

**IN BOARD OF SELECTMEN**

**April 1, 2008**

**Present: Chairman Nancy Daly, Selectmen Gilbert Hoy,  
Robert Allen, Betsy DeWitt, and Jesse Mermell**

**The Minutes of March 25, 2008 were held**

### **HOUSEHOLD HAZARDOUS WASTE DAY**

**The Board considered the question of approving and executing the contract for Household Hazardous Waste Collection Day scheduled for Saturday May 3, 2008 from 9:00 a.m. to 2:00 p.m. at the DPW Transfer Station, 815 Newton Street.**

**Highway Director Kevin Johnson stated that this is an annual event. Residents are allowed to bring and discard items such as antifreeze, bleaches, insect sprays, oil based paint, batteries, pool chemicals, fluorescent bulbs, and paint thinners. Mr. Johnson anticipates that this would be the last year for the annual event, the Town plans to have a drop off site available to residents one day a week year round. Latex paints need to be dried out before dropping off.**

**On motion, it was unanimously,**

**VOTED: To approve and execute the contract for Household Hazardous Waste Collection Day scheduled for Saturday May 3, 2008 from 9:00 a.m. to 2:00 p.m. at the DPW Transfer Station, 815 Newton Street.**

### **CONTRACT**

**The Board considered the question of awarding Contract No. PW/08-21 "Coolidge Corner Streetscape Improvements" in the amount of \$168,315.89 to Emanouil Brothers, Inc., of Chelmsford. Said contract to be funded from account 1720WS05 6E0022.**

**Director of Engineering Peter Ditto stated that this contract was put out twice. Last fall it came in over budget. The contract will remove pavements and install new cement concrete sidewalk. It includes work to fabricate, furnish and install wall mounted and post mounted gateway signs, and furnish new light fixtures at the alleyways in Coolidge Corner.**

**Selectman Hoy added that this was something that came in front of Town Meeting a couple of years ago, it involved work on one alleyway. It was re-evaluated, and then expanded to add other alleyways.**

**Regina Frawley, TMM #16 noted that Town Meeting did vote for the four alleyways. She asked what happened to the remaining funds for this project.**

**Mr. Ditto replied that the original balance of this fund was at \$169,726.00. The remaining balance after the contract is spent has been expended for the engineering and consulting portion of the project.**

**On motion, it was unanimously,**

**VOTED: To award Contract No. PW/08-21 "Coolidge Corner Streetscape Improvements" in the amount of \$168,315.89 to Emanouil Brothers, Inc., of Chelmsford. Said contract to be funded from account 1720WS05 6E0022.**

### **CONTRACT**

**The Board considered the question of awarding and executing Contract No. PW/08-24 "Correction of Illicit Sewer Connection – 30 Babcock Street" in the amount of \$10,200.00 with Commonwealth Excavation, Inc of Quincy. Said contract to be funded from account 4997C144 DPWCIP 6C0005.**

**Director of Engineering Peter Ditto stated that there is a sanitary sewer that is connected to a storm drain that eventually discharges to the Charles River. This needs to be corrected.**

**Chairman Daly asked how this was found. Mr. Ditto replied that it is a long process, the manholes are inspected every couple of months and if there is evidence that something is wrong, it is then followed through to find out where it is coming from. The Department has this process down to a science. He added that a couple of years ago, the MWRA requested that the Town start up in the system and work their way down, which is a very long, difficult, and costly project. The Town was able to convince them that they have the knowledge, and the know-how of their system, and that the Town's method would prove to be a lot quicker, and more fruitful for the Town. The Town provides annual reports to the MWRA showing progress on their procedure.**

**Selectman Mermell asked if the homeowners would be responsible for correcting the problem. Mr. Ditto replied that unless it is blatant error, the Town picks up the cost.**

**Regina Frawley, TMM #16 asked if this would bring in extra money for the Water Department Enterprise fund. Mr. Ditto replied that it would be very minimal.**

On motion, it was unanimously,

**VOTED: To award and execute Contract No. PW/08-24 “Correction of Illicit Sewer Connection – 30 Babcock Street” in the amount of \$10,200.00 with Commonwealth Excavation, Inc of Quincy. Said contract to be funded from account 4997C144 DPWCIP 6C0005.**

### **EXTRA WORK ORDER**

**The Board considered the question of approving Extra Work Order No. 2 in the amount of \$25,000.00 for work to be completed by Lorusso Corporation in connection with Contract No. PW/06-29 “Disposing of Leaves and Related Work”. Said work order to be funded from account 40004300 523593.**

**Director of Engineering Peter Ditto stated that this an accounting of year end adjustments to estimate quantities and contract value for disposing of leaves and related work. The Town collects the leaves, and they are picked up by a private hauler, the Town does not compost anymore.**

On motion, it was unanimously,

**VOTED: To approve Extra Work Order No. 2 in the amount of \$25,000.00 for work to be completed by Lorusso Corporation in connection with Contract No. PW/06-29 “Disposing of Leaves and Related Work”. Said work order to be funded from account 40004300 523593.**

### **DONATION**

**The Board considered the question of accepting a donation in the amount of \$25,000.00 from SKM Title and Closing Services to be used toward the continue improvement of the Minot Rose Garden on St. Paul Street.**

**Director of Parks and Open Spaces Erin Gallentine stated that this is part of the public benefit incentives associated with approval of 150 St. Paul Arms Street Development. This was a condition of the Board of Appeals decision for the St. Paul Arms Development. Receipt of this payment fulfills their requirement for this condition.**

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**DONATION cont'd**

The monies will be used for the upkeep and improvement of the Minot Rose Garden. Ms. Gallentine added that the Friends of the Minot Rose Garden share the upkeep with the Town. This donation is much needed.

On motion, it was unanimously,

**VOTED:** To accept a donation in the amount of \$25,000.00 from SKM Title and Closing Services to be used toward the continue improvement of the Minot Rose Garden on St. Paul Street.

**PUBLIC COMMENT**

There was no public comment at this time.

**BOARDS AND COMMISSIONS**

Kay O'Halloran, candidate for reappointment to the Human Relations/Youth Resources Board appeared for interview.

Ms. O'Halloran stated that she is currently an associate member and would like to be appointed full member to the Board. She has been active in Asian American forums, diversity programs, and the Pine Street Inn relating to homelessness issues.

On motion, it was unanimously,

**VOTED:** To appoint Kay O'Halloran as a full member of the Human Relations/Youth Resources Board for a term ending August 31, 2010, or until a successor can be appointed.

**NATIONAL PARK SERVICE**

Mark Swartz, Park Ranger, Frederick Law Olmsted National Historic Site appeared to invite the Board to the April 16<sup>th</sup> Lecture and Book Signing Event "Looking Back on Mission 66 in Anticipation of the National Park Service Centennial in 2016".

**NATIONAL PARK SERVICE cont'd**

**Mr. Swartz invited the Board and the Public to attend the Lecture and Book Signing with Ethan Carr, "Looking Back on Mission 66 in Anticipation of the National Park Service Centennial in 2016". This event kicks off the spring programming for both of Brookline's National Historic Sites, Frederick Law Olmsted and John F. Kennedy National Historic Sites. Both these sites are connected to the mission 66, a billion-dollar program that added new parks, seashores, and recreation areas to the system leading up to its 50<sup>th</sup> anniversary in 1966.**

**Selectman Mermell added that it is unusual for a Town this size to house two historic sites, it is very fortunate for the Town. Mr. Swartz agreed, many comparable communities do not have any National Sites.**

**The Board thanked Mr. Swartz for the invitation.**

**NOISE BYLAW WAIVER**

**Public Hearing on the request of the MWRA for a Noise Bylaw Waiver in connection with rehabilitation work to be performed by J. D'Amico, Inc. on Washington Street near the intersection of Brookline Avenue from April 6<sup>th</sup> through June 30<sup>th</sup> from 8:00 p.m. – 5:00 a.m. (Sunday night through Thursday).**

**Director of Engineering Peter Ditto stated that this request is in connection to a project done last year. It is a water line project for the MWRA at the intersection of Washington Street and Brookline Ave.**

**Michael Lenihan of J. D'Amico stated that they had previously worked at this site and he knows of no complaints. The work will take up one or two travel lanes. The project is in coordination with the MWRA. He anticipates the work to be done by June 30<sup>th</sup>.**

**Eddy Brickman TMM#4 asked how much noise will there be, will it be constant, and will there be a traffic detail to assist the pedestrians. Mr. Lenihan replied that there will be noise; there is heavy equipment that will be used, mostly by the commercial areas. He added that most of the demolition work will be done in the earlier hours. The police detail will be present and there will be no detours.**

**Ms. Brickman stated that she will provide adequate notice to the residents of the area.**

**Selectman Hoy requested that the waiver be granted for six weeks. He would like an update at that time.**

**NOISE BYLAW WAIVER cont'd**

On motion, it was unanimously,

**VOTED:** To grant the request of the MWRA for a Noise Bylaw Waiver in connection with rehabilitation work to be performed by J. D'Amico, Inc. on Washington Street near the intersection of Brookline Avenue from April 6<sup>th</sup> through May 20th from 8:00 p.m. – 5:00 a.m. (Sunday night through Thursday).

**NOISE BYLAW WAIVER**

**Public Hearing on the request of the Massachusetts Highway Department (MHD) for a Noise Bylaw Waiver in connection with reconstruction work along Route 9 to be performed by Aggregate Industries from 8:00 p.m. to 5:00 a.m. April 6<sup>th</sup> to September 1<sup>st</sup>, 2008.**

**Director of Engineering Peter Ditto stated that this is a request for a continuation of the noise by-law waiver that was granted on April 24, 2007. The project is with Aggregate Industries and MassHighway.**

**Mike Howe from Aggregate Industries stated that the work has been going smoothly, there were 84 additional trees planted, sidewalk work continued, and did some milling has been done along with the replacement of guardrails. He added that some sections were patched to get through the winter and will be repaved.**

**Jim Beals, 769 Boylston Street, stated that the combination of the noise level and lighting levels had a significant impact, especially in the summer when the windows are open. Mr. Beals said he has not been satisfied with the communication and response from Aggregate Industries or Mass Highway. There was no apparent effort to inform residents of where or when the work schedule will be. He requested that the waiver be denied, absent of additional information.**

**Chairman Daly added that MassHighway frequently mentions that they don't need any noise by-law waiver from the Town at all. She asked if there could be a public meeting between MassHighway, Aggregate Industries, and the residents for a question and answer session.**

**Mr. Howe from Aggregate Industries added that he had sent out notices to everyone with his contact numbers. There is a website, a free service set up for the project for residents to express complaints and concerns. He feels that everyone was well aware of what they were doing and where. He was available in the area and had received extensive calls asking for updates on the project. He feels that he has been very responsive.**

**NOISE BYLAW WAIVER cont'd**

**Armad Hyas from MassHighway stated that he felt there was a lot of outreach. There was a website that was set up specifically for this, he was not aware that there were any complaints. Mr. Howe added that there was a lot of extra work done to beatify Route 9 that was above and beyond the contract. Both Mr. Hyas and Mr. Howe will continue to be available and will coordinate a meeting with the residents.**

**Lewis Jacobs, 783 Boylston Street stated that the notices went out in too short a time for any response. He read an email from Lori Tarpinian, 771 Boylston Street, stating that it was a miserable existence to live through the nighttime work last summer. The lights were very bright, and you couldn't keep your windows open. She added Beacon Street was done during the day and so should this project. Mr. Jacobs submitted a petition asking to deny the waiver. He added that his house shook last summer from the work, and the flood lights flooded his home. The sounds get channeled through the houses and effects the houses behind the ones on Route 9. Mr. Jacobs made some note to last year's meeting for the noise by-law waiver of comments made by MassHighway that the noise effects will reach residents outside of the Rt. 9 corridor. He said the ordinance is there for a good reason. He hopes there could be some compromise where the night work is done in commercial areas and perhaps some meters put in to monitor the noise levels.**

**Mr. Hyas stated that the work cannot be done during the day due to safety concerns. The work has to be done at night. Some of the work is done during the day allowing them to finish at a faster pace. Things that can be done during the day will be. He added that they will try to finish the project as fast as possible, the noise will be there but hopefully the project will keep moving on at a fast pace.**

**Greg Howard, 5 Elliot Avenue stated that he did not receive any notice. He is not happy with the effort made to send out the notices. He added that Mr. Howe was responsive to specific issues. He feels that the Town and MassHighway let this slide through. His house also shook last year. He wonders why MassHighway can't stop parking on one side of Route 9 and do the work during the day. This is a highly populated area and wonders if something can be done differently. He agrees that the work has to be done, and wonders if there is some way to do the work during the day. He asked that the waiver be denied.**

**Carol Murphy of Boylston Street stated that there is a 6-8" drop from her driveway to the sidewalk. She asked if this will be repaved, or mended. Mr. Howe replied that they will be going back to repave that section of the sidewalk.**

**A resident of 487 Boylston Street she stated that there are 24 households in her building. The noise level and the vibrations are really bad. There are school age children living there and the nighttime work is affecting their performance at school. Can the project be worked around the school schedule? Also the curbing in**



front of the building between the sidewalk and the building has some damage. She would like to know who is responsible and who will be taking care of the replacement there.

Mr. Howe replied that they are re-finishing that section now. He added some of the video and the pictures of the damage were taken before the project was started in that area. He does not know if a plow damaged it or not.

Director of Highway Kevin Johnson stated that the plows do cover that area of sidewalk. The standard procedure is that a formal request goes to Town Counsel's office to file a claim. The DPW will go out and take a look at it and determines how it will be fixed.

Sandra McNaealy, Fairway Road stated that she did get a notice and did notice that there was vibration a couple of nights. She added that it was only a couple of nights that she was disturbed. For a couple of hours one or two nights, she thinks it is something that most of us should be able to live with.

Chairman Daly asked that all efforts be made to do the louder work in the earlier hours. Mr. Howe replied that he will do that.

Selectman Mermell asked about noise monitoring and if there is equipment used to measure this. Brian Keeney from MassHighway replied that MassHighway does not use such equipment; it would have to be a special provision in the contract, and is not common practice. He added that MassHighway and Aggregate Industries are contractually obligated to do this project during the night.

Selectman DeWitt stated that the residents should be the first priority over the commuters.

Selectman Hoy outlined that an effort be made that the loudest work is to be done in the earlier hours. The lighting and notices are a concern and should be monitored. He suggested a waiver for three weeks. Mr. Howe asked for a longer period.

Chairman Daly stated that she appreciates the concerns. Route 9 is an important road and in bade shape. MassHighway is doing the work and paying for it. They feel that they have the right not to appear before the Board for a noise waiver, but they have always chosen to work with the Board and hopes that they continue to do so. She asked that all the concerns be addressed and that the Town's website is always available for updates and concerns.

**NOISE BYLAW WAIVER cont'd**

**On motion, it was unanimously,**

**VOTED: To grant the request of the Massachusetts Highway Department (MHD) for a Noise Bylaw Waiver in connection with reconstruction work along Route 9 to be performed by Aggregate Industries from 8:00 p.m. to 5:00 a.m. April 6<sup>th</sup> to April 29<sup>th</sup>, 2008.**

*Selectman Allen arrived*

**FY 09 FINANCIAL PLANS**

**Review of the following FY09 Departmental Budgets:**

**Health and Human Services  
Planning and Community Development  
Recreation  
CIP  
Debt & Interest -Held**

**Health and Human Services**

**Director of Human Services Dr. Alan Balsam stated that the budget is level funded. There is an increase due to a vehicle replacement. He noted some upcoming events in the community on health issues. Trans- fat, and stroke awareness are a couple of topics that will be addressed on Public Health week. The Department continues to work on the Medical Reserve Corps, West Nile Virus, EEE, rabies, and communicable diseases, environmental health issues, substance abuse and violence prevention, mental health, and child health.**

**Selectman Hoy asked about teen smoking and substance abuse. Dr Jacques Carter, Chairman of the Advisory Council on Public Health stated that the Department does a lot of promotion and awareness outreach programs. Teen smoking seems to be going down. Dr. Balsam added that teen drinking seems to be going down as well.**

**Selectman Mermell asked about rabies and bats in general. Dr. Balsam stated that the bat should be tested for rabies. Rabies is a fatal disease and it is important to get treatment.**

**Health and Human Services cont'd**

Selectman Allen thanked them for their involvement at the St. Aidans site. The Health Department has been involved in monitoring the materials and disposing of them, and reassuring the residents concerns about health risks.

Dr. Carter announced that this will be his last term on the Council. The Board wished him well, and thanked him for his contribution to the community for many years. Dr. Balsam added that he has been a great supporter and an advocate for their cause.

**Planning and Community Development**

Director of Planning & Community Development Jeff Levine stated that the budget represents a .2% decrease. There has been a decline of town funds. The Department works with many groups and Committee. They are continuing to work on the Village Square Project, Gateway East, Affordable Housing, Fisher Hill, and historical buildings. The Department is active in zoning, preservation, economic development, Coolidge Corner District Planning, and the administration of CDBG grants.

Selectman Allen stated that the Department is involved in many aspects of the Town, and continues to provide the expected service to the Town.

Selectman DeWitt added that taking the project from the planning process to the design, to completion is a difficult task and the Department does it well. She added that a large part of the projects are completed using CDBG funds, and the assistance that these funds provide is great. Mr. Levine replied that CDBG funds assist in affordable housing, building improvements, Public Work's projects, and a number of social services.

Chairman Daly asked economic development. She added that Brookline has little space for commercial industries so economic development is a constant challenge. Mr. Levine replied that the town is very dense and commercial areas are close to residential area. He stated that the Department tries hard to balance them both.

Eddy Brickman TMM#4 stated that she is pleased to that a pedestrian crossing will be part of the Gateway East project.

### **Recreation**

**Director of Recreation Lisa Paradis, stated that the budget is divided into three separate pieces, golf, the revolving funds, and the general fund. She added that the department added new software at the golf course as well as in the recreation department to help streamline operations and provide online registrations. The Department plans to mail out four brochures this year with a new look and the rollout of the new online registration programs.**

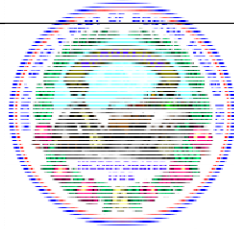
**Selectman Mermell asked about the pool and some water leaks by the windows. She asked if this would cause a closing at the pool. Director of Public Buildings Charlie Simmons replied that the issue is in the lobby and will be addressed. There will no closing to repair this.**

**Selectman Allen asked about her thoughts in general on the Recreation Department in the few months that she has been here. Ms. Paradis replied that Brookline has a lot of resources and so much to offer. She is looking at where the Department wants to go. She would like to see more health and wellness incorporated into the facilities, and more programs for adults. There is also opportunity to expand teen programs. Partnership with the schools and adult education is one way to get there.**

### **CIP**

**Deputy Town Administrator Sean Cronin stated that there has been much discussion on the CIP this year. He provided the Capital Sub-Committee votes, and the differences from the CIP presented in the financial plan.**

# TOWN OF BROOKLINE FY09 – FY14 CAPITAL IMPROVEMENT PROGRAM



April 1, 2008

## HEADLINES – AS RECOMMENDED TO BOARD

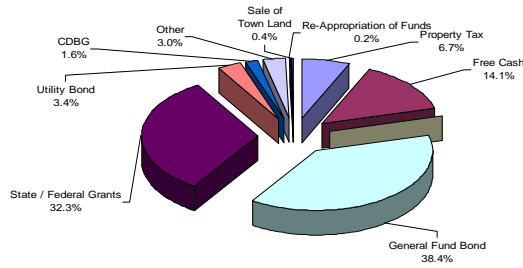
- \$141.5M Six-Year CIP (FY09 – FY14).
- Conforms with the Town's CIP Policies.
- Major challenges posed due to infrastructure needs, uncertainty about School Building Assistance, and landfill requirements.
- Undertakes major (Runkle School, Devotion School) and minor (High School, UAB, Baldwin School) School renovation projects.
- Includes funding for facility studies (Fire Sta's, Parks Facil, Bldg Craftsmen Garage).
- New infrastructure maintenance needs to be funded (Town Hall/Main Library Garage & Driveway, masonry, elevators, emergency generators, HS Quad).
- Continues to upgrade Public Safety equipment and funds furniture replacement at all Fire Sta's.
- Continues to investment in the Town's infrastructure (streets, sidewalks, water/sewer system, parks/playgrounds) and in IT.
- Incorporates a funding plan for the Village Square project.
- Includes funding for RFID at Libraries (in coordination with neighboring cmty's).
- Assumes Town funding for Runkle School at \$13.2M and Devotion School at \$27.7M, or 50% of each project. (Pushed both back 1 yr.)

**SUMMARIES – AS RECOMMENDED TO BOARD**

**GRAND TOTAL BY SOURCE (in thousands)**

	FY09	FY10	FY11	FY12	FY13	FY14	TOTAL	% OF TOTAL
Property Tax	1,409.9	1,620.6	1,394.6	1,054.9	1,795.9	2,248.2	9,524.1	6.7%
Free Cash	5,020.9	2,949.4	2,985.4	3,021.1	3,006.6	2,991.8	19,975.2	14.1%
Overlay Reserve Surplus	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0%
General Fund Bond	3,300.0	7,615.0	12,000.0	2,075.0	2,500.0	26,780.0	54,270.0	38.4%
State / Federal Grants	701.2	1,901.2	12,851.2	1,301.2	3,201.2	25,701.2	45,657.2	32.3%
Utility Bond	0.0	500.0	0.0	1,000.0	250.0	3,000.0	4,750.0	3.4%
CDBG	0.0	2,250.0	0.0	0.0	0.0	0.0	2,250.0	1.6%
Other	150.0	4,000.0	0.0	100.0	0.0	0.0	4,250.0	3.0%
Re-Appropriation of Funds	240.0	0.0	0.0	0.0	0.0	0.0	240.0	0.2%
Sale of Town-owned Land Fund	550.0	0.0	0.0	0.0	0.0	0.0	550.0	0.4%
<b>TOTAL</b>	<b>11,371.9</b>	<b>20,836.2</b>	<b>29,231.2</b>	<b>8,552.2</b>	<b>10,753.7</b>	<b>60,721.2</b>	<b>141,466.5</b>	<b>100.0%</b>

**CIP FUNDING BY SOURCE - 6 YR. TOTAL**



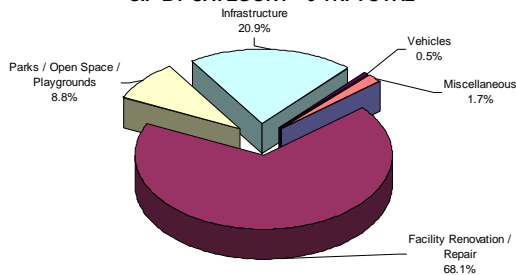
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**SUMMARIES – AS RECOMMENDED TO BOARD (con't)**

**GRAND TOTAL BY CATEGORY (in thousands)**

	FY09	FY10	FY11	FY12	FY13	FY14	TOTAL	% OF TOTAL
New Facility Construction	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0%
Facility Renovation / Repair	4,500.7	4,965.0	25,395.0	2,181.0	6,332.5	52,990.0	96,364.2	68.1%
Parks / Open Space / Playgrounds	980.0	3,980.0	1,460.0	2,220.0	1,600.0	2,140.0	12,380.0	8.8%
Infrastructure	5,001.2	11,271.2	2,031.2	3,681.2	2,396.2	5,191.2	29,572.2	20.9%
Vehicles	0.0	300.0	0.0	150.0	150.0	150.0	750.0	0.5%
Miscellaneous	890.0	320.0	345.0	320.0	275.0	250.0	2,400.0	1.7%
<b>TOTAL</b>	<b>11,371.9</b>	<b>20,836.2</b>	<b>29,231.2</b>	<b>8,552.2</b>	<b>10,753.7</b>	<b>60,721.2</b>	<b>141,466.5</b>	<b>100%</b>

**CIP BY CATEGORY - 6 YR. TOTAL**



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## MAJOR PROJECTS – AS RECOMMENDED TO BOARD

- Devotion School Rehab - \$27.7M of Town funding + possibility of \$27.7M of State funding in FY11-FY14 for feasibility, design, and construction
- Runkle School Rehab - \$13.2M of Town funding + possibility of \$13.2M of State funding in FY10-FY11 for design and construction
- Newton St. Landfill - \$2.99M (FY09) + 3.9M (FY10)
- High School- \$3.3M (FY09)
- Fisher Hill Reservoir Re-Use - \$3.25M (FY10)
- Village Square - \$3M (FY10)
- Baldwin School - \$2M (FY13-FY14)
- UAB - \$1.4M (FY11-FY12)
- Parking Meters - \$1.3M (FY10)
- Town Hall/Main Libr. Garages+Driveway - \$1.3M (FY09-FY10)

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## CONTINUED MAJOR INVESTMENT – AS RECOMMENDED TO BOARD

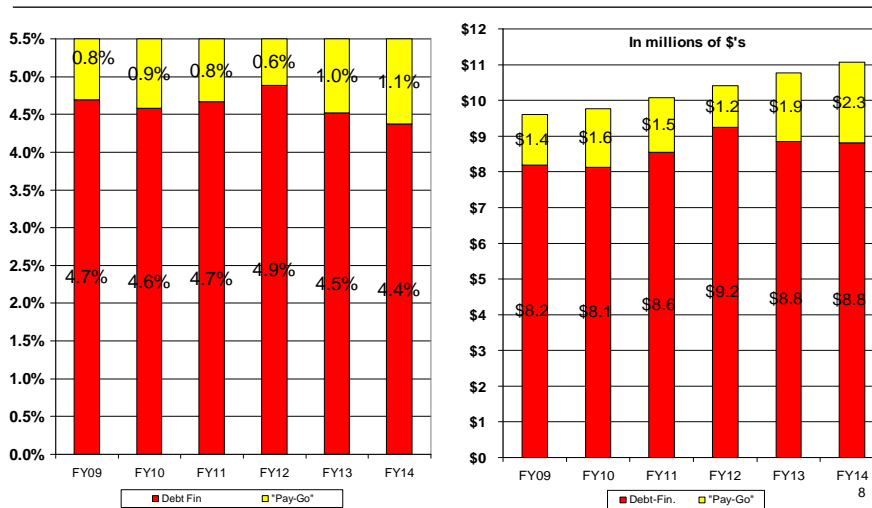
- Street & Sidewalk Rehab - \$11.8M
- Parks & Open Space - \$9.2M
- Water & Sewer Infrastructure - \$4.75M
- General Town/School Bldg. Repairs -- ADA, Security, Roof, Masonry, Elevators, Emer Generators, Energy Mgmt/Conserv. - \$3.6M
- Information Technology - \$1.35M
- Public Safety Equipment - \$875K
- RFID Tech. in Libraries - \$675K
- Branch Libraries - \$760K

## CIP FINANCING

	2009	2010	2011	2012	2013	2014
Total Gen Fund Rev	193,211,249	195,931,785	202,285,210	208,800,027	215,030,492	220,987,231
<b>LESS:</b>						
Non Appropriations	7,154,940	7,323,245	7,495,757	7,672,581	7,853,827	8,039,604
Net Debt Exclusions	1,692,697	1,667,074	1,637,286	1,532,067	2,109,552	1,611,719
Free Cash	5,954,963	3,750,000	3,750,000	3,750,000	3,750,000	3,750,000
Stabilization Fund	0	0	0	0	0	53,760
Overlay Surplus	0	0	0	0	0	0
Capital Project Surplus	240,000	0	0	0	0	0
Chapter 90	0	0	0	0	0	0
Sale of Town-owned Land Fund	550,000	0	0	0	0	0
<b>Net Revenue</b>	<b>177,618,649</b>	<b>183,191,467</b>	<b>189,402,167</b>	<b>195,845,378</b>	<b>201,317,113</b>	<b>207,532,148</b>
Prior Year Net Revenue	174,654,540	177,618,649	183,191,467	189,402,167	195,845,378	201,317,113
<b>Net Debt Financed<sup>1</sup></b>	<b>8,196,103</b>	<b>8,127,407</b>	<b>8,552,111</b>	<b>9,245,720</b>	<b>8,846,140</b>	<b>8,806,207</b>
Net Debt Financed as a % of Prior Yr Net Rev	4.69%	4.58%	4.67%	4.88%	4.52%	4.37%
<b>Revenue Financed</b>	<b>1,409,896</b>	<b>1,641,619</b>	<b>1,523,420</b>	<b>1,171,399</b>	<b>1,925,356</b>	<b>2,266,234</b>
Revenue Financed as a % of Prior Yr Net Rev	0.81%	0.92%	0.83%	0.62%	0.98%	1.13%
<b>SUB-TOTAL 5.5% Dedicated to CIP</b>	<b>9,606,000</b>	<b>9,769,026</b>	<b>10,075,531</b>	<b>10,417,119</b>	<b>10,771,496</b>	<b>11,072,441</b>
Free Cash for CIP	5,020,852	3,155,953	3,192,021	3,226,495	3,210,387	3,196,707
Capital Project Surplus -- Re-approp. of Funds	240,000	0	0	0	0	0
Other Funds (e.g., Overlay Surplus, Sale of Town-owned land, Cemetery Funds)	700,000	4,000,000	0	100,000	0	0
<b>TOTAL FUNDS AVAILABLE FOR CIP THROUGH GEN. FUND</b>	<b>15,566,851</b>	<b>16,924,979</b>	<b>13,267,552</b>	<b>13,743,614</b>	<b>13,981,882</b>	<b>14,269,148</b>

<sup>1</sup> As defined in the CIP Policies, "Net Debt" is total debt service exclusive of debt service related to a Debt Exclusion and debt service funded by enterprise fund revenues.

