

IN BOARD OF SELECTMEN

June 10, 2008

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

The Minutes of June 3, 2008 were approved.

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PUBLIC COMMENT

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

Susan Allen from Precinct 13 spoke about concerns with the rising fuel prices and the effects it may have on truck drivers. If the drivers go on strike it may be difficult for Brookline residents to receive food.

RESOLUTION

The Board considered the question of adopting a resolution honoring Robert Sullivan for his 35 years of dedicated and outstanding service to the Brookline Public Library.

Town Librarian Chuck Flaherty stated that it has been his pleasure to have Mr. Sullivan on his staff for many years. Mr. Sullivan has provided excellent service and knowledge to the library community.

On motion, it was unanimously,

VOTED: To adopt the following resolution honoring Robert Sullivan for his 35 years of dedicated and outstanding service to the Brookline Public Library.

WHEREAS, on June 20, 2008 Robert Sullivan will retire after almost 35 years of continuous service to the Public Library of Brookline; and

WHEREAS, Bob Sullivan started his career at the Boston Public Library in 1958; and since joining the staff of the Public Library of Brookline in 1969 Bob has consistently demonstrated his breadth of knowledge, superior interpersonal skills and tireless work ethic; and

WHEREAS, Bob's cordial and understanding manner, good judgment, unflappable poise, and sense of humor have endeared him to library patrons of all ages and earned him the greatest respect of his colleagues; and

WHEREAS, Bob's career started long before the personal computer was invented, yet he has become one of the library's most skillful and talented users of information technology; and

WHEREAS, Bob has been the staff member most responsible for the development of one of the very best periodical collections in any public library in Massachusetts; and

WHEREAS, as an avid runner and hiker, Bob has inspired several of his colleagues to exercise and watch their diets; and, in pursuit of his many interests, Bob has traveled to all six continents, and will soon be traveling to Beijing for the Summer Olympics;

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RESOLUTION cont'd

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.

CONTRACT

The Board considered the question of approving and executing a contract with Arlene Flowers in connection with the Farmer's Market to be held at the Centre Street West Parking lot from June 19 thru October 30, 2008.

Commercial Areas Coordinator Marge Amster stated that the Farmer's Market is planned to start on June 19th. She anticipates another successful year.

On motion, it was unanimously,

VOTED: To approve and execute a contract with Arlene Flowers in connection with the Farmer's Market to be held at the Centre Street West Parking lot from June 19 thru October 30, 2008.

WORK ORDER

The Board considered the question of approving Work Order #1 in the amount of \$380,844.18 in connection with Contract No. PW/07-03 "Sewer Separation Design Contract" for work to be completed by BETA Group, Inc. of Lincoln, RI. Said work order to be funded from DPW CIP account 4995SW54 524003.

Director of Engineering Peter Ditto stated that this is the last of the Separation Projects, and the MWRA will be funding it. The majority of the work will be along Beacon Street.

Selectman DeWitt asked if the work will be done during the day and if adequate notice will be sent out to residents. Mr. Ditto replied yes to both.

On motion, it was unanimously,

VOTED: To approve Work Order #1 in the amount of \$380,844.18 in connection with Contract No. PW/07-03 "Sewer Separation Design Contract" for

work to be completed by BETA Group, Inc. of Lincoln, RI. Said work order to be funded from DPW CIP account 4995SW54 524003.

DONATIONS

The Board considered the question of accepting the following donations in connection with cost incurred by the Town in connection with various projects involving the Public Works Department:

Hera Development Corp. 1285 Beacon Street Project	\$50,000
ZVI Construction 888 Commonwealth Ave Project	\$ 8,000
Children's Hospital Two Brookline Place Project	\$20,000
Leggat McCall Properties 111 Boylston Street Project	\$ 8,000
SWM Title & Closing Services 150 St. Paul Street Project	\$25,000
MAPC Purchase of Bike Racks	\$14,900

Director of Engineering Peter Ditto stated that the Town provided work and assistance on the above projects. Some of the work provided included: mitigation costs, traffic/transportation consulting, traffic improvements and the purchase of bike racks.

