

**IN BOARD OF SELECTMEN**

**January 8, 2008**

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

**The Minutes of December 11, and 18, 2007 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.
- X  (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 obtaining 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:    3  
   Voting in the Negative:      0**

**Selectman Allen absent for vote**

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

**PUBLIC COMMENT**

**Public Comment period for citizens who requested to speak to the Board regarding Town issues not on the Calendar.**

- a. Response of Arthur Wellington Conquest III to the disposition of complaint filed against Police Department.**

**Chairman Daly stated that on December 11, 2007 Chief O'Leary presented a report to the Board on a citizen's complaint filed by Arthur Conquest. Mr. Conquest appealed the Police report. The Board voted 3-1 not to proceed with a disciplinary hearing on the appeal. Had the Board moved forward with the hearing it would not have been on the incident, it would have been a disciplinary action against a particular Police Officer.**

**Arthur Conquest 150 Tappan Street and TMM# 6 read from his following statement:**

**Seven months ago my civil rights were violated by a Brookline Policeman who without provocation acted in an excessively aggressive and hostile manner towards me. At that time, and at the urging of several members of this board, I initiated a citizen's complaint handled by the police department's Office of Professional Responsibility. Their internal investigation took 4 months, and was only brought forth at my insistence. I found the report terribly skewed against me and although given an inadequate amount of time to respond, I appealed these findings to the Board of Selectmen, prior to Chief O'Leary's presentation on 11 December. However, without ever allowing me the opportunity to rebut obvious omissions, gross inaccuracies, and blunders you voted to accept the report and reject my appeal. At no time was I ever given an opportunity to comment on the validity of that report.**

**I'm standing before you this evening because as a resident of this community – and a black person whose public reputation has been maligned, and for other Black residents who have also been mistreated by the police -- I am angry that you have summarily placed obstacles and barriers that have prevented me from presenting my side of what happened. You have failed in your responsibilities to protect my civil rights.**

**I have divided my comments this evening into seven major sectors that make up in my mind the whole picture that transpired since May:**

- (1)The incident on the 6th Floor with Lawrence Kaplan**
- (2) The incident in the lobby on the first floor with the policeman.**

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**PUBLIC COMMENT cont'd**

**(3) Ruthann and my visit to the Clerk's office at the Brookline Court the following morning where we attempted to file an Application for a Criminal Complaint.**

**(4) My 31 May meeting at the Court House with Lawrence Kaplan.**

**(5) The 5 June 2007 Selectmen's meeting at Town Hall**

**(6) My interview for the police Investigatory Report with Lt. Burke**

**(7) The Investigatory Report itself;**

**(8) And finally, the Appeal Process.**

**Because I only have 15-20 minutes to make this presentation, I'd like to touch briefly on only 2-3 important points. The first is that this whole incident is predicated on false information that wrongly blames me totally for what occurred on the 6th floor and turns the focus away from Lawrence Kaplan and the police officer's behavior toward me.**

**I was never allowed to defend myself against the false charge made in the police report on 25 May by Lawrence Kaplan that Ruthann and I interrupted the ZBA meeting in progress. That meeting had concluded and several of its members had departed. The second piece of misinformation in that report was that Lawrence Kaplan was chairing the meeting. These two points are of particular concern to me because of state laws about making false reports to the police.**

**Why weren't these false statements followed up on?**

**There were several other misleading and erroneous statements in the police report, the most egregious was by the officer who stated, "Mr. Conquest's tone of voice in response to my questions was loud and demanding." The fact is that the officer was uncontrollably yelling and screaming at the top of his lungs and taunting me from the very second he rushed off the elevator, which a nanosecond before, I had very calmly interrupted from proceeding to the sixth floor. This is the reason for my claiming to the investigating officer that the officer's behavior was extremely "disparaging and traumatizing" and not "discourtesy/rudeness" as his report stated.**

**I read the police report on the morning of 25 May at the court house and then went away for the Memorial Day weekend. When I returned on Monday, 28 May I immediately wrote a letter to the Board of Selectmen, summarizing what had happened and concluded with a request that "the Brookline Board of Selectmen hold a (public) hearing on exactly what transpired Thursday evening, starting with Kaplan yelling at Ruthann Sneider, my response to his unprofessional and rude demeanor, and finishing with how the police handled the situation**

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**PUBLIC COMMENT cont'd**

with me, Ruthann and Virginia LaPlante. And I would like everyone involved to be part of the hearing.”

On Tuesday 29 May I received a phone call from Lt. Harrington asking if I'd agree to meet with Lawrence Kaplan at the Court House on Thursday 31 May. I agreed and here's a quote from the write-up I made of that meeting: “Lt. Harrington then raised the subject of why we had convened the meeting and the issue of the “assault” charge was raised. Kaplan said he felt threatened by my actions towards him that evening. I then quoted the following, which my lawyer had given to me a few days prior to the meeting: “The definition of assault is ‘An overt act to do bodily harm from or with force. Mere words are not sufficient.’” I then said, “None of this ever happened. You came from around the barrier that divides the public from officials towards me.” Kaplan looked frozen for a second and went mum. He then said in a very flustered tone, “I didn't bring the assault charges against you. It wasn't me who did that.”

So, if Kaplan didn't bring assault charges against me, then who did and why? And also, why then was a meeting arranged with Kaplan and me at the court house?

On 30 May Town Administrator Richard Kelliher sent me a letter urging that I “file a complaint.” Because I was so besieged with questions every place I went around town those first few days, on Monday 4 June, I decided to call Gil Hoy, who was chair of the Board of Selectmen at the time, and asked him if he, Chief Dan O'Leary and I could go to some back room in Newton and work this thing out. Gil's response to me was that he'd have to find out from Richard Kelliher whether open meeting laws would be violated if we did this. The next day

I received a call from Selectman Betsy Dewitt who said among many other things that, “There needs to be a full investigation...” The next day at the regular Board of Selectmen's meeting, Chief O'Leary promised to investigate by July how officers responded to an alleged shouting match.

In short, I didn't initiate the “investigation,” and only filed my 6 June “complaint” at the request of the Board of Selectmen. However, I decided after reading the flaws and bias in the 25 May 2007 police report, to write-up my own account of what happened at Town Hall. My approximately 12 page write-up included the names of the seven people, (five of whom I met for the first time) who were in the lobby that evening, their phone numbers and home addresses, and written statements from some of these individuals. The police hadn't taken any this information on the 24 May.

I received a 7 June letter from the Brookline Police investigator, Lt. Burke asking to “meet...for the purpose of reviewing (my) complaint and the process.” I called Lt. Burke and arranged to meet with him on 19 June at the Police station. The most

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**PUBLIC COMMENT cont'd**

**important point in the Investigatory Report that needs to be highlighted tonight, and which I included in my 27 page rebuttal, but was not included in Lt. Burke's report, is the following and I quote:**

**“The Police Officer had admitted to him, and which his fellow officers had also stated, that he was “out of control.” As a result the officer wanted to meet with me to shake hands and apologize for the way he behaved towards me in the lobby of Town Hall. I said that I'd consider the offer, but I first wanted to see the final report before I agreed to such a meeting. (Please refer to Lt. Burke's 25 July 2007 letter he sent to me in which he says, “I am nearing the conclusion of my investigation into the complaint...”)**

**Early in September I was told that Town Administrator Rich Kelliher said that the Investigatory Report would be out in two weeks. Getting impatient after three and a half months, I hand delivered a letter at 4:00 PM to Chair Nancy Daly's home on Friday 12 October inquiring about the report. Another important point is that Nancy Daly called me on Monday, 15 October and among other things told me that I would be receiving the report in a couple of days.**

**On Wednesday, 17 October I received a confusing one page response to my Citizen's Complaint from Chief O'Leary, which was dated 11 October 2007. It includes a finding that I didn't file against the police; I never charged the police with “racial profiling/bias” or “rudeness/discourtesy.” This document also stated that I could appeal within 21 days – though I really had only 15 days -- based on the full report of which I didn't have a copy of.**

**Friday, 19 October I received another call from Selectmen Betsy Dewitt. During that conversation, it became apparent that she had a full approximately 75 page report with letters and statements from witnesses, and that I only had the one pager.**

**On 23 October Assistant Town Counsel, George Driscoll phoned me and said I could come by and pick up a copy of the full report of the investigation on 26 October. When I did, I was told that I had 'til November 1 to appeal, which was only 4 days to respond to a 75 page report.**

**When I read even the first page of the Internal Investigation, I was absolutely shocked because it too, like the Police Report that I read on the 25 May was filled with omissions and substantial misleading statements.**

**The most bizarre and disturbing statements were made by Town Counsel, Jennifer Dopazo, which are as follows:**

**First, that I blocked Lawrence Kaplan from departing from the meeting. This assertion is completely untrue and unsupported by any other witness, including**

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**PUBLIC COMMENT cont'd**

**Lawrence Kaplan himself. Based on this false testimony, I was charged with assaulting Kaplan.**

**Second, at no time did Ms. Dopazo come into the 6th floor lobby and ask me to leave. No other witness supports her assertion.**

**Third, she states that she went into her office and called the police on the 2222 main business line. Chief O'Leary states in his executive summary that there were two cell phone calls made to the 911 line, which are also reported in the Investigatory Report. And, there's no record of a third call that was made regarding the incident.**

**In short, Ms. Dopazo's testimony to Lt. Burke categorically did not happen. And I have filled 27 pages of information that questions and refutes every mis-statement made in Lt. Burke's Report.**

**Six weeks after filing my appeal to the Investigatory Report, on 4 December Nancy Daly called asking for my ideas about a forum the BOS and Police were planning to host on "Race and Racism" in February. She inadvertently tells me that my appeal was going to be heard the following week and that Chief O'Leary would be presenting the investigatory report. I asked her how can a hearing occur on an appeal I file without me being notified? And also how can an appeal hearing take place without me having an opportunity to even speak and/or rebut a police report that is saturated with gross distortions, omissions, and misinformation?**

**Before I conclude this evening I'd like to present the following questions:**

**(1) Why didn't the police take a statement from me on the 24 May at Town Hall?**

**(2) Why didn't the police take statements from any of the seven people in the lobby of Town Hall who saw not only what happened on the 6th floor, but also witnessed what happened in the lobby on the first floor? The officer I filed the complaint against says in the investigatory report that he should have gotten statements from me and the other witnesses**

**(3) Why were the statements those seven individuals made to Lt. Burke completely ignored, disregarded in the Investigatory Report?**

**(4) Why didn't the officer, Sgt. Kelliher, give Virginia LaPlante the most aggressive officer's name when she asked him for it in the lobby of Town Hall on 24 May?**

**(5) Who filed the charge of "assault" against me? Lawrence Kaplan stated to me on Thursday, 31 June 2007 when I met with him at the Brookline Court House that he didn't. And if he didn't then why did I meet with him at the Brookline Court House that day?**



**PUBLIC COMMENT cont'd**

**(7) Why were the Police called in the first place?**

**(8) Why was I told I couldn't attend future ZBA meetings when I wasn't even present at the ZBA meeting when the verbal exchange occurred?**

**(9) Why was I made out to be the aggressor, and not Lawrence Kaplan?**

**(10) Why did the Police behave in the lobby as if I needed to be put under control when in fact it was the police officer who was totally out of control?**

**(11) Why was Ginny LaPlante ignored when she tried to tell the Police what had happened?**

**(12) Why are the police allowed to investigate themselves?**

**(13) Why are only the Police allowed to speak when the Selectmen are considering whether to hold a Hearing?**

**(14) Why was I treated disparately – as in, different than anyone else at Town Hall on 24 May 2007.**

**(15) When in the history of the Brookline have the police been called to settle a verbal dispute? Were the police called when Jeffrey Allen and former Selectmen Michael Sher were verbally jousting at a public hearing which was broadcast on public TV?**

**(16) Why was Lt. Burke allowed to make comments at the appeal hearing and I wasn't allow to refute or question what he stated about me? Basically you the board of Selectmen by your vote on 11 December 2007 not to hear my appeal are saying that there are two Brooklines. Just beneath the surface there exists one Brookline for Black/Hispanic citizens, and then there is another Brookline for white citizens. The two Brooklines are fundamentally treated differently and I demand that I be treated like a human being, like any other citizen in Brookline. The laws that exist in Brookline which are supposedly in place to protect all of it's citizens aren't worth the paper they're printed on. If the report stands then my reputation his been permanently stained. You the Selectmen have gone on about protecting the officer's rights and his career. Well, what about my rights? As I stated in the Investigatory Report and wrote in an op-ed column in the TAB, I was stopped in 1993 while riding my bike at 5:30 AM, and accused of raping a woman. It was a blatant example of racial profiling, though I never filed a complaint. But what if at some future date I'm stopped again and the authorities begin some type of Cori check or an internal police investigation? On record is a report laced with a mountain of false information.**

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**PUBLIC COMMENT cont'd**

**This miscarriage of justice needs to be revisited and made right. As Dr. Martin Luther King said, Injustice anywhere, is injustice everywhere.”**

**Chairman Daly stated that there would not be any more comments heard on this subject tonight, because the Police Department was not notified that there would be additional comments and they are not present to speak on their behalf.**

**Selectman Hoy stated that he feels the Public should be able to speak on the matter. Perhaps next week during Public Comment?**

**Chairman Daly replied that if there are any written statements they can be handed in to the recording secretary.**

**Jonathan Davis and Andrew Fischer submitted a petition signed by 44 Town Meeting Members supporting Mr. Conquest’s request that the Board reconsider its vote to dismiss the request for a public hearing. It was noted that this was conducted in a brief period of time through emails and without any compulsion to voice an opinion one way or another. It was also noted that the majority of Town Meeting Members did not participate in the poll which may indicate that they are in favor of the Board’s decision.**

**DONATION**

**The Board considered the question of accepting the following donations to be used for Public Safety Equipment for the Fire Department:**

<b>Korean Church of Boston</b>	<b>\$400.00</b>
<b>Levine Chapel Inc.</b>	<b>\$ 50.00</b>

**Public Safety Business Manager Anthony Ansaldi stated that the Fire Department received two donations to be used for Fire Safety equipment. He thanked both donors for their generosity.**

**On motion, it was unanimously,**

**VOTED: To accept the following donations to be used for Public Safety Equipment for the Fire Department:**

<b>Korean Church of Boston</b>	<b>\$400.00</b>
<b>Levine Chapel Inc.</b>	<b>\$ 50.00</b>

**DONATION**

The Board considered the question of accepting a donation in the amount of \$500.00 from the Korean Church of Boston to be used in connection with community policing activities.

Chief O'Leary stated that the Korean Church has generously donated \$500 to be used for community police activities. This has been donated for several years now.

On motion, it was unanimously,

**VOTED:** To accept a donation in the amount of \$500.00 from the Korean Church of Boston to be used in connection with community policing activities.

**EXTRA WORK ORDER**

The Board considered the question of approving Extra Work Order #3 in the amount of \$2,871.07 for work to be completed by The Louis Berger Group, Inc., in connection with Contract No. PW/04-22 "Grove Street Reconstruction". Said work order to be funded from account 4998WS06 DPWCIP 6T0014.

Director of Engineering Peter Ditto stated that this will provide technical engineering and field services to support the Grove Street reconstruction. This includes review of shop drawing, final traffic signal inspections, furnishing advice during construction and responding to contractor's request for information.

On motion, it was unanimously,

**VOTED:** To approve Extra Work Order #3 in the amount of \$2,871.07 for work to be completed by The Louis Berger Group, Inc., in connection with Contract No. PW/04-22 "Grove Street Reconstruction". Said work order to be funded from account 4998WS06 DPWCIP 6T0014.

**EXTRA WORK ORDER**

The Board considered the question of approving Extra Work Order #1 in the amount of \$48,800.00 for work to be completed by BETA Group, Inc., in connection with Contract No. PW/06-32 "Construction of new Traffic Signals at the intersection of Walnut Street, Kennard Road, and Chestnut Street. Said work order to be funded from the following accounts:

**EXTRA WORK ORDER cont'd**

4998WS06 DPWCIP 6T0014	\$48,789.99
4998WS05 DPWCIP 6T0014	\$ 10.01

Director of Engineering Peter Ditto stated that this is for professional engineering services for preparation of plans, specifications and estimates for the construction of the new pedestrian signal at Lincoln School.

On motion, it was unanimously,

**VOTED:** To approve Extra Work Order #1 in the amount of \$48,800.00 for work to be completed by BETA Group, Inc., in connection with Contract No. PW/06-32 "Construction of new Traffic Signals at the intersection of Walnut Street, Kennard Road, and Chestnut Street. Said work order to be funded from the following accounts:

4998WS06 DPWCIP 6T0014	\$48,789.99
4998WS05 DPWCIP 6T0014	\$ 10.01

**CHANGE ORDER**

The Board considered the question of approving Change Order #3 in the amount of \$155,686.00 for work to be completed by Colantonio, Inc., in connection with the Town Hall Renovations Projects.

Project Administrator Tony Guigli stated that the Town Hall Project is going very well and on schedule. This change includes electrical back charges, refinish lobby display panels, add inertia bases, add card readers, change doors in the sixth floor lobby area, new oil tank vent pipe and electrical outlet changes.

Selectman Allen added that the Committee of Seven for the Town Hall Project has been very active and are moving along with the project.

Selectman DeWitt added that the attention to the details of the project are impressive.

On motion, it was unanimously,

**VOTED:** To approve Change Order #3 in the amount of \$155,686.00 for work to be completed by Colantonio, Inc., in connection with the Town Hall Renovations Projects.

**TEMPORARY WINE AND MALT BEVERAGE LICENSE**

The Board considered the question of granting a temporary Wine and Malt beverages license to Boston University in connection with the following events to be held at 808 Commonwealth Avenue:

January 28 <sup>th</sup> 6pm-9pm	Banquet/Reception Lifelong Learning and Gastronomy
February 8 <sup>th</sup> 6pm-8pm,	Reception College of Fine Arts

On motion, it was unanimously,

**VOTED:** To grant a temporary Wine and Malt beverages license to Boston University in connection with the following events to be held at 808 Commonwealth Avenue:

January 28 <sup>th</sup> 6pm-9pm	Banquet/Reception Lifelong Learning and Gastronomy
February 8 <sup>th</sup> 6pm-8pm,	Reception College of Fine Arts

**TEMPORARY WINE AND MALT BEVERAGE LICENSE**

The Board considered the question of granting a Wine and Malt beverages license to the Artbarn Community Theater in connection with a Fundraiser to be held on February 9, 2008 from 7pm-12M at the Maliotis Center, 50 Goddard Avenue.

On motion, it was unanimously,

**VOTED:** To grant a Wine and Malt beverages license to the Artbarn Community Theater in connection with a Fundraiser to be held on February 9, 2008 from 7pm-12M at the Maliotis Center, 50 Goddard Avenue.

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**POLICE DEPARTMENT PERSONNEL**

The Board considered the question of authorizing the Human Resources Department to notify the State Department of Human Services to include the Brookline Police Department in the upcoming October promotion process for the following three examinations:

Sergeant  
Lieutenant  
Captain

Chief O'Leary stated that this coming October, 2008, is the next scheduled examination for promotions within the Police Department.

On motion, it was unanimously,

**VOTED:** To authorize the Human Resources Department to notify the State Department of Human Services to include the Brookline Police Department in the upcoming October promotion process for the following three examinations:

Sergeant  
Lieutenant  
Captain

**SNOW/ICE DEFICIT**

The Board considered the question of invoking Massachusetts General Law Chapter 44, Section 31D to allow the Department of Public Works to expend funds in excess of the FY2008 budget appropriation for Snow and Ice Control.