## DEBT-FINANCED vs "PAY-AS-YOU-GO"





## CIP FINANCING – FREE CASH

- The FY09-FY14 CIP follows the Town’s Free Cash Policy:
  - An amount equivalent to 0.25% of the prior year’s net revenue shall be appropriated as part of the Town’s 1% Appropriated Budget Reserve Fund.
  - To the extent necessary, Free Cash shall be used to fund the Stabilization Fund at a level equivalent to 3% of the prior year’s net revenue.
  - To the extent necessary, Free Cash shall be used to reach the funding target of the Town’s Liability / Catastrophe Fund (1% of the prior year’s net revenue).
  - To support the Affordable Housing Trust Fund, when Free Cash exceeds \$6M.
  - Free Cash may be used to augment the trust funds related to fringe benefits and unfunded liabilities related to employee benefits.
  - Dedicate all remaining funds to the CIP.
- The \$5.9M est of Free Cash for FY09 use is \$2.1M more than last year and is above the \$3.75M est used to build the out-years of the FY08 – FY13 CIP.
- For FY09, of the \$5.9M, \$5M is used to support the CIP. It enabled the \$2.975M approp. for the Landfill to be included without negatively impacting the CIP.
- In the out-years, a certification of \$3.75M is used, resulting in approximately \$3.2M for use in the CIP.

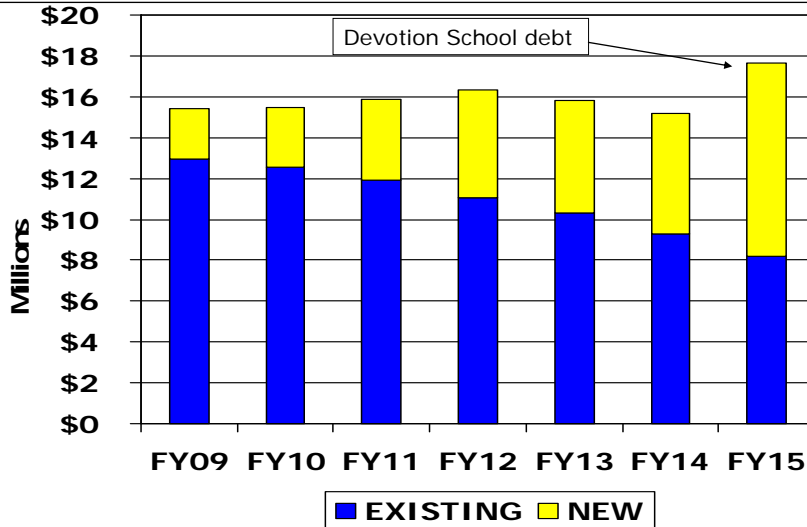
9

## DEBT MANAGEMENT PLAN

Project	Yrs	Authorization	2009	2010	2011	2012	2013	2014	2015
Landfill / Transfer Station (previously authorized) - borrow \$1.26M of the \$2M	10	2,000,000	182,700	177,030	171,360	165,690	160,020	154,350	148,680
Town Hall (previously authorized) - borrow \$6.9M of the \$13.8M	20	13,800,000	1,330,000	610,750	595,000	579,250	563,500	547,750	527,000
Fisher Hill (previously authorized)	10	1,350,000	195,750	189,675	183,600	177,525	171,450	165,375	159,300
Muddy River (previously authorized)	10	745,000	108,025	104,673	101,320	97,968	94,615	91,263	
Landfill / Transfer Station (previously authorized) - last \$740K of the \$2M	10	2,000,000	109,150	105,635	102,120	98,605	95,090	91,575	
Town Hall (previously authorized) - last \$6.9M of the \$13.8M	20	13,800,000	690,000	672,750	655,500	638,250	621,000	603,750	
HS Projects (seeking authorization)	15	3,300,000	368,500	358,600	348,700	338,800	328,900	319,000	
Runkle School Design - TOWN @ 50% (seeking authorization)	10	1,200,000		177,000	171,300	165,600	159,900	154,200	
Parking Meters (seeking authorization)	10	1,350,000		191,750	185,575	179,400	173,225	167,050	
Rear Landfill (seeking authorization)	15	3,915,000		456,750	443,700	430,650	417,600	404,550	
Garages/Driveway @ Town Hall/Main Libr. (seeking authorization)	10	1,200,000		177,000	171,300	165,600	159,900	154,200	
Runkle School - TOWN @ 50% (seeking authorization)	20	12,000,000			1,230,000	1,198,500	1,167,000	1,135,500	
UAB Roof/Chimney/Gutters & Downspouts (seeking authorization)	10	1,275,000				188,063	182,006	175,950	
Waldstein Playground (seeking authorization)	10	800,000				118,000	114,200	110,400	
Devotion School Design - TOWN @ 50%(seeking authorization)	10	2,500,000					368,750	356,875	
Fire Station # 7 Rehab (seeking authorization)	10	1,000,000					147,500	142,750	
Baldwin School (seeking authorization)	10	1,780,000						262,500	
Devotion School - TOWN @ 50%(seeking authorization)	20	25,000,000						2,562,500	
Old Lincoln HVAC / Sprinklers (seeking authorization)	10	1,780,000						717,500	
<b>NEW GEN FUND DEBT SERVICE (cumulative)</b>			<b>1,708,450</b>	<b>2,253,130</b>	<b>3,194,118</b>	<b>4,331,980</b>	<b>4,514,405</b>	<b>4,897,161</b>	<b>8,284,593</b>
Golf Course <sup>1</sup> (previously authorized)	15	2,840,000	21,750	21,075	20,400	19,725	19,050	18,375	17,700
Singletree Tank Interior Painting (previously authorized)	10	250,000		36,875	35,688	34,500	33,313	32,125	30,938
Storm Drains (previously authorized)	10	500,000	72,500	70,250	68,000	65,750	63,500	61,250	59,000
Wastewater (previously authorized)	15	6,000,000	14,500	159,050	299,100	434,650	565,700	692,250	832,289
Storm Drains (seeking authorization)	10	500,000			73,750	71,375	69,000	66,625	64,250
Water Main Improvements (seeking authorization)	15	1,000,000					145,000	140,500	136,000
Singletree Tank Exterior Painting (seeking authorization)	10	250,000						36,250	35,125
<b>NEW ENTERPRISE FUND DEBT SERVICE (cumulative)</b>			<b>108,750</b>	<b>287,250</b>	<b>496,938</b>	<b>626,000</b>	<b>895,563</b>	<b>1,047,375</b>	<b>1,175,302</b>
<b>TOTAL NEW DEBT SERVICE (cumulative)</b>			<b>1,817,200</b>	<b>2,540,380</b>	<b>3,691,055</b>	<b>4,957,980</b>	<b>5,409,968</b>	<b>5,944,536</b>	<b>9,459,894</b>

<sup>1</sup> Of the \$2.84M authorization, \$1.25M has already been borrowed from the FY02 authorization, leaving \$1.59M. This plan calls for using \$150K of the remaining authorization.

## DEBT SERVICE – ALL FUNDS



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## DEBT MANAGEMENT POLICIES

TABLE 1

VARIABLE	FY08	FY09	FY10	FY11	FY12	FY13	FY14
Legal Limit for Out. Debt = 5% of Equalized Valuation (EQV)							
EQV for 1/1/06 = \$14.827 billion. Assume 2.5% annual growth. (In millions)	\$15,197.4	\$15,577.4	\$15,966.8	\$16,366.0	\$16,775.1	\$17,194.5	\$17,624.3
Outstanding Debt as a % of EQV	0.7%	0.7%	0.7%	0.6%	0.6%	0.7%	0.6%
Total Outstanding Debt (in millions)	\$98.9	\$103.8	\$111.8	\$101.8	\$97.1	\$114.9	\$113.5
General Fund Outstanding Debt (in millions)	\$83.2	\$88.9	\$97.4	\$88.5	\$83.9	\$102.6	\$100.9
Total Debt Service (in millions)	\$13.7	\$14.9	\$15.2	\$15.7	\$16.0	\$15.5	\$14.9
General Fund Debt Service (in millions)	\$10.8	\$12.2	\$12.5	\$12.9	\$13.4	\$13.0	\$12.5
Total Debt Service Per Capita	\$246	\$268	\$273	\$283	\$287	\$279	\$267
General Fund Debt Service Per Capita	\$195	\$219	\$225	\$232	\$242	\$234	\$224
A. Total Outstanding Debt Per Capita as a % of Per Capita Income	2.9%	3.0%	3.1%	2.8%	2.6%	3.0%	2.9%
General Fund Outstanding Debt Per Capita as a % of Per Capita Income	2.4%	2.6%	2.7%	2.4%	2.2%	2.7%	2.6%
B. Total Outstanding Debt Per Capita	\$1,779	\$1,867	\$2,012	\$1,831	\$1,747	\$2,067	\$2,042
General Fund Outstanding Debt Per Capita	\$1,496	\$1,599	\$1,753	\$1,593	\$1,509	\$1,846	\$1,814
C. Total Outstanding Debt as a %age of Assessed Value (AV)	0.7%	0.7%	0.7%	0.6%	0.6%	0.7%	0.7%
General Fund Outstanding Debt as a %age of Assessed Value (AV)	0.6%	0.6%	0.6%	0.6%	0.5%	0.6%	0.6%
D. Total Debt Maturing Within 10 Years	82%	83%	88%	84%	86%	84%	74%
General Fund Debt Maturing Within 10 Years	80%	81%	86%	82%	84%	82%	72%
E. CIP Financing as a %age of Prior Year's Net Revenue	5.50%	5.50%	5.50%	5.50%	5.50%	5.50%	5.50%
Debt-Financed CIP as a %age of Prior Year's Net Revenue	4.69%	4.70%	4.58%	4.67%	4.88%	4.52%	4.37%
Revenue-Financed CIP as a %age of Prior Year's Net Revenue	0.81%	0.80%	0.92%	0.83%	0.62%	0.98%	1.13%

### Town Policies

- A. Total Outstanding Debt Per Capita = shall not exceed 6% of Per Capita Income.
- B. Total Outstanding Debt Per Capita = shall not exceed \$2,315 (for FY08).
- C. Total Outstanding Debt = shall not exceed 2.5% of Assessed Value (AV).
- D. Bond Maturities = 60% of General Fund principal shall mature within 10 years.
- E. CIP Financing = 5.5% of Prior Year's Net Revenue, with a goal of 4.25% from Debt-Financed and 1.25% from Revenue-Financed.

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## ADDITIONAL REVENUE SOURCES

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- **CDBG Funds** – \$2.25M is used, including utilizing the Section 108 Loan Guarantee Program.
- **State / Federal Grants** – \$45.7M is anticipated, including the assumption that SBA funds cover 50% of the Runkle School and Devotion School projects. Without SBA funding, these will be \$13.2M and \$27.5M projects, respectively, funded by the Town.
- **Proposed Private Development** - \$4M total, with \$3.25M for Fisher Hill Reservoir Re-Use (FY09) and \$750K from 2 Brookline PI for Gateway East.
- **Cemetery Trust Funds** - \$200K for Old Burial Ground projects.
- **Re-Appropriation of Funds** - \$240K of existing CIP project accounts will be re-appropriated in FY09 to help balance the CIP.

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## MAJOR ISSUES GOING FORWARD

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- SBA funding for Runkle and Devotion Schools
- Construction costs
- Newton St. Landfill Corrective Action
- Future Free Cash levels
- Addressing the impact of inflation on a number of CIP accounts
- Override

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## CAPITAL SUB-COMMITTEE VOTES – Differences from CIP Presented in the Fin. Plan

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1. Craftsmen Garage / Parks Facility Improvement Study (\$10K less)
2. Reservoir Transformer Building and Gatehouse (\$0 instead of \$30K)
3. Putterham Library Renovations (defer roof/windows until further study)
4. Library RFID (\$0 instead of \$465K)
5. High School projects (\$3.3M revised figure reflects Bldg Dept's recent update)
6. Tree Replacement / Removal (add'l \$50K)
7. Landfill Corrective Action (place remaining savings from #'s 1-4 into this project)

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**Deputy Town Administrator Sean Cronin outlined the following memorandum:** Attached you will find a Table that shows the FY09 CIP appropriations as recommended in the Financial Plan compared to what the Capital Sub-Committee of the Advisory Committee has recommended. The full Advisory Committee has voted on some of the items, as explained below. To summarize, the Sub-Committee has offered the following changes:

1. reduce the Craftsmen Garage / Parks Facility Improvement Study from \$50K to \$40K
2. eliminate the \$30K for the Reservoir Transformer Building and Gatehouse
3. defer the windows and roof component of the Putterham Library project to FY10
4. eliminate the \$465K for the Library's RFID project
5. reduce the \$4M bond authorization for the High School projects to \$3.3M<sup>1</sup>
6. add \$50K to Tree Replacement / Removal
7. place the remaining savings from #'s 1-4 above in the Landfill Corrective Action appropriation

The full Advisory Committee has approved all of the CIP appropriations as recommended by the Capital Sub-Committee with the following exceptions:

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<sup>1</sup> This is based on the revised project cost as provided by the Building Department.

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1. Reservoir Transformer Building and Gatehouse – the Committee has requested additional information from the Building Department and will revisit this item when that information is available.
2. Tree Replacement / Removal – since the Reservoir Transformer Building and Gatehouse appropriation has not been agreed to yet, the \$30K that the Sub-Committee would take from that project to put into the Tree Replacement / Removal account cannot be voted yet. Once the Reservoir Transformer Building and Gatehouse issue is resolved, the full Committee will take a vote on the Tree account.
3. Landfill Corrective Action – the full Committee will not take a vote on this item until mid-April, once Town Counsel updates them on the issue.

The last column of the attached Table, labeled “Board of Selectmen”, represents staff recommendations. I recommend that the Board do the following:

- (a) approve the \$465K for the Library RFID project;
- (b) approve \$30K for the Reservoir Transformer Building and Gatehouse, with \$20K for the demolition of the Transformer Building / removal of the transformer and \$10K for a match for the Preservation Commission’s grant application for the Gatehouse;
- (c) make the Tree Removal / Replacement appropriation \$110K, an amount that is \$10K higher than originally proposed, with the \$10K coming from the reduction in the Craftsmen Garage / Parks Facility Improvement Study; and
- (d) put the balance into the Landfill Corrective Action, which would be \$290K if the above recommendations are approved, making that a \$2.99M appropriation.

**Selectman Allen asked Mr. Cronin his thoughts on the Library RFID. Mr. Cronin replied that he feels this technology is the only way to maintain the services with the limited staff while in the face of additional staff eliminations in the future. The circulation has continued to go up, and staff levels have gone down, making it difficult to keep up with demand.**

**Selectman DeWitt had concerns about the technology and if it would work with other libraries that may or may not have this technology. She does not want to be a test market for the product. Kevin Stokes, Chief Information Officer replied that this technology has been proven and designed by a group that understands the market and how to make it grow. It would comply with other technologies. It could be programmed to do what you want. He added that the technology is viable right now.**

**Chairman Daly outlined some of the Advisory Committee’s concerns about the RFID. Some are; how much capacity is left in the current system? How much can circulation increase before quality service is seriously jeopardized? Staff ratio to circulation compared to comparable communities. Development and standards for the RFID system, when would it be finalized and adopted?**

**Library Director Chuck Flaherty replied that in 1993 there were 45 staff members. Since then the staff levels have been reduced to 41 while circulation has increased 124% sine 1993. Since the Main library re-opened the branch went from the fifth busiest library in the State to the third. This shows that they are doing a whole lot more with less. The Library has been relying on State aid for part time staff, this amount has been reduced. The challenge he faces is how to handle this. If the override fails there will be a further decrease in staff levels. Right now there are two motions for each check in and check out. RFID allows multiply books to be scanned at one time. It will also provide a self service check-out. On the question as to why now? About 12% of the books checked out are part of the Minute Man Network of libraries. Cambridge and Wellesley have the funds now and are ready to move forward with this technology. Newton is also looking at this now as well. This is the opportunity to pull this group together. On the technology improvement; there are over 3,000 libraries using it now. He has been monitoring this technology for the past ten years. He is not talking with vendors at this point, he is talking to customers. Would the technology get cheaper? Probably yes, but if you went by that rule you would never buy technology. He added that it will be a challenge but they will make it work. He also stated that this technology is not a way to reduce staff but a way to reallocate staff, and provide better quality service. A typical check out takes about 80 seconds, last year there was 1.26 million check outs at the library. If half of these checkouts are done by self check out there will be a savings of 1,388 hours of staff time. It will give the potential to make meaningful changes in the way they conduct business. Mr. Flaherty ended by saying if circulation continues to go up this is the only tool, other than adding additional staff, that will help them keep up with the demand without jeopardizing service.**

**Chair of the Library Trustees Carol Alexelrod agreed with everything that Mr. Flaherty said. The commitment will continue to be for service and quality.**

**Selectman Hoy added that it seems that circulation is clearly going to keep increasing as it has in recent years. He is in favor of providing more books to more people, he supports this technology.**

**Selectman Mermell asked about other communities that are not using the technology, how will this be incorporated with the RFID. Mr. Flaherty replied that the current bar code system will continue to be used as well. She feels that the circulation numbers speak for themselves. She supports this technology.**

**Chairman Daly noted the third highest circulation in the State for a community of this size is impressive.**

**Selectman DeWitt stated this could position the library to deal with what may be coming in the future which could be an increase of circulation and a decrease in staff.**

On another Library issue concerning the roof at the Putterham Branch, Chairman Daly asked if Mr. Flaherty had any comments on it. Mr. Flaherty replied that he has no issue with the deferral for the roof and window project. He knows that they need to be done at some point but will wait for the study recommendations. Director of Public Buildings Charlie Simmons added that the only other issue that the Advisory Committee had was the need for an ADA bathroom.

On the Reservoir gatehouse and Transformer Building, \$10k was proposed to clean out the Gatehouse, and \$20k to remove the transformer building, which is very old and not in use. Right now there is no vote until there is more information and more testing on the transformer which will be done tomorrow.

Preservation Planner Greer Hardwicke, stated that the Gatehouse is in need to get cleaned out, she hopes that a grant will come in for this. She hopes that the transformer building will be approved for removal.

#### **WARRANT ARTICLES**

Review of the following Warrant Articles for the May 27, 2008 Town Meeting:

<b><u>NO.</u></b>	<b><u>TITLE</u></b>
18.	Temporary Preservation Restriction – Arts Center (Preservation Commission)
19.	Temporary Preservation Restriction – Gatehouse (Preservation Commission)

Preservation Planner Greer Hardwicke stated that the Brookline Arts Center has applied for a grant for funds to complete a conditions report for the old chemical firehouse building. In order to qualify for funding, a temporary preservation restriction is required. The restriction would be for about 5 years.

Preservation Commission member Denis DeWitt added that he would like to see the transformer building gone. He does not think it is safe. On the Gatehouse Restriction, the Preservation Commission has applied for a matching grant to conduct a condition assessment. A requirement of the matching grant from the Massachusetts Historical Commission is to enter into a preservation restriction on the building for 5 years. It is important to evaluate the building before the structure

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**totally deteriorates. Mr. DeWitt showed pictures of the condition of this historical site.**

*reduce the \$4M bond authorization for the High School projects to \$3.3M*

**Chairman Daly asked Director of Public Buildings Charlie Simmons about the High School Project. He replied that the project is out to bid. He anticipates the costs will be known by the time it goes to Town Meeting.**

### **WARRANT ARTICLES**

**Review of the following Warrant Articles for the May 27, 2008 Town Meeting:**

<b><u>NO.</u></b>	<b><u>TITLE</u></b>
<b>9.</b>	<b>FY09 Budget Amendment (Inchierca)</b>

**Mr. Inchiera stated that he filed this Article for safety reasons. He would like to see the engine in Station 4 firehouse stay in service. Should engine 4 be taken out, it would cause a safety concern. He added the reason the budget would cut out the engine is the cost of overtime. There is overtime because the department has seven open positions short. He added that if there was a full staff, overtime should be reduced. Any further reduction or cuts will result in risks to the public safety of firefighters, residents, and property.**

<b><u>NO.</u></b>	<b><u>TITLE</u></b>
<b>23.</b>	<b>Snow and Ice Removal from Sidewalks (Ziskend)</b>

**Petitioner Seymour Ziskend stated that the Town did sand and plow the sidewalk years ago. He added that the residents should be able to walk safely on town sidewalks. Elderly can not afford to hire someone to shovel the walkways. It should be a basic service of the Public Works. Sidewalks are not private property they are public.**

**Selectman Allen stated that the Override is looking to add a piece of equipment to help plow sidewalks. He stated that the Town no longer has the staff**



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**or the equipment that it had years ago and does not have the funds to plow all the Town's sidewalks.**

<u>NO.</u>	<u>TITLE</u>
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<b>24.</b>	<b>Dog Control Fines (Parks &amp; Recreation Commission)</b>
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**Director of Parks and Open Spaces Erin Gallentine stated that this is a simple change to the By-Law for dog control to increase fines.**

<b>First Violation</b>	<b><del>\$ 15.00</del> \$25.00</b>
<b>Second &amp; Third Violations</b>	<b><del>\$ 25.00</del> \$50.00</b>
<b>Fourth &amp; Subsequent Violations</b>	<b><del>\$ 50.00</del> \$75.00</b>

**The Park and Recreation Commission has discussed the fine structure for dog control violations with dog owners, non-dog owners, the Police Department and the Green Dog Advisory Committee and has found that the existing fine structure that commences with a \$15.00 fine is inadequate.**

**EXECUTIVE SESSION**

Upon motion duly made and seconded, it was moved that the Board of Selectmen go into EXECUTIVE SESSION.

The Chair then stated the reason(s) for the Executive Session: (SEE THE REASONS CHECKED)

- \_\_\_\_\_ (1) To discuss the reputation, character, physical condition or mental health rather than the professional competence of a particular individual<sup>2</sup>.
- \_\_\_\_\_ (2) To consider the discipline or dismissal of, or to hear complaints or charges brought against, a public officer, employee, staff member, or individual<sup>1</sup>.
- X   (3) To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the governmental body, to conduct strategy sessions in preparation for negotiations with non-union personnel, and to conduct collective bargaining sessions or contract negotiations with non-union personnel.
- \_\_\_\_\_ (4) To discuss the deployment of security personnel or devices.
- \_\_\_\_\_ (5) To investigate charges of criminal misconduct or to discuss the filing of criminal complaints.
- \_\_\_\_\_ (6) To consider the purchase, exchange, lease or value of real property, if such discussion may have a detrimental effect on the negotiating position of the governmental body with a person, firm or corporation.
- \_\_\_\_\_ (7) To comply with the provisions of any general or special law or Federal grant-in-aid requirements.

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The individual involved in such Executive Session must be notified in writing at least forty-eight (48) hours prior to such session and is (1) entitled to be present (2) to have counsel or other representative present and (3) to speak in his or her own behalf. Upon the request of the individual involved, no Executive Session shall be held and the meeting shall be held in open session. See G.L.c.39, §§23B(1) and (2).