Transportation Administrator Todd Kirrane added that the Town received a reimbursement grant from the Metropolitan Area Planning Council to purchase 84 bike racks. These racks have been placed at various town locations by the DPW.

Resident John Dempsey thanked Mr. Kirrane and the DPW staff for their involvement in receiving and securing the bike racks.

On motion, it was unanimously,

VOTED: To accept the following donations in connection with cost incurred by the Town in connection with various projects involving the Public Works Department:

Hera Development Corp. 1285 Beacon Street Project	\$50,000
ZVI Construction 888 Commonwealth Ave Project	\$ 8,000
Children's Hospital Two Brookline Place Project	\$20,000
Leggat McCall Properties 111 Boylston Street Project	\$ 8,000
SWM Title & Closing Services 150 St. Paul Street Project	\$25,000
MAPC Purchase of Bike Racks	\$14,900

TEMPORARY WINE AND MALT BEVERAGE LICENSE

The Board considered the question of granting a temporary All Kinds of Alcoholic Beverages license to Pine Manor College in connection with a Wedding (Pang) to be held on June 21, 2008 from 1:00 p.m.-6:00 p.m. at 400 Heath Street.

On motion, it was unanimously,

VOTED: To grant a temporary All Kinds of Alcoholic Beverages license to Pine Manor College in connection with a Wedding (Pang) to be held on June 21, 2008 from 1:00 p.m.-6:00 p.m. at 400 Heath Street.

LIBRARY PERSONNEL

The Board considered the question of authorizing the filling of a Librarian I (K-6) position at the Library.

Town Librarian Chuck Flaherty stated that due to the recent retirement in the library staff, this position has become available.

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LIBRARY PERSONNEL cont'd

On motion, it was unanimously,

VOTED: To authorize the filling of a Librarian I (K-6) position at the Library.

FIRE PERSONNEL

The Board considered the question of approving the promotion of Firefighter Kyle McEachern to Lieutenant.

Chief Skerry stated that he is pleased to recommend Firefighter McEachern for promotion to Lieutenant. Firefighter McEachern has been employed by the Fire Department since 2004, he is an EMT and is currently serving as a temporary Fire Lieutenant in Fire Suppression.

Firefighter McEachern thanked the Chief and the Board for the opportunity.

The Board congratulated Firefighter McEachern and thanked him and his family for his dedication and hard work for the Town of Brookline.

On motion, it was unanimously,

VOTED: To approve the promotion of Firefighter Kyle McEachern to Lieutenant.

FIRE PERSONNEL

The Board considered the question of approving the following Fire Department appointments: (1) Fire Captain (1) Fire Lieutenant

Chief Skerry stated that due to a recent retirement, the positions of Captain and Lieutenant have become available.

On motion, it was unanimously,

VOTED: To approve the following Fire Department appointments: (1) Fire Captain (1) Fire Lieutenant

Selectman Allen arrived

PLANNING & COMMUNITY DEVELOPMENT PERSONNEL

The Board considered the question of authorizing the filling of the following positions within the Department of Planning and Community Development:

**Senior Planner
Planner**

Director of Planning & Community Development Jeff Levine stated that at the request of the Board, he has provided the following information for review: An organizational chart, case loads, and position summaries. This pertains to the request to create a senior planner position. There are currently two planner positions vacant. Mr. Levine requested that one be filled as a planner and the other as a senior planner.

Selectman DeWitt added that she had requested information from Mr. Levine as to why he feels a senior planner position is necessary. Selectman DeWitt thanked Mr. Levine for his response and noted that she had met with him to go over this information thoroughly. She added that she supports this position having gone over the details, and the straining case loads in the Department.

Selectman Benka also thanked Mr. Levine for his response, which answered all his concerns and questions.

Chairman Daly added that the Planning Department has become increasingly complex stemming from Town Meeting votes, including the Climate Change Committee, and public requests.