Commissioner DeMaio stated that after reviewing the expenditures for the Fiscal Year 2008 Snow and Ice Control budget, it was found necessary to cover the existing budget shortfalls. December had a record breaking snow accumulation. A transfer is needed for the existing deficits. Mr. DeMaio requested that the Board invoke Chapter 44, section 31D in lieu of the transfer. This will allow the DPW to expend funds in excess of the FY08 budget for snow and ice removal, and do a transfer later from surplus funds.

Selectman DeWitt asked about the manpower and equipment to clear sidewalks. Is it adequate enough?

Commissioner DeMaio replied that when the sidewalk clearing plans were adopted in the late 1970's, the DPW had a much larger staff. It is difficult to provide

**SNOW/ICE DEFICIT cont'd**

the same level of service with fewer employees. The DPW has pulled all its resources to get the job done. The main focus of sidewalk clearing is school areas, high traffic crosswalks, narrow streets, and high elderly populated areas.

On motion, it was unanimously,

**VOTED:** The Board considered the question of invoking Massachusetts General Law Chapter 44, Section 31D to allow the Department of Public Works to expend funds in excess of the FY2008 budget appropriation for Snow and Ice Control.

**PRECINCT LOCATION CHANGES**

Town Clerk Patrick Ward appeared to request authorization to make the following Precinct location changes pursuant to MGL c. 54, Section 24 for all elections in 2008:

**FROM: Fire Station #7, 665 Washington Street (Located within Precinct 10)**

**TO: Kickham Apartments, 190 Harvard Street (Located within Precinct 7)**

**Precinct 16 (Temporarily)**

**FROM: Putterham Branch Library, 959 West Roxbury Parkway**

**TO: Baker School Auditorium, 205 Beverly Road**

- a. **Question of approving and executing the Warrant for the February 5,, 2008 Presidential Preference Primary**

Town Clerk Pat Ward stated that it has been determined that the polling location at Fire Station #7 needs to be relocated. He added that the facility is not an adequate space for resident voters. There have been many complaints from voters about this polling station. It is cold, small, and under contract an ambulance needs to be housed there which requires the front area to be vacant at all times. The new location will be at the Kickham Apartments at 190 Harvard Street. This address is

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**PRECINCT LOCATION CHANGES cont'd**

located in Precinct 7, but since it borders Precinct 10, it is allowed to serve as a polling station.

Precinct 16 will have a temporary change due to the recent placement of the Assessors Office at the Putterham Library while Town Hall is being renovated. The polling station will be at Baker School.

On motion, it was unanimously,

**VOTED: To authorize the following Precinct location changes pursuant to MGL c. 54, Section 24 for all elections in 2008:**

**FROM: Fire Station #7, 665 Washington Street (Located within Precinct 10)**

**TO: Kickham Apartments, 190 Harvard Street (Located within Precinct 7)**

**Precinct 16 (Temporarily)**

**FROM: Putterham Branch Library, 959 West Roxbury Parkway**

**TO: Baker School Auditorium, 205 Beverly Road**

**VOTED: To approve and execute the Warrant for the February 5, 2008 Presidential Preference Primary.**

**PILOT AGREEMENTS**

**The Board considered the question of approving and executing a PILOT Agreement with the Christian Science Benevolent Association.**

**Director of Finance Stephen Cirillo stated that an agreement has been made between the Benevolent Association at 910 Boylston Street and the Town of Brookline for payment in lieu of taxes (PILOT). The agreement calls for a phasing up of the payment over a period of eleven years to an amount of 25% of the property tax on the building and land as of FY2007. The dollar amount will start at \$35, 545.16 and go to \$88,862.89 in year eleven. Mr. Cirillo added that it has been**



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**PILOT AGREEMENTS cont'd**

his pleasure working this organization, and introduced their Executive Director Janiva Toler.

Executive Director Janiva Toler stated that the building has been in Brookline since 1919 which is a long time, and there has not been much interaction with the Town since then. She added that when approached with this agreement she thought about the fact that they have not paid taxes over the years, but have enjoyed the benefits of being part of the Town. The Town has been helpful to them over the years, and this is a way to express their gratitude. She looks forward to continuing its new relationship with the Town of Brookline.

On motion, it was unanimously,

VOTED 3-0 Selectman Allen absent for this vote.

To approve and execute a PILOT Agreement with the Christian Science Benevolent Association.

**BOARDS AND COMMISSIONS**

The following candidates for appointment to Boards and Commissions appeared for interview:

**Advisory Council on Public Health**

Cheryl Lefman

**Human Relations/Youth Resources**

Dr. Ed Wang

Donelle O'Neal, Sr.

**Transportation Board**

Gustaaf Driesen

Brian Kane

**Planning Board**

Mark Zarrillo

**Preservation Commission**

Wendy Ecker

**Solid Waste Advisory Committee**

Barbara Field

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**BOARDS AND COMMISSIONS cont'd**

**Building Commission**

**George Cole**

**Ken Kaplan**

**Information Technology Advisory Committee**

**Eric Graber-Lopez**

**Advisory Council on Public Health**

**Cheryl Lefman is applying for re-appointment. Ms. Lefman is a Health Communication Specialist at the Wellesley Health Department. She would like to continue working with the Emergency Preparedness Program which is growing and working very well as well as assisting the Commission in all other aspects.**

**Human Relations/Youth Resources**

**Dr. Ed Wang is applying for re-appointment. Dr. Wang would like to continue planning and implementing all Human Relation/Youth Resources Town activities and events.**

**Donelle O'Neal, Sr. is a new applicant. He has recently attended a HRYR meeting and enjoyed the conversation. He is interested in working on low income housing issues, and the teen center as well as all other projects the Commission is working on. Mr. O'Neal has also participated in the Gateway East project on a community level.**

**Transportation Board**

**Gustaaf Driesen is applying for re-appointment. He would like to continue working on the challenges that face the Transportation Board. Traffic calming and taxi medallions are two issues that are being worked on presently, and he would like to continue his participation on them.**

**Brian Kane is a new applicant. He is interested in Transportation policy, planning, and Public Administration. Mr. Kane is currently pursuing a Master of Public Administration Degree. Some of Mr. Kane's interests include: meter revenues, traffic calming, mass-transit, and the Urban Ring Project. Mr. Kane would be interested in serving on another Board should there be no vacancies.**

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**BOARDS AND COMMISSIONS cont'd**

**Planning Board**

**Mark Zarrillo is seeking re-appointment. He is a landscape architect and a planner. He would like to continue working on review and committee participation in matters relating to Coolidge Corner, parking, service, pedestrian linkage, and general infrastructure upgrades.**

**Preservation Commission**

**Wendy Ecker is seeking re-appointment. She would like to continue working on the balance of the needs of development with the needs of preservation through adaptive reuse of older structures. She looks forward to more homes entering the historic district.**

**Solid Waste Advisory Committee**

**Barbara Field is a new applicant. She is interested in improving access to recycling for residents, and increase options for solid waste. Ms. Field is a life long recycler and continues to look for ways to promote recycling.**

**Building Commission**

**George Cole is seeking re-appointment. He is an architect that has been on this Commission for many years. In this time he has worked on many large and challenging projects including Lawrence School, the Public Health Building, and Main Library. He would like to continue his work and looks forward to the completion of the renovations at Town Hall.**

**Ken Kaplan is seeking re-appointment. Mr. Kaplan is a builder and long term member of this Commission. He would like to continue to advice and counsel his fellow commission members and Building Department professionals.**

**Information Technology Advisory Committee**

**Eric Graber-Lopez - did not appear**

In Board of Selectmen

January 8, 2008

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**ANNUAL TOWN MEETING/ELECTION**

**The Board considered the question of setting the dates for the 2008 Annual Town Meeting and Election.**

**Deputy Town Administrator Sean Cronin outlined the schedule for the 2008 Annual Town Meeting. The opening of the Warrant will be February 14, 2008, and close the Warrant on March 13, 2008. Town meeting will start on May 27, 2008.**

**On motion, it was unanimously,**

**VOTED: To set the dates for the 2008 Annual Town Meeting and Election.**

**BOARDS AND COMMISSIONS**

**The Board considered the questions of making appointments to the following Boards and Commissions.**

**Advisory Council on Public Health  
Conservation Commission  
Planning Board  
Solid Waste Advisory**

**Advisory Council on Public Health**

**On motion, it was unanimously,**

**VOTED: To re-appoint Bruce Cohen to the Advisory Council on Public Health for a term ending August 31, 2010 or until a successor can be appointed.**

**VOTED: To re-appoint Cheryl Lefman to the Advisory Council on Public Health for a term ending August 31, 2010 or until a successor can be appointed.**

**Conservation Commission**

**On motion, it was unanimously,**

**VOTED: To re-appoint Gail McClelland Fenton to the Conservation Commission for a term ending August 31, 2010 or until a successor can be appointed.**

In Board of Selectmen

January 8, 2008

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**VOTED: To re-appoint Randolph Meiklejohn to the Conservation Commission for a term ending August 31, 2010 or until a successor can be appointed.**

**VOTED: To re-appoint Pamela Harvey as an Associate Member to the Conservation Commission for a term ending August 31, 2010 or until a successor can be appointed.**

**VOTED: To appoint Brian Winner to the Conservation Commission for a term ending August 31, 2008 or until a successor can be appointed.**

### **Planning Board**

**On motion, it was unanimously,**

**VOTED: To re-appoint Mark Zarrillo to the Planning Board for a term ending August 31, 2010 or until a successor can be appointed.**

### **Solid Waste Advisory**

**On motion, it was unanimously,**

**VOTED: To re-appoint Adam Mitchell to the Solid Waste Advisory Board for a term ending August 31, 2010 or until a successor can be appointed.**

**VOTED: To re-appoint Cynthia Snow to the Solid Waste Advisory Board for a term ending August 31, 2010 or until a successor can be appointed.**

**VOTED: To appoint Barbara Filed to the Solid Waste Advisory Board for a term ending August 31, 2010 or until a successor can be appointed.**

**There being no further business, the Chair adjourned the meeting at 9:30 p.m.**

**ATTEST**

**IN BOARD OF SELECTMEN**

**January 15, 2008**

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

**Chairman Daly held the minutes of January 8, 2008.**

**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.**



**Chairman Daly took a moment to acknowledge the passing of former Town Employee, and long term Town Meeting Member Tom Robinson.**

### **PUBLIC COMMENT**

**Public Comment period for citizens who requested to speak to the Board regarding Town issues not on the Calendar.**

- a. Board discussion of further actions relative to procedures for citizen complaints filed with the Police Department.**

**Chairman Daly stated that the Board of Selectmen is aware that the May incident at Town Hall involving Arthur Conquest has raised some questions as to our Police policies and practices when it comes to citizens complaints. Chairman Daly added that there will be an independent committee established to review the current practices and procedures and to suggest refinements and improvements.**

**On Tuesday January 22, the Board will take up the matter of the charge and also hear from anyone who wished to speak on the incident at Town hall, or the practices and procedures relating to citizens complaints.**

**Jonathan Davis of 125 Park Street and TMM #10 stated that he appreciates the decision for a panel to look at future complaints and police actions, but the events and the report on the Town Hall incident should not be overlooked. He feels that the report came from the Police Department where they investigated themselves. He hopes that in the future their will be a mechanism in place that will allow an outside entity to look at police reports and check for inadequacies.**

**Susan Allen of Westbourne Terrace expressed concern on the no trespass order given to Mr. Conquest. Ms. Allen feels that there were several contradictions in the Police report, mainly, that the beginning of the incident did not happen during the Zoning Board meeting, but after the meeting. Ms. Allen also stated that Town Counsel Dopazo does not have the right to place a non trespass order on Mr. Conquest. It is his right to attend a public meeting. Ms. Allen would like a thorough investigation done on Town Counsel, Mr. Hitchcock, and Mr. Kaplan, all present at the Zoning Board meeting, and she believes that their statements were inadequate, and misconstrued. She also stated that any Selectman that fails to do so should be discharged.**

**Chairman Daly added that Town Counsel has stated that she was not accurately quoted on the trespass order.**

## **GRANT**

The Board considered the question of accepting a grant in the amount of \$1,200 from the Brookline Community Foundation to be used in connection with the Women Who Inspire Us Essay Contest conducted by the Brookline Women's Commission.

Jamie Costello of the Brookline Commission for Women stated that this grant will be used to fund the Women Who Inspire Us Essay Contest. The contest involves 6<sup>th</sup>, 7<sup>th</sup>, and 8<sup>th</sup> graders. Ms. Costello thanked the Brookline Community Foundation for this grant.

On motion, it was unanimously,

**VOTED:** To accept a grant in the amount of \$1,200 from the Brookline Community Foundation to be used in connection with the Women Who Inspire Us Essay Contest conducted by the Brookline Women's Commission.

## **CONTRACT**

The Board considered the question of awarding and executing Contract No. PW/08-15 "Rehabilitation of the Singletree Hill Water Storage Tank" to Weston & Sampson Engineers, Inc. in the amount of \$34,200.00. Said Contract to be funded from account 4997C159 CIP 6E0066.

Director of Engineering Peter Ditto stated that this contract is for design and engineering services during construction for the interior rehabilitation of the Singletree Hill water storage tank. The property is behind the Christian Science Building in Chestnut Hill.

On motion, it was unanimously,

**VOTED:** To award and execute Contract No. PW/08-15 "Rehabilitation of the Singletree Hill Water Storage Tank" to Weston & Sampson Engineers, Inc. in the amount of \$34,200.00. Said Contract to be funded from account 4997C159 CIP 6E0066.

**CONTRACT**

**The Board considered the question of executing Contract No. PW/08-011 “Fairbanks Street Sewer Replacement/Newton Street Drainage Improvements” in the amount of \$90,208.90 with Fiore Construction, Inc. of Fitchburg. Said Contract was awarded December 18, 2007 and will be funded from account 4997C144 6C0005.**

**Director of Engineering Peter Ditto stated that this contract was awarded on December 18, 2007. It is for replacement of pipes on Fairbanks Street and drainage improvements on Newton Street.**

**On motion, it was unanimously,**

**VOTED: To execute Contract No. PW/08-011 “Fairbanks Street Sewer Replacement/Newton Street Drainage Improvements” in the amount of \$90,208.90 with Fiore Construction, Inc. of Fitchburg. Said Contract was awarded December 18, 2007 and will be funded from account 4997C144 6C0005.**

**TEMPORARY ALL KINDS LIQUOR LICENSE**

**The Board considered the question of granting a temporary All Kinds of Alcoholic beverages license to Brookline Youth Hockey in connection with a Fundraiser to be held on February 2, 2008 from 6:00 p.m. – 9:30 p.m. at the Larz Anderson Auto Museum.**

**On motion, it was unanimously,**

**VOTED: To grant a temporary All Kinds of Alcoholic beverages license to Brookline Youth Hockey in connection with a Fundraiser to be held on February 2, 2008 from 6:00 p.m. – 9:30 p.m. at the Larz Anderson Auto Museum.**

**AGREEMENT FOR 111 BOYLSTON STREET**

**The Board considered the question of approving and executing an Agreement with Leggat McCall Properties as it relates to the proposed project at 111 Boylston Street and the transfer of a parcel of land at Kerrigan Place.**

**Paul Saner of the Economic Development Advisory Board stated that the overview of the agreement is making sure that taxes on this parcel are preserved. Leggat McCall Properties are a for profit company, however they have worked out an agreement that if the parcel is occupied by a for profit company, the full taxes will be paid. If a not for profit company then the PILOT (payment in lieu of taxes) will apply.**

**Town Counsel Jennifer Dopazo stated that the agreement is for 75 years. The Town should see the tax payments in 2010.**

**On motion, it was unanimously,**

**VOTED: To approve and execute an Agreement with Leggat McCall Properties as it relates to the proposed project at 111 Boylston Street and the transfer of a parcel of land at Kerrigan Place.**

**OVERRIDE STUDY COMMITTEE**

**The Override Study Committee appeared to present its final report and recommendations per the Resolution of February 13, 2007**

# Town of Brookline Override Study Committee

Presentation to  
Board of Selectmen  
January 15, 2008



## Override Study Committee

### Voting Members

Vince McGugan (Co-chair)  
Lloyd Dahmen (Co-chair)  
Gordon Bennett  
Eric Buehrens  
Tony Friscia  
Amy Kershaw  
Jeffrey Liebman  
Bill Schwartz  
Will Slotnick

### Ex-Officio Members

Selectwoman Betsy DeWitt  
School Committee Vice Chairman  
Henry Warren  
Finance Committee Co-Chairman  
Neil Wishinsky

### Staff

Richard Kelliher  
Sean Cronin  
Melissa Goff  
Stephen Cirillo  
William Lupini  
Peter Rowe



## OSC Process

- Authorized by Selectmen in February 2007
- Initial organizational meeting held May 10, 2007
- Eight subcommittees:
  - Personnel and benefits, municipal services, education, energy, new revenue, capital plan/financial plan, big picture, report writing
  - 18 full OSC meetings May 07 - January 08, including public hearing on October 17, 2007
- More than 30 subcommittee meetings



## Presentation

- Committee structure and process – Vince McGugan
- Report, motions, and capital needs – Bill Schwartz
- Schools and affordability – Tony Friscia
- Financial policy recommendations – Jeff Liebman
- Minority statement – Gordon Bennett



# Report, Motions, and Capital Needs

Bill Schwartz



## Report Overview

- Full report includes executive summary, motions passed, recommendations, and minority statement
- Appendices including budget data, demographic information, six subcommittee reports, update on 1994 FPAC recommendations, and public hearing minutes
- Available on Town of Brookline website ([www.townofbrooklinemass.com](http://www.townofbrooklinemass.com))



## Motion 1 - Need for an Override

- After reviewing fiscal policies and studying the Town of Brookline's current overall financial situation, the Override Study Committee (OSC) recommends to the Selectmen an override for FY09. (Passed by a vote of 9-0)



## Motion 2: Addressing Budget Deficit

- The OSC concludes that the budget deficit for FY09 is likely to be between \$2.6 and \$3.5 million based on current town forecasts.
- The OSC recommends to the Selectmen that an override should provide the funds necessary to *close the deficit and maintain town and school services at present levels*. (Passed by a vote of 7-2)





## Motion 3: Need for Cost Savings and New Revenues

- Even with a successful override, the town will face structural deficits beyond FY09 unless changes are made to the rate of growth of certain costs, particularly personnel costs.
- To avoid the need for additional overrides in the near future, the OSC recommends that the Board of Selectmen and School Committee pursue a series of short- and long-term *cost-saving measures and new revenue initiatives* for FY10 and beyond that are necessary to support sustainable levels of services. (Passed by a vote of 9-0)



## Motion 4: Addressing Under-funded Areas

- The OSC has identified several critical areas that have been under-funded over the past several years. These include roads and sidewalks and public building maintenance. In addition, the town should meet expanded maintenance requirements for parks and open space. It will cost \$1.5 million to *fund these critical infrastructure needs and future obligations*.
- The OSC recommends that the Selectmen include raising the revenue necessary to fund these areas in an override proposal. (Passed by a vote of 9-0)



## Motion 5: Lengthened Instructional School Day

- An initiative under consideration to strengthen Brookline's public schools is a longer instructional school day.
- The OSC recommends that the Selectmen include raising the revenue necessary to fund this initiative in an override proposal.
- The longer instructional school day will cost \$1.8 million. (Passed by a vote of 7-2)



## Motion 6: World Language Program

- An initiative under consideration to strengthen Brookline's public schools is a World Languages program.
- The OSC recommends that the Selectman include raising the revenue necessary to fund this initiative in an override proposal.
- The World Languages Program will cost \$0.8 million. (Passed by a vote of 7-1 with 1 abstention)



## Financial Components of Override

Component	Cost
Eliminate the projected FY09 deficit	\$2.6-3.5 M
Fund needed capital and maintenance	1.5 M
Lengthen school instructional day	1.8 M
Implement World Language program	0.8 M
<b>Total</b>	<b>\$6.7-7.6 M</b>