\_\_\_\_\_ (8)      **To consider and interview applicants for employment by a preliminary screening committee or a subcommittee appointed by a governmental body if an open meeting will have a detrimental effect in obtained qualified applicants: provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee or a subcommittee appointed by a governmental body, to consider and interview applicants who have passed a prior preliminary screening.**

\_\_\_\_\_ (9)      **To meet or confer with a mediator, as defined in section twenty-three C of chapter two hundred and thirty-three, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or body, provided that: (a.) any decision to participate in mediation shall be made in open meeting session and the parties, issues involved and purpose of the mediation shall be disclosed; and (b.) no action shall be taken by any governmental body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open meeting after such notice as may be required in this section.**

**The Board of Selectmen, during a properly constituted and noticed meeting:**

**VOTED:      to go into Executive Session**

**Roll Call Vote:      Voting in the Affirmative: 5  
   Voting in the Negative:      0**

**The Board of Selectmen (WILL) RECONVENE in Open Meeting after the Executive Session.**

**HOME FUNDS**

**Public Hearing on the question of approving the allocation of up to \$221,000 of Housing Trust funds to the Brookline Improvement Coalition (BIC) for the acquisition of two studio apartments at 1600 Beacon Street.**

**a. Question of approving the transfer of up to \$174,000 in HOME funds as follows:**

**From: FY07 Affordable Housing  
Development Pool               \$86,843.14**

**From: FY08 Affordable Housing  
Development Pool               \$87,156.86**

**b. Question of authorizing Director of Planning and Community Development Jeff Levine to approve the conditions of and to sign all documentation with regard to such Home Funds.**

**Chair of the Housing Advisory Board Roger Blood stated that this vote is to approve the allocation of up to \$221,000 to purchase two studio apartments at 1600 Beacon Street to be sold to low or moderate income residents. The next vote would be to transfer \$174,000 in HOME funds. The HOME funding for this project is consistent with the Town's HUD Consolidated Actions Plans. There will be deed restrictions on all transactions. Last year the Town was able to purchase four larger units at this address. The purchasers were picked through a lottery. There is a need for single occupant residents to be able to purchase affordable housing. These units are efficiencies, but there is a market for them. He is glad to use existing property in the affordable housing pool.**

**Housing Development Manager Fran Price added that both of the transfers of funds are for the studios at 1600 Beacon Street. Because the developer no longer has an incentive to set these units aside to await the town's marketing process as they did last spring, the Housing Division and HAB agreed to seek the participation of the Brookline Improvement Coalition (BIC) as an interim purchaser.**

**On motion, it was unanimously,**

**VOTED: To approve the allocation of up to \$221,000 of Housing Trust funds to the Brookline Improvement Coalition (BIC) for the acquisition of two studio apartments at 1600 Beacon Street.**

**VOTED: To approve the transfer of up to \$174,000 in HOME funds as follows:**

**From: FY07 Affordable Housing  
Development Pool           \$86,843.14  
To BIC Project at 1600 Beacon Street**

**From: FY08 Affordable Housing  
Development Pool           \$87,156.86  
To BIC Project at 1600 Beacon Street**

**On motion, it was unanimously,**

**VOTED: To authorize Director of Planning and Community Development Jeff Levine to approve the conditions of and to sign all documentation with regard to such Home Funds.**

**VOTED: To imply the waiver of the typical 15-day comment period which is necessitated by the April 4<sup>th</sup> financing contingency date in BIC's purchase and sale agreement.**

**Chairman Daly asked if there would be any affordable units at the Longwood Towers conversion. Ms. Price replied that there were two units put aside as rentals years back, with four units off-site. The renter of one is going to purchase it at an affordable price, and the other is still occupied as a rental.**

### **FY 09 FINANCIAL PLANS**

**The Board considered the question of voting on the following FY09 Departmental Budgets:**

**Council on Aging  
Town Clerk  
Human Relations/Youth Resources  
Unclassified  
Personnel Benefits**

**On motion, it was unanimously,**

**VOTED: Favorable Action on the Council on Aging budget of \$759,773k.**

**FY 09 FINANCIAL PLANS cont'd**

**VOTED: Favorable Action on the Town Clerk Budget of \$565,128k.**

**VOTED: Favorable Action on the Human Relations/Youth Resources of \$142,619k.**

**VOTED: Favorable Action on the Unclassified budget of \$5,512,031.**

**VOTED: Favorable Action on the Personnel Benefits budget of \$38,140,598., \$38,175,598 if override question 1.A is passed, \$38,307,598, if override question 1.B. is passed.**

**WARRANT ARTICLES**

The Board considered the question of voting on the following Warrant Articles of the May 27, 2008 Annual Town Meeting:

- | <b><u>NO.</u></b> | <b><u>TITLE</u></b>                                    |
|-------------------|--|
| 1.                | Appointment of Measurers of Wood and Bark. (Selectmen) |

On motion, it was unanimously,

**VOTED: Favorable Action that the Town establish that the number of Measures of Wood and Bark be two, to be appointed by the Selectmen.**

- | <b><u>NO.</u></b> | <b><u>TITLE</u></b>   |
|-------------------|---|
| 3.                | Annual Authorization of Compensating Balance Agreements (Treasurer/Collector) |

On motion, it was unanimously,

**VOTED: Favorable Action that the Town authorize the Town Treasurer. with the approval of the Selectmen, to enter into Compensating Balance Agreement(s) for FY2009 in accordance with General Laws Chapter 44, Section 53F.**

**WARRANT ARTICLES cont'd**

- | <b><u>NO.</u></b> | <b><u>TITLE</u></b>  |
|-------------------|--|
| 4.                | Report of Close-Out of Special Appropriations/Bond Authorization Rescission. (Selectmen) |

On motion, it was unanimously,

**VOTED: No Action**

- | <b><u>NO.</u></b> | <b><u>TITLE</u></b>  |
|-------------------|--|
| 5.                | Approval of Unpaid Bills of a Prior Fiscal Year. (Selectmen) |

On motion, it was unanimously,

**VOTED: Favorable Action to authorize the payment of the following unpaid bill of a previous fiscal year from the FY2008 Water and Sewer Enterprise Fund (EW40):**

**Hess Corporation  
\$3,418.32**

**The W.B. Mason invoice for 889.85 was held.**

- | <b><u>NO.</u></b> | <b><u>TITLE</u></b>  |
|-------------------|--|
| 6.                | Acceptance of Legislation to Increase Property Tax Exemptions. (Assessors) |

On motion, it was unanimously,

**VOTED: Favorable Action that the Town elect to establish an additional property tax exemption for fiscal year 2009 which shall be uniform for all**

**WARRANT ARTICLES cont'd**

**exemptions, in accordance with Section 4 of Chapter 73 of the Acts of 1986, as amended by Chapter 126 of the Acts of 1988, and accept said Section 4, as amended.**

- | <b><u>NO.</u></b> | <b><u>TITLE</u></b>           |
|-------------------|-------------------------------|
| <b>7.</b>         | <b>FY08 Budget Amendments</b> |

**On motion, it was unanimously,**

**VOTED: No Action**

- | <b><u>NO.</u></b> | <b><u>TITLE</u></b>  |
|-------------------|--|
| <b>10.</b>        | <b>Legislation to Amend Chapter 472 of the Acts of 1998 (Retiree Group Health Insurance Trust Fund) – to comply with Statement #43 of the Governmental Accounting Standards Board (GASB). (Finance Director)</b> |

**On motion, it was unanimously,**

**VOTED: Favorable Action that the Town authorize and approve the filing of a petition with the General Court in substantially the following form:**

**AN ACT AMENDING CHAPTER 472 OF THE ACTS OF 1998 TO ALLOW THE TOWN OF BROOKLINE TO CREATE AN INDEPENDENT AUTONOMOUS SEVEN-MEMBER BOARD TO SUPERVISE, MANAGE AND INVEST THE RETIREE HEALTHCARE LIABILITY TRUST FUND IN ORDER TO COMPLY WITH THE REQUIREMENTS OF STATEMENT 43 OF THE GOVERNMENTAL ACCOUNTING STANDARDS BOARD AND TO AUTHORIZE THE BOARD OF SELECTMEN TO APPOINT TWO MEMBERS TO SAID BOARD**

Be it enacted, etc. as follows:

**SECTION 1.** Section 1 of chapter 472 of the acts of 1998 is amended by deleting the fourth sentence in Section 1 and adding the following paragraphs:

Notwithstanding the requirements of General Laws Chapter 44, Section 54 or any other special or general law to the contrary, the Fund shall be under the supervision and management of an independent and autonomous seven member board consisting of the five members of the town's contributory retirement board and two members appointed by the Board of Selectmen. The board shall also serve as the custodian of said Fund and may



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invest and reinvest the interest of such Fund. The board may employ any qualified bank, trust company, corporation, firm or person to advise it on the investment of the Fund and may pay from the Fund for this advice and other services as determined by the board. Procurement for these services shall be subject to the procurement procedures and rules followed by the Town's Procurement Department.

If any civil action is brought against a member of the board, the defense or settlement of which action is made by Town Counsel or outside counsel retained by Town Counsel on behalf of the board, the member shall be indemnified for all expenses incurred in the defense of this action and shall be indemnified for damages to the same extent as provided for public employees in [chapter 258](#) of the General Laws if the claim arose out of acts performed by the member or members while acting within the scope of his/her official duties, but no member of the board shall be indemnified for expenses incurred in the defense of an action, or damages awarded in an action, in which there is shown to be a breach of fiduciary duty, an act of willful dishonesty or an intentional violation of law by the member.

SECTION 2. This act shall take effect upon its passage.

<u>NO.</u>	<u>TITLE</u>
11.	<b>Acceptance of Legislation to Establish the Minimum Value of Personal Property Subject to Taxation – exempt personal property with a value of less than \$5,000 from taxation. (Assessors)</b>

**On motion, it was unanimously,**

**VOTED: Favorable Action that the Town accept the provisions of Massachusetts General Laws Chapter 59, Section 5, Clause Fifty-fourth and establish the minimum value of personal property subject to taxation at \$5,000 beginning in the Fiscal Year 2009.**

<u>NO.</u>	<u>TITLE</u>
12.	<b>Acceptance of Legislation to Adopt the so-called Senior Citizen Property Tax Work-Off Abatement --- grant eligible senior citizens a property tax abatement of up to \$750. (Assessors and Council on Aging)</b>

**On motion, it was unanimously,**

In Board of Selectmen

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**WARRANT ARTICLES cont'd**

**VOTED: Favorable Action that the Town accept the provisions of Massachusetts General Laws Chapter 59, Section 5K, the so-called Senior Citizen Property Tax Work-off Abatement and to establish a program pursuant to said statute beginning in the Fiscal Year 2009.**

<b><u>NO.</u></b>	<b><u>TITLE</u></b>
<b>13.</b>	<b>Reduce the Interest Rate of the Clause 41A Exemption (Senior Citizen Real Estate Tax Deferral) from the statutory maximum of 8% to 5% (Finance Director and Council on Aging</b>

**This Article was held.**

**ELECTION WARRANT**

**The Board considered the question of executing the Warrant for the May 6, 2008 Annual Town Election.**

**On motion, it was unanimously,**

**VOTED: To execute the Warrant for the May 6, 2008 Annual Town Election.**

**There being no further business, the Chair adjourned the meeting at 9:15 p.m.**

**ATTEST**

**IN BOARD OF SELECTMEN**  
**April 8, 2008**

**Present:** Chairman Nancy Daly, Selectmen Gilbert Hoy, Betsy DeWitt,  
and Jesse Mermell

**The Minutes of March 25, and April 1, 2008 were approved**

**EXECUTIVE SESSION**

Upon motion duly made and seconded, it was moved that the Board of Selectmen go into EXECUTIVE SESSION.

The Chair then stated the reason(s) for the Executive Session: (SEE THE REASONS CHECKED)

- \_\_\_\_\_ (1) To discuss the reputation, character, physical condition or mental health rather than the professional competence of a particular individual<sup>1</sup>.
- \_\_\_\_\_ (2) To consider the discipline or dismissal of, or to hear complaints or charges brought against, a public officer, employee, staff member, or individual<sup>1</sup>.
- X  (3) To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the governmental body, to conduct strategy sessions in preparation for negotiations with non-union personnel, and to conduct collective bargaining sessions or contract negotiations with non-union personnel.
- \_\_\_\_\_ (4) To discuss the deployment of security personnel or devices.
- \_\_\_\_\_ (5) To investigate charges of criminal misconduct or to discuss the filing of criminal complaints.
- \_\_\_\_\_ (6) To consider the purchase, exchange, lease or value of real property, if such discussion may have a detrimental effect on the negotiating position of the governmental body with a person, firm or corporation.
- \_\_\_\_\_ (7) To comply with the provisions of any general or special law or Federal grant-in-aid requirements.

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The individual involved in such Executive Session must be notified in writing at least forty-eight (48) hours prior to such session and is (1) entitled to be present (2) to have counsel or other representative present and (3) to speak in his or her own behalf. Upon the request of the individual involved, no Executive Session shall be held and the meeting shall be held in open session. See G.L.c.39, §§23B(1) and (2).

- \_\_\_\_\_ (8) **To consider and interview applicants for employment by a preliminary screening committee or a subcommittee appointed by a governmental body if an open meeting will have a detrimental effect in obtained qualified applicants: provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee or a subcommittee appointed by a governmental body, to consider and interview applicants who have passed a prior preliminary screening.**
- \_\_\_\_\_ (9) **To meet or confer with a mediator, as defined in section twenty-three C of chapter two hundred and thirty-three, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or body, provided that: (a.) any decision to participate in mediation shall be made in open meeting session and the parties, issues involved and purpose of the mediation shall be disclosed; and (b.) no action shall be taken by any governmental body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open meeting after such notice as may be required in this section.**

**The Board of Selectmen, during a properly constituted and noticed meeting:**

**VOTED: to go into Executive Session**

**Roll Call Vote:            Voting in the Affirmative: 4  
   Voting in the Negative: 0**

*Selectmen Allen absent*

**The Board of Selectmen (WILL) RECONVENE in Open Meeting after the Executive Session.**

## **LITIGATION**

The Board considered the question of retaining Special Counsel for pending litigation and related matters.

Town Administrator Richard J. Kelliher stated that the town is seeking special counsel in a matter where Town Counsel can not be appointed. Mr. Kelliher highly recommended Attorney D.M. Moschos as counsel for the town in an administrative complaint filed by resident Arthur Conquest. Mr. Kelliher added that the Board has been advised not to comment publicly on the pending litigation.

Attorney Moschos gave the Board a brief background of his resume. He is a Senior Partner for Mirick O'Connell in the firm's Labor and Employment Law Department. He is a former City Manager for the City of Worcester, and was named one of Massachusetts and New England's "Super Lawyers" in Boston Magazine.

On motion, it was unanimously,

**VOTED:** To retain Special Counsel, D.M. Moschos for pending litigation and related matters.

## **PUBLIC COMMENT**

Francis Fischer, 149 Walnut Street stated that the construction had started for work being done on Route 9. The first night was very loud and disturbing. She hopes this is not how it will be for the duration.

Chairman Daly replied that she will pass it on to the Director of Engineering, Peter Ditto. She also added that there should be a work schedule online with information on where and what the work will be. Selectman Hoy would like an update next week. Selectman Mermell suggested that she call the construction company so they are aware of it.

## **NEWBURY COLLEGE COMENCEMENT**

The Board considered the question of approving the request of Newbury College to hold their May 18, 2008 commencement exercises at the Fisher Hill Reservoir

In Board of Selectmen

April 8, 2008

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**This item was postponed.**

### **COMMISSION FOR THE DISABLED**

The Board considered the question of reappointing James Peters to the Commission for the Disabled for a term ending August 31, 2008 or until a successor is appointed.

On motion, it was unanimously,

**VOTED: To reappoint James Peters to the Commission for the Disabled for a term ending August 31, 2008 or until a successor is appointed.**

### **SCHOOL BUILDING COMMITTEE FOR THE RUNKLE SCHOOL**

The Board considered the question of establishing a School Building Committee for the Runkle School project per the new requirements of the School Building Authority, and approving an initial compliance certificate

Deputy Town Administrator Sean Cronin stated that back on January 31, 2008, there was a positive meeting with the School Building Authority on the Runkle School project. Brookline has been moved to the "Schematic Design Phase", and is now in the process of providing materials to move forward. Two documents required are a School Building Committee Approval letter, and an initial Compliance Certificate. Mr. Cronin added that Brookline was able to make it this far in the process due to their reputation of good planning and maintaining of their facilities. This helps in the decision making in this competitive process.

Selectman Hoy asked about the CIP funds for the project. Mr. Cronin replied that the CIP has the project in for \$24 million, with a 50/50 split between the Town and State funding (\$12 million of Town funds).

The Committee recommendations are:

Local Chief Executive Officer - Chairman Nancy Daly, Administrator or Manager- Richard Kelliher, Town Administrator, School Committee Member - Helen Charlupski, Superintendent of Schools - William Lupini, Local Officer responsible for Building Maintenance - Charlie Simmons, Director of Public Buildings, Representative of Office authorized by law to construct school buildings - Walter White, Acting Building Commissioner, Member knowledgeable in educational mission and function of facility - Jennifer Fischer-Miller, Deputy Superintendent, Local budget official - Sean Cronin, Deputy Town Administrator, Members of the

**SCHOOL BUILDING COMMITTEE FOR THE RUNKLE SCHOOL cont'd**

**community with architecture, engineering and/or construction experience - Building Commission member, Other - Peter Rowe, Deputy Superintendent of Schools.**

**On motion, it was unanimously,**

**VOTED: To appoint Chairman of the Board of Selectmen Nancy Daly as designee to the School Building Committee for the Runkle School Project.**

**VOTED: To authorize Chairman Daly to sign the Initial Compliance Certificate.**

**TEMPORARY WINE AND MALT BEVERAGE LICENSE**

**The Board considered the question of granting a temporary Wine and Malt beverages license to Pine Manor College in connection with the following events to be held at 400 Heath Street:**

**April 13<sup>th</sup> Shower  
1:00 p.m. -4:00 p.m.**

**April 13<sup>th</sup> Dinner  
6:00 p.m.-9:00 p.m.**

**On motion, it was unanimously,**

**VOTED: To grant a temporary Wine and Malt beverages license to Pine Manor College in connection with the following events to be held at 400 Heath Street:**

**April 13<sup>th</sup> Shower  
1:00 p.m. -4:00 p.m.**

**April 13<sup>th</sup> Dinner  
6:00 p.m.-9:00 p.m.**

**MUSIC SCHOOL – PILOT AGREEMENT**

**The Board considered the question of approving and executing a PILOT Agreement with the Brookline Music School.**



**MUSIC SCHOOL – PILOT AGREEMENT cont'd**

Director of Finance Steve Cirillo stated that the Brookline Music School and the Town have reached an agreement on a voluntary Payment in Lieu of Taxes (PILOT). Mr. Cirillo thanked Mr. Lloyd Dahmen and Richard Gas for their cooperation in this matter. The Brookline Music School has offered this voluntary payment as symbol of their strong commitment to the community. The dollar amount will range from \$671.58 the first year up to \$4,384.25 on the sixth year. At this time the PILOT will be subject to an escalation factor of 3.5%. The land has been excluded from the calculation because it is owned by the Town as is used as a playground for the Lincoln School.

Janet Fitzgibbons, President of the Brookline Music School gave the Board a brief history of the Music School which was founded in 1924. The School has agreed to this relationship with the Town to acknowledge their unique relationship by allowing them to make the PILOT and seeking an extension on the lease.

The Board acknowledged the commitment that the School has made to the community over the many years. Chairman Daly added that it is unfortunate that the smaller organizations are targeted for the PILOT program, but it is helpful to include everyone in order to encourage the larger companies to join the program.

On motion, it was unanimously,

**VOTED:** To approve and execute a PILOT Agreement with the Brookline Music School.

**WARRANT ARTICLES**

Review of the following Warrant Articles for the May 27, 2008 Town Meeting:

- | <b><u>NO.</u></b> | <b><u>TITLE</u></b>                                     |
|-------------------|---|
| 25.               | Limit Town Investments to Silver and Gold (Susan Allen) |
| 26.               | Flu Shots (Susan Allen)                                 |

**WARRANT ARTICLES cont'd**

<b><u>NO.</u></b>	<b><u>TITLE</u></b>
<b>25.</b>	<b>Limit Town Investments to Silver and Gold (Susan Allen)</b>

Petitioner Susan Allen stated that she would like to see diversification of the town's portfolio. She is concerned about employee investments. She outlined her explanation of the warrant. The law is clear. Only gold and silver coins are authorized by the U.S. Constitution for use as legal tender in the United States.

Federal Reserve notes are counterfeit paper. Federal Reserve notes fall under the category of 'Bills of Credit.' Therefore Federal Reserve notes are illegal for use as legal tender in the State of Massachusetts. The high rate of inflation is cutting into the Town of Brookline's ability to maintain its current level of resident services. The Federal Reserve is a private bank which has been devaluing the United States currency since 1913. The use of counterfeit paper contributes to the inflationary Federal Reserve System, which threatens to collapse the US economy into hyperinflation. Ms. Allen added that she was told that the State has a regulation that prohibits the investments of gold and silver. She stated that any State law that conflicts with Federal statute makes the State law void. She has contacted many State agencies for clarification on this but has not received an adequate response. She would like to see a committee formed to explore that gold and silver eagles be returned to the banking system.

Director of Finance Steve Cirillo state that the intention is good; however, he has serious concerns. He is concerned about the legality, practicality, and consequences of the Article. He added that the State law Chapter 44 notes that general fund investments be invested in bank type investments, like trust funds, mutual funds and CD's. He feels that State law would supercede a by-law of the Town. He also stated that it would create a new Town By-law requiring the town to invest its liquid assets in only silver and gold. It further requires that all payments, both payroll and vendor be made in gold or silver coin. Security is another concern. The assets, being public funds, have a higher level of security placed upon it. The "best practices" for government investment places a greater emphasis on security rather than speculation on which could create a higher rate of return.

Chairman Daly stated that should the Article pass, the Town would have to pay its employees in gold and silver, which is not practical. Ms. Allen replied that she is interested in seeing the State regulations voided.

**WARRANT ARTICLES cont'd**

<b><u>NO.</u></b>	<b><u>TITLE</u></b>
26.	Flu Shots (Susan Allen)

Petitioner Susan Allen stated that there are toxins in the flu vaccine. Last year the Town was able to get 700 doses of thimerosal free flu shots. She would like to see the number grow large enough to accommodate all the citizens of the town. Ms. Allen noted that the Federal government has been sued for toxic vaccines. She outlined her explanation: "The U.S. Government recently conceded that vaccines caused a child to become autistic and the child is entitled to compensation," (Kirby 2008). Health initiatives should "Do No Harm" to human health. Scientific Studies document a positive correlation between Thimerosal and increased risk for Autism and Alzheimer's Disease. Analysis of the effects of mercury in vaccines on infant monkeys does reveal the accumulation of inorganic Hg (mercury) in the neurological tissues can cause neurodegenerative diseases consistent with autistic spectrum disorder. Thousands of dollars have been paid out in vaccine injury claims. Numerous doctors are facing numerous Autism-Related Malpractice suits. In order to protect the town from unnecessary litigation, all harmful toxins must be removed from town administered Influenza vaccines and sprays.

Director of Public Health Dr. Alan Balsam read the following statement:

With regard to thimerosal, we have studied this issue extensively over the past three years. Several months ago another major study was published in a peer-reviewed journal documenting that, in California, autism rates continued to climb after thimerosal was removed from childhood vaccines. This concurs with prior studies in Canada and Denmark.

The Brookline Health Department opposes this warrant article which would restrict our ability to administer flu shots or other vaccines unless they are "thimerosal free and free of all other toxins and substances".

At its core, this warrant article is anti-vaccine, not simply anti-thimerosal. Nothing manufactured is free of toxins or other substances. As analytical techniques allow us to examine materials at the molecular level, we realize that small amounts of other substances are present in every medicine that is manufactured. Therefore, approval of this warrant article would actually mean that we could distribute no vaccine or other medicine. On that basis alone, the warrant article should be rejected. We continue to believe, based on current scientific research, that thimerosal does not cause autism. There is no evidence that it causes Alzheimer's Disease.

**Recently, the US Vaccine Injury Compensation Board awarded compensation to a family whose young daughter had developed autism following vaccinations. In this case, the Board ruled that there was “biological plausibility” that vaccines had led to a fever, and the fever had led to autism due to a pre-existing mitochondrial disorder. No findings regarding thimerosal were made or implied. Vaccines, as with all medical procedures, carry risks. That is precisely why the government set up the Vaccine Injury Compensation Board. That is also why informed consent is required before vaccination.**

**More research needs to be done regarding mitochondrial disorders, which may affect one in 4,500 children. This disorder is actually a constellation of genetic defects, and not all of them may lead to other complications or be affected by the same stimuli. Vaccines save lives. The flu vaccine saves lives. All credible scientific evidence supports the use of vaccines to prevent disease. In fact, according to Dr. Michael Wessels of Children’s Hospital, vaccines are arguably the greatest success story in medical history.**

**Thimerosal, as mentioned earlier, has been removed from all vaccines, except for some flu vaccines. This was originally done because of safety concerns, but as scientific studies have demonstrated no harmful effects of thimerosal, the removal continues, at least partly to counter attempts by some anti-vaccine activists to scare people away from getting vaccinated. As manufacturers of flu vaccine produce more thimerosal-free doses, we will receive more from the State (Massachusetts provides flu vaccine free). This year, for example, we received 300 more doses of thimerosal-free vaccine than last year.**

**We inform residents that thimerosal is present in the vaccine, and they can choose a thimerosal-free dose while supplies last. Last year, fewer than 20 residents chose that option. Most importantly, vaccines under development to protect against pandemic avian influenza will almost certainly contain thimerosal. Passing this warrant article would give Brookline the unique distinction as the only community in the nation forbidden from protecting their residents and employees in the event of an avian flu pandemic.**

### **POLICE DEPARTMENT PERSONNEL**

**Question of granting an unpaid leave of absence to P.O. Casey Hatchett for a three month period from May 1, 2008 to July 31, 2008.**

**Chief O’Leary stated that Police Officer Casey Hatchett has requested an unpaid leave of absence for three months, starting May 1, 2008 until July 31, 2008. Ms. Hatchett is currently on maternity leave and requires more time to plan for child care. This is permitted under the Collective Bargaining Agreement, but requires approval from the Selectmen.**

**POLICE DEPARTMENT PERSONNEL cont'd**

The Board acknowledged the hard work that Ms. Hatchett puts in the Department. Selectman Mermell mentioned that Ms. Hatchett has been recognized by the Massachusetts Commission on the Status of Women as an unsung hero. The Board stated that it is well deserved.

On motion, it was unanimously,

**VOTED:** To grant an unpaid leave of absence to P.O. Casey Hatchett for a three month period from May 1, 2008 to July 31, 2008.

**PUBLIC SAFETY PERSONNEL**

The Board considered the question of filling a vacancy in the position of Emergency Telecommunication Dispatcher.

Chief O'Leary stated that there is an opening in the dispatching position, due to a recent resignation. This is a critical position that needs to be filled. This is the second resignation in recent months. The Chief is looking at changes to the hiring process to ensure that qualified applicants are hired.

On motion, it was unanimously,

**VOTED:** To authorize filling the vacancy in the position of Emergency Telecommunication Dispatcher.

**FIRE DEPARTMENT OVERTIME**

Fire Chief Peter Skerry and Assistant Town Administrator Melissa Goff appeared to update the Board on Fire Department Overtime.

Assistant Town Administrator Melissa Goff stated that the Fire Department's sick time continues to be a concern. Although it has improved from the November update, overall sick leave is still 40.8% higher than last year.

Chairman Daly stated that she is still distressed looking at the numbers, and there are three months to go in the fiscal year. The overtime could be the highest it has been in many years.

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Selectman DeWitt mentioned that sick time is up and injury leave is down. Chief Skerry replied that sick leave is non-job related illness. He added that the

#### **FIRE DEPARTMENT OVERTIME cont'd**

occupational health nurse has been helpful in keeping injury leave down. Selectman DeWitt asked if a wellness program would be beneficial. The Chief replied that he is looking into options there.

Selectman Hoy asked what the Chief plans on doing to get the number down. The Chief replied that he will use all the tools necessary and available. He will be looking at written, and verbal warnings, suspension, involuntary retirements, and transfers on those using large amounts of sick time. He did add that the Department has several vacancies which lead to the overtime as well.

Town Administrator Richard J. Kelliher added that the FY09 Override recommends fewer tours for the year which should help reduce the cost.

#### **OPEB TASK FORCE**

Discussion of establishing a task force to identify options for reducing and/or funding the Town's unfunded liability for "other post employment benefits" OPEB's.

Deputy Town Administrator Sean Cronin stated that this is a major issue at every level across the country. It concerns municipalities putting money away to cover future retirement cost. There is no community in Massachusetts that is close to being fully funded in this area. Active employees are entitled to receive health insurance once they retire. Ideally the Town should set aside \$4 million per year to finance retiree health cost and increase this amount by 4% each year. The Town is not in the position to make this type of budgetary commitment at this time. Mr. Cronin would like to formally establish a task force to examine strategies for addressing the Town's unfunded liability for "other post employment benefits".

Chairman Daly added that this year \$1 million was put into the fund. However, this is one time monies left over from the health trust fund.

