all in favor, 9-0.

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Petitions for renewal of Taxi Cab Licenses by Abdulla Nasser dba AACO Travel Taxi Service, 329 Washington Street; Ahmad Abbas dba A.A. Transportation, 600 West Cummings Park #1175; Mourad Djiar dba ABCE Taxi of Woburn, 165M New Boston Street; Bombay Taxi Inc., 165U New Boston Street; Ali A. Saleb dba Metro Cab, 10G Roessler Road, Suite 514; and SureRide, LLC, 400 TradeCenter, Suite 5900. Motion made and 2<sup>nd</sup> that the MATTERS be REFERRED TO COMMITTEE ON PUBLIC SAFETY AND LICENSES, all in favor, 9-0.

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Petitions of renewal of Livery Licenses by Patricia Porrizzo dba Hollywood Limousine, 4 Skyview Lane; and LandJet, Inc., 214 Salem Street. Motion made and 2<sup>nd</sup> that the MATTERS be REFERRED TO COMMITTEE ON PUBLIC SAFETY AND LICENSES, all in favor, 9-0.

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Petition by M&L Transit Systems Inc., 60 Olympia Avenue for renewal of Common Carrier License Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO COMMITTEE ON PUBLIC SAFETY AND LICENSES, all in favor, 9-0.

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Petition by Woburn Bowladrome Inc., 32 Montvale Avenue for renewal of Bowling Alley License. Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO COMMITTEE ON PUBLIC SAFETY AND LICENSES, all in favor, 9-0.

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Petition by NSTAR Electric Company for a grant of right in a way to relocate joint occupancy pole 153/72 on the northerly side of Montvale Avenue approximately 25 feet east of Washington Street and to install conduit a distance of 20 feet westerly from Montvale Avenue from pole 153/73 a distance of approximately 110 feet east of Washington Street. Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO PUBLIC HEARING ON MARCH 20, 2012, all in favor, 9-0.

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Petition by Ron Martignetti, One Arlington Street, Winchester, Massachusetts 01890 for a special permit pursuant to Section 5.1.57 of the 1985 Woburn Zoning Ordinances, as

amended, to allow inside storage of personal motor vehicles, watercraft and boats as well as personal property with no outside storage at 10 John Street. Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO PUBLIC HEARING ON MARCH 20, 2012, all in favor, 9-0.

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Petition by Larry G. Blomquist dba Fellsway Foreign Motors, 88 Eastway Road, Reading, Massachusetts 01867 for a special permit pursuant to Sections. 5.1.44, 7.3 and 15 of the 1985 Woburn Zoning Ordinances, as amended, to allow for the alteration of the existing nonconforming structure for an automobile and truck repair garage at 300 Cambridge Road. Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO PUBLIC HEARING ON MARCH 20, 2012, all in favor, 9-0.

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**COMMUNICATIONS AND REPORTS:**

A communication dated February 17, 2012 was received from Charles L. O'Connor, Parking Clerk, Police Headquarters, 25 Harrison Avenue as follows:

In accordance with Massachusetts General Laws Chapter 90, Section 20½, I am submitting a report to you on the parking violations in the City of Woburn for the period ending January 2012: number of parking violations issued 135, number of violations paid 38, number of violations outstanding 81, amount collected and submitted to the Office of the Collector \$2,287.00. There exists a backlog of 5,934 tickets for 1982 through 2011. Demand will be sent until all tickets have been paid. Parking violations referred to the Handicapped Commission to date \$200.00.

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 February 16, 2012 was received from Joanne Collins, Director, Woburn Council on Aging along with a copy of the Woburn Council on Aging Annual Report for calendar year 2011. 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 February 17, 2012 was received from Woburn Traffic Commission as follows:

Re: Radar Speed Warning Signs

The Traffic Commission has been reviewing a number of requests to install radar speed warning signs as a traffic calming measure throughout the city. At its Regular Meeting on

February 16, 2012, the Traffic Commission voted to request the Mayor and the City Council forward a list of locations where the signs should be installed to the Traffic Commission by March 8, 2012 and that funds be appropriated for installation of the signs.

Thank you for your attention to this matter.

Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO COMMITTEE ON PUBLIC SAFETY AND LICENSES and that Police Sgt. Paul Tenney be invited to attend the Committee meeting on March 26, 2012, all in favor, 9-0.

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A copy of a communication dated February 7, 2012 to Mark Reed, Dir. of Public Affairs, NStar Electric & Gas Corp., One NStar Way, SW-380, Westwood, Massachusetts 02090 from State Representative James J. Dwyer, State Representative Jay R. Kaufman and State Senator Kenneth J. Donnelly urging NStar to address the concerns of the City of Woburn with respect to the timely removal of double utility poles throughout the city. 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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**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 purpose of adding the following late filed matters to the Order of the Day, all in favor, 9-0.