## Comparison with 1994 Override

- 1994 override amount \$2.96 M
- Adjusted for inflation \$4.5 M
- Recommended FY09 override (without school programs) \$4.1-5.6 M



## The Budget Challenge

- The schools have increased instructional staff
  - Non-mandated staffing increased from 427 to 592 (39%)
    - Increased high school graduation requirements
    - Hired specialists in math, literacy for K-8 program plus one nurse per school
- The schools have increased staff for special education programs
  - Staffing for mandated special education increased from 95 to 251 FTEs (165%)



## Analysis of the FY09 Budget

- \$2.6 – \$3.5 million shortfall
  - Schools: \$2 million, Town: \$1.5 million
- Without an override a combination of budget efficiencies, service reductions, and revenue increases would need to be considered
- Variables
  - Ongoing salary arbitration
  - Final health care premiums
  - Revenue growth rates



## Addressing Under-funded Areas

- Town has under-funded:
  - Road and sidewalk maintenance and construction
  - Building maintenance
- Town has incurred new park maintenance obligations
  - Beacon Street
  - Muddy River Reservation
  - Newton Street landfill
  - Fisher Hill Reservoir



## Roads and Sidewalks (\$750,000)

- Implementation of road maintenance and repairs and sidewalk improvements has been slowed due to insufficient funding and inflation
- Roads are deteriorating faster than funds allow for upkeep
- Previously rebuilt roads have not been maintained, potentially requiring them to be rebuilt a second time
- Future CIP funding should be indexed to inflation



## Building Maintenance (\$500,000)

- Level funded for 11 years (except FY08)
- Contractor costs (e.g. elevators, complex HVAC systems, etc) have risen at/above inflation
- Funding of operational/safety maintenance and repairs has been at expense of general upkeep
- Deferral of upkeep can lead to need for far costlier capital investments
- Future funding should be indexed to inflation



## Park Maintenance (\$250,000)

- New commitments
  - Emerald Necklace (Muddy River) \$100,000
  - Beacon Street landscape improvements (~\$85,000)
  - Newton Street landfill park (~\$35,000)
- Upcoming commitments
  - Fisher Hill Reservoir community park (~\$30,000)



# Schools and Affordability

Tony Friscia



## Analysis of School Budget

- Increase in headcount since 1994
  - SPED FTEs grew from 95 to 251
  - Non-mandated FTEs grew from 239 to 302
- SPED spending growth
  - Grew from \$9 to \$15 million since FY01
  - Now almost 25% of overall school budget
  - Brookline's growth 29%



## Capacity to Cut Spending to Address Structural Deficit

- Core spending
  - Class size
  - K-8 system
- Cutting non-mandated spending and increasing fees is only way to address an FY09 deficit (analyzed the potential trade-offs)



## Ways to Address the FY09 Deficit

- School position and program cuts (~\$1.7 million)
  - Enrichment & Challenge program
  - Literacy and math specialists
  - Social workers/guidance counselors
  - Library aides
  - Performing arts (grade school instrument program)
  - Etc.
- School fee increases (~\$300,000)
  - Athletics fee increase
  - Early childhood
  - Material fees
  - Non-mandated transportation





## New Spending Initiatives

- Lengthening the instructional school day
  - \$1.8 million
- K–6 World Language program
  - \$800,000
- Subcommittee recommended funding for both, which overall committee supported



## Lengthened Instructional Day

- Compared to the 23 school districts, Brookline's school day is:
  - Bottom 9 among elementary schools
  - Last among middle schools
  - Third from the bottom among high schools
- The extra time would have a measurable impact at all levels, especially middle and high school
- Question: Is the salary increase justified?



## Comparing Teacher Salaries

- Of 23 comparable towns, Brookline is 10<sup>th</sup> when looking at overall average salaries
- Lincoln, Weston, Boston, Wellesley, Newton, Wayland, Concord/Carlisle, Lincoln/Sudbury, and Carlisle are higher
- Teacher comparables are better at entry levels and worsen at higher experience levels – true at all education levels (BA, Masters, Doctoral)



## World Language Program

- Pedagogical research compelling
- Preparing students to compete in a increasingly global/multi-cultural economy
- Presentations demonstrated that program would be effective
- Analyzed financial impact given the budget crisis: 9+ new FTEs



## Financial Justification for Recommending World Language

- The program would be fully funded up front
- Represents about 1% of school spending
- Minimal immediate and on-going impact on overall personnel sustainability issue



## Long-term Recommendations

- Seek on-going efficiencies
  - Stress will require trade-offs
- Appropriately control SPED spending growth
- Assess cost of maintaining low class sizes



## Impacts of Property Tax Override

- Brookline taxes and fees compared to other communities
- Statewide ranking of residential tax bills
- Comparative cost of municipal services
- Growth in revenues generated from residential properties



## Impacts: Single Family Home Median Value (\$987,000)

Scenario	FY08 Tax	No deductions or AMT	28% bracket
\$2.6 M	\$8,437	\$162	\$116
\$3.5 M	\$8,437	\$217	\$157
\$5.0 M	\$8,437	\$311	\$224
\$6.8 M	\$8,437	\$423	\$304
\$7.6 M	\$8,437	\$472	\$340

Single family homes are 29% of all taxable residential housing units



## Impacts: Condominium Home Median Value (\$411,000)

Scenario	FY08 Tax	No deductions or AMT	28% bracket
\$2.6 M	\$2,579	\$49	\$42
\$3.5 M	\$2,579	\$66	\$48
\$5.0 M	\$2,579	\$95	\$68
\$6.8 M	\$2,579	\$129	\$93
\$7.6 M	\$2,579	\$144	\$97

Condominium homes are 55% of all taxable residential housing units



## Brookline's Income Diversity

- 2000 Census showed that Brookline's:
  - Median household income was \$66,711, almost 1/2 that of Wellesley
  - Poverty rate was 9.3%, more than double that of Newton
  - Elderly poverty rate was 7.5%
  - Percentage of households with income below \$50,000 was 37.1%



## Who Will be Impacted?

- Not possible to determine how many low-income residents pay property taxes
- Town currently offers residential tax exemption, senior citizen abatements, and deferral opportunities
- OSC recommends Selectmen continue to provide all tax relief programs available



## Financial Policy Recommendations

Jeff Liebman



## Projected Budget Deficits

FY09	\$3.5 M
FY10	\$5.2 M
FY11	\$7.4 M
FY12	\$9.5 M
FY13	\$11.9 M

- Main sources: health care costs, SPED costs, teacher age profile, pension costs



## Implications

- Even if an override is recommended by the Selectmen and adopted by voters, the town will need to take aggressive action to:
  - Control personnel costs
  - Generate cost savings in municipal services
  - Generate additional revenue



## Implications (cont.)

- The OSC is *not recommending* that the town's entire shortfall be resolved by increasing residents' property taxes
- FY13 shortfall is projected to be \$11.9 million
- OSC is recommending that up to \$3.5 million of this shortfall be closed with the override (the FY09 component), but that the remaining \$8.4 million be closed via *cost controls* and *other revenue sources*



## Controlling Personnel Costs

- Hold growth in total personnel costs to a sustainable level
- Join the GIC as soon as possible
- Address longer-term retiree health costs issue





## Savings Opportunities

- Adopt cost-saving information technology
- Integrate functions across departments
- Merge certain town and school operations
- Consolidate departments
- Outsource certain functions



## Savings Opportunities (cont.)

- Consider a long-term position-reduction policy
  - Study public safety staffing levels
- Establish a town-wide efficiency initiative
- Create an energy efficiency initiative



## Capital Improvement Program Recommendations

- Continue the use of 5.5% of prior year net revenue
- Expand the role of the building commission in planning building projects
- Complete an asset management study to improve the capital decisionmaking process



## Short-term Revenue Options

- Increase parking meter rates
- Increase refuse fees
- Increase taxi license fees



## Longer-term Revenue Options

- Sell taxi medallions
- Institute a fire service charge
- Support local option taxes
- Increase payments in lieu of taxes
- Pursue additional economic development opportunities
- Increase recreation and cemetery fees via revolving fund



## Minority Statement

Vince McGugan, Co-Chair  
Gordon Bennett, Committee Member



## Minority Positions

- Report – agree with most findings
- Budget gap – support a lower amount
- Infrastructure – support
- New spending and hiring – untimely
- Affordability – must carefully consider
- Structure of vote – separate questions

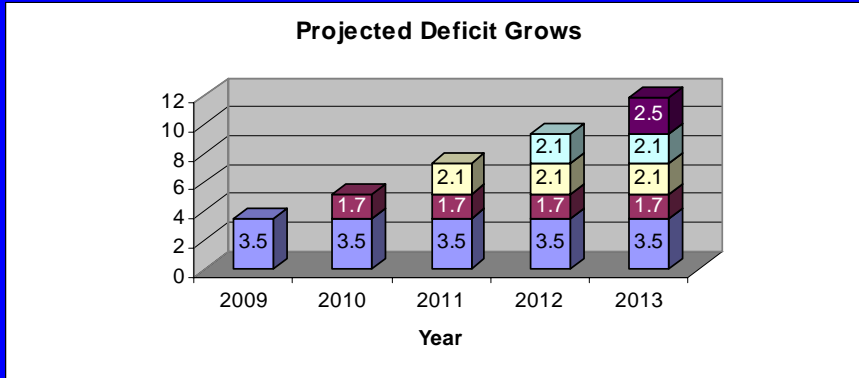


## Budget Gap

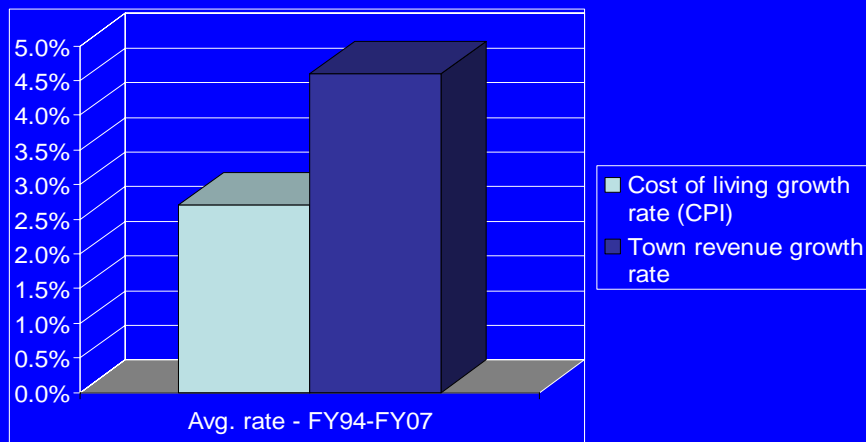
- Proposed override includes \$3.5 million annually for structural deficit
- Because cost growth exceeds revenue growth, the structural deficit grows about \$2 million per year, even with an override
- Fiscally unsustainable
- Maintaining current cost structure through override makes eventual solution more costly



## Another Override in FY10 or FY11?



## Town Revenue Growth Rate Far Exceeds the CPI



## Unsustainable Personnel Costs

- Total personnel benefits costs are growing faster than revenues
- Growth in school personnel
  - 34% from 667 to 894 since last override
  - Slight decrease in student enrollment
  - 1/3 of increase was non-mandated hires
- World language will add 9 FTEs
- Growth in town personnel was 11 FTEs



## Addressing the Budget Gap

- Proposed override is not accompanied by tangible cost controls, only future prospects
- Existing \$200 million healthcare liability is ignored making eventual funding more expensive
- Share the burden between taxpayers and town/school budget dollar for dollar



## Infrastructure

- Roads, sidewalks, parks, buildings are underfunded, suffering from deferred maintenance
- Proper maintenance saves money
- Concur with funding of \$1.5 million per year
- Amount should be indexed to assure adequate infrastructure maintenance going forward



## New Spending Initiatives

- Proposed new school programs translate to \$535 per pupil per year (\$2.8 million per year)
- OSC-recommended override should address “needs”, distinguish from “wants”
- Benchmarked against peer communities, Brookline does not appear to be under-investing in education
- Town must meet future obligations to current employees before creating discretionary new programs



## Affordability

- Only increased taxes and fees make Brookline unaffordable for current residents
- Current override package will increase FY09 taxes by at least 7.5% -- most likely more
- Sharing the cost of deficit's resolution between the town and its taxpayers is a more equitable solution



## Separate Ballot Questions

- Citizens should be allowed to approve funding to maintain current service levels without being forced to approve new spending programs
- Choices encourage public debate and decision
- Propose minimum of two questions
  - Maintenance of effort and physical infrastructure maintenance
  - New school programs
- For more voter choice, could be offered as four questions





Selectman Allen asked if other school programs were discussed besides the world language program. He expressed concern about the lack of art, music, shop and other programs that have seemed to be under funded. He asked why this program stands out alone as a line item.

Judy Meyers and Henry Warren of the School Committee replied that the world language program was grant funded for many years. The program was cut when the grant ended. The School Committee did a study and found this program to be affordable, attainable, and a solid academic program. She added that if funded, the funds would go into the program. They feel that this program would be beneficial to the students.

Selectman Mermell expressed concern about the lengthened school day and if it is not implemented right away, the projected cost could go up. Selectman Mermell also inquired about any State mandated cost in the future.

Town Administrator Richard Kelliher replied that there are some that are already factored in the budget. The Muddy River Restoration and the Fisher Hill Reservoir Project are an example.

Selectman Hoy added that when the last override in 1997 was implemented, it was expected to add relief for only about 5 years. It was then anticipated that another override would be needed before now.

Selectman DeWitt added that there is a huge amount of data that will be published, and an informational meeting with the override committee will be held. She added that the focus of this group was on the short term financial shortfalls. If there is not an override then the budget deficit will need to be addressed. There are some areas where more information is needed such as new growth where there are no clear projections to date.

## **AUDIT REPORT**

*Selectman Hoy Acting Chair*

Members of the Audit Committee and a representative from Sullivan and Powers appeared to present the FY07 Audit Report.

Chairman Daly presented the following report:

Richard Sullivan of Powers and Sullivan gave the audit the highest standard of reporting, resulting in the Town retaining their Aaa credit standing. He

**acknowledged the Director of Finance Stephen Cirillo, and Comptroller Judy Haupin for their cooperation, and added that the Finance team prepared the information in an adequate and timely manner. Mr. Sullivan stated that the Finance team is exemplary in its practices and procedures, and that the audit went efficiently.**

**The Report on the Examination of the Town's Basic Financial Statements for the Fiscal Year 2007, which is also called the annual outside audit, was completed by our Auditors Powers & Sullivan in the Fall of 2007. Powers & Sullivan is a firm of licensed certified public accountants based in Wakefield, Mass., which does the audit work for many municipalities. While we continue to work with the firm we switched partners this year in order to have a fresh perspective on our handling of financial records. Partner Richard Sullivan and Craig Peacock supervised the Audit. It complied with the Government Auditing Standards and provides a good review for us internally as well as providing the appropriate and thorough information for federal grants and the bond rating agencies. The Town had assets totaling \$347,079,294 as of June 30, 2007, of which \$67,206,103 was in cash and short-term investments (cash and short-term investments are used for upcoming payroll and to satisfy encumbrances for capital projects, and operating funds; and some are designated to go to trust funds according to Town policies or prior votes of Town Meeting). At that same point it had \$129,702,646 in liabilities, resulting in total net assets on that day of \$ 217,376,648.**

**The Audit Committee is chaired by Selectwoman Nancy Daly. In addition, Greg Grobstein, Jim Littleton, and Christopher Cox serve as Moderator's appointees, Allen Morse represents the School Committee, Len Weiss represents the Advisory Committee, and staff members Steve Cirillo, Finance Director, Judy Haupin, Comptroller, and Peter Rowe, Deputy Superintendent of Schools, serve on the committee. This group carefully reviewed the financial statements, the auditor's report, and the management letter, and we are satisfied and voted to accept these documents.**

**The auditors have concluded that the basic financial statements fairly present, in all material respects the finances of the Town as of June 30, 2007, except for the retirement fund which is audited separately. They did not find any Reportable Conditions or Material Weaknesses, such that they had to qualify the audit. This means that they did not find any problems or deficiencies in the methods used by the Town to handle cash and financial records. As the auditors described it, they went in and tested the financial assumptions used by the Town on various projects such as the closing of the landfill, as well as on ongoing financial records such as invoices and receivables and they found that the Town has been using fiscally prudent assumptions and that it has satisfactory internal controls. In fact, Richard Sullivan described our financial practices as “exemplary” when compared with the approximately 80 other Massachusetts municipalities that his firm audits.**

In Board of Selectmen

January 15, 2008

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**The auditors expressed approval of our financial policies which specify that 5.5% of prior year's net revenue, plus free cash that is not directed to specific trust funds is allocated to the Capital Improvement Plan each year and that we restrict use of one-time money to one-time expenditures. In sum, they feel that the Town is handling its finances well.**

**They did however, recommend that there are some relatively small liability accounts and performance bond agency accounts that are being carried forward in the same amounts from previous years and which should be reviewed to see if they can be closed out. The auditors also recommended that the Police Department and the Comptroller's office needs to reconcile the police paid detail balance and general ledger on a monthly basis. Finally, they recommended that the Treasurer, Comptroller and Building Department reconcile activity on the performance bonds posted by contractors on building projects for the Town. The Town is already working to implement all these recommendations.**

**In a matter that is not covered in the Audit, the Audit Committee has voted to recommend to this Board that the Town resume funding the Trust Fund for post-retirement benefits (primarily health insurance) for former Town employees, as it has funds to do so. We have a very large unfunded liability which is greater than \$200,000,000 if the funds are placed with a committee of independent trustees or more than an additional \$100,000,000 larger if the funds are held directly by the Town. We have begun to hear from the bonding agencies that they may soon take this unfunded liability into account in determining the Town's bond rating (our current Aaa rating allows the Town to borrow at the most favorable rates and helps to hold down the cost of capital projects). In addition, we believe that eventually we will be required by the state to fund this liability. Therefore, we find it prudent to resume funding this account to the extent it is feasible. Secondly, the Audit Committee has voted to recommend to this Board that an independent Committee of Trustees be established to administer this money in order to reduce the unfunded liability to the lower amount mentioned above. The Audit Committee's recommendation is that this independent Committee should be named by the Board of Selectmen.**

*Chairman Daly resumed as Chair*

## **BOARDS AND COMMISSIONS**

**The Board considered the question of making appointments to the Building Commission.**

**George Cole  
Kenneth Kaplan**

In Board of Selectmen

January 15, 2008

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**BOARDS AND COMMISSIONS cont'd**

**On motion, it was unanimously,**

**VOTED: To appoint George Cole to the Building Commission for a term ending August 31, 2010 or until a successor can be appointed.**

**VOTED: To appoint Kenneth Kaplan to the Building Commission for a term ending August 31, 2010 or until a successor can be appointed.**

**There being no further business, the Chair adjourned the meeting at 10:10 p.m.**

**ATTEST**

**IN BOARD OF SELECTMEN**

**January 22, 2008**

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

**The Minutes of January 8<sup>th</sup> were held.**

**REALLOCATION OF CDBG FUNDS**

The Board considered the question of approving the following reallocation of CDBG Funds:

**FROM:           FY2003 Handicapped Accessibility  
                  1818 G003 6C0010   \$ 3,074.39**

**FY2003 Street Improvements  
1817 G003 6C0006   \$ 9,756.52**

**FY2003 Driscoll School ADA  
1837 G003 6C0002   \$ 6,030.44**

**TO:               FY2003 Affordable Housing  
                  1899 G003 558086   \$18,861.35**

=====

**FROM:           FY2005 Street Improvements  
                  1817 G005 6C0006   \$ 9,491.83**

**TO:               FY2005 Affordable Housing  
                  1899 G005 558086   \$ 9,491.83**

=====

**FROM:           FY2006 Handicapped Accessibility  
                  1818 G006 6C0010   \$ 5,899.78**

**FY2006 Handicapped Accessibility  
1829 G006 6C0035   \$    80.00**

**TO:               FY2006 Affordable Housing  
                  1899 G006 558086   \$ 5,979.78**

=====

**FROM:           CD Grant Administration  
                  1801 G007 5110101   \$   189.74**

**CD Youth Employment Program  
1803 G007 510901           51.92**

**CD Comprehensive Planning  
1804 G007 510101   \$  1,514.87**

**Housing Division  
1805 G007 525060   \$       2.10**

**Preservation Planning  
1808 G007 510101   \$  3,149.18**

**Job Opportunities for Elders**  
1815 G007 510901 \$ 30.79

**Brookline Elder Taxi System**  
1824 G007 510101 \$ 73.31

**Brookline Learning Project**  
1830 G007 558070 \$ 1,965.50

**After House U**  
1895 G007 558043 \$ 2,115.91

**TO: Gateway East Engineering**  
1841 G007 6T0034 \$ 9,093.32

**Director of Planning & Community Development Jeff Levine stated that this allocation will clean up accounts where there are still unused CDBG funds in them. The funds must be used in the fiscal year that they are moved. These projects are currently closed out, therefore the funds cannot be used as they are now allocated.**

**On motion, it was unanimously,**

**VOTED: To approve the following reallocation of CDBG Funds:**

**FROM: FY2003 Handicapped Accessibility**  
1818 G003 6C0010 \$ 3,074.39

**FY2003 Street Improvements**  
1817 G003 6C0006 \$ 9,756.52

**FY2003 Driscoll School ADA**  
1837 G003 6C0002 \$ 6,030.44

**TO: FY2003 Affordable Housing**  
1899 G003 558086 \$18,861.35

=====  
**FROM: FY2005 Street Improvements**  
1817 G005 6C0006 \$ 9,491.83

**TO: FY2005 Affordable Housing**  
1899 G005 558086 \$ 9,491.83

=====  
**FROM: FY2006 Handicapped Accessibility**  
1818 G006 6C0010 \$ 5,899.78

**REALLOCATION cont'd**

	<b>FY2006 Handicapped Accessibility</b>
	<b>1829 G006 6C0035 \$ 80.00</b>
<b>TO:</b>	<b>FY2006 Affordable Housing</b>
	<b>1899 G006 558086 \$ 5,979.78</b>
=====	
<b>FROM:</b>	<b>CD Grant Administration</b>
	<b>1801 G007 5110101 \$ 189.74</b>
	<b>CD Youth Employment Program</b>
	<b>1803 G007 510901 51.92</b>
	<b>CD Comprehensive Planning</b>
	<b>1804 G007 510101 \$ 1,514.87</b>
	<b>Housing Division</b>
	<b>1805 G007 525060 \$ 2.10</b>
	<b>Preservation Planning</b>
	<b>1808 G007 510101 \$ 3,149.18</b>
	<b>Job Opportunities for Elders</b>
	<b>1815 G007 510901 \$ 30.79</b>
	<b>Brookline Elder Taxi System</b>
	<b>1824 G007 510101 \$ 73.31</b>
	<b>Brookline Learning Project</b>
	<b>1830 G007 558070 \$ 1,965.50</b>
	<b>After House U</b>
	<b>1895 G007 558043 \$ 2,115.91</b>
<b>TO:</b>	<b>Gateway East Engineering</b>
	<b>1841 G007 6T0034 \$ 9,093.32</b>

**CHANGE ORDER**

The Board considered the question of approving Change Order No. 2 in the amount of \$208,911.70 for work to be completed by ETL Corp., in connection with Contract No. PW/06-23 "Front Landfill Closure and Reuse Plan and Preparation of Public Works Operations Area". Said Change Order to be funded as follows:



**CHANGE ORDER cont'd**

4997C147 6L0001	\$59,547.10
4995SW52 6C0007	\$64,629.58
2594C157 6B0074	\$84,735.06

Director of Engineering Peter Ditto stated that the change order consist of additional work related to the artificial turf field, additional noise barriers, pavement and sidewalk additions, and an increase of the comfort station. Most of these additions are due to neighborhood concerns. The \$64,629.58 portion of the Change Order will be funded by the State.

Mr. Ditto added that this has been a very successful project and he is pleased with its progress. The official opening is scheduled near Memorial Day.

On motion, it was unanimously,

**VOTED: To approve Change Order No. 2 in the amount of \$208,911.70 for work to be completed by ETL Corp., in connection with Contract No. PW/06-23 "Front Landfill Closure and Reuse Plan and Preparation of Public Works Operations Area". Said Change Order to be funded as follows:**

4997C147 6L0001	\$59,547.10
4995SW52 6C0007	\$64,629.58
2594C157 6B0074	\$84,735.06

**TRANSFER**

The Board considered the question of approving the following transfer within the Police Department appropriation:

FROM:	21002010 539035	\$2,500.00
	Uniforms	
TO:	21002010 553010	\$2,500.00
	Dues/Subscriptions	

Public Safety Business Manager Anthony Ansaldi stated that with the current vacancies in the Department, there are extra funds in the uniform account that could be used to fund Dues and Subscriptions where there is a need.

On motion, it was unanimously,

**VOTED: To approve the following transfer within the Police Department appropriation:**

<b>FROM:</b>	<b>21002010 539035</b>	<b>\$2,500.00</b>
	<b>Uniforms</b>	
<b>TO:</b>	<b>21002010 553010</b>	<b>\$2,500.00</b>
	<b>Dues/Subscriptions</b>	

**TEMPORARY WINE AND MALT BEVERAGE LICENSE**

The Board considered the question of granting a temporary Wine and Malt beverages license to the Heath School PTO in connection with a parent/teacher appreciation party to be held on January 30<sup>th</sup> from 6:00 p.m. – 8:00 p.m. at the Heath School, 100 Eliot Street.

On motion, it was unanimously,

**VOTED: To grant a temporary Wine and Malt beverages license to the Heath School PTO in connection with a parent/teacher appreciation party to be held on January 30<sup>th</sup> from 6:00 p.m. – 8:00 p.m. at the Heath School, 100 Eliot Street.**

**RESOLUTION**

The Board considered the question of adopting the following Resolution honoring former Recreation Director Robert T. Lynch.

**WHEREAS, on January 26, 2008 Recreation Director Robert Lynch will be honored by his friends, family and colleagues for more than three decades of dedicated and outstanding service to the Town of Brookline Recreation Department; and**

**WHEREAS, Bobby Lynch started with the Recreation Department in 1974 as a Recreation Supervisor and twenty years later was appointed Recreation Director; and**

**WHEREAS, as Director, Bob Lynch introduced innovative programs, dramatically upgraded the Golf Course, and achieved an extraordinary degree of cost recovery without ever losing sight of the primary goal of the children and residents of Brookline; and**

In Board of Selectmen

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**WHEREAS, along the way he found the commitment and made the time to coach Pop Warner Football, Brookline High School football and serve as a Town Meeting Member for six years; and**

**WHEREAS, consistent with his Brookline roots of having been born and raised in the Town, and attended Brookline schools, he has left a legacy that only enhances the generations of service and dedication by the Lynch family; and**

**WHEREAS, in recognition of Bob Lynch's accomplishments and of the family's impact on the Town, Town Meeting voted unanimously on November 14, 2007 to rename the Putterham Golf Course the "Robert T. Lynch Municipal Golf Course at Putterham Meadows".**

**WHEREAS, it is most appropriate that we let Bob know that his tremendous service is appreciated beyond words and that he is held in the highest esteem by the citizenry of Brookline;**

**BE IT THEREFORE RESOLVED, that we, the Board of Selectmen, as the Town of Brookline's governing body extend to Bob our sincerest gratitude for the invaluable public service he performed so admirably, together with best wishes for many years of health and happiness in his retirement.**

**On motion, it was unanimously,**

**VOTED: To adopt the above Resolution honoring former Recreation Director Robert T. Lynch.**

### **SELECTMEN'S BUDGET OBJECTIVES**

**The Board considered the question of approving the Board's budget objectives for FY09.**

**Town Administrator Richard Kelliher stated good news from Blue Cross Blue Shield of a new rate increase of 13% instead of the anticipated 15%. However, on another note, the Federal Reserve has lowered interest rates which may affect the growth of many Town investments.**

**Assistant Town Administrator Melissa Goff went over the Budget Objectives. The Board discussed the Objectives and would like to make some minor changes in the language, as well as adding Taxi Medallions, and new growth opportunities.**

**The Board will vote on this at a later date.**

## **BOARDS AND COMMISSIONS**

The following candidates for appointment/reappointment to Boards and Commissions appeared for interview:

**Information Technology Advisory**  
Ariel Soiffer

**Human Relations/Youth Resources**  
Jacob Effron

### **Information Technology Advisory**

**Ariel Soiffer** is seeking re-appointment. He has served for one year and would like to continue working on the Committee. He also served on the WIFI Committee. Mr. Soiffer would like to see more integration with online processes and general improvement in technology efficiency.

### **Human Relations/Youth Resources**

**Jacob Effron** is a student at the High School where he is involved in the School newspaper. His involvement in the newspaper has lead him to become interested in race relations stemming from an article he wrote. He has attended every Human Relations/Youth Resources meeting and enjoys the discussions. He hopes to bring a fresh and different perspective on many issues due to his youth.

## **CDBG COMMITTEE**

The Board considered the question of reestablishing a new CDBG Committee and designating a Board member to sit on the Committee.

- a. Question of adopting a Charge for the new CDBG Committee.

Director of Planning & Community Development Jeff Levine stated that the Planning Department would like to revamp the Committee which provides recommendations to the Board on how to apply for grants, and recommends projects to be sent to HUD for approval. This comprises the "One Year Action Plan" for CDBG funds. Town staff is recommending that the CDBG Committee be reconstituted with a clear scope in order to ensure that the process is more coordinated with Town plans and policies.

In Board of Selectmen

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**CDBG COMMITTEE cont'd**

**On motion, it was unanimously,**

**VOTED: To reestablish a new CDBG Committee and designate a Board member to sit on the Committee. The Committee will have the following members:**

**Chair of the Board of Selectmen, or designee. Pat Maher, or Advisory Council on Public Health member as designated by the chair of the Advisory Council on Public Health. Henry Warren, or School Committee member designated by the chair of the School Committee. Chair of the Housing Advisory Board, or designee. One resident of the Town appointed by the Board of Selectmen, currently Marian Parker. One resident of subsidized or public housing in the Town appointed by the Board of Selectmen, currently Agnes Rogers.**

**On motion, it was unanimously,**

**VOTED: To adopt the following Charge for the new CDBG Committee.**

***“To review applications for Community Development Block Grant funding, take input from the public and Town staff, and develop a recommendation list of projects to the Board of Selectmen for inclusion in the Town’s “One Year Action Plan”***

**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**

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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).**

**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.**

\_\_\_\_\_ (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.**

**Public comment on appointment of a committee to review policies and procedures governing citizen complaints and on questions that have arisen in aftermath of Town Hall incident of May 12, 2007**

**Town Administrator Richard Kelliher stated that there has been a list compiled of possible candidates for appointment to the Committee the Board intends to discuss establishing for the purpose of reviewing policies and procedures governing citizen complaints against the Police Department. The following are his recommendations:**

**Dean Denniston- Director of Office of Civil Rights & Equal Opportunity**

**Elena Fernandez – IBM Communications Manager, MassHighway Board Member, and former member of Governor’s Hispanic Commission.**

**Ruth Ellen Fitch – Director, Dimock Community Health Center, retired Lawyer of Public Law**

**Bernard Greene – Asst. Attorney General. Non-profit organizations/Public Charities**

**Patrick King- Retired Trial Judge, formally with civil rights division US Dept of Justice.**

**Douglas Lousison- Labor and defense Attorney. Specializing in Police representation**

**Martin Rosenthal- Criminal Trial Attorney. Co-Chair PAX, former Selectman & co-author Police & Community Relations report**

**Robert Ullman- Former Assistant U.S. Attorney, Attorney**

**Dr. Ed Wang Co-Chair Human Relations Youth Resources**

**Public Comment**

**Mariela Ames TMM#15 requested that the case be re-opened and a hearing take place. Ms. Ames feels that Mr. Conquest has raised many questions that have not been answered. They only way to get to the truth is to hear from all of the witnesses. She added that the Police report did not accurately support Town Counsel’s statements as indicated by Chairman Daly. She does not favor the Police Department investigating themselves.**



**Arthur Conquest TMM#6** stated that as far as he is concerned too many people try to treat him like a child or subservient. When he does not do as people ask, they label him as confrontational. Mr. Conquest also stated that Chairman Daly recently mentioned caution at violating civil service rules, and wondered about his civil rights and why that is not a concern. He also added that Town Counsel was misquoted in the Police report and wondered what else is misquoted in the Police report. Mr. Conquest brought up an incident in 1992 where he was stopped and questioned while the Police were investigating a rape case. He asked how many in the audience have ever been stopped by Police in Brookline. He also mentioned that the Brookline Police had recently received a national award for their procedures on racial profiling. He wondered what has happened since winning this award.

**Susan Ellis TMM#7** stated that she felt the police report was filled with inconsistencies. She added that the Board of Selectmen should investigate the incident, and that the Police overreacted. Ms. Ellis also raised concerns about Sergeant Campbell who was on duty being the nephew of Lawrence Kaplan, Chairman of the Zoning Board, and involved in the initial confrontation.

**Robert Murphy TMM#16** and President of the Brookline Police Union, stated that the training that the Brookline Police Officers receive is second to none. He is in favor of the Committee being formed and noted that the Union will contribute as needed. Mr. Murphy also added that an important factor has not been raised, and that is that on the night of the incident, there were two African American officers present. Had they witnessed any racial overtones, they would not have tolerated it. Also there was a witness present that did make a racial comment and perhaps that person should have been charged. Someone also grabbed an officer during the incident which could turn a situation in a moment, but the Officers were able to gain control. Brookline Police receives 60 thousand service calls, second only to Cambridge and the State Police. Given these numbers against the small amount of citizen complaints shows the professionalism of the Department.

**Andrew Fischer TMM#15** stated that the Brookline Police Department is second to none, however, it does not mean it can't be better, and something was done that should not have. He feels that a hearing is the only way to be fair to both Mr. Conquest and Officer Ford.

**Fred LeBow** Precinct 1 resident stated that he supports the Police Department. The Department has always been helpful to him, and treated him with respect, even when Mr. LeBow took a stand against one of their benefits.

**Gil Fishman TMM#14** stated that he is glad to hear about the committee. He hopes that the Police Department will cooperate. Mr. Fishman added that he does not like the mentality of the Police Department against the residents, and the Zoning Board against the neighbors.

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**Ponny Katz** TMM#7 stated that she values the openness of the discussion. She is concerned that Mr. Conquest did not get a chance to speak on the Police report after it was presented to the Board of Selectmen. It was only during a public comment session that he was allowed to react to the report, and his comments are not included in the Police report.

**Virginia LaPlante** TMM#6 stated that she was present the night of the incident. She feels that Mr. Conquest was treated unfairly beginning with the altercation with Mr. Kaplan at the Zoning Board meeting. She added that she felt her husband as a white male would not have been treated the way Mr. Conquest was. Ms. LaPlante added that no one came to assist Mr. Conquest during the police questioning, and that the only disturbance in the lobby was caused by Officer Ford.

**Fred Levitan** TMM#14 stated that he has served on many Boards that have been confrontational. Voices have been raised between both Board members and the public. He is sorry that this has happened to Mr. Conquest, but he does not think it was racism. The Police Officer took control and things got confrontational. Mr. Levitan feels that the Board of Selectmen did the right thing, and we need to get past this. As for the Police investigating themselves, it is common practice called internal affairs.

**Harriet Rosenstein** TMM#9 stated that many of her concerns were already said. She is for re-opening the hearing so Mr. Conquest's questions can be addressed, and Officer Ford can be heard as well. She added that she is saddened by the events and that unfinished business needs to be resolved.

**Jim Apelstein** Beacon Street resident stated that he is in the emergency management business and has dealt with many Police forces throughout his career. He has had nothing but positive and professional communications with the Brookline Police Department. He added that when he was confronted by a racial slur, the Police handled the situation in the best way possible. Mr. Apelstein noted that the Police have no way of knowing what kind of situation they are getting into, whether it will be peaceful or not. He also added that the Board of Selectmen is intelligent enough to make the right decision.

**Myra Trachtenberg** TMM#3 read a statement from Ruthann Sneider a Brook Street resident. Ms Sneider requested the following statement be recorded: The Investigatory Report of the May 24th incident at Town Hall is laced with statements that falsely accuse me of interfering with the police detention of Arthur Conquest, a senior black resident and like myself, an active Town Meeting member. The most skewed reporting of the incident is Lt. Burke's distorted summary of my involvement. His intent in the report is to denigrate my character and devalue my testimony in support of Arthur's complaint of "racial discrimination" and "traumatizing and disparaging" treatment; testimony in which I accuse Officer Ford, as does each of the six other citizens interviewed of unprovoked, excessively aggressive behavior against Mr. Conquest, behavior Chief O'Leary defends as

In Board of Selectmen

January 22, 2008

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**"normal police procedure." The facts I reported to Lt. Burke in the presence of a witness are as follows:**

- 1. Arthur stepped forward and in a friendly voice identified himself to six police officers who were entering the elevator in the 1st floor lobby at Town Hall next to the one we were exiting.**
- 2. In response, one officer, Ford, leaped out of the elevator and like an attack dog, rushed at Arthur.**
- 3. And without any formal or informal request for information, polite or otherwise, Officer Ford forced Arthur to stumble backwards until he had him pinned against the wall, his entire body frozen in fear.**
- 4. Having cornered Arthur, Ford then leaned his entire body just 2 inches from Arthur's face, his eyes fixed, teeth bared, baiting Arthur to make a false move.**

**I watched all this from a few feet away facing Ford, everyone else behind him, and although frightened, I stepped in between them, raised my arm and yelled in my most commanding elementary school teacher voice, "STOP IT." Officer Ford turned, looked down at me and in doing so momentarily diverted his attention from Arthur. Ford then yelled at me, "You touched me. You touched me" which I didn't. Another officer, "Dunwoody," stepped forward forcing me to step back towards the Town Clerk's office. When I returned, perhaps 30 seconds later, Ford was yelling at Arthur while purposely ignoring Virginia LaPlante, another Town Meeting member who kept repeating, "He's Arthur Conquest. He's a Town Meeting member." Lt. Burke's summarized my remarks as follows:**

**"She also thought P.O. Ford was trying to provoke Mr. Conquest into fighting him based on the manner in which he acted toward Mr. Conquest". p.18.**

**Ken Kurnos TMM #16 stated that he would like to speak on the honesty and integrity of Chief O'Leary. Mr. Kurnos has worked legally on racial cases, and just because something happened between different races doesn't mean it is racist. He noted the number of service calls that go into the Department compared to the number of complaints and found it remarkable. This should speak for itself. Mr. Kurnos added that the system did work and the issue was formally resolved. He hopes that everyone can step back and take a look at the situation, and not jump to conclusions which only leads to division. Someone has to make a judgment.**

**Ed Loechler TMM#8 applauded the Board for setting up a committee. He hopes that the procedure be made public and would like to see something in writing.**

**Stanley Rabinovitz TMM#9 stated that he is very much involved with the Brookline Police Department, and he is a friend of Mr. Conquest. He added that he has**

witnessed discrimination first hand in Georgia while in the service many years ago, and he would not tolerate it. Mr. Rabinovitz stated that you can't find a better Police force and that Chief O'Leary and Town Administrator Kelliher do a great job for the community.

David Klafter TMM#12 stated that important questions have been asked, and he is not talking about the Police Department as a whole, but what happened in this incident which resulted in the arrest of a prominent citizen. The Police did respond to a situation, but not much of the report is clear. He added that Officials protect their own.