The Board stressed that this task force is extremely important to take the necessary steps and measures to address this issue.

On motion, it was unanimously,

**VOTED:** To adopt the following resolution on the creation of the OPEB Task Force:

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**WHEREAS, the Town's Other Employment Benefits (OPEB) liability is between \$200 million - \$300 million, and**

**WHEREAS, health insurance costs for retirees is projected to grow from approximately 35% of the current group health budget to nearly 50% in 5 years, and**

**WHEREAS, the Town's ability to address its OPEB liability is key to its long-term sustainability, and**

**WHEREAS, the Final Report of the Override Study Committee stated that "retiree health is going to place enormous strain on the budget", and**

**WHEREAS, the major bond rating agencies are increasingly expecting governments to develop a plan to manage the OPEB liability.**

**NOW, THEREFORE, the Board of Selectmen hereby establishes an OPEB Task Force to undertake a complete analysis of options for reducing and/or funding the Town's OPEB liability. The Task Force shall develop a comprehensive plan to address the issue, with the overriding goal being to substantially reduce OPEB liabilities while preserving affordable, comprehensive coverage options for retirees. Members of the Task Force shall be the following:**

**Board of Selectmen (1) Audit Committee (1) Advisory Committee (1), School Committee (1) Union Representation (1) Retirement Board (1) Residents (3).**

### **WARRANT ARTICLES**

**Review of the following Warrant Articles for the May 27, 2008 Town Meeting:**

<b><u>NO.</u></b>	<b><u>TITLE</u></b>
<b>21.</b>	<b>Making Voting Members of Boards/Commissions Registered Voters of the Town (Regina Frawley)</b>
<b><u>POSTPONED</u></b>	<b>22. Campaign Finance Reports (Frank Farlow)</b>
<b>27.</b>	<b>Skyline Park (Naming Committee)</b>
<b>28.</b>	<b>Philbrick Green (Naming Committee)</b>

29. **Establish Committee to Monitor Implementation of Local Action Plan on Climate Change (Weitzman)**

**WARRANT ARTICLES cont'd**

**POSTPONED**

30. **Resolution to join the Group Insurance Commission (David Cotney)**
32. **Resolution to Reduce Greenhouse Gases (Selectmen)**

- | <b><u>NO.</u></b> | <b><u>TITLE</u></b>   |
|-------------------|---|
| 21.               | <b>Making Voting Members of Boards/Commissions Registered Voters of the Town (Regina Frawley)</b> |

**Petitioner Regina Frawley stated that the Article concerns who will be allowed to vote on a Committee. The School side is not addressed in this Article. All voting members of any Town board, committee, commission, or council, established or appointed by the Board of Selectmen, Town Moderator, or Town Meeting, shall be registered voters of the Town. Ms. Frawley went over her explanation: Most Town by-laws require that members of Town committees be Town “residents” or “citizens”. However, a small number of committees have no such written requirement, apparently due to unintended oversight. To ensure consistency and remove any possibility of potential confusion, this article proposes that all voting members of all committees be registered voters of Brookline and that this be codified by Town by-law.**

**The Advisory Committee actually requires that a member be a registered voter. She has never seen a Board or Commission where voting members were a non-resident of Brookline. Recently she noticed that non-residents (although highly skilled) of Brookline were appointed to committees in which they would be voting. She brought it up to Mr. Kelliher who had them removed. She also recently became aware that there was a second issue, not only were there non-residents of the Town serving on Boards to vote, there was also staff that had been appointed here or there with a vote. This was a shock to her. This had never been done in Brookline. The Article was first restricted to residents; with the recommendation from the Town Moderator it was to restrict it to registered voters.**



**The Article does not prohibit staff and non-residents to serve; it just restricts them from voting.**

**WARRANT ARTICLES cont'd**

**Harry Friedman, TMM# 14 stated that they went through the By-laws to see what the qualifications for some of the Committees were. There are many differences on the qualifications.**

**Town Administrator Richard Kelliher stated that there have been few instances in the past where there were non-residents on Boards. The concern on an administrative point of view is that not only are there Town By-laws committees in fact there are many other committees and special purpose groups appointed by the Board of Selectmen that are not in the By-laws and often do have Town officials, union leadership, and others that are not residents. In fact there was a couple before the Board tonight that noted non-residents. The Chair of the Board of Assessors Department Head position is not a resident of the Town. The Finance Director and Comptroller, both ex-officio for the Retirement Board are not residents of the Town. The Police Captain in charge of the Community Relations, sits on the Human Relations Commission is not a resident. There are a number of instances where this takes place and has not really caused a problem. They are not residents, but have contributed greatly to the community.**

**Selectman Hoy added that he feels some more thought has to be put into this. He is troubled by the artist who would be an asset to the Arts Counsel, but for one reason or another is not a registered voter. He does not want to exclude this group.**

**Selectman DeWitt added that she commends the research; she had researched this before as well. She has reservations about this, the Board had just appointed a committee mandated by the Massachusetts School Building Authority. There are designated members that should not be excluded from voting. The Town Administrator and the School Superintendent would not be qualified to vote as non-residents, as well as several MSBA designated positions would be excluded under this Article. She has mixed feelings that useful, qualified people that the Town should not want to exclude will be excluded. There may be statutory mandates that we are unaware of as well. She hopes to learn more, perhaps a study could be done by a moderators committee, or withholding this until there are better answers to the questions.**

**Selectman Hoy added that Selectman DeWitt raised some good points. He would like to see stated specifically what Committees you want to be included in this.**

**Selectman Mermell thinks that the intent of the Article is to make sure that those that are involved in setting policy are thinking about the future of Brookline**

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**and have a vested interest in the Town. She is concerned that it be only Brookline residents. Brookline 300 involved many non-residents that were a huge benefit to**

**WARRANT ARTICLES cont'd**

**the Town. Merchants of the Town who care about the Town, spend a lot of time here, but do not actually live here would be excluded as well.**

**Chairman Daly prefers the resident status over registered voters. She is concerned about some Boards like the Assessors, and the Retirement Board which is important to the Town, but would not be able to vote under this Article. She is looking for some kind of compromise.**

**Selectman DeWitt would like to see a committee appointed to look into all appointed entities, to see that they all have criteria and a process. When a volunteer agrees to give time and expertise, which can be quite valuable, and then is told, by the way you can't vote it will discourage people from participating. She is not comfortable with that.**

**Mr. Friedman added that rather than list the committees separately, since committees are being formed at Town Meeting every year, maybe just a list of the exceptions would suffice. Maybe Town Counsel would be of assistance in this.**

**Ms. Frawley would like the Board's recommendations and suggestions put in writing so she can work on it further. She would like to move forward on this. She is not in favor of staff members voting on Boards and Commissions. They should be serving as non voting members. There is a precedent here, but she is willing to look at modifiers to it.**

**Werner Lohe, member of the Conservation Committee stated that the committee did discuss this Article and some are not in favor of the Article. He feels this is an unnecessary Article. For example, if a storm water committee were needed, the members would most likely be Town staff with their expertise and knowledge of the system, but would be excluded from voting on the committee. He also added that an active neighbor of his is a resident, but not a registered voter, and would also be excluded even though he is a resident.**

**Selectman DeWitt added that perhaps language that is not so restricting could be considered. There may be unintended consequences that could happen under this Article.**

**NO.**

**TITLE**

**22. Campaign Finance Reports (Frank Farlow)**

**Petitioner Frank Farlow stated that there were some errors that were not picked up during the Town’s review of the 2006 amendment. He had assistance from the State’s Office of Campaign & Political Finance to make the table as complete and accurate as possible while keeping it precise and comprehensible. The proposed table is as follows:**

“Reporting periods for Town Campaign Finance Report.” Additions (including footnote to table) appear in bold; deletions are struck through.

Report due by	Reporting period begins	Reporting period ends
15 days before Town election	<del>Incumbents: January 1 of prior year, or the day after the end of the reporting period of last State report filed whichever period is shorter</del> Challengers: January 1 of year of Town election <b><u>Candidates who have previously filed reports: Day after end of reporting period for last State report filed</u></b> <b><u>Candidates filing initial reports: Day after previous Town election</u></b>	<del>December 31 of prior year</del> <b>25 days before Town election</b>
8 days before Town election	Day after end of reporting period for last State report filed	18 days before Town election
30 days after Town election	Day after end of reporting period for last State report filed	20 days after Town election
January 20 of year after Town election*	<b><u>Candidates who have previously filed reports: Day after end of reporting period for last report filed</u></b> <b><u>Candidates filing initial reports: Day after previous Town election</u></b>	Last day of year <del>of election</del> <b>preceding filing of report</b>

**Mr. Farlow outlined his explanation: A Fall 2006 amendment of Section 3.1 of the Town By-Laws regulating selectman campaigns called upon the Town Clerk**

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**to prepare a Town Campaign Finance Report form to be used by candidates in reporting campaign contributions and expenditures. While working together on drafting this form, the Town Clerk and the new Committee on Campaigns**  
**WARRANT ARTICLES cont'd**

**discovered discrepancies between the By-Law amendment and the State campaign finance reporting requirements, which this article is intended to eliminate. The wording describing the beginnings and ends of two reporting periods is changed to be more comprehensive and to closely track or, in the case of the new Town report due 15 days before the election, be consistent with that of MGL ch. 55: sec. 18.**

**Town Clerk Pat Ward stated that he has reviewed the By-law with Mr. Farlow in efforts to clarify reporting periods making them consistent with the State law. He feels it is an improvement to the current reporting table.**

**Selectman Hoy asked if this would change the existing law. Mr. Ward replied yes, the additional ten days offers a grace period that is not there now.**

<b><u>NO.</u></b>	<b><u>TITLE</u></b>
<b>28.</b>	<b>Philbrick Green (Naming Committee)</b>

**Assistant Town Administrator Melissa Goff stated that the Naming Committee has voted in favor of this Article. This change was recommended by Dennis Dewitt, a member of the Preservation Committee.**

**Mr. DeWitt outlined the following explanation:**

**In 1889 Edward Philbrick's heirs hired Olmsted's firm to complete the subdivision of their estate. Olmsted's drawing split Upland Rd around one house lot, which was numbered, like any other. It became a public space when in 1901 the town and some civic minded neighbors each raised \$2,500 to buy it from an abutter. The Town named it "Philbrick Sq." but put up no sign. To the vast majority of Pill Hill neighbors it was just "The Green." — consistent with its character as a simple greensward lacking park-like embellishments. (Two benches were installed by the neighborhood association in the 1980s.) The Pill Hill community has held its annual "Picnic on the Green" for over half a century. Each Christmas Eve neighbors of all faiths have long gathered for "Caroling on the Green." The Brookline Greenspace Alliance website has variously referred to the Green as "The Upland Green (the neighborhood's name for the space)" and as "The Upland Road Triangle, also known as Philbrick Square."**

**Just before last year’s Picnic on the Green a “Philbrick Square” sign appeared — surprising neighbors who only knew it as “The Green.” At the Picnic 41 neighbors — an overwhelming majority of those present — signed a petition**

**WARRANT ARTICLES cont’d**

**asking that its official name be "Philbrick Green." Only two who were asked declined. When the petition was presented to the Naming Committee, there was a concern that the whole neighborhood had not been polled. The proponents and the High Street Hill Association developed a “Square or Green” poll using the Association’s newsletter and website. The final tally, combining petition names and web votes, with some changes of mind in both directions, was 75 for Philbrick Green & 36 for Philbrick Square. The total for internet voting was 43 for "Philbrick Green" and 36 for "Philbrick Square". At the Association’s next board meeting, its President said the vote was final and the Association's role finished. The matter was also forwarded to both the Park and Recreation Commission and the Preservation Commission who took no position on the name change. One concern raised against the change was that “Square” was “historic.” According to “Green” proponents, most neighbors felt “Philbrick” was historic but “Square” was not. Other comments quoted by the proponents were that a great many neighbors noted its shape is distinctly triangular, not square; that some thought of "squares" as hard and urban; and that a typical comment called it “our community lawn.”**

**Another concern raised was that the town already had an “historic” Town Green at the west end of Walnut St. Current Preservation Commission research suggests that Brookline never had a “Green” or “Common” in the normal sense of those terms. Brookline’s only “Common” was Boston Common. What is now called Town Green was basically a schoolhouse site — which the town acquired as late as 1793, when the Hyslop family donated the “triangular plot of land in the fork in the road” (Walnut St.) where the town then built a brick schoolhouse, replacing a prior wood one. The adjacent First Parish Church site was sold to the town, for church use, even later, in 1805. It may be that the name “Village Green” was coined for that site in a 1910 patriotic-historical D.A.R magazine article — and that name perhaps later became “Town Green”. The 1905 Bi-Centennial monument on Town Green refers only to “this spot.” The term “Town Green” does not appear on town atlases until 1927. Lastly, the Parks Department says it can easily change the sign from “Philbrick Square” to “Philbrick Green.”**

**WARRANT ARTICLE**

**NO.**

**TITLE**

**29. Establish Committee to Monitor  
Implementation of Local Action Plan  
on Climate Change (Weitzman)**

**WARRANT ARTICLES cont'd**

**Petitioner Don Weitzman stated that there is already a lot of action in town on climate change and environmental issues. The problem seems to be that each group is not sure what the other is doing. Mr. Weitzman outlined his explanation:**

**On April 25, 2000, the Board of Selectmen voted unanimously to join the Cities for Climate Protection (CCP) campaign of the International Council for Local Environmental Initiatives (ICLEI). Brookline was one of the first municipalities in the country to do so. The Cities for Climate Protection campaign began in 1993, and is a five-step program that engages municipalities around the world in reducing the pollution that causes global warming. To complete the first step in the CCP program, the town prepared a baseline inventory of all greenhouse gas emissions. It then established an emissions reduction target, and prepared a Local Action Plan on Climate Change. In February 12, 2002 the Board of Selectmen voted unanimously to approve the Local Action Plan, setting a goal for 2010 of reducing emissions of greenhouse gases by Town government, commercial establishments, and individuals to 20% below 1995 levels.**

**Since 2002, the Town has been engaged in the fourth step of the CCP program, implementation of the Local Action Plan. Because of the excellent work of Town staff, much has been done, but much remains to be done. And, during the past five years, there has been little systematic follow-through on the plan. The original Town Climate Task Force created with the Local Action Plan should be restructured to ensure effective implementation of agreed upon cost-saving improvements, updating and revising of the plan, coordination of effort among various Town departments, and progress to the fifth step of the CCP program—monitoring and verification of results.**

**In the coming decade, we will begin to experience the significant costs of climate change. The town must act now to strengthen its commitment both to reducing greenhouse gas emissions and to developing adaptive responses to global warming. Mr. Weitzman would like a task force on environmental sustainability formed. The responsibilities would include:**

**The responsibilities of the committee shall include the following:**

1. To recommend programs that reduce the net production of greenhouse gases in Brookline, such as energy efficiency measures, green energy sources, additional greenspace, and increased public awareness.
2. To monitor, measure, and assess efforts of the Town to reduce net greenhouse gas production.
3. To monitor and learn from promising relevant programs in other municipalities.
4. To monitor relevant technological developments.

**WARRANT ARTICLES cont'd**

5. To serve as liaison between the Town and the public with regard to information and programs related to reducing net production of greenhouse gases.
6. To report from time to time to the Board of Selectmen, the Town Administrator, Town Meeting, and the public.

Selectman DeWitt stated that there are many different energy savings, and green technology committees, she hopes that this will not duplicate what is being done on them.

Selectman Hoy added that he favors this committee and would like to see it move forward. He would like to see what it will do and perhaps all the other committees would come under this one umbrella.

Selectman Mermell stated that if it makes Brookline greener, she supports it.

Town Administrator Richard J. Kelliher stated that there are a lot of challenges here. It would be a significant undertaking, and a challenge for the staff. He would consider publicly soliciting, and working out a charge. It may take some time, but there would be a commitment. Selectman DeWitt added that the organization details and terms would need to be looked at more closely.

Werner Lohe of the Conservation Commission added that this is a result of people looking for leadership on this issue. This will start to motivate and inspire residents on environmental concerns.

**NO.**

**TITLE**

- |            |  |
|------------|--|
| <b>32.</b> | <b>Resolution to Reduce Greenhouse Gases<br/>(Selectmen)</b> |
|------------|--|

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Selectman Mermell stated that this Article is part of a State wide campaign to call on the Commonwealth to put a cap on greenhouse gases. It is motivated by the fact that the Federal government is not taking a lead on the issue. There are a number of States taking the matter into their own hands. Municipalities add strength to the movement at the statehouse.

Selectman Mermell outlined the explanation:

#### **WARRANT ARTICLES cont'd**

To say that global warming is a significant problem facing the Commonwealth, and the world, is an understatement. The potentially dramatic changes to our climate caused by emissions of carbon dioxide and other greenhouse gasses into our atmosphere threatens our coasts and low lying areas, our wild species, and key parts of Massachusetts' economy, including fishing and winter recreation.

Legislation - the Global Warming Solutions Act - is currently before the Massachusetts legislature to commit Massachusetts to science-based reductions to our global warming pollutions, specifically to reduce emissions by 20% below 1990 levels by 2020 and 80% by 2050. Similar legislation has already been enacted in California, New Jersey, Hawaii, and Florida.

Communities across the Commonwealth are adopting resolutions calling on Massachusetts to be a leader in the fight on global warming, rather than wait for the federal government to take action. This resolution will add Brookline's collective voice to the effort to pass the Global Warming Solutions Act and put Massachusetts at the forefront of the environmental movement.

#### **FY 09 FINANCIAL PLANS**

The Board considered the question of voting on the following FY09 Departmental Budgets:

**Health and Human Services  
Planning and Community Development  
Recreation**

On motion, it was unanimously,



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**VOTED: Favorable Action on the Health and Human Services FY09 budget of \$1,050,948.**

**VOTED: Favorable Action on the Planning and Community Development FY09 budget of \$681,217.**

**VOTED: Favorable Action on the Recreation FY09 budget of \$917,409.**

**WARRANT ARTICLES**

**The Board considered the question of voting on the following Warrant Articles for the May 27, 2008 Town Meeting:**

<b><u>NO.</u></b>	<b><u>TITLE</u></b>
<b>9.</b>	<b>FY09 Budget Amendment (Inchierca)</b>

**On motion, it was unanimously,**

**VOTED: No Action on Article 9.**

<b><u>NO.</u></b>	<b><u>TITLE</u></b>
<b>18.</b>	<b>Temporary Preservation Restriction – Arts Center (Preservation Commission)</b>

**On motion, it was unanimously,**

**VOTED: Favorable Action that the Town authorize and empower the Board of Selectmen to grant a temporary preservation restriction to the Massachusetts Historical Commission for a period not to exceed five years on the structure generally known and referred to as the Monmouth Street fire station located at 86 Monmouth Street and shown as Parcel 28 in Block 112 on Sheet 24 of the Town's 2005 Assessors Atlas.**

<b><u>NO.</u></b>	<b><u>TITLE</u></b>
<b>19.</b>	<b>Temporary Preservation Restriction – Gatehouse (Preservation Commission)</b>

**On motion, it was unanimously,**

**VOTED: Favorable Action that the Town authorize and empower the Board of Selectmen to grant a temporary preservation restriction to the Massachusetts Historical Commission for a period not to exceed five years on the structure generally known and referred to as the Reservoir Gatehouse, a two-story granite structure located at the southwest corner of Warren and Boylston Streets, adjacent**  
**WARRANT ARTICLES cont'd**

**to the Brookline Reservoir and shown as Parcel 10 in Block 324 on Sheet 76 of the Town's 2005 Assessors Atlas.**

<b><u>NO.</u></b>	<b><u>TITLE</u></b>
<b>23.</b>	<b>Snow and Ice Removal from Sidewalks (Ziskend)</b>

**On motion, it was unanimously,**

**VOTED: No Action on Article 23.**

<b><u>NO.</u></b>	<b><u>TITLE</u></b>
<b>24.</b>	<b>Dog Control Fines (Parks &amp; Recreation Commission)</b>

**On motion, it was unanimously,**

**VOTED: Favorable Action that the Town amend Section 8.6.9 of Article 8.6 of the General By-Laws, Dog Control as follows [new penalties appear in **bold**]:**

Article 8.6     Dog Control

Section 8.6.9 Penalty

First Violation	\$ <del>15.00</del> <b>\$25.00</b>
Second & Third Violations	\$ <del>25.00</del> <b>\$50.00</b>
Fourth & Subsequent Violations	\$ <del>50.00</del> <b>\$75.00</b>

**There being no further business, the Chair adjourned the meeting at 9:50  
p.m.**

**ATTEST**

**IN BOARD OF SELECTMEN**

**April 15, 2008**

**Present: Chairman Nancy Daly, Selectmen Gilbert Hoy,  
Robert Allen, Betsy DeWitt, and Jesse Mermell.**

**The Minutes of April 8, 2008 were approved.**

In Board of Selectmen

April 15, 2008

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**NEWBURY COLLEGE COMMENCEMENT**

**The Board considered the question of approving the request of Newbury College to hold their commencement exercises at the Fisher Hill Reservoir on Sunday May 11, 2008.**

**Paul Martin from Newbury College stated that this year's commencement exercises will take place on May 11, 2008. He requested permission to use the Fisher Hill Reservoir as their commencement location. The plans remain the same as in the past with off site parking and police detail.**

**Selectman DeWitt added that the Town will begin looking for a partnership in a PILOT program in the near future. She is glad that Newbury continues to be a good neighbor, and looks forward to the ongoing relationship.**

**On motion, it was unanimously,**

**VOTED: To approve the request of Newbury College to hold their commencement exercises at the Fisher Hill Reservoir on Sunday May 11, 2008.**

**EXTRA WORK ORDER**

**The Board considered the question of approving Extra Work Order #1 in the amount of \$14,945.00 for work to be completed by D. Muzzioli Associates, Inc. in connection with Contract No. PW/08-02 "Landfill Park (Name TBD) Grounds Maintenance". Said work order to be funded from account 46004650 523599.**

**Director of Parks and Open Spaces Erin Gallentine stated that this work was intended to be included in the original contract, but it could not be. The work will provide hourly maintenance for cutting the side slopes and general maintenance at the now called Landfill Park.**

**On motion, it was unanimously,**

**VOTED: To approve Extra Work Order #1 in the amount of \$14,945.00 for work to be completed by D. Muzzioli Associates, Inc. in connection with Contract No. PW/08-02 "Landfill Park (Name TBD) Grounds Maintenance". Said work order to be funded from account 46004650 523599.**

**EXTRA WORK ORDER**

The Board considered the question of approving Extra Work Order #1 in the amount of \$45,635.50 for work to be completed by Park Landscape Associates, Inc., in connection with Contract No. PW/00-01 "School Grounds Maintenance". Said work order to be funded from the following accounts:

46004651 523599	\$10,000.00
46004650 523599	\$35,635.50

Director of Parks and Open Spaces Erin Gallentine stated that this extra work order will include mulching, weeding, pruning, and leaf removal on Beacon Street, traffic circles, islands, and play areas.

On motion, it was unanimously,

**VOTED:** To approve Extra Work Order #1 in the amount of \$45,635.50 for work to be completed by Park Landscape Associates, Inc., in connection with Contract No. PW/00-01 "School Grounds Maintenance". Said work order to be funded from the following accounts:

46004651 523599	\$10,000.00
46004650 523599	\$35,635.50

**CHANGE ORDER**

The Board considered the question of approving Change Order #6 in the amount of \$21,069.76 for work to be completed by Colantonio in connection with the Town Hall Project. Said change order to be funded from account 2594C161 6C0002.

Project Manager Tony Guigli stated that the items include electrical and piping changes in the basement rooms, added support in the lobby walls, and added electrical work and cameras in the Selectmen's meeting room. Mr. Guigli added that the project is going well. It is now in the detail phase, doing finishing work. It is currently on schedule and on budget.

On motion, it was unanimously,

**VOTED:** To approve Change Order #6 in the amount of \$21,069.76, for work to be completed by Colantonio in connection with the Town Hall Project. Said change order to be funded from account 2594C161 6C0002.

**APPROPRIATION TRANSFER**

The Board considered the question of approving the following appropriation transfer within the Selectmen's budget:

<b>From:</b>	<b>12201220 5A0017</b>	<b>\$ 900.00</b>
	<b>Lease Capital</b>	
<b>To:</b>	<b>12201220 55310</b>	<b>\$ 900.00</b>
	<b>Dues/Membership</b>	
<b>From:</b>	<b>12201220 524006</b>	<b>\$ 1,500.00</b>
	<b>Ed/Training</b>	
<b>To:</b>	<b>12201220 553010</b>	<b>\$ 1,500.00</b>
	<b>Dues/Membership</b>	
<b>From:</b>	<b>12201220 531012</b>	<b>\$ 2,000.00</b>
	<b>Office Supplies</b>	
<b>To:</b>	<b>12201220 553010</b>	<b>\$ 2,000.00</b>
	<b>Dues/Membership</b>	

Town Administrator Richard J. Kelliher stated he is a member of the Metro Mayors Association. This year, the dues have gone up. This transfer will cover the cost.

On motion, it was unanimously,

**VOTED:** To approve the following appropriation transfer within the Selectmen's budget:

<b>From:</b>	<b>12201220 5A0017</b>	<b>\$ 900.00</b>
	<b>Lease Capital</b>	
<b>To:</b>	<b>12201220 55310</b>	<b>\$ 900.00</b>
	<b>Dues/Membership</b>	
<b>From:</b>	<b>12201220 524006</b>	<b>\$ 1,500.00</b>
	<b>Ed/Training</b>	
<b>To:</b>	<b>12201220 553010</b>	<b>\$ 1,500.00</b>
	<b>Dues/Membership</b>	
<b>From:</b>	<b>12201220 531012</b>	<b>\$ 2,000.00</b>
	<b>Office Supplies</b>	
<b>To:</b>	<b>12201220 553010</b>	<b>\$ 2,000.00</b>
	<b>Dues/Membership</b>	

**TEMPORARY WINE AND MALT BEVERAGES LICENSE**

The Board considered the question of granting a temporary Wine and Malt beverages license to Wheelock College in connection with a Reception to be held on Wednesday May 14<sup>th</sup> from 5pm - 8pm at 43 Hawes Street.

On motion, it was unanimously,

**VOTED:** To grant a temporary Wine and Malt beverages license to Wheelock College in connection with a Reception to be held on Wednesday May 14<sup>th</sup> from 5pm - 8pm at 43 Hawes Street.

**TEMPORARY WINE AND MALT BEVERAGES LICENSE**

The Board considered the question of granting a temporary Wine and Malt beverages license to Pine Manor College in connection with the following events to be held at 400 Heath Street:

May 2 <sup>nd</sup> & 3 <sup>rd</sup>	Receptions 5pm-8pm
May 24 <sup>th</sup>	Reception 12:30pm – 6:30pm

On motion, it was unanimously,

**VOTED:** To grant a temporary Wine and Malt beverages license to Pine Manor College in connection with the following events to be held at 400 Heath Street:

May 2 <sup>nd</sup> & 3 <sup>rd</sup>	Receptions 5pm-8pm
May 24 <sup>th</sup>	Reception 12:30pm – 6:30pm

**CONTRACT**

The Board considered the question of awarding and executing a Contract with Carlyle Engineering in the amount of \$24,630 in connection with the Devotion School “Sprinkler Valve Replacement Project”. Said contract to be funded from the Town/School Bldg Life Safety account 2599WS05 6B0005.