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**ORDERED** Be it Ordained by the City Council of the City of Woburn that Title 13, Section 13.2.35 of the 1989 Woburn Municipal Code, as amended, be further amended by deleting the section in its entirety and replacing same with the following:

13.2.35 Rates for Various Types of Services.

A. Residential Units.

1. All residential units, metered and non-metered, shall be billed at a base rate charge of \$102.50 dollars semiannually. Multi-residential units shall be billed by the number of units times the flat rate, semiannually.

(Amended 6/16/92; 8/20/96; 5/22/2001; 10/29/2001; 12/15/2004; 6/27/2005; 6/14/2006; 1/22/2007; 8/24/2007; 10/9/2008; 7/8/2010)

2. For the purpose of this section, "residential units" means single-family or multifamily units, where one or more persons reside.
3. Any increase in the rates in Subsection 1 herein shall require a majority vote of the City Council for approval. (added 6/14/2006; amended 1/22/2007)

#### B. Mixed Use Buildings

1. All Mixed Use Buildings with one residential unit shall be billed for their Residential water use at the base rate set forth in the preceding Section A(1) semi-annually provided that the water supplied to the individual residential unit or units is segregated and metered separately. Mixed Use Buildings with multi-residential units shall be billed for their Residential water use by the number of units times the flat rate, semiannually provided that the water supplied to the individual residential unit or units is segregated and metered separately.
2. All other water services provide to a Mixed-Use Building, other than those that qualify for the base rate as set forth in the preceding Section B(1), shall be charged a base rate of \$4.60 for every one hundred cubic feet of water used. Separate meters will be required where water is supplied to a building with both a residential unit/units and a commercial unit.
3. For the purpose of this section, "Mixed Use Building" means a use that includes a residential use and a commercial use within the same building.
4. Meters and reading devices shall be supplied, installed and owned by the Department. The cost of meters and reading devices including installation shall be charged to the user based on the cost of the water meter and reading devices as set forth in Section 13.2.14. All meter charges will be put in an escrow account under the Water and Sewer Enterprise account to be used for water meter replacement and maintenance.

#### C. Metered Services.

1. All water services, other than those defined above as residential or mixed use, shall be charged a base rate of \$4.60 for every one hundred cubic feet of water used. Separate meters shall be required where water

is supplied to both a residential unit/units and a commercial unit. Where water is supplied to both a residential unit and a commercial unit through a single service, the rate charged shall be determined by the principal use of said water. The principal use shall be determined by the Superintendent of Public Works. (Amended 08/15/90; 6/16/92, 8/20/96; 5/22/2001; 10/29/2001; 12/15/2004; 6/27/2005; 6/14/2006; 8/24/2007; 10/9/2008; 7/8/2010).

2. Meters and reading devices shall be supplied, installed and owned by the Department. The cost of meters and reading devices shall be charged to the user based on the cost of the water meter and reading devices and over a 5- year period. All meter charges will be put in an escrow account under the Water and Sewer Enterprise account to be used for water meter replacement and maintenance.
3. Water for building purposes shall be supplied by meter, and be charged at the current commercial rate for the total amount of water used.
4. Builders who are not owners of premises where water is supplied may be given service if upon application they make a cash deposit to pay all costs of installation and to guarantee the safety of the meter.
5. The minimum charge for shutting off and turning on water shall be ten dollars.
6. No charge for water shall be made to city-owned buildings.
7. All active services not in regular use shall be known as "standby" services and shall be charged at the rate of thirteen dollars semiannually for each such service.
8. On services subject to metered water there shall be a minimum charge of \$102.50 paid semi-annually July 1st and December 31st. (Amended 08/15/90; 6/16/92; 8/20/96; 5/22/2001; 10/29/2001; 12/15/2004; 8/24/2007; 10/9/2008; 7/8/2010)
9. The above rates schedule must be reviewed one year from the day of passage, and every five years thereafter. (Ord. dated 05/18/88; Ord. of 4/18/86; 4/5/85; prior code Ch. 29 4; ord. 07/01/91).

NOTE: Elderly and Widows who are entitled to an exemption under Property Tax Statutory Exemption, Chapter 59, Sec. 5 Cl 17C and also Cl 41, will be entitled to a 20% reduction in water charges for the unit dwelling occupied by the eligible person. Proof of entitlement shall be presented with the water bill. (Ord. dated 05/18/88)

10. Request for abatements and exemptions must be filed within thirty (30) days of billing date recorded on water and sewer bill. (Ord. dated 05/04/89).
11. Out-of-City customers connected to the water distribution system shall be billed the applicable water rate of the city they reside in, plus a 25% service fee. (Ord. dated 05/04/89; 08/15/90; 07/01/91).