Joe Ross TMM#12 stated that he thinks progress has been made in race relations, and the Police Department is second to none. However, incidents do happen and he finds it hard to believe that a white man would have been treated the way Mr. Conquest was. Mr. Ross also stated that Zoning Board Chair Larry Kaplan made a bad judgment by arguing with the citizens. He does not like the way the Board of Selectmen has an everything is fine attitude when others feel they are not.

John Bassett TMM#6 stated that he has great respect for Chief O'Leary, and that the Police should investigate themselves. Officer Ford's behavior was dealt with in the report. There is an announcement of a committee, and a report, and it is pretty much a hearing here tonight, with witnesses speaking. A hearing is not what is needed, a statement to Mr. Conquest indicating that he did nothing wrong may be warranted. There is no question that the ordeal was upsetting and frightening to Mr. Conquest.

Chief O'Leary made the following statement for the record:

I welcome the opportunity to give my thoughts on forming a committee to review our citizen complaint process. However, I'd first like to address a couple of important points on the incident itself as well as some of the subsequent conversations and actions that occurred since May 24<sup>th</sup>, 2007. As police officers we are asked to get involved in situations and events that most people don't want to deal with. We accepted our jobs under this condition and do our best when faced with certain situations. However, there are times that things happen that are beyond our control. This is one of those cases. When I looked over this incident the day after it occurred, it was easy to see that we had become involved in a political issue that went beyond the police department. It was very clear that people did not like the ZBA decision regarding One Somerset Road and were upset about it. I quickly came to the conclusion that the police department would become immersed in an issue that, at least initially, we had nothing to do with. I was not wrong. I quickly realized that this was a case where there would not be an easy resolution, no matter what. This was readily apparent that night when one person who was in the lobby said words to the effect that "they could use this incident for their cause." Knowing what we were facing, the police department still went ahead in a straight-forward manner to resolve the incident in the proper way. We mediated the assault

**charge, we initiated a citizen complaint investigation which included interviewing a number of people who were present on May 24th, and we attempted to resolve the complaint through mediation between our officers and Mr. Conquest. When our investigation was completed, we publicly released our investigative report and our findings on this matter. Still, some people did not agree with our findings and were not satisfied with the work that has gone into this investigation. On May 24<sup>th</sup> at least three town employees were present in the selectmen's hearing room. When the argument erupted, two of the employees believed the best course of action was to call the police. Today they are being second-guessed. I ask, "Where would we be today if these employees chose to walk away and do nothing? Where would we be if they did that and the situation between the two adults who were arguing got worse? Would we say they did the right thing? Concerning the issue of race, is it acceptable that a resident of the town stated to one of our African American officers in the lobby that night "you better get back in there and protect your brother" our African American officer did not think it was acceptable. In fact, he thought it was racially insensitive. Our officers did issue a verbal "no trespass" order to Mr. Conquest. This was done to make sure the incident did not resume after police left. Furthermore, this was the proper use of the trespass statute. On January 8, 2008 Mr. Conquest was given the opportunity to state his version of the events. Towards the end of his presentation, he gave a list of questions he wanted answered. He also spoke about a time in 1992 when he was stopped by several Brookline police officers. By reading the investigatory report, one can find the answers to most of these questions. However, in order to clarify these questions and other issues raised, I have provided a written response for you tonight. I am also releasing the internal citizen complaint investigation from 1992 for you to read for yourselves and you can draw your own conclusions. There is another item that I must address with you. On January 8<sup>th</sup>, Mr. Conquest stated the following: "the most important in the investigatory report that needs to be highlighted tonight, and which I included in my 27 page rebuttal, but was not included in Lt. Burke's report, is the following and I quote: "the police officer had admitted to him, and to which his fellow officers also stated, that he was "out of control." as a result the officer wanted to meet me to shake hands and apologize for the way he behaved towards me in the lobby of town hall. I said I'd consider the offer, but first wanted to see the final report before I agreed to such a meeting. I will say to you now - Lieutenant Burke has never made that statement to Mr. Conquest. At no time did any of the other officer's state to Lieutenant Burke that officer Ford was "out of control" on the night of May 24th furthermore, when we decided to attempt mediation, I spoke with Officer Ford. He stated to me that he would meet with Mr. Conquest and speak with him. He also said that he would not apologize to him because he did not feel he did anything wrong. When you review the packet I provided you with tonight, you will see that I address this issue in a little more detail. Again, it is up to you to draw your own conclusions. Tonight, we are also discussing the formation of a committee to review our citizen complaint policy. I believe it is the right thing to do. I will say that the policy we have in place today is a good one and, with the type of review you are proposing, it will surely become an even better one. I want you to know that as a police department we are always looking for ways to do our job better. We are not**

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**afraid of change. In fact, we have changed this current policy, which has been in effect since 1988, four times since I have been Chief -we have:**

- 1. Added an early intervention program for our officers**
- 2. Included mediation at an outcome of the investigation**
- 3. Updated the way we handle the public release of investigations**
- 4. Changed the way complainants are notified of the outcome of the investigations.**

**I am fully aware of the importance of citizens having a mechanism in place where they can express their displeasure with a Police Department. This has to be a process that is fair to the citizens, to the police officers, to the Town and to the Police Department. We will assist -if committee and provide its members with information they may need as they go about their charge. We do look forward to the work of this committee.**

**Chief O'Leary announced that there are copies of his response to Mr. Conquest questions at the back of the auditorium, available to the public.**

**Chairman Daly reminded everyone that should a hearing occur; it would be about the conduct of Officer Ford, making him the defendant. The Police Union would hire an attorney and would go on from there. It would not cover the aspects that most residents are concerned about.**

**Selectman Hoy stated that he believes that positive things will come out of the process. He has learned that we need to look at how the Boards and Commissions behave, maybe look at guidelines and the conduct of members. He is not saying anyone acted improperly, but still feels that a hearing is warranted, and the Board needs to take a hard look at the report.**

**Selectman Allen stated that he feels it is a positive measure that so many came out tonight. He added that clearly there can't be a hearing on every complaint, but there needs to be standards in place. The hearing would be based on the Officers conduct, not the whole incident. He feels that there is just not enough in the Police report to tilt towards a hearing. Did the Officer act in a way that was wrongful? He is sorry that this happened to Mr. Conquest, and Officer Ford. He is sorry that Mr. Kaplan felt fearful enough to call the police. He is sorry that an African American Police Officer felt that a resident made derogatory remarks against him.**

**Selectman DeWitt stated that the community sets high standards which are good, fair standards. There is clearly room for improvement, somewhere along the line some aspects were lost and many misunderstandings began to fall apart.**

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Maybe some new procedures will include witness statements, and how they are recorded and reviewed for accuracy. There has been an attempt to answer some questions, but this has gone on too long, it is time to bring it to a closure. She is sorry that an individual felt intimidated in the community but there are many snapshots that didn't make a clear picture.

Selectman Mermell stated that many people have engaged in this challenging topic and the process is not finished yet. She feels that putting together a committee and a report is not too little too late as many seem to believe. It is the opposite, a way to shed some light on the topics raised. She hopes the public will engage with the upcoming committee.

Chairman Daly agreed with her fellow Board members. People need to be civil and appointed and elected members held at a higher standard. She added that there is no doubt this has been upsetting for Mr. Conquest and the Officers involved. The Police do not know what they are getting into when they arrive at a scene. What we consider discourteous between when police are responding to a traffic violation may not be discourteous when police are responding to a potentially dangerous situation. Police did follow their training, but there is always room for improvement.

Chairman Daly thanked everyone for their comments.

### LIQUOR LICENSE HEARING

Hearing Pursuant to Massachusetts General Laws Chapter 138, Section 64, and Section A(17) of the Town of Brookline Sale of Alcoholic Beverages Regulations, as to whether the All Kinds of Alcoholic Beverages license issued to Matt Murphy's Pub, Inc., d/b/a Matt Murphy's Pub, Siobhan Carew, Manager at 14 Harvard Street, should be modified, suspended, revoked or canceled.

This item has been postponed.

### LIQUOR – CHANGE OF MANAGER

The Board considered the question of approving the application of Cousin's Restaurant Corp., d/b/a The Family Restaurant, Ahment Ozseferoglu, Partner, holder of a Wine and Malt beverages license as a Common Victualler at 305 Washington Street for change in manager as follows:

FROM: Mumin Manavoglu  
TO: Dursun Erdem

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**LIQUOR – CHANGE OF MANAGER cont'd**

Attorney Jake Walters stated that Mr. Erdem had been the Manger of the restaurant years ago. He is familiar with the establishment.

On motion, it was unanimously,

**VOTED:** To approve the application of Cousin's Restaurant Corp., d/b/a The Family Restaurant, Ahment Ozseferoglu, Partner, holder of a Wine and Malt beverages license as a Common Victualler at 305 Washington Street for change in manager as follows:

**FROM: Mumin Manavoglu**  
**TO: Dursun Erdem**

**LIQUOR – CHANGE IN D/B/A**

The Board considered the question of approving the application of Ueno Sushi Brookline, Inc. d/b/a Takeshima, Sangbok Choi, President holder of a Wine and Malt beverages license as a Common Victualler at 308 Harvard Street, for a change in d/b/a as follows:

**FROM: Takeshima**  
**TO: Blue Ocean**

Ms. Sangbok Choi stated that she would like to expand the menu adding food other than Japanese. She would like to change the name from Japanese to a more general name.

On motion, it was unanimously,

**VOTED:** To approve the application of Ueno Sushi Brookline, Inc. d/b/a Takeshima, Sangbok Choi, President holder of a Wine and Malt beverages license as a Common Victualler at 308 Harvard Street, for a change in d/b/a as follows:

**FROM: Takeshima**  
**TO: Blue Ocean**



**COMMON VICTUALLER/ENTERTAINMENT LICENSE - RESCIND**

**The Board considered the question of rescinding the Board's vote of October 16, 2007 granting a Common Victualler and Entertainment License to Lucksamee of Brookline, Inc., d/b/a New Rod Dee Thai Cuisine, Osmin Hernandez, President at 1669 Beacon Street.**

**Attorney Roger Lipson stated that the applicant recently was granted a Common Victualler's license for 1669 Beacon Street. Recently a larger location next door at 1671 Beacon Street has become available, and Mr. Hernandez would like to occupy that space instead. All aspects of the license will stay the same.**

**On motion, it was unanimously,**

**VOTED: To rescind the Board's vote of October 16, 2007 granting a Common Victualler and Entertainment License to Lucksamee of Brookline, Inc., d/b/a New Rod Dee Thai Cuisine, Osmin Hernandez, President at 1669 Beacon Street.**

**COMMON VICTUALLER LICENSE**

**The Board considered the question of approving the application of Lucksamee of Brookline, Inc., d/b/a New Rod Dee Thai Cuisine, Osmin Hernandez, President for a Common Victualler license at 1671 Beacon Street.**

**The Board considered the question of granting an Entertainment license to New Rod Dee Thai Cuisine, Osmin Hernandez, President holder of a Common Victualler license at 1671 Beacon Street for the following forms of entertainment: Radio, Muzak and Taped Music.**

**On motion, it was unanimously,**

**VOTED: To approve the application of Lucksamee of Brookline, Inc., d/b/a New Rod Dee Thai Cuisine, Osmin Hernandez, President for a Common Victualler license at 1671 Beacon Street.**

**VOTED: To grant an Entertainment license to New Rod Dee Thai Cuisine, Osmin Hernandez, President holder of a Common Victualler license at 1671 Beacon Street for the following forms of entertainment: Radio, Muzak and Taped Music.**

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**FOOD VENDOR LICENSE**

**The Board considered the question of approving the application of Chai Catering LLC, d/b/a Chai Catering, Joshua Ruboy, Manager for a Food Vendor License at 428 Harvard Street.**

**This item has been postponed.**

**Public Hearing on the application of Publick House Provisions, Inc., d/b/a Publick House Provisions, Ailish Gilligan, Manager for a licenses to Expose,, Keep for Sale and to Sell Wine and Malt Beverages as a Retail Package Store and Food Vendor at 1706 Beacon Street.**

**Co-owner David Ciccolo stated that the main focus of the shop will be specialty items and provisions. The beer selection will be high end, along with a large selection of cheese and chocolates.**

**The Board stressed the Town's non tolerance for serving alcohol to minors.**

**Mr. Ciccolo replied that he has strict practices in place.**

**On motion, it was unanimously,**

**VOTED: To grant the application of Publick House Provisions, Inc., d/b/a Publick House Provisions, Ailish Gilligan, Manager for a licenses to Expose,, Keep for Sale and to Sell Wine and Malt Beverages as a Retail Package Store and Food Vendor at 1706 Beacon Street.**

**ALL KINDS COMMON VICTUALLER**

**Public Hearing on the application of Bon, LLC, d/b/a Bon, Kazuhiro Aotani, Manager, for a license to Expose, Keep for Sale and to Sell All Kinds of Alcoholic beverages to be Drunk on the premises as a Common Victualler at 1653 Beacon Street.**

**The Board considered the question of granting a license to LLC, d/b/a Bon, Kazuhiro Aotani, Manager, holder of an All Kinds of Alcoholic beverages license as a Common Victualler at 1653 Beacon Street for the following forms of entertainment: Radio, Taped Music and TV.**

**Attorney Carolyn Conway introduced Kazuhiro Aotani and Yuka Ogawa Cummings. Ms. Cummings stated that the restaurant will be an upscale Japanese restaurant.**

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**The Board expressed concern on a past incident involving Mr. Aotani resulting in a police record.**

**Mr. Aotani replied that that was a few years ago and he regrets the incident.**

**On motion, it was unanimously,**

**VOTED: To grant a license to LLC, d/b/a Bon, Kazuhiro Aotani, Manager, holder of an All Kinds of Alcoholic beverages license as a Common Victualler at 1653 Beacon Street for the following forms of entertainment: Radio, Taped Music and TV.**

### **BOARDS AND COMMISSIONS**

**The Board considered the question of making appointments to the Information Technology Committee.**

**On motion, it was unanimously,**

**VOTED: To re-appoint Stephanie Leung to the Informational Technology Committee for a term ending August 31, 2010, or until a successor can be appointed.**

**VOTED: To re-appoint Ariel Soffier to the Informational Technology Committee for a term ending August 31, 2010, or until a successor can be appointed.**

**VOTED: To appoint Tom Wolf to the Informational Technology Committee for a term ending August 31, 2010, or until a successor can be appointed.**

**There being no further business, the Chair adjourned the meeting at 10:00 p.m.**

**ATTEST**

**IN BOARD OF SELECTMEN**

**January 29, 2008**

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

**The Minutes of January 8, and January 15, 2008 were  
approved. January 15, as amended.**

**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>.
- (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  
for roll call  
Voting in the Negative: 0**

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

**PUBLIC COMMENT**

**Myra Trachtenberg** TMM#3 expressed her disappointment in the recent rejection of the Coolidge Corner District Plan by the Planning Board. She feels there was not enough time given to the CCDPC to read the objections. Ms. Trachtenberg takes issue with several of the Planning Board's findings.

**Susan Allen**, Westbourne Terrace spoke on the importance of laws and the absence of the legal system. She added that there was an incident on May 24, 2007 between a Town Meeting Member and a Police Officer. She does not feel safe in this Town where people are not free to speak their opinions. She stated that the Board be required to investigate the incident.

**CONTRACT**

The Board considered the question of awarding and executing a Contract in the amount of \$71,400.00 for the Energy Management System Replacement at Eliot Recreation Center and the Heath School to Johnson Controls, Inc., of Lynnfield, MA 01940. Said Contract to be funded from the following accounts:

2599WS07 6E0052	
EMS	\$51,400.09
2599WS07 6E0014	
Energy Conservation	\$17,495.99
25003430 5224HE	
Heath School Repairs	\$ 1,251.96
25002510 5224EL	
Eliot Recreation Repairs	\$ 1,251.96

Director of Public Buildings Charlie Simmons stated that this contract is to replace the Energy Management System at the Eliot Rec Center and the Heath School. There was only one bidder for this project. Mr. Simmons inquired into this and the feedback was that the contractors were too busy at the time.

On motion, it was unanimously,

**VOTED:** To award and execute a Contract in the amount of \$71,400.00 for the Energy Management System Replacement at Eliot Recreation Center and the Heath School to Johnson Controls, Inc., of Lynnfield, MA 01940. Said Contract to be funded from the following accounts:

2599WS07 6E0052	
EMS	\$51,400.09

<b>2599WS07 6E0014</b>	
<b>Energy Conservation</b>	<b>\$17,495.99</b>
<b>25003430 5224HE</b>	
<b>Heath School Repairs</b>	<b>\$ 1,251.96</b>
<b>25002510 5224EL</b>	
<b>Eliot Recreation Repairs</b>	<b>\$ 1,251.96</b>

**REBATE**

The Board considered the question of accepting a \$30,000 energy rebate from KeySpan for modifications to boiler/burner equipment at the Old Lincoln School, Public Safety Building, the Main Library and the Health Center.

Director of Public Buildings Charlie Simmons stated that over the past year, there have been negotiations with Keyspan Energy on gas conversion and energy efficiency projects within the Town. Keyspan has offered \$30,000 for the Town's use to modify boiler/burner equipment. As part of the agreement, gas would be used as the primary fuel at the Old Lincoln, Public Safety Building, the Main Library and the Health Department until 2010.

On motion, it was unanimously,

**VOTED:** To accept a \$30,000 energy rebate from KeySpan for modifications to boiler/burner equipment at the Old Lincoln School, Public Safety Building, the Main Library and the Health Center.

**EXPANDABLE TRUST FUND**

The Board considered the question of authorizing the use of \$70,000 from the Boston Athletic Association (BAA) expendable Trust Fund (TR02) under the direction of the Commissioner of Public Works and/or Recreation Director for the purpose of improving the Soule Gardener's Shed.

Director of Parks and Open Spaces Erin Gallentine stated that if approved, these funds will be used towards the renovation of the currently unused Gardener's shed at the Soule Recreation site to create public restrooms and an environmental classroom. The trust is funded by the annual contribution from the BAA related to the Boston Marathon, and can only be used for the purpose of aiding in the development and continuation of athletic and recreational activities.



**EXPANDABLE TRUST FUND cont'd**

On motion, it was unanimously,

**VOTED:** To authorize the use of \$70,000 from the Boston Athletic Association (BAA) expendable Trust Fund (TR02) under the direction of the Commissioner of Public Works and/or Recreation Director for the purpose of improving the Soule Gardener's Shed.

**EXTRA WORK ORDER**

The Board considered the question of approving an Extra Work Order in the amount of \$120,000 for work to be completed by D'Allessandro, Corp. in connection with Contract No. PW/08-08 "Snow Removal Services".

Department of Public Works Commissioner Tom DeMaio stated that due to the heavy snowfall in December, the snow removal budget had gone over the anticipated cost. The Board has invoked M.G.L. Chapter 44, section 31D allowing the DPW to overspend for snow and ice control and continue winter operations.

Selectman Mermell stated that she has heard concerns from many residents on snow removal. Some concerns include sidewalk plowing near pedestrians and pushing snow into shoveled out driveways. She hopes Mr. DeMaio will relay these concerns to the contractor so he may show consideration. Mr. DeMaio replied that he will and any problems with the snow removal should be directed to the DPW.

On motion, it was unanimously,

**VOTED:** To approve an Extra Work Order in the amount of \$120,000 for work to be completed by D'Allessandro, Corp. in connection with Contract No. PW/08-08 "Snow Removal Services".

**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:

Reception	February 1 <sup>st</sup> 6:00 p.m. – 9:00 p.m.
Meeting	February 6 <sup>th</sup> 4:00 p.m. – 6:00 p.m.