**Director of Public Buildings Charlie Simmons stated that the fire valves at Devotion are old and in bad shape. He can no longer find replacement parts for them.**

**On motion, it was unanimously,**

**VOTED: To award and execute a Contract with Carlisle Engineering in the amount of \$24,630 in connection with the Devotion School “Sprinkler Valve Replacement Project”. Said contract to be funded from the Town/School Bldg Life Safety account 2599WS05 6B0005.**

### **CONTRACT**

**The Board considered the question of awarding and executing a contract with Ambient Temperature Controls in the amount of \$238,300 for the Installation of a New HVAC System at the Soule Recreation Center. Said contract to be funded from the CIP Building account 2599WS08 6B0023.**

**Director of Public Buildings Charlie Simmons stated that he received a number of bids that were very competitive. He is happy to see that. This contract will install a new HVAC system at the Soule Recreation Center, where there has been an issue with the heat.**

**On motion, it was unanimously,**

**VOTED: To award and execute a contract with Ambient Temperature Controls in the amount of \$238,300 for the Installation of a New HVAC System at the Soule Recreation Center. Said contract to be funded from the CIP Building account 2599WS08 6B0023.**

### **AGREEMENT**

**The Board considered the question of approving and executing an Agreement in an amount not to exceed more than \$23,500.00 with Longfellow Benefits for Health Insurance Technical Advisory services.**

**Town Administrator Richard J. Kelliher stated that the contract had expired two years ago, and there was an interim group in place. An RFP went out and he is pleased to recommend Longfellow Benefits to the Board.**

**Director of Human Resources Sandra DeBow introduced Patrick Haraden from Longfellow Benefits. Mr. Haraden stated that he is excited to work with the Town of Brookline, an eager to begin.**

**Selectman Hoy asked about the proposal. Mr. Haraden replied that the firm will offer general and technical assistance and consulting in matters of benefit health insurance. The firm will be flexible to accommodate the general nature at a fixed price.**

**On motion, it was unanimously,**

**VOTED: To approve and execute an Agreement in an amount not to exceed more than \$23,500.00 with Longfellow Benefits for Health Insurance Technical Advisory services.**

*Selectman Allen Arrived*

### **PROCLAMATION**

**The Board considered the question of adopting a Proclamation proclaiming April 26, 2008 as Brookline Day of Puppetry.**

**Chris Higgins, Director of the Puppet Showplace Theater stated that April 26, 2008 is the National Day of Puppetry. There will be a community event in celebration of this day. The Puppet Showcase Theater will provide an entertaining and educational Day of Puppetry.**

**On motion, it was unanimously,**

**VOTED: To adopt the following Proclamation proclaiming April 26, 2008 as Brookline Day of Puppetry:**

*WHEREAS, the Brookline Puppet Showplace Theatre is a non-profit performing arts organization and New England's first puppetry center; and*

*WHEREAS, the Puppet Showplace entertains, educates and enlightens people of all ages and backgrounds about the magical world of puppetry; and*

*WHEREAS, they support the use of puppetry in all forms from traditional to contemporary; and*

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*WHEREAS, the Puppet Showplace Theatre and the Boston Area Guild of Puppetry will be working in partnership to provide a community event to celebrate the National Day of Puppetry.*

*WHEREAS, a day of recognition will promote and elevate the artistry of puppetry through awareness and education.*

*WHEREAS, the Board of Selectmen recognizes the unique community service that the Puppet Showplace Theatre provides to the families of our town and the region's performing arts.*

*NOW THEREFORE, we the Board of Selectmen for the Town of Brookline do hereby proclaim April 26, 2008 as "Brookline Day of Puppetry" and encourage all citizens of the town to join in and support the Puppet Showplace and our performing arts community.*

#### **ASSOCIATE TOWN COUNSEL**

**The Board considered the question of appointing Patricia Correa as an Associate Town Counsel effective April 28, 2008.**

**Town Counsel Jennifer Dopazo stated that she is pleased to recommend Patricia Correa as an Associate Town Counsel.**

**Ms. Correa is an Attorney for the Massachusetts Attorney General's Office. She has extensive experience in anti-discrimination and disabilities law. She is a Brookline resident and has served on the Brookline Personnel Board, and the Moderators Committee on the Civil Service review system. She is looking forward to her work.**

**The Board congratulated Ms. Correa and noted the hard work that the Town Counsel's office does.**

**On motion, it was unanimously,**

**VOTED: To appoint Patricia Correa as an Associate Town Counsel effective April 28, 2008.**

#### **PUBLIC SAFETY PERSONNEL**

**The Board considered the question of authorizing the filling of a vacancy in the position of full-time dispatcher in the Public Safety Dispatcher Center.**

**PUBLIC SAFETY PERSONNEL cont'd**

**Chief O'Leary stated that this position has become available due to a recent resignation. This was a long term employee who took a position with the Immigration and Customs Enforcement Agency.**

**On motion, it was unanimously,**

**VOTED: To authorize the filling of a vacancy in the position of full-time dispatcher in the Public Safety Dispatcher Center.**

**MULTI-HAZARD MITIGATION PLAN**

**Director of Water and Sewer Andrew Pappastergion and Chief Daniel O'Leary appeared to request that the Board adopt the Metro-Boston Multi-Hazard Mitigation Plan – Brookline Annex.**

**Director of Water and Sewer Andrew Pappastergion stated that the Federal Disaster Mitigation Act of 2000 requires all communities applying to receive FEMA funding for hazard mitigation grants must adopt a local multi-hazard mitigation plan. The Town must come up with a plan on how to deal with a natural disaster. The Metro-Boston Multi-Hazard Mitigation Plan – Brookline Annex provides a detailed analysis of each natural disaster category. The most prevalent hazards for Brookline were identified as flooding of the Muddy River, and winter storms.**

**Chairman Daly expressed concern of the evacuation routes from Boston directing residents to and through Brookline.**

**Chief O'Leary replied that this is a concern. The Emergency Medical Team is looking into this. The Team is confident on Brookline's evacuation plan, but uncertain of the added strain from surrounding communities.**

**On motion, it was unanimously,**

**VOTED: To adopt the Metro-Boston Multi-Hazard Mitigation Plan – Brookline Annex for submission to FEMA.**

**ROUTE 9 UPDATE**

**Chairman Daly asked Director of Engineering Peter Ditto for a brief update on the Route 9 project. Mr. Ditto replied that Aggregate Industries has**

completed the removal of the median strip and will start to install the slope edging. Resident Francis Fischer added that the noise level has seemed to go down a bit.

**WARRANT ARTICLES**

Review of the following Warrant Articles for the May 27, 2008 Town Meeting:

<b><u>NO.</u></b>	<b><u>TITLE</u></b>
2.	Collective Bargaining

Director of Human Resources Sandra DeBow stated that the Town of Brookline has reached agreement on collective bargaining agreements with two Unions, AFSCME, AFL-CIO, Local 1358 and the Fire Union, Local 950. Ms. DeBow briefly went over both contracts with the Board.

Selectman Hoy congratulated all negotiation teams in coming to an agreement. Selectman DeWitt added that there are still some contracts under negotiation.

<b><u>NO.</u></b>	<b><u>TITLE</u></b>
13.	Reduce the Interest Rate of the Clause 41A Exemption (Senior Citizen Real Estate Tax Deferral) from the statutory maximum of 8% to 5% (Finance Director and Council on Aging)

Director of Finance Steve Cirillo stated that there was discussion of the possibility of lowering the interest rate that was set in the Warrant.

Selectman DeWitt stated that she wanted to amend this Article to reduce the interest rate under Clause 41A to 3.5% in the hopes to attract participants into the program. Since fixed interest rates are currently higher than 5%, she hoped to have a benchmark such as the Cost of Funds Index, which is currently at 3.56%, and is the benchmark for ARM's. The Town moderator noted that to reduce the interest rate further, would not be in the scope of the Article. The Department of Revenue would not consider anything other than a fixed rate. If it were not fixed, it would

**WARRANT ARTICLES cont'd**

have to change every time the federal rates changed meaning a need to go to Town Meeting each change. The best scenario is the one recommended in the Article. Selectman DeWitt would like to see some thought put into to this further. For instance if a qualified resident signed up for the program at one rate and then the rates go lower, how could the Town accommodate the resident.

On motion, it was unanimously,

**VOTED:** Favorable Action that the Town reduce the interest rate of that portion of the real estate taxes owed to the Town pursuant to the provisions of Massachusetts General Laws Chapter 59, Section 5, Clause 41A, the so-called Senior Citizen Real Estate Tax Deferral, from the statutory maximum of 8% to 5% beginning in Fiscal Year 2009.

**NO.            TITLE**

**27.     Skyline Park (Naming Committee)**

**John Bain Chairman of the Park and Recreation Commission read the following comments: The Town of Brookline's Park and Recreation Commission respectfully supports the proposed name of Skyline Park for the new park facility at the former Newton Street Landfill site. As Chair of the Park and Recreation Commission and a member of the Naming Committee, I was asked at a Naming Committee meeting to propose a temporary name for the new park as a place holder. The Committee had indicated that this was an excellent naming/donor opportunity and that we should not suggest a permanent name at this point in time.**

**In order to be responsive and provide a name with little emotional attachment for the community, but something that could be placed on wayfinding signs at the park, the Commission discussed several possible names and then submitted "Skyline Park" for consideration by the Naming Committee. The Naming Committee reviewed the proposal and voted in support of the Commission's proposal and submitted a Warrant Article for May Town Meeting.**

**At our meeting on April 14, 2008 it came to our attention that there are some neighbors to the park who do not feel that a sufficient public process was held for the naming of this new park. The Commission received a letter from Janice Kahn, TMM Pct. 15, who stated that she felt that the process should have been more inclusive of the neighbors that have worked so hard to help make this**

**WARRANT ARTICLES cont'd**

project such a success. The Commission recognized all of the input, time, patience and effort of the neighborhood, but did not feel that it was appropriate to open a nameless park to the public. They deliberated the various options and determined in a 5-1 vote to support their initial proposal for the name Skyline Park. We welcome any future process as may be proposed by the Board of Selectmen or Naming Committee. As caretakers and stewards of the parks for the Community, we take our role very seriously and want to provide the users of the park the courtesy of a destination in name as well as place. Mr. Bain added that this is a Town-wide park not a neighborhood park.

Fred Lebow of the Naming Committee stated that there was a Public Hearing, nobody came to oppose. It was not the name that seems to be an issue, it was the process. He agrees that the park needs to have a name for the opening. Again, if there is a need to change this name in the future, it can be change.

Selectman DeWitt agreed that there needs to be a name in place for the opening, but, perhaps there could be some input from the residents on the final name of the park.

Selectman Allen stated that the neighborhood has been involved in the process from the beginning. The community wants to have a celebration for the opening. He agrees that if a name that means something to Brookline should come along it can be changed, although when at the park you do see the skyline.

**NO.                      TITLE**

- 31.    Resolution to Determine Reliability of  
Police Reports (Susan Ellis)**

Chairman Daly stated that a lawsuit has been field with the MCAD on the subject matter on the report in question. Special counsel has advised the Board not to discuss this Article. The Board does not intend to discuss the Article.

**EXECUTIVE SESSION**

Upon motion duly made and seconded, it was moved that the Board of Selectmen go into EXECUTIVE SESSION.

The Chair then stated the reason(s) for the Executive Session: (SEE THE REASONS CHECKED)

- \_\_\_\_\_ (1) To discuss the reputation, character, physical condition or mental health rather than the professional competence of a particular individual<sup>1</sup>.
- \_\_\_\_\_ (2) To consider the discipline or dismissal of, or to hear complaints or charges brought against, a public officer, employee, staff member, or individual<sup>1</sup>.
- X  (3) To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the governmental body, to conduct strategy sessions in preparation for negotiations with non-union personnel, and to conduct collective bargaining sessions or contract negotiations with non-union personnel.
- \_\_\_\_\_ (4) To discuss the deployment of security personnel or devices.
- \_\_\_\_\_ (5) To investigate charges of criminal misconduct or to discuss the filing of criminal complaints.
- \_\_\_\_\_ (6) To consider the purchase, exchange, lease or value of real property, if such discussion may have a detrimental effect on the negotiating position of the governmental body with a person, firm or corporation.
- \_\_\_\_\_ (7) To comply with the provisions of any general or special law or Federal grant-in-aid requirements.

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The individual involved in such Executive Session must be notified in writing at least forty-eight (48) hours prior to such session and is (1) entitled to be present (2) to have counsel or other representative present and (3) to speak in his or her own behalf. Upon the request of the individual involved, no Executive Session shall be held and the meeting shall be held in open session. See G.L.c.39, §§23B(1) and (2).



- \_\_\_\_\_ (8)      **To consider and interview applicants for employment by a preliminary screening committee or a subcommittee appointed by a governmental body if an open meeting will have a detrimental effect in obtained qualified applicants: provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee or a subcommittee appointed by a governmental body, to consider and interview applicants who have passed a prior preliminary screening.**
- \_\_\_\_\_ (9)      **To meet or confer with a mediator, as defined in section twenty-three C of chapter two hundred and thirty-three, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or body, provided that: (a.) any decision to participate in mediation shall be made in open meeting session and the parties, issues involved and purpose of the mediation shall be disclosed; and (b.) no action shall be taken by any governmental body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open meeting after such notice as may be required in this section.**

**The Board of Selectmen, during a properly constituted and noticed meeting:**

**VOTED:      to go into Executive Session**

**Roll Call Vote:      Voting in the Affirmative: 5  
                                 Voting in the Negative: 0**

**The Board of Selectmen (WILL) RECONVENE in Open Meeting after the Executive Session.**

Susan Allen of Precinct 13 is concerned about the Override. She feels that it is dividing the Town in half. She is not supporting the Override she feels that it is not responsible. Ms. Allen also talked about supporting the use of gold and silver within the town's finance system.

### **WARRANT ARTICLES**

Review of the following Warrant Articles for the May 27, 2008 Town Meeting:

<b><u>NO.</u></b>	<b><u>TITLE</u></b>
30.	Resolution to join the Group Insurance Commission (David Cotney)

Petitioner David Cotney reviewed his Article explanation:

The Override Study Committee has recommended that the Town join the State's Group Insurance Commission (GIC) as a means of controlling group health cost, a significant factor for the Town's long-term financial stability. The GIC covers some 250,000 state, county, and even some local employees/retirees. For example, the employees of the Brookline Housing Authority have long received their insurance through the GIC. During the past several years while municipalities have generally been experiencing double digit increases the GIC has had single digit increases and has been widely lauded for innovative plan design and effective negotiations with insurers and providers. The purpose of this Resolution is to encourage that service consideration be given not only by the town, but also by the unions and retirees to the GIC option.

Mr. Cotney is a State Municipal worker that has been on the GIC health care plan for twelve years. He stated that he is very satisfied with the coverage that he has received. The coverage offers a wide variety of plans and co-pays. Both the Town and its employees will enjoy cost savings. He added that this would not replace the need for an override for FY09. Mr. Cotney added that the Town has done a very good job controlling costs, however this is a problem across the country. This is basically a non-binding solution for both the Town and the Unions to bargain in good faith to consider joining the Group Insurance Commission. Group health has gone from 6% in 2001, to 13% in 2009. This results in less and less monies for municipal services.

**WARRANT ARTICLES cont'd**

Selectman Hoy thanked Mr. Cotney for bringing this in front of them. It seems like a win-win situation for both the Town and the employees.

Selectman DeWitt thanked him for mentioning that the saving would not be implemented right away. There is a process that must be followed. She asked him how he likes his coverage.

Mr. Cotney replied that he has changed within the plan a number of times over the years and has not seen any difference in his coverage. He has always been able to go to a doctor of his choice.

Selectman Mermell thanked him for making this a public conversation. She asked about unions negotiating on co-pays. Mr. Cotney replied that the GIC has not negotiated on co-pays within the unions.

**NO.            TITLE**

**14.      Zoning – F Zones (Planning)**

Director of Planning & Community Development Jeff Levine outlined the explanation: This zoning amendment is being submitted by the Planning and Community Development Department with the support of the Zoning By-law Committee. In 2007, Spring Town Meeting approved a new “F” or three-family zoning district for approximately 90 parcels near Coolidge Corner that limited development to three dwelling units per lot. This new F-1.0 zone was designed to serve as a middle ground between two-family (T) zones and multi-family (M) zones and stemmed from the recommendations of the Coolidge Corner planning process.

At the time of the zoning change, the new three-family (F) district was not added to several sections of the Zoning By-Law that refer to residential zones. To rectify this, the following technical changes are recommended and all, except one, group the new F zone with regulations that apply to single-family (S) and two-family (T) zones. The Planning and Community Development Department believes this is appropriate because the newly established F zones are more closely related to S and T zones, than M zones. A three-family dwelling is typically more similar to a single- or two-family dwelling than a large apartment building.

The only exception to adding the F zones to the regulations for S and T zones is a section that relates to the parking requirement for conversions of a single- or two-family dwelling or more additional dwelling units. The Planning Department believes that the parking waiver should be available in F zones for several reasons:

**WARRANT ARTICLES cont'd**

for an existing single- or two-family dwelling adding a third unit, the lot size and shape of the structure may make it impossible to meet the stringent parking requirement for a three-family dwelling, which can be as high as seven spaces; a flexible parking requirement would encourage reuse of buildings and discourage tear downs; more open space would be preserved on the lot; and the Board of Appeals would have the opportunity to evaluate how many parking spaces are appropriate for a particular lot, after considering on a case-by-case basis, among other things, access to public transit. Although the Board can waive up to half the parking spaces required, in many cases in the past, they have waived only one or two parking spaces. With the proposed amendment change, the parking requirements for the F zoned properties, all of which were formerly in the M zone, would remain unchanged to a three-family dwelling. Here, the Planning Department believes, and the Zoning By-Law Committee concurs, it would be better to allow the flexibility of a parking waiver that is currently available for conversions in M, L and G districts. Section 6.01.2.a allows the Board of Appeals to waive not more than half of the required parking spaces by special permit when an existing dwelling in an M, L or G district is converted for one.

Selectman Allen stated that the Zoning By-law Committee has spent some time on this Article. It is an issue of fairness. Last year when the F district was added it was known that there would be some housekeeping of the smaller details in order to promote fairness to home owners.

<u>NO.</u>	<u>TITLE</u>
16.	Zoning – Medical Office Space in GMR 2.0 (Merelice)

Petitioner Merelice outlined the Article: This article would reduce the gross floor area allowed for medical office use at 2 Brookline Place to lower the negative impact of increased traffic.

In October 2003 Howard/Stein-Hudson representing Winn Development presented a Transit Demand Management (TDM) study concluding that 426 spaces – with no reduction in spaces for proximity to public transit – would be needed for office use. The study further promoted the concept that this could be lowered to 354 spaces using Transit Demand Management (TDM).

The current proposal by Children’s Hospital calls for 624 parking spaces if 90,000 square feet is used for medical offices. There was no discussion of medical office use

**WARRANT ARTICLES cont'd**

**when the special district for General Medical Research (GMR 2.0) zone was voted in 2004.**

**This warrant article would reduce the gross floor area for medical office use from the proposed 90,000 square feet to 40,000 square feet. Under the current zoning by-law, this would lower the required parking spaces for medical office use (250 square feet is now required for each parking space) from 360 to 160. Assuming the 50,000 square foot reduction was used for general office use, 83 spaces would be added, for a net decrease of 138 parking spaces. This level does not meet the parking level originally proposed, but is a moderate attempt to mitigate the impact of medical office use.**

**Chairman Daly stated that the Article speaks on uses, not parking. She is concerned that by restricting the medical office use could result in a level 2 bio lab as an occupant. Merelice replied that her hope is that Article 15 will be successful, resulting in the reduction of parking.**

**Selectman Hoy asked if the Board were to embrace Article 15, then this Article would be moot? She replied yes, that is her intention.**

**Director of Planning & Community Development Jeff Levine stated that the Planning Board recommends no action on this Article. The Planning Board acknowledges that at the time the GMR zoning was adopted by Town Meeting, the owner of 2 Brookline Place did not discuss developing the site for medical office space, but the Board notes that medical office use was always an allowed use for this site. In addition, the immediately abutting property at 1 Brookline Place is also an active medical office building with a fully-used parking garage. This proposed limitation of medical office space is speculative and will not necessarily result in an improved project. Rather than limiting the amount of medical office space, an evaluation of the appropriate amount of parking needed for medical and other uses should be explored, on a Town-wide basis. This study should include examination of what effective transportation management measures could be implemented to reduce the need for parking.**

**Charles Weinstein Vice President of Real Estate Planning and Development for Children's Hospital stated that he has been engaged with the design advisory team of the project. With residents concern on bio lab occupying the space it became their intention to have retail, medical office, and office space at the site of 2 Brookline Place. It should not come as a surprise that that is what they are doing. Their goal is to provide sufficient parking so that it does not impact the surrounding neighborhood. He added that they are following the minimal requirements of the Brookline zoning code with respect to each of the three uses of the building. He**

**WARRANT ARTICLES cont'd**

added that the State Department of Public Health requires a certain number of patient parking at medical offices. As far as the proximity to public transportation, he added that not everyone will take public transportation. When you need to see a doctor most people will get there as quickly as they can, which in most cases is driving.

Selectman Hoy asked if this is being done to comply with the By-law or is this the number of spaces that they want. He asked is fewer spaces would be needed due to the closeness to public transportation? Mr. Weinstein replied that the site will have bike racks, showers and changing rooms for employees to promote alternatives to vehicle commuting.

Selectman DeWitt asked how this plan fits in with the smart growth plan where the goal is to limit the number of vehicles and promote public transportation. She added that this is a large amount of parking spaces compared to Boston's Longwood medical area. Mr. Weinstein replied that the City of Boston has limited the amount of parking in the Longwood area. He said that it is not the employees driving up the parking space number, but the medical offices. Again, if people are sick or have a sick child, they are not going to get on the T to go to the doctors office. He added that the same cars driving around and around looking for a spot is not smart growth either.

<b><u>NO.</u></b>	<b><u>TITLE</u></b>
<b>20.</b>	<b>150 Princeton Road Easement (Toby Brendze)</b>

Attorney Jeffrey Allen representing the petitioner stated that the DPW made an agreement in 1955 that a turnaround would not be required for the existing home on the lot. However if an additional home were to be added there would be a requirement for a turn around for trucks and safety vehicles. The owner of the lot has complied with Brookline's and the State's zoning regulations to use the access that was agreed to 50 years ago. He added that this Article is trying to take something that is economically valuable to her and striping her of it. The agreement states that she can build out as long as she provides an adequate turn around. The DPW has designed this hammerhead. He added that to refuse access where the Town granted it many years ago and now restricts it from her is unfair. They are not trying to do something that violates zoning, just what is her right to do.

Attorney Allen outlined the explanation: This article is inserted in the warrant at the request of H. Toby Brendze who offers the following explanation.

**WARRANT ARTICLES cont'd**

**Ms. Brendze owns the undeveloped lot adjacent to 150 Princeton Road which was created by virtue of a 1955 subdivision approval. In order to create access to the undeveloped lot, known as Lot 7 and shown as Lot 2 on Mr. Porter's February 23, 2007 "Roadway Upgrading Plan," the Planning Board approved the extension of the paved portion of Princeton Road including a turnaround on Lot 7 itself. After consultation with Town Counsel and the Town Engineer, it was decided that an easement was necessary to allow municipal vehicles to utilize the turnaround on Lot 7. The Planning Board made its approval of the upgrade subject to the condition that prior to the issuance of a building permit for construction of a dwelling on Lot 7, acceptance by Town Meeting and evidence of recording of an easement to the Town over the turnaround on Lot 7 for municipal vehicles was necessary.**

**Randolph Meiklejohn of the Conservation Commission, speaking for Conservation Administrator Tom Brady stated that the Commission did receive a set of plans for the hammerhead and approved them with an order of conditions. Some of the conditions include, paving of the driveway, storm water maintenance, a conservation restriction, and plantings at the end of the hammerhead to prevent snow and debris from entering the sanctuary.**

**Roberta Schnoor of the Sanctuary Study Committee stated that the Committee was asked by Town Meeting to study the purchasing of the land to protect the buffer area. The group has not been able to identify a private source of funding. Although they feel that the borders should be protected there is no funding available to purchase the land. The Committee voted not to take a position on this Article. She added that the Committee is not finished with their work and continues to explore options.**

**Director of Planning & Community Development Jeff Levine stated that the Planning Board did not take this up because it is not a zoning issue.**

**Chairman Daly asked the Director of Engineering Peter Ditto his thoughts on the turnaround. Mr. Ditto replied that it would be satisfactory, he designed the hammerhead.**

**Ken Kurnos, 195 Rangley Road, abutter of the property stated that this is anything but simple. In the 1950's environmental laws were different. Wetlands were not a public issue. An agreement had been reached that if a development was made, a turn around would have to be added. The agreement was not a turnaround anywhere. The location for the original turnaround is now wetlands. Today the petitioner would like to put the turnaround on their own property. This property abuts the sanctuary. Mr. Kurnos has concerns on the trees that would come down and the plows that would push snow right into the wetlands. By allowing the turnaround this habitat will be hurt. He is not in favor of this Article.**

**WARRANT ARTICLES cont'd**

**David Nalven, 121 Princeton Road is concerned that the proposed project will result in the destruction of 10 to 12 100 year old trees. This area has been enjoyed by many residents.**

**Richard Johnson, 145 Princeton Road agrees with Mr. Nalven to preserve the sanctuary and to keep it as green as possible. It is an asset to the Town and the neighborhood.**

**Selectman Allen added that there is a need to balance the need for open space and the rights of the property owner. He would like to see a memo from the Town Counsel on the matter.**

**Town Counsel Jennifer Dopazo stated that the history given by Attorney Allen is correct. There was an agreement in 1955 that a turnaround will be provide. The issue is that if Town Meeting does not approve this it will then be at the stage of a regulatory issue. She would like to look further at the plans, and speak with Tom Brady, Conservation Administrator.**

**Attorney Allen replied that his client has complied with everything according to today's laws. The road stops about 50 feet short of the sanctuary so it is not right up against it. There are trees that will come down, but the trees are on private property. The homeowner can take them down anyways, they are not Town trees.**

**BOSTON UNIVERSITY – MOUNTFORT STREET**

**Representatives of Boston University appeared to update the Board on development concepts for the Boston University Bridge/Commonwealth Avenue area between Mountfort Street and the Charles River.**

**Town Administrator Richard J. Kelliher stated that the representatives of the University will be making a presentation tonight. This is purely an informational update for the community from the University.**

**Mike Donovan Senior Associate for Real Estate at Boston University, stated there has been many meetings with State, and Government Officials in the area over the last eighteen months, this is the first meeting with the Town of Brookline. There are some Brookline neighborhoods in this project. The area is referred to as the "Knuckle area" at the B.U. Bridge intersection. It is a very difficult surging of roads, pedestrians, and cyclist entering at a high level.**



**BOSTON UNIVERSITY – MOUNTFORT STREET**

**The presentation made the following points:**

- **Mountfort Street carries 10,000 cars daily. Essex Street carries 3,600 cars daily. Carlton Street carries 4,500 cars daily.**
- **The extensive traffic cut throughs produce approximately 13,000 cars cutting through Brookline neighborhoods daily.**
- **Significant pedestrian and bicycle movements. Approximately 16,000 pedestrian crossing Commonwealth Avenue each day.**
- **Proposed development of 12.9million square feet (approx) of development anticipated over 50 years. 65,000 jobs anticipated.**
- **Realign Mountfort Street by changing the traffic flow. Alleviate congestion, provide through route for regional traffic, maintain neighborhood access, and maintain historical character.**
- **Build two new bridges over the Turnpike to rationalize the street grid, simplify intersections, and increase safety and predictability for pedestrians.**
- **Protect local neighborhood streets from cut through traffic by; maintaining full access at St. Mary's Street and St. Paul Street. Maintain one way Carlton Street and maintain partial access at Amory Street. Disconnect other local streets to prevent traffic unrelated to the neighborhood (Essex, Lenox, and Prescott Street)**

**There is a proposed traffic reduction of 50% through Brookline's neighborhoods. The total amount will go from 13,000 existing cars to 6,500. Plans to accommodate the future Urban Ring Bus Rapid Transit, and improve pedestrian safety and increase connections. Reduce auto trips and congestion.**

**Chairman Daly made the observation that it would now be difficult for Brookline residents to get over to the B.U. Bridge. The map looks like it would require going all the way into Boston and than out again to get onto Storrow Drive.**

**Ted Rizzo, Transportation Engineer, replied that they plan to potentially disconnect University Road. At this point it is just being looked at. The access at Carlton and Mountfort Streets will not change as of today. They are trying to provide other ways to get to the bridge other than Carlton Street.**

**Selectman Allen stated that there will be many neighborhood meetings before it comes to fruition. He appreciates how Boston University is taking the initiative to communicate. Selectman Allen is concerned about the loss of the use of Dummer Street to get to the Knuckle.**

**BOSTON UNIVERSITY – MOUNTFORT STREET**

**Mike Donovan** replied that there has been lots of information put into this on a larger scale. With new development on the horizon, this is a good time to plan and begin discussion. **Selectman Allen** added that clearly Brookline will want to have a voice in it.