On motion, it was unanimously,

VOTED: To authorize the filling of the following positions within the Department of Planning and Community Development:

**Senior Planner
Planner**

PUBLIC WORKS – PERSONNEL

The Board considered the question of authorizing the filling of the following positions in the Public Works Department:

- (2) Park Maintenance Craftspersons (LN3)
- (2) Motor Equipment Operators (Grd 2 LN3)
- (1) Painter/Laborer (LN2)
- (1) Highway Craftsperson (LN3)
- (1) Laborer (LN1)

PUBLIC WORKS – PERSONNEL cont'd

Commissioner Tom DeMaio stated that as positions become vacant the Department tries to fill them from within. As a result, the entry level positions are left vacant. These positions are essential to maintain service given the current staff reductions. Selectman Allen asked about summer positions. Mr. DeMaio replied there have been some cutbacks, but these positions are essential for summer maintenance.

On motion, it was unanimously,

VOTED: To authorize the filling of the following positions in the Public Works Department:

- (2) Park Maintenance Craftspersons (LN3)
- (2) Motor Equipment Operators (Grd 2 LN3)
- (1) Painter/Laborer (LN2)
- (1) Highway Craftsperson (LN3)
- (1) Laborer (LN1)

TREE CITY USA

Conservation Administrator Tom Brady and Eric Seaborn, Urban Forestry Coordinator for the Department of Conservation & Recreation appeared to recognize the Town's 20th Year of being named Tree City USA.

Conservation Administrator Tom Brady was pleased to announce that Brookline has been named as a Tree City USA for the twentieth consecutive year. He acknowledged Brookline's history of preserving, protecting, and perpetuating its urban forest has many chapters.

Eric Seaborn, Urban Forestry Coordinator for the Department of Conservation & Recreation added that Brookline is one of the few towns recognized as a twenty year recipient. Mr. Seaborn presented the Board with a Tree City Flag as well as an award for the Town's continued efforts in maintaining its Tree City USA status.

PAY AS YOU THROW COMMITTEE

John Dempsey of the Solid Waste Advisory Committee appeared to discuss the Pay As You Throw Committee.

PAY AS YOU THROW COMMITTEE cont'd

Mr. Dempsey went over his recommendations for the Committee. He added that the Committee's charge is to investigate whether a PAYT (pay as you throw) waste disposal program would make sense for Brookline and, if so, recommend a form such program should take. The hopes are to reduce solid waste disposal as well as increase recycling. Mr. Dempsey hopes to have a recommendation by December 2008.

The Board would like to see additional tenants added to the Committee. Another concern is that if the charge only relates to a PAYT program, and it fails, there is no room for expansion into other options the Town may implement to reduce solid waste and increase recycling. The Board would like to see the charge cover broader options.

Adam Mitchell for the Solid Waste Advisory Committee added that a PAYT program has worked in other communities, he is not sure if it will work in Brookline. Mr. Mitchell and Mr. Dempsey will work on another charge as recommend by the Board.

OPEB TASK FORCE

Oliver Buckley, candidate for the OPEB Task Force appeared for interview.

Mr. Buckley is the Chief Investment Officer at Franklin Portfolio Associates where he is responsible for investment operations of an institutional asset management firm. He has managed consulting projects for firms providing investment risk models and analytics to asset managers and pension funds. Mr. Buckley holds a MBA in Finance, a MS in Engineering-Economic Systems and a BS, in Mathematical Sciences.

EFFICIENCY INITIATIVE COMMITTEE

The following candidates for appointment to the Efficiency Initiative Committee appeared for interview:

**Philip Abrams
Samuel Batchelder, Jr.
Peg Senturia**

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EFFICIENCY INITIATIVE COMMITTEE cont'd

Philip Abrams was an Attorney for Hinckley, Allen and Snyder, as well as General Counsel and President of Philip Abrams Ventures where he developed an asset managed 1100 apartments nationally. Mr. Abrams has many years of experience in housing and urban development.