**TEMPORARY WINE AND MALT BEVERAGE LICENSE cont'd**

**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:**

<b>Reception</b>	<b>February 1<sup>st</sup> 6:00 p.m. – 9:00 p.m.</b>
<b>Meeting</b>	<b>February 6<sup>th</sup> 4:00 p.m. – 6:00 p.m.</b>

**TEMPORARY WINE AND MALT BEVERAGE LICENSE**

**The Board considered the question of granting a temporary All Kinds of Alcoholic beverages license to the Brookline Library Foundation in connection with a Fund Raiser to be held on March 2, 2008 from 7:00 p.m. – 10:00 p.m. at the Main Library, 361 Washington Street.**

**Selectman Hoy noted that this is a successful event for a great cause.**

**On motion, it was unanimously,**

**VOTED: To grant a temporary All Kinds of Alcoholic beverages license to the Brookline Library Foundation in connection with a Fund Raiser to be held on March 2, 2008 from 7:00 p.m. – 10:00 p.m. at the Main Library, 361 Washington Street.**

**GRANT**

**Question of accepting a grant from the Statewide Emergency Telecommunications Board in the amount of \$18,100 to be used exclusively for Emergency Telecommunications Dispatcher training.**

**Chief O'Leary stated that this is the second consecutive year the Department has been awarded this grant. It will be used exclusively for Emergency Telecommunications Dispatcher's training.**

**On motion, it was unanimously,**

**VOTED: To accept a grant from the Statewide Emergency Telecommunications Board in the amount of \$18,100 to be used exclusively for Emergency Telecommunications Dispatcher training.**

**TOWN COUNSEL PERSONNEL**

**The Board considered the question of authorizing the filling of a vacancy in the position of Associate Town Counsel II.**

**Town Counsel Jennifer Dopazo stated that due to the recent resignation of Associate Town Counsel George Driscoll, she is requesting an exemption from the hiring freeze in order to hire a replacement. Ms. Dopazo added that there are cases and matters that will need immediate attention upon Mr. Driscoll's departure. An urgent need to fill this position is based on undeferrable work requirements involved, additional expense should the work be outsourced, and that the Public Safety Department relies on available legal service.**

**Ms. Dopazo added that Mr. Driscoll takes with him 29 years of experience from the Town (9 as a police officer and detective and 20 as an attorney). George's expertise and experience in the many areas he focused on over the years will be difficult to replace and his departure is certainly a loss for this Office and the Town.**

**On motion, it was unanimously,**

**VOTED: To authorize the filling of a vacancy in the position of Associate Town Counsel II.**

**BOARDS AND COMMISSIONS**

**The following candidates for appointment to Boards and Commissions appeared for interview:**

**Preservation Commission  
Bruce Cohen**

**Bruce Cohen is seeking appointment. He is an Assistant Professor in Obstetrics, Gynecology and Reproductive Biology at Harvard Medical School. Dr. Cohen has recently bought a home in Brookline in the newest historic district. He has worked extensively preserving his home, and during this time has become interested in preserving Brookline's historic areas. Dr. Cohen would be interested in serving on another Board should there be no vacancies on the Preservation Commission.**

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**NOISE BYLAW WAIVER**

**POSTPONED**

The Board considered the question of granting a Noise Control By-Law waiver to Torra Development, LLC of Beverly, Massachusetts in connection with store renovations at Lady Grace Retail Store, 1364 Beacon Street from 6:00 p.m. to 2:30 a.m.

Although this item had been postponed, Mr. Donald Shaw from Torra Development was present to speak on this item. Mr. Shaw was unaware that Torra Development requested the postponement.

**NOISE BY-LAW WAIVER**

The Board considered the question of granting a Noise Bylaw Waiver to Golden Temple, Inc., Eric Hornfeldt Manager, 1651 Beacon Street for period of one year in connection with quarterly air-vent duct cleaning to be done at 1651 Beacon Street from 2:00 a.m. to 8:00 a.m.

Eric Hornfeldt, Manager of the Golden Temple stated that the air-venting ducts have been professionally steam cleaned on a quarterly basis for over twenty years. The technicians who perform this cleaning actually climb into the ducts. The process takes 4-5 hours to do and cannot be done while the kitchen is operating. It has always been performed overnight. The last time this was done there was a noise complaint.

Selectman Hoy stated that he is not comfortable granting a Noise Bylaw Waiver for one year. He would consider it for a month or two.

Mr. Fred Lebow of the Noise By-Law Committee asked the Board to consider granting the Noise Bylaw Waiver for one year. This would allow the Noise Bylaw Committee time to investigate the noise level at the Golden Temple.

On motion, it was unanimously,

**VOTED:** To grant a Noise Bylaw Waiver to Golden Temple, Inc., Eric Hornfeldt Manager, 1651 Beacon Street for period of two months in connection with quarterly air-vent duct cleaning to be done at 1651 Beacon Street from 2:00 a.m. to 8:00 a.m.

**MODERATOR'S COMMITTEE ON SIDEWALK SNOW REMOVAL**

**Presentation of the report of the Moderator's Committee on Snow Removal.**

**Chair of the Snow Removal Committee Ronny Sydney stated that it costs \$1.2 million to plow 100 miles of sidewalks in the Town. Right now the DPW is just trying to maintain this. The current arrangement is for the Town to plow 43 miles of high priority sidewalks. This is a challenge due to the fact that the DPW budget has been level funded since 1994; costs of personnel, materials, and equipment continue to increase, and yet there is the expectation that DPW will maintain the same level of snow removal services. The DPW staff has gone from 360 in 1978 to 170 in 2007. The Committee recommended that the Town replace three Bombardier sidewalk tractors purchased in 1994. They also proposed that the Town budget be increased to purchase snow removal equipment and maintain adequate personnel. Another area looked at was designating School custodians responsible under their job descriptions for removal of snow in immediate school areas. This is done in other communities; however it is a contract issue and would need to be included in collective bargaining. Encouraging the participation of neighborhood associations and business organizations would also benefit the Town. Merchants are required to remove snow and ice from in front of their property. The shovel our snow program is up and running and could be utilized more. This is a paid for service provided by the Recreation Department where students will shovel snow for an agreed upon fee paid by the homeowner.**

**Highway Director Kevin Johnson stated that the equipment is old, and replacement is needed. It is hard to look at a piece of equipment that is only used a few times a year and put it in the budget, but it is an important piece of equipment.**

**Chairman Daly inquired about the Town clearing the sidewalk in front of merchants in Coolidge Corner and Washington Square. This is part of the Town's route to plow and maybe there should be some cost to the merchants for this.**

**Commissioner DeMaio thanked the Committee and added that the Department of Public Works has been struggling to maintain sidewalk clearing with fewer employees and funds. He appreciates that the Committee understands this, and will continue to work with the Committee.**

**The Board thanked the Committee and acknowledged that this is a difficult issue for both the residents and the Town to keep up with. It will take participation from everyone to make sure the sidewalks are safe for pedestrians.**

## **BUDGET UPDATE**

**Deputy Town Administrator Sean Cronin appeared to review the Governor's FY09 Local Aid proposals and the town's revenue experience for the first six months of the current fiscal year.**

### **Mr. Cronin went over the following memos:**

The Governor's FY09 budget was unveiled yesterday and closes a deficit estimated to be in excess of \$1B. In general terms, the \$28.2B proposed budget increases state spending by approximately \$1.4B (5%) above FY08. In order to close the structural deficit and increase spending in various areas, the following were included in the proposal:

- Transfer of \$369M from the Stabilization ("Rainy Day") Fund
- Elimination of \$297M in corporate tax loopholes<sup>2</sup>
- Use of \$289M of tobacco settlement monies
- Assumption of \$166M of additional revenue from stricter enforcement of existing tax laws
- Assumption of \$124M in casino licensing fees to plug the shortfall in the Lottery<sup>3</sup>
- Implementation of savings initiatives (a net \$160M from Medicaid, \$51M from changing employee contribution rates for health insurance, \$40M from eliminating legislative earmarks, and level-funding 190 line-items from across state government).

The primary areas accounting for the growth in spending include: health insurance (both Medicaid and state employee health care), Ch. 70 (+\$223M), Lottery deficit (+\$124M), SBA Funding (+\$67M), and Pensions (approx. +\$66M)<sup>4</sup>.

## **IMPACT ON BROOKLINE**

The Forecast presented in December, 2007 anticipated a total decrease of \$80K in Local Aid, exclusive of SBA reimbursements, which reflected a Ch.70 increase of \$50 / pupil (\$300K) plus a small increase in Quinn (\$18K), offset by a \$400K cut in Lottery. House 1 includes a total Ch.70 increase of \$805K, or \$505K more than assumed in the Forecast. It also level funds Lottery proceeds, but does so by using \$124M in assumed casino licensing fees to plug the difference between the expected net proceeds (\$811M) and the FY08 budgeted amount (\$935M). In addition, there is \$229K less in Cherry Sheet

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<sup>2</sup> The Governor plans to help offset the impact on businesses by reducing the 9.5% corporate tax rate over a 3-year period, commencing in FY10, to 8.3%.

<sup>3</sup> In addition to this \$124M, the Governor's plan is to use another \$88M from casino licensing fees for Ch. 90 and another \$88M for property tax relief. This total of \$300M for FY09 is a piece of the total \$800M estimated to come from casino licensing fees.

<sup>4</sup> The SBA and Pensions, along with the MBTA, are "off-budget", so transfers are made directly from the General Fund.

Assessments than anticipated, primarily from the MBTA and the RMV Surcharge. For Brookline, this results in \$1.1M more in net local aid than included in the Forecast. (Year-over-year, the Net State Aid increase is \$733K, or 5.4%.) This \$1.1M increase should be split in accordance with the Town/School Partnership.

The table below shows how the House 1 Cherry Sheet compares to both the current FY and what we assumed in the Forecast.

	FY08 FINAL CHERRY SHEET	FY09 CHERRY SHEET BASED ON HI	VARIANCE FROM FY08	% VARIANCE FROM FY08	FY09 CHERRY SHEET EST. IN FORECAST	VARIANCE FROM HI	% VARIANCE FROM HI
<div style="border: 1px solid black; padding: 2px; display: inline-block; margin-bottom: 5px;">Sch Constr now a non-Cherry Sheet, Off-Budget Item.</div>							
<b>RECEIPTS</b>							
Ch. 70	6,667,814	7,473,142	805,328	12.1%	6,967,814	505,328	7.3%
School Constr.	3,442,794	3,267,372	(175,422)	-5.1%	3,267,372	0	0.0%
Lottery	4,403,998	3,819,234	(584,764)	-13.3%	4,003,998	(184,764)	-4.6%
Gaming Proceeds for Lottery Gap		584,764	584,764	#DIV/0!		584,764	#DIV/0!
Add. Assistance	3,497,741	3,497,741	0	0.0%	3,497,741	0	0.0%
Quinn	730,059	734,914	4,855	0.7%	748,310	(13,396)	-1.8%
Vets Benefits	47,455	51,062	3,607	7.6%	47,455	3,607	7.6%
Exemptions	45,177	42,059	(3,118)	-6.9%	45,177	(3,118)	-6.9%
Charter School Reimbursements	17,344	18,335	991	5.7%	17,344	991	5.7%
<b>TOTAL RECEIPTS</b>	<b>18,852,382</b>	<b>19,488,623</b>	<b>636,241</b>	<b>3.4%</b>	<b>18,595,211</b>	<b>893,412</b>	<b>4.8%</b>
<b>CHARGES</b>							
County	589,801	604,546	14,745	2.5%	604,546	(0)	0.0%
Retired Empl. Health Ins.	2,812	3,932	1,120	39.8%	2,882	1,050	36.4%
Air Pollution Dist.	21,226	21,659	433	2.0%	21,757	(98)	-0.4%
MAPC	16,096	16,191	95	0.6%	16,498	(307)	-1.9%
RMV Surcharge	305,280	242,540	(62,740)	-20.6%	305,280	(62,740)	-20.6%
MBTA	4,478,658	4,455,062	(23,596)	-0.5%	4,590,580	(135,518)	-3.0%
SPED	68,078	32,583	(35,495)	-52.1%	69,780	(37,197)	-53.3%
Charter School Sending Tuition	29,178	35,101	5,923	20.3%	29,178	5,923	20.3%
<b>TOTAL CHARGES</b>	<b>5,511,129</b>	<b>5,411,614</b>	<b>(99,515)</b>	<b>-1.8%</b>	<b>5,640,501</b>	<b>(228,887)</b>	<b>-4.1%</b>
<b>OFFSETS</b>							
School Lunch	22,427	20,004	(2,423)	-10.8%	22,427	(2,423)	-10.8%
Libraries	98,322	98,322	0	0.0%	98,322	0	0.0%
<b>TOTAL OFFSETS</b>	<b>120,749</b>	<b>118,326</b>	<b>(2,423)</b>	<b>-2.0%</b>	<b>120,749</b>	<b>(2,423)</b>	<b>-2.0%</b>
<b>NET LOCAL AID</b>	<b>13,462,002</b>	<b>14,195,335</b>	<b>733,333</b>	<b>5.4%</b>	<b>13,075,459</b>	<b>1,119,876</b>	<b>8.6%</b>
<b>NET LOCAL AID W/O OFFSETS</b>	<b>13,341,253</b>	<b>14,077,009</b>	<b>735,756</b>	<b>5.5%</b>	<b>12,954,710</b>	<b>1,122,299</b>	<b>8.7%</b>
<b>GROSS LOCAL AID</b>	<b>18,973,131</b>	<b>19,606,949</b>	<b>633,818</b>	<b>3.3%</b>	<b>18,715,960</b>	<b>890,989</b>	<b>4.8%</b>

The bullets below summarize the variances from the estimates used in the Forecast, with Revenue (including Offsets) first and Charges second:

**Revenue / Offsets**

- ✚ +\$505,328 is from Ch. 70 funding. This reflects is the third year of the planned five-year phase-in of the aggregate wealth model for calculating required local contributions.
- ✚ +\$400,000 is from Lottery proceeds, the result of a level-funding the line-item at \$935M statewide.
- ✚ -\$13,396 is from Quinn, per the Preliminary Cherry Sheet published by DLS.
- ✚ +\$3,607 is from Veterans' Reimbursements, per the Preliminary Cherry Sheet published by DLS.

- ✚ -\$3,118 is for Property Tax Exemption Reimbursements, per the Preliminary Cherry Sheet published by DLS.
- ✚ +\$991 is for Charter School Sending Tuition, per the Preliminary Cherry Sheet published by DLS.
- ✚ -\$2,423 is for School Lunch offset aid, per the Preliminary Cherry Sheet published by DLS. This revenue is offset by a decrease in the Non-Appropriated budget, so there is no impact on the budget. (However, the Schools receive this money directly, so they do lose this funding.)

### **Charges**

- ✚ +\$1,050 is due to a larger than anticipated increase for the Retired Employee Health Insurance Assessment.
- ✚ -\$98 is due to a smaller than anticipated increase for the Air Pollution District Assessment.
- ✚ -\$307 is due to a smaller than anticipated increase for the MAPC Assessment.
- ✚ -\$62,740 is due to an unexpected decrease for the RMV Surcharge Assessment.
- ✚ -\$135,518 is due to an unexpected decrease for the MBTA Assessment.
- ✚ -\$37,197 is due to an unexpected decrease for the SPED Assessment.
- ✚ +\$5,923 is due to a larger than anticipated increase for the Charter School Sending Tuition Assessment.

### CHERRY SHEET ACCOUNTS

Statewide, total Cherry Sheet Aid would total \$5.7B<sup>5</sup>, an increase of \$248M (4.5%). The increase comes from Chapter 70 (\$223M, 6%), Charter School Reimbursements (\$8M, 10.8%), Veterans Benefits Reimbursements (\$5.7M, 37.8%), Retired Teacher's Pension (Boston) (\$4.7M, 5%), Quinn Bill Reimbursements (\$3.1M, 5.8%), and PILOT Payments for State-Owned Land (\$2M, 7.1%).

The specifics of the individual accounts are listed below:

- **Chapter 70** – total statewide funding is \$3.8B, an increase of \$223M (6%) above the FY08 level. This reflects the third year of the planned five-year phase-in of the aggregate wealth model for calculating required local contributions. Each municipality's target contribution has been updated using 2006 property values and 2005 personal income data. For municipalities with required contributions above their targets, the requirement is reduced by 33% of the gap (compared to 25% last year). In addition, Foundation aid is fully funded, down-payment aid is calculated using 33% of the target, compared to 30% last year, Growth aid provides aid to districts whose foundation budgets are growing due to inflation or enrollment, and Minimum aid guarantees every district a minimum increase of at least \$50 per pupil. This funding level enables all 328 school districts to realize an increase in funding from FY08 levels.

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<sup>5</sup> This figure does not include SBA reimbursements, which are off-budget.



For Brookline, the increase is \$805K (12%), an amount that is \$505K more than assumed in the Forecast (the Forecast assumed \$50 / pupil).

- **Lottery** – this account level-funded at \$935M statewide, but that is accomplished by using \$124M in assumed casino licensing fees to plug the difference between the expected net proceeds (\$811M) and the current budgeted amount (\$935M). The Brief on the Gaming Initiative states the following:

“It should be noted that the State's commitment to cities and towns is to distribute uncapped net lottery revenues to them for unrestricted use to support their municipal budgets. Based on current projections of FY09 net lottery receipts, a distribution to cities and towns of \$811 million would satisfy this commitment. The Governor, however, recognizes the fact that municipalities have come to rely on an aggregate distribution of \$935 million. Although the Commonwealth cannot afford to fund the expected shortfall for existing State resources, passage of the Governor's casino proposal would provide new State revenues that the Governor proposes to dedicate in part to funding this shortfall.”

For Brookline, the level-funding results in a revenue budget of \$4.4M, an amount that is \$400K greater than was assumed in the Forecast. It should be made quite clear that, based on Section 3 of the proposal (the Local Aid distribution section), if the casino revenue was not used and Lottery had to be cut, Brookline's share would be cut \$584,764, an amount that is \$185K more than the \$400K cut assumed in the Forecast.

- **Additional Assistance** – this account is level-funded statewide at \$378.5M and at \$3.5M for Brookline.
- **Quinn Reimbursement** – this line-item is increased \$3.1M (5.8%) to \$56.4M. According to the Preliminary Cherry Sheet issued by DLS, the Town will receive \$734,914, an increase of \$4,855 (0.7%).
- **Veterans' Benefits** – this line-item is increased \$5.7M (37.8%) to \$20.9M. According to the Preliminary Cherry Sheet issued by DLS, the Town will receive \$51,062, an increase of \$3,607 (7.6%).
- **Property Tax Exemption Reimbursements** – these accounts, which reimburse municipalities, to a certain extent, for property tax exemptions for particular categories of taxpayers (elderly, veterans, widows, blind), increase \$50K, or

0.2%. According to the Preliminary Cherry Sheet issued by DLS, the Town will receive \$42,059, a decrease of \$3,118 (6.9%).

- **Charter School Tuition Assessment Reimbursement** – this \$81.8M statewide account funds the reimbursement of the state assessment for students attending a Charter School, according to the following schedule:
  - 100% of the assessment in year 1;
  - 60% of the assessment in year 2;
  - 40% of the assessment in year 3; and no reimbursement after that.

The \$81.8M represents an increase of \$8M (10.8%). According to the Preliminary Cherry Sheet issued by DLS, the Town will receive \$18,335, an increase of \$991 (5.7%). It should be noted that this increase is more than offset by a \$5,923 increase in the Assessment for Charter School Sending Tuition.