**Selectman DeWitt** added that she is grateful for the update, and looks forward to working with them rather than against them. She hopes that they will come forward with a vision of the Universities growth in the future.

**Gary Nicksa**, Real Estate Development official stated that this is a place holder for illustration. The University has no specific plans; this is just out there for discussion.

**Selectman Mermell** stated that Brookline is a community that values process and public input. She feels that they being here early in the process, shows good intentions.

**Transportation Board member Peter Furth** thanked BU for their careful thinking. The main theme is to do what we can to promote commuting other than cars.

**Tom Vitolo**, TMM#1 stated that the presentation did not mention residents to the east, and hopes that they will be considered. He asked about the historic home on Lenox Street that BU owns. BU replied that it would be required to relocate the home at 25 Lenox Street. He added that it is not a trivial matter, but it is proposed to relocate to an adjoining lot.

**Ann Lusk**, 14 Hart Street stated that she has twenty five years of experience with bicycle facilities. She hopes there would be consideration for bicycle lanes. This would maximize the cycling population of 5%. She recommends the European cycle tracks which could raise the cycling population to 50%. Any reports that these are dangerous are flawed. She urged that Brookline be the first to add bicycle tracks.

A BU representative replied that the plan is looking at a bike lane going over the BU Bridge. They are balancing a lot of different demands in limited space.

**Carol Caro**, 27 Elba St. expressed the need to improve the Green Line on Commonwealth Avenue.

**Steven Porter**, Co-President of the Cottage Farm Neighborhood Association stated that the Association looks forward to working together on this issue. The neighborhood has concerns about development in the area and the impact on the skyline and the size of the roads.

**BOSTON UNIVERSITY – MOUNTFORT STREET**

Steven Kanos, Carlton Street, and member of the Preservation Commission thanked the representative for starting the dialog, and asked how many lanes Mountfort Street will have. He is concerned that Mountfort Street will be bumping more commuters into the neighborhood. The reply was that today there are 4 lanes and the plans are to keep it at that.

Selectman Allen suggested that the Board look at forming a Committee to begin the conversation and then decide who the appropriate members would be.

Director of Planning & Community Development Jeff Levine added that he will coordinate with the Transportation Board and Boston University on some issues that overlap and discuss an approach to continue this discussion.

**WARRANT ARTICLES**

<b><u>NO.</u></b>	<b><u>TITLE</u></b>
15.	Zoning – Parking Requirements in GMR 2.0 (Hugh Mattison)

Petitioner Hugh Mattison outlined his explanation of the Article:

The purpose of this warrant article is to insert a provision for medical office parking, and reduce the parking requirements near public transportation.

Children’s Hospital is planning to develop the property at 2 Brookline Place for retail, office and medical office use. Under current zoning for 2 Brookline Place, there is no provision for medical office parking or for a reduction in parking requirements for medical offices because of proximity to public transit. As currently proposed, this project will require an increase in parking spaces from 402 to 624, an increase of 55% (222 spaces) in one of the most densely-populated areas in Town. There is currently an 859-car capacity garage across Route 9 at Brook House.

The resulting increased traffic congestion suggests that a change in the zoning by-law to limit medical office parking and encourage “Smart Growth” transportation strategies should be enacted.

In 2004, a special permit for the 60,000 square foot lot at 2 Brookline Place was issued increasing the Floor Area Ratio (FAR) from 2.0 to 4.0. Buildings at 1, 5,

**WARRANT ARTICLES cont'd**

**and 10 Brookline Place were included in this special zone, designated GMR 2.0 (General Medical Research).**

**A Transit Demand Management (TDM) study by Howard/Stein-Hudson found that 71% of local residents commuted by car. Using this local commuting characteristic, and assuming a variety of strategies to reduce the need for on-site parking (MBTA subsidies, designated space for Zipcar parking, and promotion of alternative transportation modes), resulted in a calculated peak demand of 354 spaces for office use.**

**The parking requirements for a GMR 2.0 zone were voted as 350 square feet and 600 square feet for retail and general office use respectively, with a special permit allowing up to a 15% TDM reduction. The plans presented at that time showed *two* levels of underground parking, while the currently proposed plans call for *five* levels of parking.**

**However, in Section 5.06 for GMR 2.0 there is no mention of a requirement for medical office space. The GMR 2.0 zone is considered an overlay district; in the absence of a specific requirement for medical office parking, Section 6.02, the Table of Off-Street Parking Requirements dictates one space for each 250 square feet. Paradoxically, there is no recognition of proximity to public transit or density of existing development in the heart of the Brookline public transportation area. In other words, medical offices in Brookline Village near the MBTA D and E lines, a popular cab stand and four bus lines (#39, 60, 65, 66) have the same parking requirements as medical offices in Chestnut Hill.**

**Director of Planning & Community Development Jeff Levine stated that the Planning Board recommends No Action on this Article. The Board felt that the parking requirements in the Zoning By-Law in general need to be examined to ensure that they are consistent with the actual parking needs of the Town. At present, they do not appear to adequately factor in proximity to transit and other factors that may affect overall requirements. For this reason the Planning Board is supportive of the concept of reducing the parking requirements in areas of the town that are located next to rapid transit. The Board also had concerns that if there are too few parking spaces, it would significantly impact the street parking demand in Brookline Village which is already an issue. Children's Hospital has planned for the amount of spaces that the By-Law allows them to.**

**Selectman Hoy stated that with the close location of public transportation there could be a reduction in the parking spaces. There would still be more spaces than the Longwood Medical area has even if there were a reduction of 15% for retail spaces.**

**WARRANT ARTICLES cont'd**

**Transportation Administrator Todd Kirrane stated that the Transportation Board did not review this Article because it does not deal with a public way.**

**Paul Sanner of the Economic Development Board stated that this is a very timely Article and important questions are being raised. This is the beginning of looking at how rational the parking in town should be. The Town does not have maximum requirements on parking spaces. Children's did not come to build 600 parking spaces they came to build office spaces. He had hoped that this site would be smart growth, due to the proximity to the public transit, but it does not seem to be. If Children's were to build fewer parking spaces they are not restricted in doing that without a maximum. Should the Article pass, the Zoning Board of Appeals could come up with a number somewhere between what the neighborhood wants and what the developer wants. He added that the Town does not want to turn into a Longwood Medical Area. There is new development going up along Route 9 and traffic congestion is a big concern.**

**Charles Weinstein, Vice President of Real Estate Development for Children's Hospital replied that the number tends to overwhelm people. To break it down, there are only about 40 spaces for retail parking. As for the medical office space at 386, the Massachusetts Department of Public Health requires this and they have to abide by. Looking at 1 Brookline Place the number of spaces seems to work there. For employee parking, there would be only one space for every three employees. He added that when people come to a medical office, most do not take public transportation.**

**Rob Davies, High Street stated that they are fortunate to have Children's come in, however there will be congestion. He asked if the requirements are just that or guidelines. Mr. Weinstein replied that they are guidelines in the City of Boston, but requirements elsewhere.**

**Andrew Fischer TMM#13 commended Mr. Mattison for taking the initiative of showing a new way of thinking about the way we look at transportation. It should not be how many parking spaces should be crammed in, but how many more cars can Route 9 supports.**

**Eddie Brickman TMM#4 stated that parking for the families have not been changed in this Article. She added that the original request of parking spaces was 426 it is now 624.**

**Ann Lusk, 14 Roberts Street stated that she works at the Harvard Medical Campus. She walks to work because she knows there is no parking. Most employees there take public transportation or walk to work. Brookline should be progressive and limit the amount of spaces at this building.**

**WARRANT ARTILCES cont'd**

**Kathy Geist, 4 Brookline Avenue stated that this concept was sold under Smart Growth and she still supports this concept and hopes the Board of Selectmen will as well.**

**Phil Kenny, Manager of the Brook House apartment complex expressed concerns on the traffic impact. He added that there are many times the residents can not get onto Route 9 because the traffic is so heavy. He believes that these spaces will only make matters worse.**

**George Cole stated that he has been working with Children's Hospital on this project. Children's goal is to provide significant parking without burdening the neighborhood. 1 Brookline Place has some good numbers for parking. The parking garage is generally at full capacity during the day. If you don't provide spaces, where will they go? There will be unhappy retailers and residents.**

**Chairman Daly stated that this Article is to set a new minimum not a maximum number of spaces. The present requirement allows the spaces to be allowed as is proposed.**

**Selectman Mermell stated that this is a great idea, and is very logical to prevent the traffic impact on Route 9 and be more fuel efficiency conscience.**

**Selectman Allen added that the concern is the number of spaces. He is concerned that is there is not enough parking; the area will become a Longwood Medical Area where traffic roams around for a spot all day. This area is already at its street parking capacity. He feels this is a good conversation, but he does not think it is as easy to pick a number without adequate back up.**

**WARRANT ARTICLES**

**The Board considered the question of voting on the following Warrant Articles for the May 27, 2008 Annual Town Meeting:**

	<b><u>NO.</u></b>	<b><u>TITLE</u></b>
<b><u>POSTPONED</u></b>	21.	<b>Making Voting Members of Boards/Commissions Registered Voters of the Town (Regina Frawley)</b>

**WARRANT ARTICLES cont'd**

**NO.                      TITLE**

**22.      Campaign Finance Reports (Frank Farlow)**

**On motion, it was unanimously,**

**VOTED: Favorable Action that the Town amend Section 3.1.7 of the Town's By-Laws, Campaigns for Office, by making the following changes in the table "Reporting periods for Town Campaign Finance Report." Additions (including footnote to table) appear in bold; deletions are struck through.**

Report due by	Reporting period begins	Reporting period ends
15 days before Town election	<del>Incumbents: January 1 of prior year, or the day after the end of the reporting period of last State report filed whichever period is shorter</del> <del>Challengers: January 1 of year of Town election</del> <b><u>Candidates who have previously filed reports: Day after end of reporting period for last State report filed</u></b> <b><u>Candidates filing initial reports: Day after previous Town election</u></b>	<del>December 31 of prior year</del> <b>25 days before Town election</b>
8 days before Town election	Day after end of reporting period for last State report filed	18 days before Town election
30 days after Town election	Day after end of reporting period for last State report filed	20 days after Town election
January 20 of year after Town election*	<b><u>Candidates who have previously filed reports: Day after end of reporting period for last report filed</u></b> <b><u>Candidates filing initial reports: Day after previous Town election</u></b>	<del>Last day of year of election</del> <b>preceding filing of report</b>

\* This report is also due on January 20 of every year in which a campaign committee is in existence or in which candidate maintains a campaign fund or has outstanding debts.

**WARRANT ARTICLES cont'd**

**NO.                      TITLE**

- 25.      Limit Town Investments to Silver and Gold (Susan Allen)**

**On motion, it was unanimously,**

**VOTED: No Action on Article 25.**

**NO.                      TITLE**

- 26.      Flu Shots (Susan Allen)**

**On motion, it was unanimously,**

**VOTED: No Action on Article 26.**

**NO.                      TITLE**

- 28.      Philbrick Green (Naming Committee)**

**On motion, it was unanimously,**

**VOTED: Favorable Action that the Town approve a change in the name of Philbrick Square to "Philbrick Green".**

**NO.                      TITLE**

- 29.      Establish Committee to Monitor Implementation of Local Action Plan on Climate Change (Weitzman)**

**This vote was held.**



**WARRANT ARTICLES cont'd**

<b><u>NO.</u></b>	<b><u>TITLE</u></b>
<b>32.</b>	<b>Resolution to Reduce Greenhouse Gases (Selectmen)</b>

**On motion, it was unanimously,**

**VOTED: Favorable Action that the Town adopt the following resolution:**

**RESOLUTION TO STOP GLOBAL WARMING BY REDUCING GREENHOUSE GASES**

**WHEREAS** Climate instability brought on by global warming will negatively impact the Town of Brookline, the Commonwealth of Massachusetts and the world;

**WHEREAS** Greenhouse gases created by human activities have been unequivocally found by the global scientific community to be the main cause of global warming;

**WHEREAS** The technologies we need to reduce our greenhouse gas emissions already exist and have the added benefit of improving public health by reducing other pollutants;

**WHEREAS** Leading the world in developing technologies to reduce greenhouse gas emissions could create new jobs and foster new industries;

**BE IT RESOLVED,** that the Town of Brookline calls on the Commonwealth of Massachusetts to be a leader in addressing this global threat.

**THEREFORE, BE IT FURTHER RESOLVED,** that the Town of Brookline calls on the Commonwealth of Massachusetts, the Federal Government, and the Governments of the world to cap greenhouse gas emissions and reduce emissions by 20% by 2020 and 80% by 2050, the levels identified by scientific community as necessary to avoid the worst impacts of global warming.

<b><u>NO.</u></b>	<b><u>TITLE</u></b>
<b>8.</b>	<b>FY09 Budget</b>

**On motion, it was unanimously,**

**VOTED: Favorable Action on the FY09 budget as indicated in the following table:**

In Board of Selectmen  
April 15, 2008  
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**There being no further business, the Chair adjourned the meeting at 11:00 p.m.**

**ATTEST**

**IN BOARD OF SELECTMEN**

**April 29, 2008**

**Present: Chairman Nancy Daly, Selectmen Gilbert Hoy,  
Robert Allen, Betsy DeWitt, and Jesse Mermell**

**The Minutes of April 15, 2008 were approved.**

**EXECUTIVE SESSION**

Upon motion duly made and seconded, it was moved that the Board of Selectmen go into EXECUTIVE SESSION.

The Chair then stated the reason(s) for the Executive Session: (SEE THE REASONS CHECKED)

- \_\_\_\_\_ (1) To discuss the reputation, character, physical condition or mental health rather than the professional competence of a particular individual<sup>1</sup>.
- \_\_\_\_\_ (2) To consider the discipline or dismissal of, or to hear complaints or charges brought against, a public officer, employee, staff member, or individual<sup>1</sup>.
- X  (3) To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the governmental body, to conduct strategy sessions in preparation for negotiations with non-union personnel, and to conduct collective bargaining sessions or contract negotiations with non-union personnel.
- \_\_\_\_\_ (4) To discuss the deployment of security personnel or devices.
- \_\_\_\_\_ (5) To investigate charges of criminal misconduct or to discuss the filing of criminal complaints.
- \_\_\_\_\_ (6) To consider the purchase, exchange, lease or value of real property, if such discussion may have a detrimental effect on the negotiating position of the governmental body with a person, firm or corporation.
- \_\_\_\_\_ (7) To comply with the provisions of any general or special law or Federal grant-in-aid requirements.

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The individual involved in such Executive Session must be notified in writing at least forty-eight (48) hours prior to such session and is (1) entitled to be present (2) to have counsel or other representative present and (3) to speak in his or her own behalf. Upon the request of the individual involved, no Executive Session shall be held and the meeting shall be held in open session. See G.L.c.39, §§23B(1) and (2).

- \_\_\_\_\_ (8)        **To consider and interview applicants for employment by a preliminary screening committee or a subcommittee appointed by a governmental body if an open meeting will have a detrimental effect in obtained qualified applicants: provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee or a subcommittee appointed by a governmental body, to consider and interview applicants who have passed a prior preliminary screening.**
- \_\_\_\_\_ (9)        **To meet or confer with a mediator, as defined in section twenty-three C of chapter two hundred and thirty-three, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or body, provided that: (a.) any decision to participate in mediation shall be made in open meeting session and the parties, issues involved and purpose of the mediation shall be disclosed; and (b.) no action shall be taken by any governmental body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open meeting after such notice as may be required in this section.**

**The Board of Selectmen, during a properly constituted and noticed meeting:**

**VOTED:        to go into Executive Session**

**Roll Call Vote:        Voting in the Affirmative: 4 Selectman Allen absent  
   Voting in the Negative:        0**

**The Board of Selectmen (WILL) RECONVENE in Open Meeting after the Executive Session.**

**PUBLIC COMMENT**

A Reservoir Road resident requested a resident overnight parking permit to allow her to park in front of her residence overnight. The Chair replied that Brookline does not allow overnight street parking. Chairman Daly referred her to the Transportation Department for further information on available options.

**CONTRACT**

The Board considered the question of awarding and executing Contract No. PW/08-25 "Rawson Path Repair" in the amount of \$42,312.00 with Ledgewood Construction Co., Inc of Norfolk, MA. Said Contract to be funded from the following DPW CIP accounts:

4998WS02 6P0021	\$ 1,000.05
4998WS03 6P0021	\$41,311.95

Director of Engineering Peter Ditto stated that the stairs on the path are chipped and decaying. They are in a dangerous condition. Selectman Daly added she is happy to see this path being repaired.

Selectman Hoy noted that the awarded bid was much lower than the others. He asked if there should be a concern that the project will be done satisfactorily. Mr. Ditto replied that the contractor is aware of the project scope and he sees no reason to be concerned. He has worked with the contractor in the past with satisfactory results.

On motion, it was unanimously,

**VOTED:** To award and execute Contract No. PW/08-25 "Rawson Path Repair" in the amount of \$42,312.00 with Ledgewood Construction Co., Inc of Norfolk, MA. Said Contract to be funded from the following DPW CIP accounts:

4998WS02 6P0021	\$ 1,000.05
4998WS03 6P0021	\$41,311.95

**CONTRACT**

The Board considered the question of executing Contract No. PW/08-21 "Coolidge Corner Streetscape Improvements" in the amount of \$168,315.89 with Emanouil Bros., Inc. of Chelmsford, MA. Said contract was awarded on April 1, 2008 and will be funded from account 1720WS05 6E0022.

**On motion, it was unanimously,**

**VOTED: To execute Contract No. PW/08-21 “Coolidge Corner Streetscape Improvements” in the amount of \$168,315.89 with Emanouil Bros., Inc. of Chelmsford, MA. Said contract was awarded on April 1, 2008 and will be funded from account 1720WS05 6E0022.**

### **GRANT**

**The Board considered the question of accepting a Grant in the amount of \$15,000 from the Legacy Fund of the Brookline Community Foundation and establishment of an account for this and future donations to support the continuation of the Parks Summer Outdoor Movie Series.**

**Director of Parks and Open Spaces Erin Gallentine stated that due to the success of the event last year at Larz Anderson Park, Brookline Parks, Recreation, and the Coolidge Corner Theater are looking to expand the outdoor movie series to include both North and South Brookline. The Legacy Fund at the Brookline Community Foundation would like to provide a grant in the amount of \$15,000 in order to support this program.**

**Molly Paul, Executive Director of the Brookline Community Foundation stated that the Legacy Fund was established by Selectman Allen to provide support for projects that celebrate the legacy and community of Brookline. She is happy to award this grant for this Summer Park Outdoor Movie Series.**

**On motion, it was unanimously,**

**VOTED: To accept a Grant in the amount of \$15,000 from the Legacy Fund of the Brookline Community Foundation and establishment of an account for this and future donations to support the continuation of the Parks Summer Outdoor Movie Series.**

### **GRANT**

**The Board considered the question of accepting a Grant in the amount of \$7,200.00 from the Executive Office of Public Safety in connection with the SFY2008 Student Awareness of Fire Education (S.A.F.E.) Program.**

**Chief Skerry stated that he is happy to be awarded this grant from the Student Awareness of Fire Education (S.A.F.E.). This grant will provide fire**

In Board of Selectmen

April 29, 2008

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**prevention lessons in grades 1-3. This has been a successful partnership in the past teaching students safety issues that include the hazards of cigarette smoking, cooking and general fire safety precautions.**

**On motion, it was unanimously,**

**VOTED: To accept a Grant in the amount of \$7,200.00 from the Executive Office of Public Safety in connection with the SFY2008 Student Awareness of Fire Education (S.A.F.E.) Program.**

### **GRANT**

**The Board considered the question of accepting a Grant in the amount of \$15,000 from the Executive Office of Public Safety and Security for the Police Department FFY2008 Traffic Enforcement and Equipment fund. Said grant will be used for overtime, equipment and accident reporting software.**

**Superintendent Robert Mello stated that this grant will provide monies to be used for overtime, equipment, and reporting software in the Traffic Enforcement and Safety Division.**

**On motion, it was unanimously,**

**VOTED: To accept a Grant in the amount of \$15,000 from the Executive Office of Public Safety and Security for the Police Department FFY2008 Traffic Enforcement and Equipment Fund.**

### **GIFT**

**The Board considered the question of accepting a gift in the amount of approximately \$4,000, in the form of professional services, pursuant to M.G.L. Chapter 44, Section 53A for improvements to the Arts Council website."**

**James Arzente of the Brookline Commission for the Arts stated that the Commission's website was designed a few years ago by a student on a limited budget. The website is in need of an updating. A company called Work the Right Side Shift will redesign their website as a gift in the form of professional services. The website will coordinate with the Town's network system.**

**On motion, it was unanimously,**



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**VOTED: To accept a gift in the amount of approximately \$4,000, in the form of professional services, pursuant to M.G.L. Chapter 44, Section 53A for improvements to the Arts Council website."**

### **ARBOR DAY PROCLAMATION**

**The Board considered the question of adopting a Proclamation proclaiming May 2, 2008 as Arbor Day in the Town of Brookline.**

**Tree Warden Tom Brady stated that Brookline will celebrate Arbor Day on May 2, 2008. He added that the proclamation recognizes the importance of Arbor Day and is an important component of the requirements to maintain our designation as a Tree City USA.**

**Selectman Hoy inquired about the company that was hired awhile back to identify gas in tree roots. Mr. Brady replied that the process has started and there were some gases found, the company will continue to evaluate the trees and follow the process through.**

**Selectman DeWitt acknowledged that Brookline has again received a Tree City USA status.**

**On motion, it was unanimously,**

**VOTED: To adopt the following Proclamation proclaiming May 2, 2008 as Arbor Day in the Town of Brookline.**

**WHEREAS, the Brookline Tree Planting Committee was created by a Special Act of the Massachusetts Legislature in 1886 to protect and preserve the Town's Tree Resources; and**

**WHEREAS, the Town of Brookline, the Department of Public Works, and The Tree Planting Committee are committed to planting and maintenance for all Town roadside shade trees; and**

**WHEREAS, Brookline has been recognized as Tree City USA by the National Arbor Day Foundation for its' care and stewardship of Urban Forest and desires to continue its tree-planting programs; and**

**WHEREAS, the Town of Brookline has been a part of the Commonwealth of Massachusetts' Annual Tree City USA Awards Day Program since 1988; and**

In Board of Selectmen

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**WHEREAS, the Town of Brookline encourages neighborhood organizations, schools, families and individuals to learn the importance of trees in observance of this Tree Planter's Holiday;**

**BE IT THEREFORE RESOLVED, that the Town of Brookline, through its duly vested Tree Planting Committee, proclaims May 2, 2008, as Arbor Day in Brookline.**

*Selectman Allen arrived*

### **BUILDING COMMISSIONER**

**The Board considered the question of appointing Michael Shepard as Building Commissioner effective May 4, 2008.**

**Town Administrator Richard Kelliher stated that it is his pleasure to recommend Michael Shepard as Building Commissioner. He added that this is an important position and the Town is fortunate to have Mr. Shepard serve as Zoning Administrator. The screening committee was very impressed with the internal candidates. He added that Mr. Shepard has not only implemented the administrative procedures recommended in the 2004 Zoning Administration Project Report, but he also brought a new level of citizen access to zoning related information.**

**Chairman Daly stated that she served on the screening committee and is happy to appoint Mr. Shepard to this position.**

**Mr. Shepard thanked the Board for the opportunity as well as his co-workers in both the Planning and Building Departments. He looks forward to his new position.**

**The Board congratulated him and looks forward to his role as Building Commissioner.**

**On motion, it was unanimously,**

**VOTED: To appoint Michael Shepard as Building Commissioner effective May 4, 2008, at Grade 7, Step 3 and move to Step 4 on July 1, 2008.**

### **FIRE – PERSONNEL**

**The Board considered the question of appointing Deputy Chief Michael O'Reilly as Acting Chief of Operations for the Fire Department.**

**Chief Skerry stated that Deputy Chief O'Reilly has served 27 years on the Fire Department. He gave a brief history of his career accomplishments. He was pleased to recommend Mr. O'Reilly for his demonstrated abilities and dedication as Acting Chief of Operations.**

**The Board congratulated Mr. O'Reilly and wished him a long and healthy career. The Board expressed confidence in his ability to perform in this new position.**

**On motion, it was unanimously,**

**VOTED: To appoint Deputy Chief Michael O'Reilly as Acting Chief of Operations for the Fire Department, at Grade 7, Step 9 and will increase to Step 10 July 1, 2008.**

#### **HARRISON STREET – FIRE VICTIMS**

**Chief Skerry and Doug Rodman appeared to update the Board on fundraising efforts to assist the families displaced by the Fire at 44 Harrison Street.**

**Chief Skerry stated that there were cars parked on both sides of the street due to the time of day with teachers parked from Lawrence School and parents picking up their children. This caused a concern for the Fire Department to get to the fire. He added that this is a rare occurrence, but nevertheless it did happen. This situation will have to be looked at. Several firefighters were hurt during the fire, but all are expected to fully recover.**

**Selectman Allen added that some heroic acts took place that day. He commended the Department, its leadership and their extraordinary efforts in containing this fire. He is happy that there is expected to be full recoveries. Selectman Allen asked about the Boylston Street Fire House, Engine 4, because this issue is on the front burner now, and their contribution that day.**

**Chief Skerry replied that this engine was the first call, the crew is still there, and performed their expected duties. Chief Skerry agreed about the heroic acts, and outlined the events of the day.**