Samuel Batchelder, Jr. was an Attorney for Goodwin Proctor where he practiced corporate law, which involved corporate mergers and financing. He has been involved in the Brookline Foundation as well as other community programs. Mr. Batchelder served as treasurer and finance committee member for local organizations as well.

Peg Senturia was an Organizational Consultant. She developed, implemented, and supported collaborative interventions for assessing and improving organizational performance. She has worked with major corporations, hospitals, and governmental organizations. Ms. Senturia holds a Master of Science in Management, and a Master of Social Work.

NOISE BYLAW WAIVER

The Board considered the question of approving the request of the MBTA for a Noise Bylaw Waiver in connection with work to be conducted at the track crossing at the intersection of Beacon Street and Harvard Street Friday June 27th at 9:00 p.m. to Monday June 30th at 5:00 a.m.

Director of Engineering Peter Ditto introduced William Lally from the MBTA. Mr. Lally stated that the work will replace the MBTA tracks and rubber surfacing at Beacon and Harvard Streets. There will be message boards, police detail, and bus service throughout that weekend. The upgrades will improve the system and provide a better service.

On motion, it was unanimously,

VOTED: To approve the request of the MBTA for a Noise Bylaw Waiver in connection with work to be conducted at the track crossing at the intersection of Beacon Street and Harvard Street Friday June 27th at 9:00 p.m. to Monday June 30th at 5:00 a.m.

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NOISE BYLAW WAIVER

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

Director of Engineering Peter Ditto stated that there have been some complaints in the past couple of weeks on the noise from the Route 9 project. This was mainly due to the removing of and lowering of covers.

Mike Howe of Aggregate Industries stated that the project is on schedule and the milling aspect is set to start on June 22nd.

Chairman Daly asked if the work can be done on Sundays during the day when the traffic flow is slower, instead of overnight hours. Mike Howe replied that it could be considered and he will present it to his supervisors.

Ahmad Ilyas from MassHighway stated that when the structures are lowered there is not much that can be done to eliminate the noise from this procedure. This procedure is almost completed. He added that MassHighway will also look into working on Sunday.

Selectman DeWitt asked about the staging area on Route 9 and if there is anywhere the equipment can be moved to. Mr. Howe replied that the main staging area for this project is on Route 128 in Newton. This is the only area available for the onsite equipment.

Selectman Benka asked why the manhole covers were moved so late in the evening/early morning hours. He feels that this procedure could have been done earlier in the evening and not during sleeping hours. Mr. Ilyas replied that this was part of the procedure and the work was done as the project moved along. The project is done in the overnight hours therefore; it is difficult to rearrange it. Chairman Daly added that the Board has asked that the noisier tasks be done in the earlier hours, which seems not to be the case.

James Bales, 769 Boylston Street thanked Mike Howe for shifting some of the work to the daytime hours. However, Mr. Bales feels that the State has not included the residents along the project with a clear, detailed description of how the State weighed the benefits of night-time work against those living along Rt. 9. He noted that surrounding areas have had projects done during the day, reducing main roads to one lane. He asked the Board to continue granting the noise by-law waivers on limited duration allowing regular check-ins with both the residents and the contractor.

NOISE BYLAW WAIVER cont'd

Joan Collins, 483 Boylston Street, stated that the noise and the lights are intrusive and there seems to be no progress. She asked if it would be cheaper to do the work during the day. Mike Howe replied that shutting down the road would paralyze Rt. 9. He would have to shut down the whole road, not just one lane.

Chairman Daly asked about putting the temporary staging area at a private spot somewhere, perhaps at 850 Boylston. Mr. Ditto replied that the current area is the only State owned location available at his time. He will look at a private lot.

Mike Howe added that he has answered all the complaints and emails. He has kept the project website current (pavert9.com) and contained some of the work from 8 p.m. to midnight. He apologized for the noise and will continue to work with the neighbors.

Krystyna Chmielinski, 15 Heath Street stated that summer after summer she has had to deal with one project or another on Rt. 9. She is a teacher and gets up for work early. Ms. Chmielinski is also concerned that there were no notices sent to her about the project meetings. She has heard about them through neighbors.