- **School Transportation** – this account, which was eliminated in FY04, remains at \$0.
- **SBA** – due to the major reform approved in the Summer of 2004, there is no line-item in the budget for SBA reimbursements - - the funding has been moved off-budget. The transfer from the State's General Fund to the SBA Fund is \$702M, an increase of approximately \$70M. This increase represents the 5<sup>th</sup> year of the 7-year phase-in of the dedication of 1 cent of the 5 cent sales tax for SBA.
- **METCO** – this account is increased \$1.5M (7.3%) to \$22.1M statewide. Since METCO is no longer a Cherry Sheet account, I do not know the funding level for Brookline. I will ask the Schools what their estimate is for FY09. (I estimate their increase to be approximately \$100K.)
- **School Lunch** – this offset item is level-funded at \$5.4M statewide. According to the Preliminary Cherry Sheet issued by DLS, Brookline stands to receive \$20,004 for this program, a decrease of \$2,423 (10.8%).
- **Library Assistance** – this offset item is level-funded at \$9.5M statewide. According to the Preliminary Cherry Sheet issued by DLS, Brookline stands to receive \$98,332 for this program, an amount that reflects level-funding.
- **PILOT Payments** – this account is increased \$2M (7.1%) to \$30.3M. Brookline receives no funding from this account.

OTHER LOCAL GOVERNMENT-RELATED ACCOUNTS / ISSUES

1. **SPED “Circuit Breaker”** – House 1 increases the “circuit breaker” reimbursement formula for SPED by \$14.3 (6.5%) to \$234.3M. It is my understanding that this would allow for the full 75% reimbursement level. In FY07, the Schools received four quarterly payments that totaled \$2M. In FY08, the first two quarterly payments have totaled \$1M.
2. **Community Policing** – this appropriation is reduced \$2.2M (10.2%) to \$19.2M. There is no earmarking in the line-item. If the Town’s grant was cut 10.2%, we would lose \$6K if the \$59K grant.
3. **Municipal Police Grants** – this program, which is intended to help put additional police officers on the streets of communities with high crime rates, is increased \$4M (100%) to \$8M. Brookline did not receive any funding from this item in FY08.
4. **Shannon Grants** – these anti-gang grants are increased \$4M to \$11M. Brookline received approximately \$75K in FY08.
5. **SAFE** – funding for this program is included in the Department of Fire Services budget, which increased \$8.8M (65%). While not earmarked in the line-item language, the Brief on the Public Safety Initiatives states that \$1.25M is included. (For FY08, when it was its own line-item, \$1.18M was available.) In FY08, the Town received \$7K.
6. **Firefighter Equipment Grants** – funding for this program is included in the Department of Fire Services budget, which increased \$8.8M (65%). While not earmarked in the line-item language, the Brief on the Public Safety Initiatives states that \$5M is included. (The FY08 budget included no funding for this.)
7. **CJTC Fee** – the line-item language maintains the amount charged to municipalities at \$2,700. (In FY06 it was increased from \$2,300, after being increased from \$1,900 to \$2,300 in FY03.)
8. **Chapter 90 (Road Construction)** – there are no funds included in the proposal. The prior three-year \$450M bond authorization for Ch.90 expired in FY07 and ANF filed a new Transportation Bond Bill in November, 2007, that included a three-year \$500M Ch. 90 program. In addition, \$88M would be made available in FY09 from casino licensing fees, if the Legislature approves the casino plans.

9. **MWRA Debt Service** – \$15M is included, a decrease of \$8M (34.8M) from FY08. The \$15M will positively effect Brookline’s MWRA Assessment in FY09, but obviously not as much as if it were level-funded at \$25M.
10. **MCAS Assistance** – this grant account is increased \$2.2M (16.7%) to \$15.4M. Brookline receives approx. \$13K from this account.
11. **Kindergarten Expansion Grants** – this account is increased \$8.4M (24.8%) to \$42.2M. The Brookline School Department will receive a grant of \$388K in FY08. Since the annual appropriation is increased, there may be additional funding for Brookline.
12. **Universal Pre-School Grants** – this account is increased \$15M (210%) to \$22.1M. The Brookline School Department receives no funding from this account.
13. **Extended Time Grants** – this account is increased \$13M (100%) to \$26M. The Brookline School Department receives no funding from this account.
14. **School Health Services Grants** – there are two accounts that make up these grants: school-based health programs and smoking cessation. The school-based health programs line-item is increased by \$34K (0.2%) to \$16.8M while the smoking cessation program is basically level-funded at \$12.8M. In FY08, the Town will receive approx. \$113K for School Nurses from the school-based health programs account.
15. **County Sheriffs** – the Governor has proposed folding the remaining seven County Sheriffs, of which Norfolk is one, into the State system. According to the Brief of County Sheriffs, there is a direct positive impact on municipalities located within those counties: the “maintenance of effort” (MOE) received by sheriffs from municipalities would be frozen in FY09 and eliminated in FY10. I do not know how this would impact Brookline, but I will attempt to speak with ANF about the proposal.

While not directly related to local government, there are three proposals contained in House 1 that I would like to bring to your attention.

- OPEB Funding / Use of Tobacco Fund – in FY08, the State created a State Retiree Benefits Trust Fund to begin addressing their Other Post-Employment Benefits (OPEB) liability, more commonly referred to as the unfunded retiree health insurance liability. Approximately \$400 million was transferring into the new fund from the Health Care Security Trust Fund (tobacco monies) as a down payment on the obligation. Outside Section 11 proposes a phased-in approach to direct payments under the state's tobacco litigation settlement towards these costs. Under the Administration's plan, 10% of all future payments are first set aside to

support smoking cessation programs. Beginning in FY10, one quarter of the remaining 90% received would be deposited in the new trust fund. By FY13, and for all subsequent years, 90% of the annual tobacco payment would be deposited in the fund. (In FY09, 100% of the tobacco monies go to support the General Fund.)

- Change in State Employees' Health Care Premium Contribution – the Governor proposes changing how the employee share of health care premiums are determined. Currently, state employees' contributions are tied to date of hire, with most employees hired before June 30, 2003 contributing 15% to their health coverage and employees hired after that date contributing 20%. According to the Brief on Health Benefit Contribution Reform, the proposal is made because “[T]his is a generous benefit that, during a time of fiscal restraint and shared responsibility, cannot be sustained.” Under the proposal, state employees' contributions will instead be based on annual salary as follows:

Salary Level	Employee Contribution
less than \$35,000	15%
\$35,000 to \$50,000	20%
more than \$50,000	25%

The Administration estimates that 6,000 employees earning less than \$35,000 will see their premium contributions decrease and 16,000 employees will not see a contribution change. For the rest, the amount of contribution will increase. These reforms are estimated to generate more than \$51 million in savings.

- Change in the Stabilization Fund Policy – the budget proposal includes an amendment to state finance law that would allow investment earnings on the balance of the Stabilization Fund to count toward the statutorily required deposit. I point this out because it reduces the amount of revenue that comes off the top at the beginning of the budget process. The Administration also proposes a policy for use of the fund: drawdown only an amount equal to the difference between the consensus revenue forecast and the average actual growth over the past five years.

## CONCLUSION

There is a significant increase in House 1's Net Cherry Sheet aid for Brookline from what we expected in the Forecast. The additional \$1.1M should be split evenly between the Town and School budgets per the Town / School Partnership. However, there is some need to proceed with caution, as the overall local aid package is predicated upon some proposals that might not receive legislative approval (e.g., use of casino licensing fees, corporate tax loophole closings). As always, the local aid package the Governor proposed could end being different in the Legislature's versions of the budget.

In Board of Selectmen

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Therefore, we should have contingency plans in case the Legislature chooses a different path in their spending plan and the final local aid package is different than the Governor's.

In addition, as we have discussed, we have an urgent need to reduce our Local Receipt estimates for FY09. That issue, which is detailed in a separate memo, centers primarily on Interest Income and a couple other revenue items that will be impacted by the current economic conditions.

**Selectman Mermell asked if there was a back up plan should the Governor's budget not come to fruition. Mr. Cronin replied that the Finance Department is assuming this package as the Town has in past practices.**

**Below is an analysis of Local Receipts through the second quarter of FY08.**

EXECUTIVE SUMMARY

While the experience of the first six months of FY08 leads me to expect a year-end surplus, a significant portion (approximately 55%) of it is driven by one-time revenues. In addition, there are a number of warnings signs that should be heeded in terms of the current Local Receipt estimates for FY09, each of which are detailed below, along with my recommendations:

- Interest Income – through the first 6 months, Interest Income is down 22% (\$334K). If the YTD trend continues, the FY08 actual would be \$2.1M, compared to FY07's \$2.7M actual. Also, if the Federal Reserve does what many believe it will do and continue to be very aggressive on lowering rates (yesterday, it lowered rates by another 75 basis points and some believe that they will cut rates again at their next meeting, which is scheduled for Jan. 29 and 30), Interest Income will decline even further, meaning FY09 will be less than the FY08 figures. With the current FY09 estimate being \$2.4M, I strongly recommend that we reduce it by approximately \$725K, in anticipation of the Fed's actions and to reflect what the MMDT told the Finance Director about future expectations for earnings.
- Hotel / Motel Tax – the December payment, which reflects lodging activity from September – November, was the lowest amount since the Dec, 2002 (FY03) payment. If the YTD trend continues, the FY08 actual would be \$665K, compared to FY07's \$799K actual. As you know, when the economy falters, this excise tax declines. In recognition of both the YTD figure and the expectation of a further economic slowdown in FY09, I recommend that we reduce the current FY09 estimate for this revenue source of \$785K by approximately \$100K.
- Building Permits – while essentially level, the "renovations" component is down 16% (\$200K). This is quite worrisome, as it could well indicate the beginning of

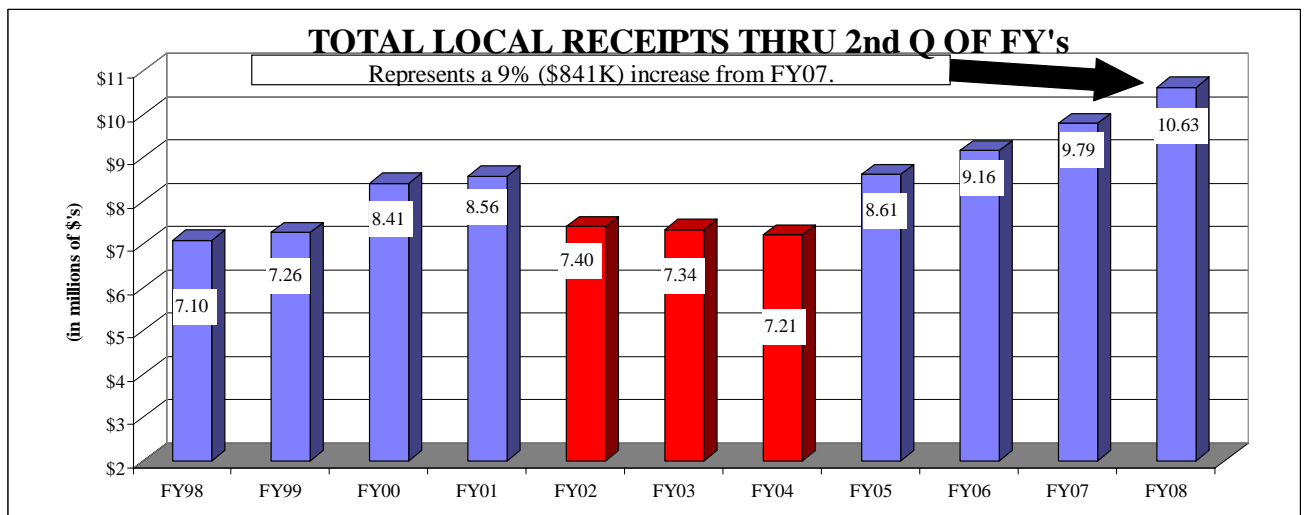
residents' inability to afford home renovations. Such a trend would also negatively impact future New Growth. On the positive side, New Construction is up \$226K (\$275K vs. \$49K). I recommend that we reduce the current FY09 estimate for this revenue source of \$2.35M by approximately \$150K.

- MVE – the YTD number is up 71% (\$509K). This large YTD increase is due to two factors: timing and the “high-end vehicle” billing issue the RMV had. If you recall, the RMV had not issued MVE bills for a couple of years to owners of high-end vehicles. In FY08, those owners received those bills and are paying them, thereby inflating the YTD figure. The best gauge of what to expect for the rest of FY08 is the 1<sup>st</sup> commitment. Gary McCabe has received the information for the 1<sup>st</sup> commitment and it is up slightly. Therefore, I think the last six months of FY08 should somewhat mirror the last six months of FY07. As a result, I believe we can leave the FY09 estimate at \$5.2M. However, this item is closely tied to the overall economy, so, if the economy continues to slow, this revenue item should be revisited for FY09.

With just six months of actuals, it is difficult to make an accurate end of year surplus projection. However, a conservative estimate of a \$2M - \$2.5M (1.1% to 1.3% of budgeted revenue) is reasonable. If this occurs, the surplus would represent a 18% decrease from the surplus generated in FY07 -- and still well below the levels of surplus revenue realized in the late-1990's / early-2000's.

**DETAILED EXPLANATION**

Through December, the amount of Local Receipts collected is \$841K (9%) greater than the amount collected through the same period last year, although some of that is to be expected since Parking Fines and the Refuse Fee were increased for FY08. The graph below shows that the amount of Local Receipts collected through this period is the highest in the data set.

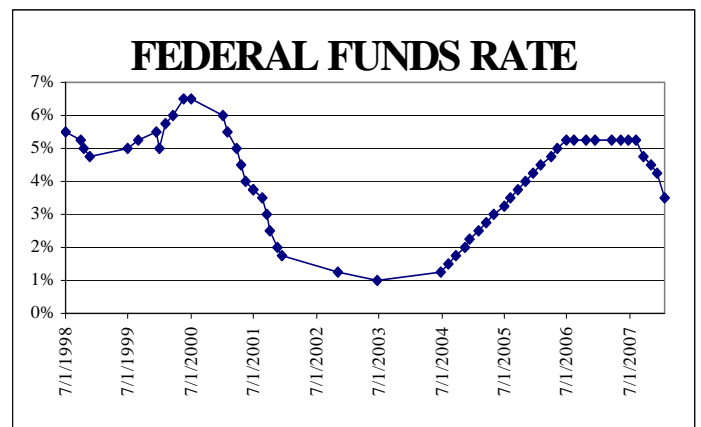


The increase is due primarily to a combination of the following:

- **Legal Damage Recovery** (+\$804K, versus \$0 last year)
- **Motor Vehicle Excise (MVE)** (+\$509K, 71%)
- **Parking/Court Fines** (+\$242K, 12%)
- **Refuse Fee** (+\$204K, 19%)
- **Parking Fees** (+\$89K, 51%)
- **Interest Income** (-\$334K, 22%)
- **Sale of Fixed Assets** (-\$298K, 54%)
- **Medicare Part D Reimbursement** (-\$278K, 100%)
- **CATV Fee** (-\$117K, 36%)
- **Hotel / Motel Excise** (-\$83K, 17%)

The reasons for the increases / decreases are detailed below:

- **Legal Damage Recovery** is \$804K above the FY07 mid-year level. Of the \$804K received, \$800,000 is from the settlement with the Federal government for the helicopter accident at Parsons Field.
- **Motor Vehicle Excise** is \$509K (71%) above the FY07 mid-year level. This large YTD increase is due to two factors: timing and the “high-end vehicle” billing issue the RMV had. If you recall, the RMV had not issued MVE bills for a couple of years to owners of high-end vehicles. In FY08, those owners received those bills and are paying them, thereby inflating the YTD figure. The best gauge of what to expect for the rest of FY08 is the 1<sup>st</sup> commitment. Gary McCabe has received the information for the 1<sup>st</sup> commitment and it is up slightly. Therefore, I think the last six months of FY08 should somewhat mirror the last six months of FY07.
- **Parking/Court Fines** are \$242K (12%) above the FY07 second quarter level. This is due to a combination of the increases in the fine schedule approved by the Selectmen in CY07 and a 5% (3,560) increase in the number of tickets issued.
- **Refuse Fees** are \$204K (19%) above the FY07 mid-year level, which is to be expected since the fee was increased to \$200 for FY08.
- **Parking Fees** are \$89K (51%) above the FY07 mid-year level, which is to be expected since the new residential and commercial permit parking programs went into effect.
- **Interest Income** is \$334K (22%) below the FY07 6-month level. This is directly related to the rate cuts approved by the Federal Reserve. Between January, 2001 and June, 2003, in an on-going effort to revitalize the nation’s economy, the

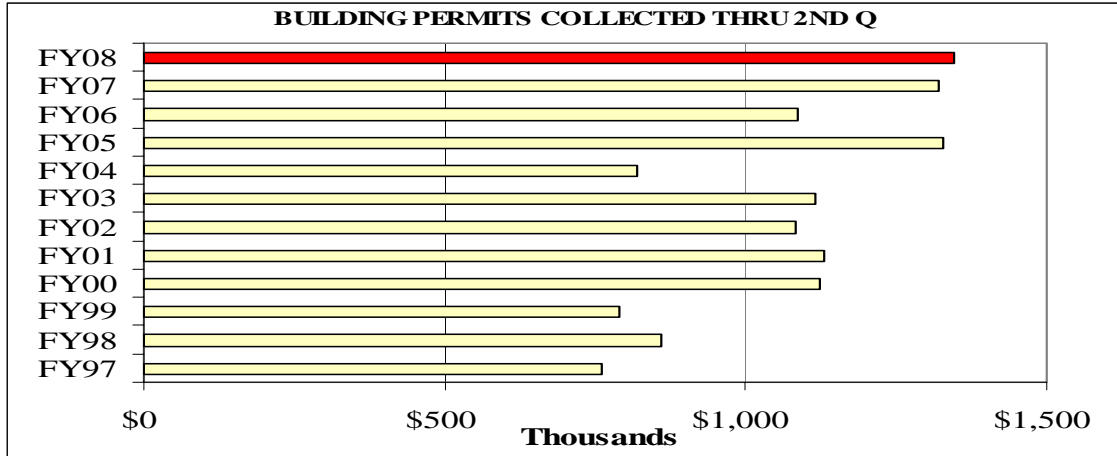




Federal Reserve lowered the Federal Funds Rate 13 times, from 6.5% to 1%. Between June, 2003 and June, 2006, the Federal Reserve increased rates 17 times, bringing the rate to 5.25%, where it stayed until September, 2007, when the rate was dropped 50 basis points to 4.75%. Since then, it has been lowered three more times to 3.5%, including yesterday's cut of 75 basis points. The Fed has now lowered interest rates by 1.75 percentage points since Sept. 18. These reductions have caused -- and will continue to cause -- the decrease in interest earned in FY08.