**The Board extended their best wishes to the injured firefighters and expressed their thanks and gratitude to the Brookline fire Department.**

**Doug Rodman spoke on fundraising efforts he has started to assist the families of the Harrison Street fire. Mr. Rodman has had conversations with the fire victims, and is working with the Lawrence School Community as well as the**

In Board of Selectmen

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**Brookline Village community to help assist with transitional needs. He added that the Selectmen and community have been very supportive in these efforts.**

**Molly Paul of the Brookline Community Foundation added that the foundation is available to provide assistance to the families.**

### **POLICE PERSONNEL**

**The Board considered the question of appointing eight (8) Student Police Officers for academy training.**

**Superintendent Mello stated that these applicants once approved will be enrolled in the Lowell Police Academy starting May 12, 2008. Mr. Mello gave a brief resume on each candidate. He added that during the process, several applicants were disqualified or withdrew from the process.**

**Selectman Allen stated that there was a female candidate that was eliminated from the list due to paperwork processing. He asked if there would be a way to take up a Special Meeting should the paperwork be processed so this applicant will make the deadline for the Academy.**

**Town Counsel Jennifer Dopazo replied that the Board has the option to appoint the 8 candidates now and hold a Special Meeting for an additional vote, should it be required.**

**Town Administrator Richard Kelliher added that the posting would need to be done within the required time frame.**

**Selectmen DeWitt and Mermell added that if the vote could be held in time and the applicant be qualified, they are in favor of a Special Meeting.**

**On motion, it was unanimously,**

**VOTED: To appoint the following eight (8) Student Police Officers for academy training: Morgan Lee, Andrew Powers, David Avila, David Hill, Brendan Kelliher, Ryan Lee, Michael O'Connor, and Brendan Morgan.**

*Selectman Allen absent*

### **WARRANT ARTICLES**

**Review of the following Warrant Articles for the May 27, 2008 Town Meeting:**

<u>NO.</u>	<u>TITLE</u>
17.	Zoning – Max. Height Regulations (Public Benefit Incentives) (Daniel Saltzman)

**Petitioner Daniel Saltzman outlined his explanation:**

**This amendment to the Town Bylaws is written to address a very specific situation. It is narrowly tailored to affect only the granting of bonus height to a developer when the additional height casts a *significant* shadow on *residential dwellings*. The fact of a shadow merely *touching* the property of a resident, for example, will not trigger the invocation of this subsection. Additionally, this subsection will not in any way affect business districts not in close, tight proximity to residential neighborhoods.**

**If the subsection is triggered, it adds a responsibility on the developer that considers the harm done to the residences affected by the shadow. The subsection attempts to ameliorate the significant harm done to neighborhoods by recognizing that the developers' gain is directly related to the neighborhood's detriment. This subsection also indicates that the people paying the high price for the developer's windfall must be considered and such consideration must be substantial and direct.**

**The "comparative value" clause of paragraph one of the subsection recognizes that in these extreme situations where development is so close in proximity and highly invasive to a neighborhood, bonus height comes with a fairly valued price tag. The price is reflective of the enormous benefit received by the developer and enormous harm caused by the bonus to the neighborhood.**

**Paragraph three of the subsection is simply recognition that a shadow cast on a residence for one month of a year is an extremely heavy burden for a neighborhood to bear. It indicates several ramifications. If such a shadow is cast for such a significant period of time, the project is, more probably than not, too large for the area. It is likely a towering structure that will dominate the neighborhood affecting many other aspects of life than sunlight. Such a large, out-of-place building may block the view of the sky altogether, not just the sun. While it removes light in the day, it adds it artificially and undesirably at night. It affects privacy, increases heating bills, electric bills, and more. It slows snow and ice melting in the winter making sidewalks and roads dangerous. Paragraph three recognizes that such massive burdens should not be forced on a neighborhood without a significant legal showing by the developer.**

**Paragraph four of the subsection estops a developer from claiming that since the as-of-right (non-public benefits) height casts a shadow as well, the addition of the bonus height is not significant. This recognizes that shadows will be cast in some way whenever property is developed and that we all recognize there is a price to pay**

**for improving Brookline. But here the amendment emphasizes that the price paid by neighborhoods is not limitless.**

**Director of Planning and Community Development Jeff Levine stated the Planning Board voted No Action on this Article. The Planning Board felt that there may be unintended consequences stemming from the amendment that might have an effect on future development in the Town. Almost all the commercial areas back up to the residential areas, resulting in a wide spread impact. The Planning Board believes that shadows are just one of many variables that must be considered when evaluating a proposed project.**

**Mr. Saltzman added that the Article is to provide safe guards for residents by clarifying the current By-law. The proposed development at 111 Boylston Street will cast a shadow on residential dwellings on White Place. This will add protection for the neighborhood. He added that the shadow must be significant in order to fall into this. He feels that the current language is too loose. There needs to be some language added to cover this potential situation that may happen over and over again as the Town becomes denser. He disagrees that it would deter developers because there are all sorts of factors that need to take place for this to kick in. This is a very unique situation.**

**Chairman Daly would like to hold this Article.**

### **WARRANT ARTICLES**

**Review of the following Warrant Articles for the May 27, 2008 Town Meeting:**

<b><u>NO.</u></b>	<b><u>TITLE</u></b>
<b>20.</b>	<b>150 Princeton Road Easement (Toby Brendze)</b>

**Town Counsel Jennifer Dopazo outlined the following; Article 20 requests the Town to accept an easement for access purposes over a small portion of a proposed private driveway on Princeton Road (Lot 7 on the Town Plan, but shown as Lot 2 on the attached plan, See Exhibit A). The easement is approximately 40 feet long and 18 feet wide. The Lot is located in an S-15 zoning district. The Lot is approximately 25,458 s.f. or .584 acres. The Lot is a buildable lot owned by Harriet Brendze (the "Owner"). The Owner currently resides next to the Lot at 150 Princeton Road and is seeking to build a new house on the Lot.**

**In 1955, the Town accepted a plan for Princeton Road (See Exhibit B). The Planning Board's approval was part of an overall agreement with respect to the development of the Lots surrounding Princeton Road (the "1955 Agreement"). With respect to the Lot, the 1955 Agreement specifically provides that ... "in the event that either or both of them shall acquire title to Lots No. 7, 13 or 14 on Princeton Road, or any of said lots, either directly or through a nominee, they will never erect or cause to be erected a residential dwelling on any of these lots without first agreeing with the Town to construct an adequate turn around at the end of Princeton Road."**

**The Owner has agreed to provide the Town with the required turn around. On March 8, 2007, the Planning Board approved an access plan for the Lot which included a hammer head design turn around at the beginning of the proposed driveway. Peter Ditto, the Town's Engineer worked with the Owner's Architect to create the hammer head turn-around and has determined it to be adequate for access for town vehicles. The Planning Board voted to approve the access plan provided that the Owner record an easement granting the town access for municipal vehicles over a portion of the driveway. The Owner agreed to provide the easement. An easement is a permanent interest in real property and must be accepted by the Town by a vote of Town Meeting. *See, G.L.c.40, s.15.* Last year Town Meeting declined to accept the easement due, in part, to opposition to the development of this Lot due to its proximity to the Hoar Sanctuary as well as concerns that the original Order of Conditions issued by the Conservation Commission in February 2004 (DEP #120-018) had expired. A Committee was appointed by the Board of Selectmen to study ways in which the Town can protect its nature sanctuaries, particularly with respect to the buffer areas surrounding these sanctuaries. It is my understanding that the Committee is still meeting, but has not completed a report or recommendation at this time.**

**In September 2007, the Conservation Commission granted another Order of Conditions (DEP # 120-124), which was recorded at the Registry of Deeds. The Order permits the Owner to build a single-family home on the property subject to over 50 conditions (See Exhibit D). These conditions include, among other things, that no work shall be performed in the Resource Area and that only permeable pavement shall be used in the hammerhead turn-around as well as the driveway. In addition, the Owner agreed to provide a conservation restriction on the undisturbed portion of the Lot in order to form a buffer between the Lot and the Hoar Sanctuary. The Owner has also agreed to keep 8 original significant trees as well as plant 22 saplings, 76 shrubs and 60 ground cover specimens in this buffer area. The Conservation Commission's Order was not appealed. It is my understanding that the hammerhead design, which provides access at the proposed driveway, is considered by the Conservation Commission, Planning Board and the Town Engineer to be the least intrusive option, because it is located at the farthest corner away from the Hoar Sanctuary area.**

**Counsel for the Owner, Jeffrey Allen, has recently opined that should Town Meeting not accept the easement this would amount to a regulatory taking of the property for which a Court would order compensation and/or a breach of the terms of the 1955 Agreement. Mr. Allen's argument is bolstered by that fact that 1) the turn-around was deemed adequate by both the Planning Board and the Town Engineer; and 2) the Conservation Commission has issued an Order of Conditions which was not appealed permitting a single-family to be built on the Lot under certain terms and conditions.**

**In order to succeed on a claim for a regulatory taking the Owner would have to first show that she exhausted all administrative remedies and explored all development options for the Lot in question. Zanghi v. Board of Appeals of Bedford, 61 Mass.App.Ct.82, 89-90 (2004) In addition, the Owner must show that the Town's actions resulted in the loss of the economic value of the property. Giovanella v. Conservation Commission of Ashland, 447 Mass. 720 (2006). One option that the Owner has not explored is to build a cul-de-sac or turn-around at the end of Princeton Road. It is my understanding that this option was not seriously considered, because it would be more detrimental to the preservation of the Hoar Sanctuary and would now require a modification to the Order of Conditions.**

**Attorney Jeffrey Allen representing the petitioner stated that he is in agreement with Town Counsel's statement with the addition that Town meeting did not vote against the Article, but to defer it. It is very important to understand that this Article will determine whether or not the owner can use her property and whether the Town will adhere to its original agreement. His client has had a significant financial burden so far in dealing with this issue. He hopes she will be treated fairly.**

**There was no vote on Article 20.**

### **WARRANT ARTICLES**

**The Board considered the question of voting on the following Warrant Articles for the May 27, 2008 Annual Town Meeting:**

<b><u>NO.</u></b>	<b><u>TITLE</u></b>
<b>2.</b>	<b>Collective Bargaining</b>

**On motion, it was unanimously,**

**VOTED: 4-0 Favorable Action**

**Hoy                    aye  
DeWitt                aye**



Mermell      aye  
Daly            aye

**To approve and fund by an appropriation, provided for in the FY2008 (Item #22) and FY2009 (Item #21) budgets, for the cost items in the following collective bargaining agreements that commenced on July 1, 2007 and end on June 30, 2009:**

**AFSCME Council 93, Local 1358  
Staff Association of the Public Library**

**all as set forth in the reports of Sandra Debow, Director of Human Resources, dated April 9, 2008 and April 29, 2008, which reports are incorporated herein by reference.**

**On motion, it was unanimously,**

**VOTED: 4-0 Favorable Action**

Hoy            aye  
DeWitt        aye  
Mermell      aye  
Daly            aye

**To approve and fund by an appropriation, provided for in the FY2007 (Item #22), FY2008 (Item #22), and FY2009 (Item #21) budgets, for the cost items in the following collective bargaining agreement that commenced on July 1, 2006 and expires on June 30, 2009:**

**Local 950 of the International Association of Fire Fighters**

**all as set forth in the report of Sandra Debow, Director of Human Resources, dated April 9, 2008, which report is incorporated herein by reference.**

**NO.            TITLE**

**8.            FY09 Budget**

**Selectman DeWitt would like to reconsider this Article. She would not like to move funding from the Tree Planting Committee.**

**On motion, it was unanimously, 4-0**

**VOTED: To reconsider Article 8.**

**VOTED: Favorable Action 4-0**

**Hoy**            **aye**  
**DeWitt**       **aye**  
**Mermell**      **aye**  
**Daly**           **aye**

**That the budget vote taken on April 15 be amended as follows:**

**Move \$5,000 from Special Appropriations # 50 (landfill corrective action) to Special Appropriations # 54 (Tree Planting Committee)**

**NO.            TITLE**

**14.      Zoning – F Zones (Planning)**

**On motion, it was unanimously,**

**VOTED: 4-0 Favorable Action**

**Hoy**            **aye**  
**DeWitt**       **aye**  
**Mermell**      **aye**  
**Daly**           **aye**

**That the Town amend the Zoning By-Law to make the following changes to fully incorporate the F zones (*new language in bold*):**

ARTICLE II, DEFINITIONS

1. §2.04.3 c: Dwelling, Multiple: A building or structure designed or occupied as a residence by more than ~~two~~ **three** families, but not including groups of ~~three or more~~ attached dwellings; an apartment house.

ARTICLE IV, USE REGULATIONS

2. Restrictions on Accessory Uses in Residence Districts; §4.05.1.c: occupy space which exceeds in area the area of the ground floor; occupy 25% or more of the total floor area in an S, SC, T **or F** district, or occupy 50% or more of the total floor area in an M district;
3. §4.07 – Table of Use Regulations, Use #51A: Within a dwelling unit in L, G, O, or I Districts, or in dwelling units of more than 2,000 square feet of gross floor area in T, **F**, and M Districts, the renting of not more than three rooms as a lodging without separate cooking facilities to not more than three lodgers; in the

- case of a dwelling unit occupied by unrelated persons, the sum of lodgers and other unrelated persons shall not exceed the limits defined for a family in §2.06, paragraph 1.
4. §4.07 – Table of Use Regulations, Use #57: The keeping of horses, cows, goats, or other similar animals, other than pigs, or the keeping of poultry, pigeons, rabbits, or other similar birds or animals, or the keeping of bees, provided that no stable or enclosure for any animal may be less than 100 feet from any existing residence building on other premises in any district, or any obvious residence building site on other premises in an S, SC, T, F or M District; and provided that no stable or enclosure for more than four animals may be less than 100 feet from any premises occupied by a church, school, playground, library, or building of a public or eleemosynary institution, except where that distance is intersected by a street at least 60 feet wide; and further provided that no stable or enclosure in a S, SC, T, F or M District may be less than 100 feet from a street, nor contain more than 25 animals on the premises, and subject to such restrictions as to number, and as to location and size of special structures and enclosures, as may be imposed by the Director of Public Health of the Town of Brookline.

#### ARTICLE V, DIMENSIONAL REQUIREMENTS

5. §5.05 – Conversions: In the case of the conversion of a single-family detached dwelling to a two-family dwelling in an SC or T District, or the conversion of a dwelling to create additional dwelling units in an **F or M** District, the structure shall conform to all dimensional requirements specified in §5.01. However, the Board of Appeals by special permit may waive any of said dimensional requirements except minimum lot size, provided that no previously existing nonconformity to such requirements is increased and provided that all other requirements of this By-law for such conversions are met.
6. §5.09.2 – Design Review, Scope: In the following categories all new structures and outdoor uses, exterior alterations, exterior additions, and exterior changes, including exterior demolitions, which require a building permit from the building department under the Building Code, shall require a special permit subject to the community and environmental impact and design review procedures and standards, hereinafter specified. Exterior alterations, exterior additions and exterior changes, including fences, walls, and driveways, to residential uses permitted by right in S, SC, T, **and F** districts; signs as regulated in §§ 7.02, and 7.03; and regulated façade alterations as defined and regulated in §7.06 shall be exempt from the requirements of this section.
7. §5.22.3.b.2 – Exceptions to Maximum Floor Area Ratio (FAR) Regulations for Residential Units; Special Permit for Exceeding Maximum Gross Floor Area for Residential Dwellings: In all T, **F**, M-0.5, M-1.0, and M-1.5 Districts, a special permit may be granted for an increase in floor area that is less than or equal to 20% of the permitted gross floor area, whether it be for an exterior addition, interior conversion, or a combination of the two. The total increase in floor area

- granted by special permit for all applications made under this paragraph 3, subparagraph (b)(2), or any prior version of Section 5.22, shall not exceed 20% of the permitted gross floor area.
8. §5.31.3 – Exceptions to Maximum Height Regulations: Where two different maximum height figures are specified for the same zoning district in Table 5.01, the lower figure shall apply to any lot or part of a lot located in a buffer area. A buffer area is defined as a lot or part of a lot located in an M-1.5, M-2.0, M-2.5, G-1.75(CC), G-2.0 or O-2.0(CH) District which is located at a lesser distance from any land not within a public way in an S, SC, T **or** F District than the following:
    - a. 200 feet if the direction of the land in the S, SC, T **or** F District is northerly, between northwest and northeast;
    - b. 150 feet if such direction is easterly, between northeast and southeast, or westerly, between northwest and southwest;
    - c. 100 feet if such direction is southerly, between southeast and southwest.
  9. §5.32.2.c – Exceptions to Maximum Height Regulations (Public Benefit Incentives); Public Benefits and Conditions: Any additional height allowed under the provisions of this Section shall be set back 50 feet from any surrounding land not in a public way in an S, SC, T, **F**, or M District.
  10. §5.46 – Corner Lots: For a corner lot, the required yard along any street lot line shall be calculated as a front yard, except that in S, SC, T, **and** F Districts where the rear lot line of a corner lot is also the rear lot line of the contiguous lot, the required front yard extending from the rear yard to the corner shall be 20 percent of the width of the lot measured along the other front yard line, but need not be greater than the required front yard depth and shall not be less than the required width of a side yard calculated as if the street lot line were an interior side lot line.
  11. §5.63 – Accessory Buildings or Structures in Side Yards: Except as may be permitted in §5.44, in any S, SC, T, **F** or M District no part of any accessory building or structure situated within 75 feet of the street line, or within a distance equal to three-fourths of the lot depth if that be less, shall extend within any required side yard. Elsewhere on the lot such buildings or structures may extend into the side yard one-half the required width, but such setback shall be no less than six feet. No accessory building or structure within a required side yard shall exceed 15 feet in height.
  12. Related to previous: Figure 5.15, Title: Accessory Building or Structure in Side Yard in S, SC, T, **F**, or M Districts
  13. §5.64 – Side Yards for Non-Dwelling Uses in Business or Industrial Districts: No side yards are required for permitted uses, other than dwellings, in L, G, O-2 or I Districts, except where a side lot line abuts an S, SC, T, **F** or M District, in which case the side yard requirements of the S, SC, T, **F** or M District shall apply.

14. §5.73.1 – Rear Yards in Business or Industrial Districts: Where a rear lot line in an L, G, or I District abuts an S, SC, T, **F**, or M District the rear yard requirements as specified in Table 5.01 shall be increased by 10 feet, but no rear yard need be deeper than 20 feet.
15. §5.91.1 – Minimum Usable Open Space: Where a minimum usable open space is required in addition to landscaped open space, there shall be included in every lot used in whole or in part for dwelling units intended for family occupancy an area of usable open space provided at the rate specified in Table 5.01. The percentage specified in Table 5.01 shall be the percent of gross floor area of all buildings on the lot. In S, SC, T, **and F** Districts, a residential use with more dwelling units than are permitted as of right shall provide as much usable open space as required for the dwellings permitted as of right in that district.

#### ARTICLE VI, VEHICULAR SERVICE USES REQUIREMENTS

16. §6.01.2.a – General Regulations Applying to Required Off-Street Parking Facilities: In **F**, **M**, **L**, or **G** Districts, when a structure is converted for one or more additional dwelling units and the conversion results in an increased parking requirement, parking requirements for the entire structure shall be provided in accordance with the requirements of §6.02 and §6.05. However, the Board of Appeals by special permit under Article IX may waive not more than one-half the number of parking spaces required under §6.02 and §6.05.
17. §6.04.4.d – Design of All Off-Street Parking Facilities: Entrance and exit drives, except as permitted in paragraph 11. below, shall be:
  - d) located at least the following distance from a street corner, said distance to be measured from the intersection of the street lot lines or extension thereof:
    - 1) 25 feet in all S, SC, T, **and F** districts;
    - 2) 50 feet in all other districts, except that the Board of Appeals by special permit may modify this requirement after receipt of reports from the Commissioner of Public Works and the Director of Transportation that such modification in distance would facilitate traffic and be safer and subject to the provisions of §9.05.
18. §6.04.5.c – Design of All Off-Street Parking Facilities: Setbacks for parking areas shall be provided as follows:
  - c) In S, SC, T, **F**, and M-0.5 Districts, the surfaced area of a parking lot and all entrance and exit drives shall be set back in accordance with the following requirements, and such setback area shall be landscaped and continuously maintained substantially in accordance with the original approved plan: ...

#### ARTICLE VII, SIGNS, ILLUMINATION, & REGULATED FAÇADE ALTERATIONS

19. §7.01.1 – Signs in S, SC, T, and F Districts: In any S, SC, T, **and F** district, no sign or other advertising device shall be permitted except as follows: ...
20. Related to previous, §7.02.1.a – Signs in M Districts: As permitted in S, SC, T, and **F** Districts
21. Related to previous, §7.03.1.a – Signs in L, G, I and O Districts: As permitted in S, SC, T, **F**, and M Districts
22. §7.04.3 – Illumination: In any residence district no sign or other advertising device shall be of the neon type or exposed gas-illuminated tube type; and any lighting of a sign or other advertising device shall be continuous, indirect white light installed in a manner that will prevent direct light from shining onto any street or nearby property. In S, SC, T **and F** Districts no sign or advertising device shall be illuminated after 11 p.m. local time.
23. §7.04.4 – Illumination: In an S, SC, T, **F**, M-0.5, M-1.0, or M-1.5 District no outdoor floodlighting or decorative lighting shall be permitted except lighting primarily designed to illuminate walks, driveways, doorways, outdoor living areas, or outdoor recreational facilities and except temporary holiday lighting in use for no longer than a four-week period in any calendar year, except that decorative floodlighting of institutional or historic buildings may be permitted by the Board of Appeals by special permit. Any permanent lighting permitted by the preceding sentence shall be continuous, indirect, white light, installed in a manner that will prevent direct light from shining onto any street or nearby property.
24. §7.06 – Regulated Façade Alterations:
  1. A regulated façade shall include:
    - a. commercial building facades in all districts; and
    - b. residential building facades on lots with frontage on Beacon Street, Boylston Street, Brookline Avenue, Commonwealth Avenue, Harvard Street, or Washington Street, with the exception of buildings on lots located in S, SC, T, **and F** districts.

**NO.**

**TITLE**

- 15. Zoning – Parking Requirements in GMR 2.0 (Hugh Mattison)**

**Petitioner Hugh Mattison went over his amended explanation: I am proposing to amend my warrant article to reduce the TDM credit from 50% to 25% which would result in a range of 549 to 412. Compare this to Davis Square, Somerville on the graph where the range would be 434 to 378 per Jeff Levine’s memo.**

**I believe this is a realistic level for the following reasons:**

- **Proximity to the Longwood Medical Area (LMA), where there is extensive use of TDM**
- **Children's Hospital, a member of the LMA, certainly has access to a broad range of TDM strategies (transit subsidies, Zipcar service, car and van pooling) that are likely not available in Davis Square.**
- **Improvements at the MBTA Brookline Village station**
- **High level of medical professionals living in Brookline (10% of the employees of Children's Hospital live in Brookline).**

**I would point out that the final determination of the "right" amount of parking will be determined after a transit study by the Zoning Board of Appeals. Article 15, as I am proposing to amend it, will provide the tools that the ZBA needs to ensure adequate parking for 2 Brookline Place without limiting possible future growth of the Route 9 corridor toward Cypress Street.**

### **Article 15 (Amended)**

**2) The parking requirements for applications in the GMR-2.0 District in light of the proximity to rapid public transit shall be as follows:**

- a) retail use: one parking space per ~~350~~ 400 g.s.f. of floor area**
- b) office use: one parking space per 600 g.s.f of floor area**
- c) research laboratory use (Use 36B): one parking space per 1,000 g.s.f.**
- d) new medical office use: one parking space per 350 g.s.f.**
- e) The number of parking spaces for the above uses in a GMR-2.0 district may be reduced by special permit, however, by no more than ~~15%~~ 25%, where it can be demonstrated to the Board of Appeals that is warranted due to provisions in a Transportation Access Plan that includes recognized Transit Demand Management programs. A Transportation Access Plan Agreement shall be a condition of the special permit, shall be submitted for review to the Director of Transportation and the Director of Planning and Community Development, and shall require an annual report to the Director of Transportation. This annual report shall be accepted only after a determination by the Director of Transportation and Director of Planning and Community Development that the Transportation Access Plan is working satisfactorily, and if not, that the plan will be changed and implemented to their satisfaction. The Board of Appeals may also approve parking facilities that employ a tandem parking arrangement and/or mechanical devices that enable vehicles to be stacked vertically inside a garage subject to a report and recommendation from the Town's Director of Engineering and Transportation.**

**Mr. Mattison added that now the existing Zoning By-law treats Brookline Village like any other part of the Town, and he feels this should not be the case due to the proximity to public transportation. Medical offices were not included. The Transportation Demand Management (TDM) is a tool for smart growth. He is concerned about the impact of traffic around the neighborhood.**

**Selectman Hoy stated that he is supportive of this Article. He asked if there are State law requirements on this. Mr. Mattison replied that he could not find any information on this.**

**Director of Planning & Community Development Jeff Levine stated that he has consulted with professional planners and transportation experts as well as doing some research on zoning regulations in surrounding communities. He handed out a calculation table with various spaces per sf as used in surrounding communities. Under the current zoning, the B2 project is required to provide 666 spaces, with an option to seek at 15% TDM credit for some uses that reduces this requirement to 624 spaces, which the developer is seeking. This Article will reduce the minimum number of parking spaces to 515 with the credit option that could reduce the number to as little as 257. The Article has the parking requirement for medical offices to 1 space per 400 sf, with a potential of 1 space per 800 sq. with the TDM added to it.**

**Mr. Levine recommends 1 space per 350 sf. of medical offices combined with a permit TDM reduction of up to 20%. This would result in 549 spaces with a possible reduction credit to go as low as 439 spaces.**

**Selectman DeWitt would like to see the calculation translated to per 1000 sf. She would like to see how many vehicle trips per day are estimated at the medical site. She cannot compare numbers with the data given because they are not comparable.**

**Chairman Daly added that this is a complex issue as to what is the appropriate number of spaces needed.**

**Mr. Levine replied that there are two common ways to calculate parking for medical offices, one is to use the number of physicians and visitors, and one is square foot.**

**Charles Weinstein VP of Real Estate Planning and Development for Children's Hospital stated that their position continues to be that any change in the existing By-law is arbitrary and caprice. Mr. Mattison in well intention submitted this Warrant Article and was steady about what the number was going to be and now he changed the number given the point that he is pulling numbers out of the air to reduce the numbers of parking spaces at the site. It does not have much to do with what is the right number it is just that they want fewer spaces. Many Boards and Committees that looked at the Article are not in support of the Article, because there is no rational data to support it.**

**Selectman Hoy asked about the Department of Public Health guidelines. Mr. Weinstein replied that in order to get the required license from the Department of Public Health you must follow certain requirements. One requirement is that you must provide adequate parking. The guideline is based on 2 spaces per examine**



room (92) which would be 184 spaces, and 1 space for every 500 net sf. for staff, which is about 201 spaces. This is a total of 385 parking spaces which is one off from the current Town By-law. If you unreasonably reduce the number of spaces, you cannot correct it. It will be under parked for the next 95 years. People will park on the street and upset the merchants, and residents of the neighborhood. They are not trying to overbuild parking here; they are trying to conform to the Town's minimum parking requirements. If there is no adequate parking, the building will not work.