Mary Louis Pauli, 503 Boylston Street expressed concerns about the cold planning process. She stated that the residents of the Norcross Building have retained an engineer to perform a general assessment of the building. In particular, issues concerning architectural terracotta façade. Their concerns are that the cold planning will cause damage to these historic decorative elements. Brian McKenney from MassHighway stated that he took photos of the building, however, MassHighway is not liable for any damage. If damage occurs, a claim would have to go through the contractor's insurance, and then confirmed that the damage was done by the work from the project. He will talk with their structural engineer

Selectman DeWitt would like to see the cold planning held off until a specialist can look at the terra cotta.

Selectman Benka added that you take the building as you find it, if damage is caused by the project then it will go through the process with Aggregate Industries. He added that the current conditions should be documented, and the photos shared with the property owners. Ahmad Ilyas from MassHighway agreed to provide the property owners with photos that had already been taken.

Lewis Jacobs, 783 Boylston Street stated that there has been minimal work done of late. As for working on the weekends during the day, NSTAR has been working ten days straight with one lane closed and there have been no major issues. Mr. Jacobs inquired about a list that was to be supplied with residents that have come and complained.

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NOISE BYLAW WAIVER cont'd

Gregory Howard, 5 Eliot Ave, added that the notices have not been effective. He is willing to help with the notifications. Mr. Howard also favors the continuous process of coming before the Board for noise waiver extensions.

Selectman Allen stated that Rt. 9 needed updating. It was unsafe, riddled with potholes, and the middle island was overgrown. He added that he is sure it is an awful experience for the residents, but at the end the result will be a benefit by eliminating the everyday noise from the potholes, and such. He appreciates that the work will be done in the daytime if possible, and will continue to stay on schedule, and not prolong the project.

Mr. Howe replied that he will continue to work with the community and stay on schedule.

Selectman Benka asked about sound barriers at the staging area. Mr. Howe replied that the area is not wide enough to hold the equipment. Mr. McKenney added that MassHighway reserves the noise barriers for interstates not on a temporary basis. Selectman Benka would like to see it considered by MassHighway and a study on the feasibility of placing sound barriers at the staging area. Selectman Benka requested that their findings be submitted to the Director of Engineering by July 8th, and MassHighway agreed.

On motion, it was unanimously,

VOTED: To extend the request of the Massachusetts Highway Department (MHD) for a Noise Bylaw Waiver in connection with reconstruction work along Route 9 to be performed by Aggregate Industries from 8:00 p.m. to 5:00 a.m. June 10th to July 16th, 2008.

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

ATTEST

IN BOARD OF SELECTMEN

June 17, 2008

**Present: Chairman Nancy Daly, Selectmen Robert Allen,
Betsy DeWitt, Jesse Mermell, and Richard Benka**

**The Minutes of June 10, 2008 were approved 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 individual¹.
- _____ (2) To consider the discipline or dismissal of, or to hear complaints or charges brought against, a public officer, employee, staff member, or individual¹.
- 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.

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

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

There was no public comment.

CONTRACT

The Board considered the question of approving and executing a contract with MGT of America in the amount of \$97,548.00 for consulting services in connection with the Public Schools Master Plan. Said contract to be funded from account 2599WS08 6B0018 25W08.

Program Manager Tony Guigli stated that this contract is for the Public Schools Master Plan consulting services. This is a good working document, and graph contract outlining the appropriate scope. It is required by the State School Building Authority to be considered for future State funded projects. It has been approved by both the Building Commission and the School Committee.

On motion, it was unanimously,

VOTED: To approve and execute a contract with MGT of America in the amount of \$97,548.00 for consulting services in connection with the Public Schools Master Plan. Said contract to be funded from account 2599WS08 6B0018 25W08.

CONTRACT

The Board considered the question of awarding a contract for Brookline High School repairs to Commercial Roofing in the amount of \$1,169,000.00. Appropriation available after July 1, 2008.

Program Manager Tony Guigli stated that this contract is to repair the roof at the High School. The project is expected to be completed before the start of school.