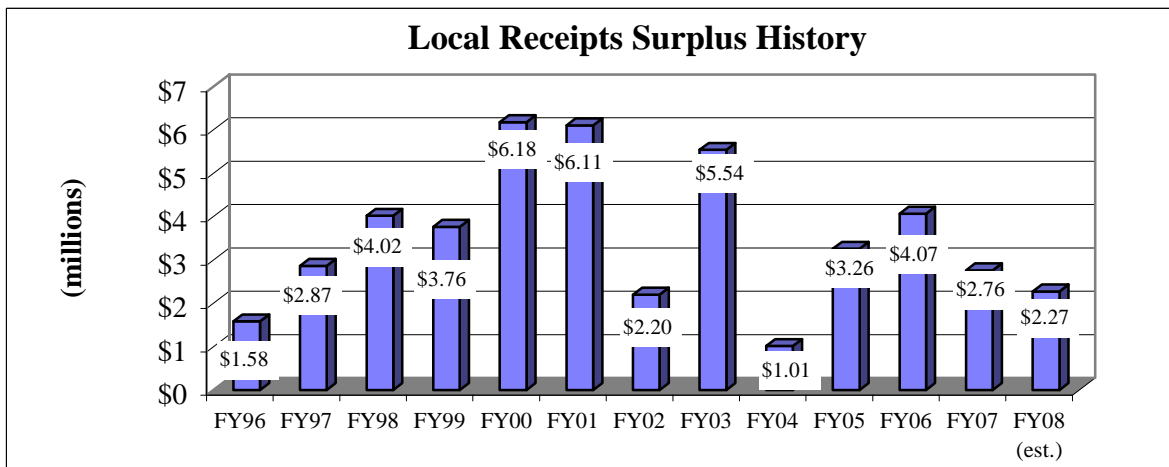
- The \$298K (54%) decrease under **Sale of Fixed Assets** is due to the fact that in FY07, \$550K was generated from the transfer of 1 Brookline Place under the terms of the 1985 Ground Lease and Land Disposition Agreement, compared with the sale of a small piece of Town-owned land on Cameron St. for \$250K.
- The \$278K (100%) reduction in the **Medicare Part D Reimbursement** is due to timing: the Town has yet to receive its reimbursement from the Federal government.
- Beginning in FY07, the **CATV Fee** payment schedule was changed, resulting in the Town getting funds earlier in the FY rather than all at once at the end of the FY. This inflated the FY07 YTD number, while the FY08 YTD figure reflects the new payment schedule.
- The **Hotel / Motel Excise Tax** is down \$83K (17%) for the first 6 months. In fact, the December payment, which reflects lodging activity from September – November, was the lowest amount since the Dec, 2002 (FY03) payment. This is cause for concern, as explained in the *Executive Summary* above.

The level of **Building Permit** revenue collected through the first six months of the fiscal year (\$1.35M) is \$25K (2%) more than the amount collected during the same time period last FY (see the graph on the below). In the past few years, building permits were driven in large part by alterations. However, through the first six months, revenue from alterations is down 25% (\$237K). That is worrisome, as it could well indicate the beginning of residents' inability to afford home renovations. Such a trend would also negatively impact future New Growth. On the positive side, revenue from new construction permits is up 459% (\$226K).



**FORECAST**

As mentioned in the *Executive Summary*, I anticipate an overall surplus of approximately \$2M - \$2.5M. While this certainly is positive news, when shown in the larger historical picture, this level of surplus would still be below the levels realized in the late-1990's / early-2000's, as shown in the graph below. This is to be expected, however, as we are seeing the combination of a slowdown in certain local receipts with the conscious effort we have made over the past few years to narrow the gap between revenue budgets and revenue actuals to help reduce the need for budget cuts.



The surplus revenue is projected to come primarily from Legal Damage Recovery (\$799K), PILOT's (\$298K), Parking / Court Fines (\$259K), Sale of Fixed Assets (\$252K), Recycling Fees (\$139K), Licenses/Permits (\$114K), and Parking Fees (\$83K), partially offset by deficits in Interest Income (\$160K) and Hotel / Motel Excise (\$85K). A significant portion (approximately 55%) of this estimated surplus is driven by one-time revenues. As stated in the *Executive Summary*, there are a number of warnings signs that should be heeded in terms of Local Receipt projections for FY09. I strongly recommend

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making downward adjustments to the FY09 estimates that were used in the Forecast presented in December.

The detail behind this forecast is attached. It does make a number of assumptions / adjustments that are explained in the “comments” boxes. Also attached are three spreadsheets that provide backup to the above FY08 figures. The first one is the “Level One” report that shows just the five major categories; the second is the “Level Two” report that shows the major components of each of the five major categories, and the third is the “Level Four” report that gives all the revenue detail. Also attached is the historical yearly revenue spreadsheet.

### **BUDGET OBJECTIVES**

**The Board considered the question of approving the Board’s FY09 Budget Objectives.**

**Assistant Town Administrator Melissa Goff read the following objectives:**

- 1. To adhere to established Fiscal Policies relative to reserves and capital financing in order to observe sound financial practices for retaining the Aaa credit rating.**
- 2. To continue to seek relief from double-digit group health increases whether through locally initiated change and/or by pursuing statewide options such as the Group Insurance Commission (GIC).**
- 3. To consider the recommendations of the Override Study Committee relative to budget efficiencies and cost savings in order to address the budget challenges identified in their report.**
- 4. To develop long-term strategies for addressing unfunded retiree group health benefits estimated between \$200 - \$300 million.**
- 5. To continue the Town/School Partnership with particular emphasis on integrating administrative and other non-educational functions where possible.**
- 6. To conduct labor contract negotiations for equitable settlements within the Town’s ability to pay recognizing the group health and other post employment benefit obligations.**
- 7. To continue to seek PILOT agreements with institutional non-profits along with an equitable approach for community based organizations.**
- 8. To continue to investigate the possibility of moving to a medallion system for taxicabs.**

- 9. To continue to pursue new development while remaining sensitive to neighborhood concerns.**
- 10. To proceed with Town Hall renovation project within the existing financing plan and with a seamless return to Town Hall.**
- 11. To ensure an effective process for the transition of a new Building Commissioner.**
- 12. To continue to strengthen the workforce by providing leadership training and professional development opportunities.**
- 13. To continue with the established CIP and the completion of the major projects in planning or in progress - Landfill Closing, Muddy River Restoration, Town Hall Renovation, Fisher Hill Reservoir Re-Use, and Village Square. Also, to work very closely with the School Building Authority on the Runkle School project.**
- 14. To adopt, promote and implement BrooklineMA.gov as the official Town Website.**
- 15. To continue to examine the permitting and inspection workflow to ensure that policy, procedure and technology work in conjunction to safeguard Town by-laws and zoning decisions.**
- 16. To continue emphasis on energy conservation in Town operations along with the institution of green technology guidelines for Town building projects.**
- 17. To carry out the on-going work of the Selectmen's Zoning By-Law Committee.**
- 18. To ensure Village Square project proceeds through engineering design and construction phases.**
- 19. To minimize impacts of development by adjacent communities.**
- 20. To provide leadership and support as necessary for affordable housing opportunities including completion of St. Aidan's, use of Town-owned land such as Fisher Hill Reservoir, and homeowner assistance programs.**
- 21. To continue to evaluate the effectiveness of newly adopted residential and commercial parking programs.**
- 22. To implement a valet parking licensing program.**
- 23. To conduct a review of the policy and procedures of citizen complaints against the Police Department and other Town policies where appropriate.**

- 24. To provide leadership for the Town's Community Development Block Grant (CDBG) program.**
- 25. To develop a consistent approach for the protection of open spaces, particularly space adjacent to our sanctuaries.**
- 26. To continue aggressive monitoring of both Comcast and RCN service quality performance under the Cable Television licenses.**
- 27. To assist Brookline Access Television (BAT) in their exploration and creation of alternative space for their television studio and to maximize opportunities to create synergies with the School Department where possible.**
- 28. To review the enforcement provisions of the Liquor Licensing Guidelines that have been in effect since 1988.**
- 29. To continue to work with Commission for the Disabled in order to ensure legally mandated accessibility to private facilities and Town properties and programs.**
- 30. To proceed with on-going monitoring of safety/security requirements for Bournewood Hospital.**

**On motion, it was unanimously,**

**VOTED: To approve the Board's FY09 Budget Objectives as listed above.**

### **LIQUOR LICENSE HEARING**

**Hearing Pursuant to Massachusetts General Laws Chapter 138, Section 64, and Section A(17) of the Town of Brookline Sale of Alcoholic Beverages Regulations, as to whether the All Kinds of Alcoholic Beverages license issued to Matt Murphy's Pub, Inc., d/b/a Matt Murphy's Pub, Siobhan Carew, Manager at 14 Harvard Street, should be modified, suspended, revoked or canceled.**

**Chairman Daly recused herself stating that she is friends with the license holder. Selectman Hoy is Acting Chair.**

**Attorney Kristine McDonald representing Matt Murphy's introduced herself to the Board.**

**Acting Chair Hoy asked if she was satisfied with the notice of the hearing. She replied yes.**

**LIQUOR LICENSE HEARING cont'd**

**Associate Town Counsel George Driscoll stated that he is before the Board on behalf of the Police Department. He outlined the group of charges.**

**The first group of charges arrives from an inspection by Lt. McCarthy the Department's Liquor Officer in July 31, 2007. There was a list of procedural violations.**

**The second set of charges were on August 16, 2007, stemmed by an observation by Officer McDonnell where she noticed an individual on the road that was running in and out of traffic distributing motorist, he was clearly intoxicated. After being questioned the man stated that he was at Matt Murphy's where he consumed two beers at which point the bartender offered him a third beer if he would hand over his car keys. After this event there was a follow-up investigation by Lt. McCarthy where it appears that after the second beer the man became aggressive and tried to start a fight in front of Matt Murphy's.**

**The third group of charges arises out of a follow up investigation by Lt. McCarthy to check on the procedural violations, where he discovered that they had not been remedied.**

**The fourth group of violations includes a certain intoxicated person as well. On October 26, 2007 Officer McDonnell noticed a crowd outside Matt Murphy's, surrounding a man on the ground. The man appeared to have fallen on his head after some horseplay with friends. The man was clearly intoxicated. An ambulance arrived at the scene. The man was cleared medically after being examined by the EMS. After investigating the incident the Police found that the man was served five beers at the Pub. The man had consumed several beers prior to arriving at Matt Murphy's at his home in Brookline. At the investigation Lt. McCarthy notice some procedural violations, a current employee roster and formal documentation of the TIPS or equivalent training, and other procedural documentations were missing.**

**Attorney Driscoll stated that the Police Department find there is sufficient evidence to find the licensee responsible on all of the charges.**

**Attorney McDonald stated that there is no intention of cross examination what her client is here tonight is to talk about a remedy. She has had a successful establishment for the past thirteen years and she is quite horrified by being here tonight. They hope that within this serious matter, the Board will look into the past clean record, and her contribution to the community. What her client has done is try to turn this incident into a positive by taking proactive steps. She has hired a company called Affiliated Monitors that will provide monitoring, training, and ongoing monitoring. The licensee takes these charges very seriously, but asked the Board to consider economic realities of the situation and putting a number of employees out of work for several days, to look at this company's offerings.**

**LIQUOR LICENSE HEARING cont'd**

**Acting Chair Hoy stated that the Board will take two phases into consideration. First weather or not there were violations, and second what the penalties should be. He asked Attorney McDonald if they were contesting the violations, she replied no they would rather be proactive and move ahead.**

**The Acting Chair moved that the Licensee is responsible for the violations.**

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

**VOTED:** This Board finds that the Licensee, Matt Murphy's Pub, Inc., is responsible for each of the violations set forth below:

1. The following violations occurred during an inspection on July 31, 2007:
  - a. Permitting an illegality to take place on the Licensed Premises in violation of 204 CMR 2.05(2), to wit: failure of the owner or person in charge of the Licensed Premises to conspicuously post a copy of the penalties set forth in subdivision (1) of section twenty-four of chapter ninety for driving under the influence, in violation of G.L. c. 138, s. 34D.
  - b. Failure to have a manager or alternate manager approved by the Board of Selectmen on the Licensed Premises while it was open for business in violation of Section A(10), to wit: an employee named Waddleton identified himself to police as the manager but no such person has been approved by the Board of Selectmen.
  - c. In violation of Section A(18) of the Town of Brookline Sale of Alcoholic Beverages Regulations, failed to display Liquor License and Common Victualler's License on the Licensed Premises in a conspicuous place where it could be accessed and read by the public
  - d. Failure to maintain an up-to-date list of all employees on the Licensed Premises in violation of Section A(16) of the Town of Brookline Sale of Alcoholic Beverages Regulations.
  - e. The Manager, bartenders, and/or Alternate Managers, if any, have failed to successfully complete an alcoholic beverage server training program such as the TIPS program or its equivalent prior to their appointment in violation of Section B(13) of the Town of Brookline Sale of Alcoholic Beverages Regulations.
  - f. Failure to maintain verification of alcoholic beverage server training required under Section B(13) for each employee on the Licensed Premises in violation

of Section B(14) of the Town of Brookline Sale of Alcoholic Beverages Regulations.

2. In relation to an incident on August 16, 2007, the following violations occurred:
  - a. Permitting an illegality to take place on the Licensed Premises in violation of 204 CMR 2.05(2), to wit: the sale or delivery of alcoholic beverages on the licensed premises to an intoxicated person in violation of G.L. c. 138, s. 69;
  - b. In violation of Section A(11) of the Town of Brookline Sale of Alcoholic Beverages Regulations, the Manager failed to maintain order and decorum in the area immediately surrounding the Licensed Premises by allowing an Intoxicated patron to leave the Licensed Premises and engage in disorderly conduct on the public way in front of the Licensed Premises without alerting the police.
3. The following violations were observed during an inspection on August 18, 2007:
  - a. Permitting an illegality to take place on the Licensed Premises in violation of 204 CMR 2.05(2), to wit: failure of the owner or person in charge of the Licensed Premises to conspicuously post a copy of the penalties set forth in subdivision (1) of section twenty-four of chapter ninety for driving under the influence, in violation of G.L. c. 138, s. 34D.
  - b. Failure to maintain an up-to-date list of all employees on the Licensed Premises in violation of Section A(16) of the Town of Brookline Sale of Alcoholic Beverages Regulations.
4. The following violations occurred on October 26, 2007, at approximately 1:39 A.M.:
  - a. Permitting an illegality to take place on the Licensed Premises in violation of 204 CMR 2.05(2), to wit: the sale or delivery of alcoholic beverages on the licensed premises to an intoxicated person in violation of G.L. c. 138, s. 69;
5. The following violations occurred during an inspection of the Licensed Premises that was conducted on November 9, 2007:
  - a. Permitting an illegality to take place on the Licensed Premises in violation of 204 CMR 2.05(2), to wit: failure of the owner or person in charge of the Licensed Premises to conspicuously post a copy of the penalties set forth in subdivision (1) of section twenty-four of chapter ninety for driving under the influence, in violation of G.L. c. 138, s. 34D.



- b. Failure to have a manager or alternate manager approved by the Board of Selectmen on the Licensed Premises while it was open for business in violation of Section A(10), to wit: an employee named Waddleton

identified himself to police as the manager but no such person has been approved by the Board of Selectmen.

- c. Failure to maintain an up-to-date list of all employees on the Licensed Premises in violation of Section A(16) of the Town of Brookline Sale of Alcoholic Beverages Regulations.

Failure to maintain verification of alcoholic beverage server training required under Section B(13) for each employee on the Licensed Premises in violation of Section B(14) of the Town of Brookline Sale of Alcoholic Beverages Regulations.

**Vincent DiCianni, President of Affiliated Monitors spoke on the company's services. The company provides independent programs assisting businesses and individuals professional in achieving and maintaining compliance with applicable government and contract requirements. This includes auditing businesses and individuals to improve the quality of their services by identifying and implementing "best practice" programs in their daily operations which are compliant with Federal, State and Local laws and regulations. This includes extensive training sessions and frequent monitoring to make sure practices are being implemented.**

Selectman Allen asked how long their services usually are contracted for, and if a report finds violations, would it be provided to the Town.

Mr. DiCianni replied it depends on the offense, in most cases their company is retained for six months. They are an independent contractor and will provide the Town in what they did and what they observed in their reports.

Selectman Mermell stated that she is disturbed by the repetition of the violations especially the simple violations like posting the employee rooster, etc.

Attorney McDonald replied that their obviously was a breakdown of communication that should have been corrected immediately. After the first violation, all the employees were enrolled to be TIP certified. Going forward they hope the staff will be trained beyond what is required of them.

Selectman DeWitt asked if all the technical violations have been corrected. She also asked Mr. DiCianni who his clients are.

**LIQUOR LICENSE HEARING cont'd**

**Attorney McDonald replied that the manager is fully aware of what is required. The employees are TIP certified, the employee rooster is posted, and certifications are on display.**

**Mr. DiCainni replied that his clients include Municipalities, Universities, and Hospitals, as well as Agencies like the Attorney General's Office and Federal Agencies.**

**Selectman Allen stated that he has not heard of this company and asked Chief O'Leary if he is familiar with them.**

**Chief O'Leary replied that Mr. DiCainni was a Professor of his at School along with Judge Burns, another Principal of the Affiliated Monitors. He added when the company first started out they contacted the Chief to review their materials, which he did, but he stayed away from them due to his acquaintance. When these charges came up and the company was reintroduced he assigned Lt. McCarthy to investigate the company which he did to his satisfaction. He did add that as a Professor, Mr. DiCainni was strict and he doubts he would cut corners.**

**Attorney McDonald asked the Board to consider the consultants program in lieu of disciplinary action.**

**Licensee holder Siobhan Carew came before the Board and stated that she is deeply sorry that this has happened and she appreciates the program offered by Affiliated Monitors.**

**Susan Allen of Westbourne Terrace spoke in favor of the establishment.**

**Jonathan Lensmar spoke in favor of the establishment.**

**Allison Simarus spoke in favor of the establishment.**

**Phylis Tygle, Manager of Vizio Optics spoke in favor of the establishment.**

**Chief O'Leary stated that Affiliated Monitors is a positive step but should be mandated to be considered. He added that there are rules and policies that need to be addressed. There are two major offenses, but since it is the first time in front of the Board, would it be considered the first or second offense. His recommendation will be based on that.**

**Acting Chair Hoy stated that it should be considered a second offense.**

**Based on that, the policy recommends a suspension of 6-10 days, with six days suspended and four days held.**

**LIQUOR LICENSE HEARING cont'd**

**Selectman Allen stated that he liked the idea of contracting Affiliated Monitors. He added that the licensee is invested in the community and has continued to bring restaurants to her community. He finds her establishments an important part of Brookline Village. He proposed a 6 day closing with 1 day served and the balance being suspended for a period of one year in which Matt Murphy's obtained the services of Affiliated Monitors for that one year period with all reports going to the Police Department. He added that it may be a good idea to have the days closed be used as training days. The Board's goal is to have profitable businesses in Brookline.**

**Selectman Mermell agreed with Selectman Allen, but wanted to add that the reports be submitted to the Police Department on a monthly basis for the Chief to review.**

**Acting Chair Hoy asked that the Board adopt the Chief's recommendation. He added that the violations are serious and have occurred repeatedly. He recommends a 6 day suspension with the additional 4 days suspended.**

**Selectman DeWitt added that she agrees with the proposal to require the monitoring services as proposed by Selectman Allen, but with 10 days suspended and 1 day served, and 9 days withheld.**

**On motion, it was, 3-1 Acting Chair Hoy opposed**

**VOTED:**

1. The Liquor License of Matt Murphy's Pub, Inc., shall be suspended for a period of ten (10) days. One (1) day of said suspension shall be imposed and served on a date to be determined by the Town Administrator and the remaining nine (9) days of said suspension shall be withheld in accordance with the following terms and conditions.
  - a. If this Board finds the Licensee in violation of any provision of Massachusetts General Laws Chapter 138, the Regulations of the Massachusetts Alcoholic Beverages Control Commission or the Town of Brookline Sale of Alcoholic Beverages Regulations, in relation to a violation occurring on or after January 29, 2008, through December 31, 2008, said remaining nine (9) day suspension shall be imposed by the Board and shall be served by the Licensee, without further hearing, on such days as this Board may designate, in addition to any further sanctions that may be voted by this Board for such additional violations; and

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- b. If this Board does not find Matt Murphy's Pub in violation of any provision of Massachusetts General Laws Chapter 138, the Regulations of the Massachusetts Alcoholic Beverages Control Commission or the Town of Brookline Sale of Alcoholic Beverages Regulations, in relation to a violation occurring on or after January 29, 2008, through December 31, 2008, said remaining nine (9) day suspension shall be dismissed.
  
2. The Licensee shall contract with Affiliated Monitors, Inc., as set forth in its proposal that was presented to the Board on the condition that Affiliated Monitors, Inc., shall report its monthly findings directly to Chief of Police.

**There being no further business, the Acting Chair adjourned the meeting at 10:30 p.m.**

**ATTEST**