Mr. Levine added that the Zoning By-law Committee failed the favorable action motion 5-8.

This Article was held.

<u>NO.</u>	<u>TITLE</u>
16.	Zoning – Medical Office Space in GMR 2.0 (Merelice)

On motion, it was unanimously,

VOTED: 4-0 No Action

Hoy	aye
DeWitt	aye
Mermell	aye
Daly	aye

<u>NO.</u>	<u>TITLE</u>
17.	Zoning – Max. Height Regulations (Public Benefit Incentives) (Daniel Saltzman)

This vote was held.

<u>NO.</u>	<u>TITLE</u>
21.	Making Voting Members of

**Boards/Commissions Registered Voters of  
the Town (Regina Frawley)**

**The petitioner Regina Frawley would like to meet with Town Counsel to make some clarifications on this Article.**

**This vote was held.**

<u>NO.</u>	<u>TITLE</u>
27.	Skyline Park (Naming Committee)

**On motion, it was,**

**VOTED: 3-1**

Hoy	no
DeWitt	aye
Mermell	aye
Daly	aye

**That the Town approve the name of the new park at the Newton Street Landfill located at 815 Newton Street to “Skyline Park”.**

<u>NO.</u>	<u>TITLE</u>
29.	Establish Committee to Monitor Implementation of Local Action Plan on Climate Change (Weitzman)

**On motion, it was unanimously,**

**VOTED: Favorable Action 4-0**

:	Hoy	aye
	DeWitt	aye
	Mermell	aye
	Daly	aye

**That the Selectmen establish a committee, the purpose of which is to reduce the total emission of greenhouse gases by the Place City Brookline community, including Town government.**

**The name of the committee shall be the Selectmen's Climate Action Committee.**

**The responsibilities of the committee shall include:**

- 1. to recommend programs that reduce the net production of greenhouse gases in Place City Brookline, such as energy efficiency measures, green energy sources, and additional greenspace;**
- 2. to monitor, measure, and assess efforts of the Town to reduce net greenhouse gas emissions;**
- 3. to monitor promising relevant programs in other municipalities;**
- 4. to monitor relevant technological developments;**
- 5. to serve as liaison between the Town and the public with regard to information and programs related to reducing net production of greenhouse gases;**
- 6. to report annually to the Annual Town Meeting and to report from time to time to the Board of Selectmen, the Town Administrator, and the public; and**
- 7. such other responsibilities as may be determined from time to time by the Board of Selectmen.**

**The committee shall consist of the following members appointed by the Board of Selectmen:**

- 1. a member of the Board of Selectmen**
- 2. the Chair of the Advisory Committee or her/his nominee**
- 3. the Chair of the School Committee or her/his nominee**
- 4. the Chair of the Transportation Board or her/his nominee**
- 5. the Chair of the Conservation Commission, or her/his nominee**
- 6. the Chair of the Planning Board, or her/his nominee**
- 7. the Chair of the Building Commission, or her/his nominee**
- 8. the Chair of the Advisory Council on Public Health, or her/his nominee**
- 9. a Co-Chair of Climate Change Action Brookline, or their nominee**
- 10. the President of the Brookline GreenSpace Alliance, or her/his nominee**
- 11. a Co-Chair of the Brookline Neighborhood Alliance, or their nominee**
- 12. the President of the Brookline Chamber of Commerce, or her/his nominee**
- 13. three members at large with special consideration given to people with the following skills:**
  - Relevant scientific and/or academic expertise**
  - Relevant engineering expertise**
  - Knowledge of and/or experience with green businesses**
  - Relevant public health expertise.**

**All members shall serve three-year terms, which may be renewed. Initial appointments shall be for terms of one, two, and three years so that terms will expire at staggered intervals. No member shall be disqualified because she or he is not a resident of the Town.**

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**The committee shall have two co-chairpersons, one of whom shall be the selectman member and one of whom shall be elected annually by the committee.**

**The staffing of the committee shall be determined by the Selectmen and the Town Administrator.**

**The committee shall be established by November 30, 2008, and shall be evaluated by the Board of Selectmen before December 31, 2011 to determine whether it should be made permanent or dissolved.**

	<u>NO.</u>	<u>TITLE</u>
	30.	Resolution to join the Group Insurance Commission (David Cotney)

**On motion, it was unanimously,**

**VOTED: 4-0 Favorable Action**

Hoy	aye
DeWitt	aye
Mermell	aye
Daly	aye

**That the Town adopt the following Resolution:**

**WHEREAS, since FY2002 group health budget has doubled and family premiums have increased from \$10,290 to \$19,156, and**

**WHEREAS, during this same period group health has grown from 13% of salaries to 23% and from 8% budget to 13% of budget, and**

**WHEREAS, as a result of these soaring increases, well over half the town's allowable levy growth has been consumed by group health, diverting resources from critically important town and school services, and**

**WHEREAS, the 2005 Statewide Municipal Task Force (the Hamill Report) found that annual increases for the state's Group Insurance Commission (GIC) have been about one half as much as those occurring in local government, and**

**WHEREAS, in 2007, the State Legislature enacted legislation allowing municipalities to opt into the GIC through the labor negotiation process of coalition bargaining, and**

**WHEREAS, the Town has already adopted coalition bargaining in anticipation of the GIC option, and**

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**WHEREAS, the Override Study Committee recommends that the Town “opt into the GIC as soon as possible” and limit COLA’S for town and school employees until the Town joins the GIC.**

**NOW, THEREFORE, the 2008 Annual Town Meeting urges the Town and the unions to proceed with good faith negotiations for joining the GIC and resolve further that future consideration of appropriations for labor agreements take into account the status of efforts to opt into the GIC.**

<u>NO.</u>	<u>TITLE</u>
31.	Resolution to Determine Reliability of Police Reports (Susan Ellis)

**Chairman Daly stated that the Board has been advised by outside counsel not to discuss this Article, there was no vote.**

*Selectman Allen returned*

#### WIFI – GALAXY

**Chief Information Officer Kevin Stokes, Bob Carp and Sandy Bendremer from Galaxy appeared to update the Board on WIFI.**

**Bob Carp of Galaxy Internet Services stated that the WIFI program in Brookline has exceeded their expectations from both a revenue and a technology standpoint. The company plans to expand their services in the near future.**

**Sandy Bendremer of Galaxy Internet Services added that the Public Safety Departments has been making impressive use of the network. He is happy to see the program succeed.**

**Selectman Mermell asked about their customer service department. Mr. Carp replied that their customer service department is first rate and capable of handling all the calls that come in.**

**Chief Information Officer Kevin Stokes added that the Information Technology Department in the town has fielded just a few customer service calls. He added that it lets him know if there are issues that need to be addressed. Mr. Stokes is satisfied with Galaxy Internet Services.**

**The Board thanked them for the update.**

**Public Hearing to discuss the approval of the FY2009 Community Development Block Grant Program One Year Action Plan.**

- a. Question of approving the amendment to the Five Year Consolidated Plan and strategy (2006-2010) to include the consideration of the use of Section 108 Guaranteed Loan Option for the creation of affordable housing and for improvements to community development public facilities.**

**Director of Planning & Community Development Jeff Levine went over the Five Year Consolidated Plan and strategy. It has been identified in the 2006-2010 Consolidated Plan and Strategy, the need to advocate for the creation of affordable housing and improvements to community development public facilities. In order to move forward with specific housing and public facilities projects, and capitalize on other financial mechanisms, the Town has considered the use of Section 108 Guaranteed Loan for one or both of these projects in the remaining fiscal years of the Five Year Consolidated Plan and Strategy, fiscal year 2009 or 2010. The Section 108 loan is guaranteed under the CDBG program. The loan would be used for affordable housing, the Fisher Hill Town Reservoir, and public facilities, the Gateway East Project. This is just an option the loan has not been applied for.**

**On motion, it was unanimously,**

**VOTED: To approve the amendment to the Five Year Consolidated Plan and strategy (2006-2010) to include the consideration of the use of Section 108 Guaranteed Loan Option for the creation of affordable housing and for improvements to community development public facilities.**

**Director of Planning & Community Development Jeff Levine addressed the Community Development Block Grant (CDBG) one year action plan recommendations proposed for FY2009. He added that the CDBG Advisory Committee was faced with the challenge of allocating the CDBG funds. The Committee received twenty-four applications for grant funds in the amount of \$2,197,380 which far exceeds the available funding of \$1,607,057. Mr. Levine went over the allocations.**

**Marian Parker, Chair of the CDBG Advisory Committee stated that every year there are more requests and fewer funds available. The Community decided to cut every request evenly instead of funding one program over another.**

**Director of Council on Aging Ruthann Dobek expressed concern about cuts to the youth employment and steps to success programs, as well as senior programs. She is concerned about the level of funding that is allocated to a new program at Hebrew Senior Life. These grants are the only source of funding for many of these**

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**programs; the Hebrew Senior Life/ Center Communities could find other resources. She feels that if it is a new program, it should receive a smaller amount of funding.**

**Jeffrey Savert from Hebrew Senior Life replied that he feels they are in an awkward position of defending their grant funding. He added that they submitted an application, and it was approved for half of what was requested. Mr. Savert stated that this will provide services to 89 residents of a HUD financed facility.**

**Janet Seltzer, Director of Steps to Success replied that they don't consider Center Communities as a villain in this, however, she is requesting that the Board look at the cuts and try to save the youth employment and the steps to success programs.**

**Cindy Price Director of the Brookline Mental Health Center stated that the recommendations have produced significant cuts. She feels that the new program should be able to secure funding other than CDBG grants. This facility has been able to be successful without these grants in the past.**

**There was no vote on this item.**

### **NOISE BYLAW WAIVER**

**Further consideration of the request of the Massachusetts Highway Department (MHD) for a Noise Bylaw Waiver in connection with reconstruction work along Route 9 to be performed by Aggregate Industries from 8:00 p.m. to 5:00 a.m. April 6<sup>th</sup> to September 1<sup>st</sup>, 2008.**

**Director of Engineering Peter Ditto stated that the previous waiver was granted for 4 weeks. There was a neighborhood meeting last week for the residents along the Route 9 corridor. The discussion included how to improve communications and access to the roadway during construction. He added that Rt. 9 carries about 40k vehicles a day and closing it during the day will put pressure on the side streets. He added that he received one phone call with a complaint during the last few weeks.**

**Mike Howe of Aggregate Industries went over what the project has completed and what is planned in the near future. He added that he has been successful in asking the utility companies to lower the manholes during the day to relieve night noise. The utility companies complied. Mr. Howe noted that if the project were to be done at night, it would paralyze Rt.9 and make it difficult for public safety vehicles to get through. He also added that he updates the project website and is available to address concerns at anytime.**

**Richard Sanders from MassHighway stated that MassHighway is always interested in working with local communities, and that none of them want to work at night, it is not convenient for MassHighway them nor the contractor. However, some instances require it like this project. It would be a public safety issue, it would cause harm to local business, and would delay the project if it were to be done during the day.**

**A group of residents from the Norcross Building which is on Rt. 9 between Buckminster and Sumner Roads expressed some concerns.**

**Laura Morgan stated that there has been some decaying and deterioration both to their building and around their building. The contactor is presently storing their equipment in front of their building. Mr. Howe replied that this is MassHighway property and the only place to stage the equipment. He had inquired with the Town for a different spot, but there was none available. The area will be replanted with trees and cleaned up once the project is done.**

**Another resident expressed concerns about upcoming mining and paving that will be done in front of their building. Is there anyway the work directly done there be done during the day, there are small children that reside there. Armand Hyas from MassHighway replied that it has to be done at night because of the amount of traffic it would create. He added that they will provide prior notification as to when this is planned to be done. MassHighway is trying to shift as much activity as they can during the day.**

**Helga Felleisen asked if they will be hearing the noise for the duration of the project because the staging area is right out front of their building. She requested no waiver for their block. Mr. Howe replied that they are ahead of schedule and he knows that it is not easy for the residents.**

**Laura Morgan asked about the trees planned for the project and if trees could be put into the median instead of the guardrail. Mr. Hyas replied that the guardrail is for safety and will be replaced. He added that approximately 100 new trees will be added in that area.**

**Gordon Collins asked about trees, what size and quantity would they be, and he inquired about the lighting in the area. He added that it is a historic neighborhood and could the lighting be the same as on Beacon Street. Mr. Collins agreed with the disturbance the noise brings to the residents. Mr. Hyas replied that the trees will be about 1.5-3" in diameter and the height will range from 8-10 feet. The lighting is owned by the Town and not part of the contract.**

**Director of Engineering Peter Ditto stated that the Town was able to secure some grants for the Beacon Street lightening. The costs were about \$15k each for the historic looking light fixtures. The cost of the concrete light poles that are on Rt.**



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**9 cost about \$1k each resulting in a cost of about 15 times more. He added that the lights on Rt. 9 have had recent work done on them and they are in good condition. He added that as far as the staging area is concerned, as the project goes along some equipment could be moved out.**

**Jim Beals, 769 Boylston Street stated that there has been one instance where jack hammering has caused a disturbance. He added that it did not go on that long. He asked why Beacon Street was able to have the work done during the day. Mr. Hyas replied that Beacon Street has three lanes compared to Rt. 9 having two. One lane was closed at a time on Beacon Street leaving two lanes open. Mr. Beals hopes that the loudest work to be done in the earlier part of the evening. Mr. Howes replied that it is a mobile operation, the cold planing moves at about 7 mph. The operation will not sit in one area for a long period of time. .**

**Lewis Jacobs, 783 Boylston Street handed out some pictures of the neighborhood showing the density of the area. He spoke about the cold planning equipment and how loud it is. He also had an article on the health hazards of noise produced by OSHA. Mr. Lewis added that there has been work done recently on Rt. 9 during the day. The residents should take precedent over traffic dislocation for a few hours a day.**

**Gregory Howard, 5 Eliot Ave stated that there had been some questions as to whether or not the State had to go through this process of applying for a noise Buy-Law waiver. It has been said that the State did not need approval from the Town it is done as a courtesy. The State is not doing the work, a contractor is. In a case where a nuisance is created by the State, the State law has no merit under these circumstances. The 700 block of Rt. 9 is high density. He feels that the cold planing in this area should be done before midnight. He asked that the Selectmen stay involved in this process.**

**Selectman Mermell stated that there has been some interest in the tree planting. She asked that Aggregate Industries put this on their website. Mr. Howe said it could be done, and the plans are available in the trailer by the reservoir.**

**Selectman Hoy suggested that the waiver be extended until the end of the month. Chairman Daly replied that this would be the week of Town Meeting.**

**Selectman Allen asked MassHighway if they would be on top of the maintenance on Rt. 9 once the plantings are done. Mr. Hyas replied yes, it is in the budget. He appreciates Aggregate coming here tonight, and that they have been responsive to the neighborhoods.**

**Selectman DeWitt asked if there would be any way for the vehicles at the staging area to limit the amount of backing up they do to reduce the beeping noise of the trucks. Mr. Howe replied that this is a safety feature, he will do the best he can.**

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**NOISE BYLAW WAIVER cont'd**

On motion, it was,

**VOTED: 3-2 To grant the request of the Massachusetts Highway Department (MHD) for a Noise Bylaw Waiver in connection with reconstruction work along Route 9 to be performed by Aggregate Industries from 8:00 p.m. to 5:00 a.m. April 29<sup>th</sup> to June 10<sup>th</sup> , 2008.**

**PACKAGE STORE – CHANGE IN MANAGER**

The Board considered the question of approving the application of Best Cellars Massachusetts, Inc. d/b/a Best Cellars Joshua Wesson, President, holder of an All Kinds of Alcoholic Beverages license as a Retail Package Goods Store at 256 Harvard Street for a change in manager as follows:

**FROM:       Natasha Hunter  
TO:           Nicole Davis**

Nicole Davis stated that she has been employed as the Assistant Manager, and has recently been appointed to General Manger at Best Cellers.

On motion, it was unanimously,

**VOTED: To approve the application of Best Cellars Massachusetts, Inc. d/b/a Best Cellars Joshua Wesson, President, holder of an All Kinds of Alcoholic Beverages license as a Retail Package Goods Store at 256 Harvard Street for a change in manager as follows:**

**FROM:       Natasha Hunter  
TO:           Nicole Davis**

**COMMON VICTUALLER – OUTSIDE SEATING**

The Board considered the question of approving the application of b.good, llc, d/b/a b. good, Anthony Ackil and Jon Olinto, Co- CEO's holder of a Common Victualler and Entertainment License at 455 Harvard Street for outside seating with a seating capacity of 10 seats.

Co-Owner Anthony Ackil stated that they would like to move 10 seats from inside the establishment to outside for outdoor seasonal seating.

**COMMON VICTUALLER – OUTSIDE SEATING cont'd**

**Mrs. Campbell, 78 Thorndike Street and adjacent to the property stated that she was promised a new fence between her property and the restaurant's. There was some mistake in the documents indicating a fence on Thorndike Street. This is not the fence she was promised. She has yet to receive it. She added that b.good, has a dome on top of their building that is a nuisance. Mr. Ackil replied that he has painted and repaired the fence between the properties, he is unaware that it was to be replaced. As for the dome on top of the building, it is a filter system to prevent fumes and noise. This was a large expense for them to put it in. Ms. Campbell is not against the outside seating.**

**Selectman Allen added that they will ask the Planning Department to look at the original records about the fence. It will be enforced as to whatever the decision was at the time of the Zoning Board of Appeals. He added that b.good has been a good corporate citizen in the short time they have been here.**

**On motion, it was unanimously,**

**VOTED: To approve the application of b.good, llc, d/b/a b. good, Anthony Ackil and Jon Olinto, Co- CEO's holder of a Common Victualler and Entertainment License at 455 Harvard Street for outside seating with a seating capacity of 10 seats.**

**COMMON VICTUALLER LICENSE**

**The Board considered the question of approving the application of Bottega D'Capri, Carlos A. Perez Owner for a Common Victualler License at 41 Harvard Street.**

- a. Question of granting an Entertainment License to Bottega D'Capri, Carlos A. Perez Owner holder of a Common Victualler License at 41 Harvard Street for the following forms of Entertainment: Radio, TV, Muzak and Taped Music.**

*Selectman Allen excused himself he has done some legal work for the owner previously.*

**Vanessa Perez, wife of the applicant stated that the restaurant will continue as an Italian deli style restaurant. They plan to add 4 seats and open on Sundays.**

**COMMON VICTUALLER LICENSE cont'd**

Chairman Daly stated that the neighboring restaurant has expressed concerns about them serving breakfast, which may take business away from them. Ms. Perez replied that they will not serve a full breakfast, it will be breakfast sandwiches and baked goods.

On motion, it was unanimously,

**VOTED: To approve the application of Bottega D'Capri, Carlos A. Perez Owner for a Common Victualler License at 41 Harvard Street.**

**VOTED: To grant an Entertainment License to Bottega D'Capri, Carlos A. Perez Owner holder of a Common Victualler License at 41 Harvard Street for the following forms of Entertainment: Radio, TV, Muzak and Taped Music.**

**FOOD VENDOR LICENSE**

The Board considered the question of approving the application of When Pigs Fly, Inc., Ron Siegel and Andrew Siegel, Owners, for a Food Vendor License at 1378A Beacon Street.

Ron and Andrew Siegel stated that this will be strictly a take-out establishment. The baked goods will be brought down from Maine daily into the shop. There will be no baking on the premises.

On motion, it was unanimously,

**VOTED: To approve the application of When Pigs Fly, Inc., Ron Siegel and Andrew Siegel, Owners, for a Food Vendor License at 1378A Beacon Street.**

**ENTERTAINMENT – INCREASE**

The Board considered the question of approving the application of Grill on the Green, Inc., d/b/a Grill on the Green, Lisa Wisel, Owner, Manager, holder of a Wine & Malt beverages as a Common Victualler at 1281 West Roxbury Parkway for an increase in entertainment as follows:

<b>Taped Music, D. J.</b>	<b>Mon-Fri 7am - 10pm Sat-Sun 7am - 11pm</b>
<b>Private Dancing</b>	<b>Mon-Fri 12N - 10pm Sat-Sun 12N - 11pm</b>

**ENTERTAINMENT – INCREASE cont'd**

**Instrumental Music  
Piano & Saxophone  
Max 3 at one time.**

**Mon-Fri 11am-10pm  
Sat-Sun 11am-11pm**

**Lisa Wisel stated that she has had a successful year as owner of the restaurant. There have been requests for private parties and functions. This would increase sales for them and the Town. There is no request to extend the hours.**

**Neighbor Jay Morrissey asked if there would be outside speakers. Ms. Wisel replied no.**

**Norma Miller, 518 Newton Street stated that she is against this license. She added that this restaurant has been wanting more and more. It is a very small facility and does not think any type of parties should be allowed there. Ms. Wisel replied that there are no wild parties expected. They are not opened late.**

**Warren Miller added that for many years this facility was used just as a convenience for the golfers. It has continued to progress over recent years from its original intent. He feels the facility is too small for any kind of music. He is opposed to the license.**

**Customer Jin Hoskin stated that he has recently attended a party there which was very subdued.**

**John Bain of the Recreation Commission stated that he himself does not object to the license. He recommended that the Wisel's come before the Commission to go over the guidelines for noise control.**

**Director of Recreation Lisa Paradis stated that this has been a great business at the golf course. She has no objections to the entertainment license.**

**Harry Grill, 227 South Street is in support of the license. He added that it is a small place and there can only be so many people at any given function. It is an opportunity to increase revenue for the Town.**

**Jerry Kampler, 60 Gardner Rd stated that this is a wonderful asset for the Town which is under utilized. It is a benefit to the golf course.**

**Bill Standler stated that he is in favor of the license.**

**David Glaiser stated that there had been some issues with the previous owners, but there have been no concerns with the current owners to date. He hopes it will continue as it has, and that the volume will be contained indoors.**

**ENTERTAINMENT – INCREASE cont'd**

Chairman Daly asked that they meet with the Recreation Commission to discuss the noise by-laws.

Selectman DeWitt made the motion to approve the entertainment license for a period of four months ending August 31, 2008 at which time be considered for an extension.

On motion, it was unanimously,

**VOTED:** To approve the application of Grill on the Green, Inc., d/b/a Grill on the Green, Lisa Wisel, Owner, Manager, holder of a Wine & Malt beverages as a Common Victualler at 1281 West Roxbury Parkway for an increase in entertainment until August 31, 2008, as follows:

<b>Taped Music, D. J.</b>	<b>Mon-Fri 7am - 10pm Sat-Sun 7am - 11pm</b>
<b>Private Dancing</b>	<b>Mon-Fri 12N - 10pm Sat-Sun 12N - 11pm</b>
<b>Instrumental Music Piano &amp; Saxophone Max 3 at one time.</b>	<b>Mon-Fri 11am-10pm Sat-Sun 11am-11pm</b>

**OPEN AIR PARKING LICENSE**

Public Hearing on the question of approving the application of Benglewood, LLC Managing Member, for a license to conduct and maintain an Open Air Parking Space at 18 Englewood Avenue for sixty-two (62) automobiles.

John Curtin of Benglewood LLC stated that the company purchased the building in January of 2008.

Andrew Fisher TMM#13 asked what is currently at the site. Mr. Curtin replied that it is now an open air parking lot, this application is to transfer the license. All operations will remain the same.

On motion, it was unanimously,

**VOTED:** To approve the application of Benglewood, LLC Managing Member, for a license to conduct and maintain an Open Air Parking Space at 18 Englewood Avenue for sixty-two (62) automobiles.

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**WINE AND MALT COMMON VICTUALLER**

**Public Hearing on the question of approving the application of Singh Food II, Inc., d/b/a Gourmet Curry, Salvir Singh, President for Wine and Malt beverages license as a Common Victualler at 1335 Beacon Street.**

**Attorney Jack Milgram representing Salvir Singh stated that Mr. Singh has approximately 20 years in the food industry. This restaurant will replace an existing restaurant. All papers are in order.**

**On motion, it was unanimously,**

**VOTED: To approve the application of Singh Food II, Inc., d/b/a Gourmet Curry, Salvir Singh, President for Wine and Malt beverages license as a Common Victualler at 1335 Beacon Street.**

**VOTED: To approve the application of Singh Food II, Inc., d/b/a Gourmet Curry, Salvir Singh, President for the following forms of Entertainment: Radio, TV, Muzak and Taped Music.**

**VOTED: To approve the application of Singh Food II, Inc., d/b/a Gourmet Curry, Salvir Singh, President for a Common Victualler at 1335 Beacon Street**

**ALL KINDS – COMMON VICTUALLER**

**Public Hearing on the application of Roadhouse, Inc., Ailish Gilligan, President for an All Kinds of Alcoholic Beverages license as a Common Victualler at 1700 Beacon Street.**

**a. Question of approving the application of Roadhouse, Inc., Ailish Gilligan, President holder of an All Kinds of Alcoholic Beverages license as a Common Victualler at 1700 Beacon Street for an Entertainment License to include the following: Taped Music and TV.**

**b. Question of approving a Pledge of the All Kinds of Alcoholic Beverages License held by Roadhouse, Inc., Ailish Gilligan, President at 1700 Beacon Street to Brookline Bank.**

**David Ciccolo stated that this will be a family style barbeque restaurant. He has management in place.**

**Selectman Allen stated that this will be their third establishment in the neighborhood, and asked about plans to handle them. Mr. Ciccolo replied that the management team is in place and experienced. He and his wife plan to be available at all times.**

**ALL KINDS – COMMON VICTUALLER cont'd**

**Chairman Daly stated that all papers are in order.**

**A Salisbury Rd resident stated that she appreciates the owners talking with the neighborhood association, and welcomed the conditions placed by the Health Department. The Neighborhood Association looks forward to a successful establishment.**

**Warner Lohe TMM #13 spoke in support of the establishment.**

**Andrew Fisher TMM #13 spoke in support of the establishment.**

**Jerry Cantor, 1600 Beacon Street spoke in support of the establishment.**

**On motion, it was unanimously,**

**VOTED: To approve the application of Roadhouse, Inc., Ailish Gilligan, President for an All Kinds of Alcoholic Beverages license as a Common Victualler at 1700 Beacon Street.**

**VOTED: To approve the application of Roadhouse, Inc., Ailish Gilligan, President holder of an All Kinds of Alcoholic Beverages license as a Common Victualler at 1700 Beacon Street for an Entertainment License to include the following: Taped Music and TV.**

**VOTED: To approve a Pledge of the All Kinds of Alcoholic Beverages License held by Roadhouse, Inc., Ailish Gilligan, President at 1700 Beacon Street to Brookline Bank.**

**COMMON VICTUALLER – OUTSIDE SEATING**

**The Board considered the question of approving the following annual request for outside seating:**

**All Kinds Common Victuallers**

**The Publick House                      20 Outside Seats  
1648 Beacon Street**

**Golden Temple                              32 Outside Seats  
1651 Beacon Street**

**On motion, it was unanimously,**



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**COMMON VICTUALLER – OUTSIDE SEATING cont'd**

**VOTED: To approve the following annual request for outside seating:**

**All Kinds Common Victuallers**

**The Publick House                      20 Outside Seats  
1648 Beacon Street**

**Golden Temple                              32 Outside Seats  
1651 Beacon Street**

**There being no further business, the Chair adjourned the meeting at 10:50  
p.m.**

**ATTEST**