On motion, it was unanimously,

VOTED: To award a contract for Brookline High School repairs to Commercial Roofing in the amount of \$1,169,000.00. Appropriation available after July 1, 2008.

CONTRACT

The Board considered the question of awarding a contract for Brookline High School Masonry Repairs to Ace Restoration in the amount of \$889,000.00. Appropriation available after July 1, 2008.

Program Manager Tony Guigli stated that the bids came in April. The project is expected to be completed before the start of school.

Chairman Daly had concerns on the noise level in the neighborhood. Mr. Guigli replied that it will be loud; however, the work is to be done during the day.

On motion, it was unanimously,

VOTED: To award a contract for Brookline High School Masonry Repairs to Ace Restoration in the amount of \$889,000.00. Appropriation available after July 1, 2008.

CONTRACT

The Board considered the question of approving and executing a contract with Capital Carpet & Flooring Specialists, Inc. in the amount of \$297,337 in connection with floor work at various locations. Said contract to be funded as follows:

25003430 5224DV	\$ 54,324
Devotion	
TBD (7/1/08)	\$ 87,567
High School	
2599WS07 6B0091	\$ 83,939
Pierce	
2594C141 6c0002	\$ 71,507

Director of Public Buildings Charlie Simmons stated that this contract is for repair work of flooring at various locations. It includes carpet, tile, and floor repairs. The work is to be done during the summer. There have been funds set aside for this project.

On motion, it was unanimously,

VOTED: To approve and execute a contract with Capital Carpet & Flooring Specialists, Inc. in the amount of \$297,337 in connection with floor work at various locations. Said contract to be funded as follows:

25003430 5224DV	\$ 54,324
Devotion	
TBD (7/1/08)	\$ 87,567
High School	
2599WS07 6B0091	\$ 83,939
Pierce	
2594C141 6c0002	\$ 71,507

CONTRACT

The Board considered the question of awarding Contract No. PW/08-23 “Intersection Improvements at Washington Street and Gardner Road” in the amount of \$67,153.00 to Capone Bros., Inc. Said contract to be funded as follows:

4998WS06 6T0014	\$16,556.26
4998WS07 6T0014	\$14,903.31
4998WS08 6T0014	\$35,092.94
4998WS08 6H0026	\$ 599.49

Director of Engineering Peter Ditto stated that this contract is for safety improvements at Washington Street and Gardner Road. Chairman Daly asked if there would be any sidewalk protruding into Washington Street. Mr. Ditto replied no, the plan is to shorten the pedestrian crossing. Selectman Benka added that there will be a traffic control island installed on Washington Street.

Selectman Mermell added that she hopes safety measures will be put in place during construction. Vehicles are known to go at a higher rate of speed in this area.

On motion, it was unanimously,

VOTED: To award Contract No. PW/08-23 “Intersection Improvements at Washington Street and Gardner Road” in the amount of \$67,153.00 to Capone Bros., Inc. Said contract to be funded as follows:

4998WS06 6T0014	\$16,556.26
4998WS07 6T0014	\$14,903.31
4998WS08 6T0014	\$35,092.94
4998WS08 6H0026	\$ 599.49

AGREEMENT

The Board considered the question of approving and executing On-Call Agreements for peer review services by the Town's consultant in connection with the following private development projects:

**Two Brookline Place
888 Commonwealth Avenue
111 Boylston Street**

Director of Engineering Peter Ditto stated that this contract is for on call consulting service for the three named projects. Selectman DeWitt asked if this service is in addition to in-house engineering consulting. Mr. Ditto replied yes, the consultant is called in if specific expertise is needed or the staff can not allocate the time. The service is paid for by the developer. Selectman Benka asked about parking at 2 Brookline Place. Mr. Ditto replied that this will require a sub contractor with expertise in this area.