s/Alderman Haggerty, Alderman Anderson,  
Alderman Gately and President Denaro

Alderman Haggerty stated that he is obtaining information on the fiscal impact of the proposal, and that he wants to treat all residents fairly. Alderman Drapeau stated that he wants a communication to be sent to the City Solicitor requesting an opinion as to language in the ordinances that states no city building will be charged for use of water and sewer service and whether this is legal in with an enterprise system, and that all users of water should be charged with the costs to spread the cost across all entities to make the process fair for all rate payers. Alderman Gately stated that the City Council has the right to set the rates, and that this proposal is a small step forward in making good progress. Alderman Drapeau stated that he wants information provided in committee but does not want to delay this process. Alderman Mercer-Bruen stated that the intent here concerns service to mixed use buildings and not the issue of water use in city buildings. Alderman Haggerty stated that the proposal has city-wide implications as written. Alderman Mercer-Bruen stated that the proposal will shift costs and this will be an issue. Alderman Haggerty stated that he does not want to shift the costs to the residents, and that the Water and Sewer Enterprise Fund has a \$1,200,000.00 surplus. Motion made and 2<sup>nd</sup> to forward a communication to the City Solicitor requesting an opinion as to whether it is legal to exclude city building from liability for water and sewer use charges, 4 in favor, 5 opposed (Anderson, Gately, Haggerty, Mercer-Bruen, Denaro opposed), Motion Fails. Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO COMMITTEE ON ORDINANCES, all in favor, 9-0.

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ORDERED Be it Ordained by the City Council of the City of Woburn that Title 13, Section 13.3.9 of the 1989 Woburn Municipal Code, as amended, be further amended by deleting the section in its entirety and replacing same with the following:

13.3.9 Rates for Use of Common Sewer.

- A. Every person or owner of an estate who has entered or who may hereafter enter his particular sewer into a common sewer shall pay for the use of such sewer as follows:

1. For Domestic Use: base rate of \$164.00 for billing cycle. (Ords. 04/05/85; 05/18/88; 05/04/89; 08/15/90; 07/01/91; 6/16/92; 8/20/96; 12/15/2004; 6/27/2005; 6/14/2006; 8/24/2007; 10/9/2008)
  2. For Manufacturing Use: The base rates shall be 304% of the Annual Water Bill Charges or ten (10%) percent above the annual MWRA charge for the sewer discharge whichever is highest. (Ords. 04/05/85; 05/18/88; 05/04/89; 08/15/90; 07/01/91; 06/16/92; 6/14/2006)
  3. For Small Business Use: The base rates shall be 304% of the Annual Water Bill Charges. (Ords. 04/05/85; 05/18/88; 08/15/90; 07/01/91; 06/16/92; 6/14/2006)
  4. For Mixed Use Buildings: The base rates shall be \$164.00 per billing cycle for each Domestic Use and 304% of the Annual Water Bill Charges for each separately metered Commercial or Manufacturing Use. Mixed Use Buildings with multi-residential units shall be billed by the number of units times the flat rate, semiannually.
    - a. For the purpose of this section, "Mixed Use Building" means a use that includes a residential use and a commercial use within the same building.
  5. Properties not connected to the Common Sewer where sewer service is available on street, shall be assessed a semi-annual fee of \$5.00 per unit dwelling. (Prior ch. 23 sec. 18). (Amended 9/4/92)
  6. Senior citizens connected to the Common Sewer who are entitled to an exemption under Property Tax Statutory Exemption, Chapter 59 Sec. 5 Cl. 17C and Chapter 59 Sec. 41 will be entitled to a 66% reduction in sewer charges for the unit dwelling occupied by the eligible person. Proof of entitlement shall be presented with the sewer bill. (Ords. Dated 05/18/88, 05/05/89).
  7. Any change in the base rates specified herein shall require a majority vote of the City Council for approval. (added 6/14/2006, amended 1/22/2007)
- B. The quantity of sewerage delivered to a public sewer from a building sewer shall be determined by water meter readings of the appropriate public water system, and said readings are to be taken and recorded under the direction of the Superintendent of Public Works.

- C. Business involved in farming or in horticulture activity shall be entitled to ten percent (10%) of annual water bill charges. (Eff. July 1, 1986. Ord. Dated 04/10/87).
- D. Request for abatements and exemptions must be filed, in writing, with the Superintendent of Public Works within thirty (30) days of the billing date recorded on the water and sewer bill except those who have paid sewer charges without being connected to City sewer system. In the latter situation, none of these abatements shall exceed six (6) years. (Ord. Dated 05/04/89 – 3/15/94).
- E. Out-of-city customers connected to the Woburn Sewer System shall be billed the applicable sewer rate plus 25% sewer charge fee. (Ord. Dated 05/04/89).
- F. The rate schedule may be amended from time to time after a public hearing, held in accordance with applicable law.

s/Alderman Haggerty, Alderman Anderson,  
Alderman Gately and President Denaro

SEE RECORD NOTES FROM PRECEDING MATTER. Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO COMMITTEE ON ORDINANCES, all in favor, 9-0.

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Petition by New Boston Auto Exchange, 210 New Boston Street for renewal of Second Class Motor Vehicles Sales License. Motion made and 2<sup>nd</sup> that the MATTER be REFERRED TO COMMITTEE ON PUBLIC SAFETY AND LICENSES, all in favor, 9-0.

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

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Motion made and 2<sup>nd</sup> to ADJOURN, all in favor, 9-0. Meeting adjourned at 9:16 p.m.

A TRUE RECORD ATTEST:

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