On motion, it was unanimously,

VOTED: To approve and execute On-Call Agreements for peer review services by the Town's consultant in connection with the following private development projects:

**Two Brookline Place
888 Commonwealth Avenue
111 Boylston Street**

CHAPTER 90 REIMBURSEMENT

The Board considered the question of approving and executing Chapter 90 Reimbursement Request and a Final Report for Contract PW/07-16 "Reconstruction of Three Streets (Norfolk Road, Middlesex Road and Buckminster Road".

On motion, it was unanimously,

VOTED: To approve and execute Chapter 90 Reimbursement Request and a Final Report for Contract PW/07-16 "Reconstruction of Three Streets (Norfolk Road, Middlesex Road and Buckminster Road".

CONTRACT

The Board considered the question of approving and executing a Contract with RDK Engineers in the amount of \$34,000 in connection with the Gas Conversion Project at the High School, Baker and Devotion Schools. Said contract to be funded from account 2599WS07 6E0014.

Director of Public Buildings Charlie Simmons stated that back in April, National Grid offered to install new gas lines at the Baker, Devotion and High Schools. They will pay the Town \$58,850, if the Town agreed to burn gas at these sites for three years. Most Town buildings have the ability to burn both gas and oil. Mr. Simmons anticipates the payback for using gas at the three sites to be six months, based on last year's usage. Selectman DeWitt asked about gas prices going up. Mr. Simmons replied that the Town has a fixed contract for gas for four years.

On motion, it was unanimously,

VOTED: To approve and execute a Contract with RDK Engineers in the amount of \$34,000 in connection with the Gas Conversion Project at the High School, Baker and Devotion Schools. Said contract to be funded from account 2599WS07 6E0014.

POET LAUREATE

Former Selectman Zvi (Skip) Sesling appeared to discuss the establishment of a Poet Laureate for the Town.

Mr. Sesling thanked the Board for considering his suggestion that Brookline establish the position of Poet Laureate. He stated that it provides another method of educating people as to the beauty and importance of poetry in people's lives. Poet Laureates create readings for the public to either attend or participate in. They go to schools, work with libraries, senior citizens and participate in city and town sponsored events if requested. Mr. Sesling recommended a committee to research this. The committee would consist of, a member of the Selectmen, the Town Librarian, a Brookline High English teacher, an Arts Council member, and three or four citizens.

Chairman Daly asked if this is a paid position. Mr. Sesling replied that it is up to the Board and or the community. Sometimes there is private funding for the position. Selectman DeWitt suggested that there be a consultation with the Commission of the Arts on this. She believes there may be some interest there.

The Board did not vote on a committee at this time.

FIRE – PERSONNEL

The Board considered the question of authorizing the hiring of 10 Firefighters and the requisition of a firefighter's list from the Department of Human Resources.

Chief Skerry stated that these vacancies have occurred over the past several months. Some expected, some not. Chairman Daly asked if these position will help curb summer overtime hours. The Chief replied that training will have to take place for 80 hours, therefore it should not have an effect on reducing summer overtime hours.

Selectman DeWitt inquired about the Division of Human Resources list, if he feels that he will find qualified applicants. The Chief replied yes, this is a very competitive filed, and there have been no problems in the past.

On motion, it was unanimously,

VOTED: To authorize the hiring of 10 Firefighters and the requisition of a firefighters list from the Department of Human Resources.

POLICE PERSONNEL

The Board considered the question of authorizing the filling of a vacancy in the position of E911 Dispatcher within the Police Department.

Chief O'Leary stated that due to the collective bargaining agreement with the E911 Dispatchers, an additional dispatcher is needed. This will alleviate double shifts.

On motion, it was unanimously,

VOTED: To authorize the filling of a vacancy in the position of E911 Dispatcher within the Police Department.

REVISED CIP POLICIES

Deputy Town Administrator Sean Cronin appeared to recommend revisions to the CIP Policies as a result of the recommendation of the Override Study Committee, and subsequent approval of the 2008 override.

REVISED CIP POLICIES cont'd

Deputy Town Administrator Sean Cronin briefly went over the following. He noted that these revisions include the new funds from the override and allow for these amounts to increase annually by the 2.5% allowable growth in the tax levy starting on July 1, 2009.

Definition of a CIP Project

A capital improvement project is any project that improves or adds to the Town's infrastructure, has a substantial useful life, and costs \$25,000 or more, regardless of funding source. Examples of capital projects include the following:

- . Construction of new buildings
- . Major renovation of or additions to existing buildings
- . Land acquisition or major land improvements
- . Street reconstruction and resurfacing
- . Sanitary sewer and storm drain construction and rehabilitation
- . Water system construction and rehabilitation
- . Major equipment acquisition and refurbishment
- . Planning, feasibility studies, and design for potential capital projects

Evaluation of CIP Projects

The capital improvement program shall include those projects that will preserve and provide, in the most efficient manner, the infrastructure necessary to achieve the highest level of public services and quality of life possible within the available financial resources.

Only those projects that have gone through the CIP review process shall be included in the CIP. The CIP shall be developed in concert with the operating budget and shall be in conformance with the Board's CIP financing policy. No project, regardless of the funding source, shall be included in the CIP unless it meets an identified capital need of the Town and is in conformance with this policy.

Capital improvement projects shall be thoroughly evaluated and prioritized using the criteria set forth below. Priority will be given to projects that preserve essential infrastructure. Expansion of the capital plan (buildings, facilities, and equipment) must be necessary to meet a critical service. Consideration shall be given to the distributional effects of a project and the qualitative impact on services, as well as the level of disruption and inconvenience.

The evaluation criteria shall include the following:

- Eliminates a proven or obvious hazard to public health and safety
- Required by legislation or action of other governmental jurisdictions

- Supports adopted plans, goals, objectives, and policies
- Reduces or stabilizes operating costs
- Prolongs the functional life of a capital asset of the Town by five years or more
- Replaces a clearly obsolete facility or maintains and makes better use of an existing facility
- Prevents a substantial reduction in an existing standard of service
- Directly benefits the Town's economic base by increasing property values
- Provides new programs having social, cultural, historic, environmental, economic, or aesthetic value
- Utilizes outside financing sources such as grants

CIP Financing Policies

An important commitment is to providing the funds necessary to fully address the Town's capital improvement needs in a fiscally prudent manner. It is recognized that a balance must be maintained between operating and capital budgets so as to meet the needs of both to the maximum extent possible.

For the purposes of these policies, the following definitions apply:

- Net Operating Revenue - Gross revenues, less net debt exclusion funds, enterprise (self-supporting) operations funds, free cash, grants, transfers from other non-recurring non-general funds, and non-appropriated costs.
- Net Direct Debt (and Debt Service) - Gross costs from local debt, less Prop 2 1/2 debt exclusion amounts and amounts from enterprise operations.
- Net Tax-Financed CIP - Gross amount of appropriations for capital improvements from current revenues, less amounts for enterprise operations, grants, free cash, transfers, and non-recurring special revenue funds.
- 2008 Override Funds - the \$750,000 included in the CY2008 Override.

The capital improvements program shall be prepared and financed in accordance with the following policies:

OUTSIDE FUNDING

State and/or federal grant funding shall be pursued and used to finance the capital budget wherever possible.

ENTERPRISE OPERATIONS - SELF SUPPORTING

Capital projects for enterprise operations shall be financed from enterprise revenues solely.

CIP BUDGET ALLOCATIONS - 5.5% OF NET REVENUES

Total net direct debt service and net tax-financed CIP shall be maintained at a level equivalent to 5.5% of prior year net operating revenues, **plus the funds**

provided for in the CY2008 Override. The original \$750,000 shall be increased annually by the 2.5% allowable growth in the tax levy.

- TAX FINANCED ALLOCATION - 1.25% OF NET REVENUES
Net tax-financed capital expenditures shall be maintained at a target level equivalent to 1.25% of prior year net operating revenues.
- DEBT-FINANCED ALLOCATION - 4.25% OF NET REVENUES
Net direct debt service shall be maintained at a target equivalent to 4.25% of prior year net operating revenues.
- CY2008 OVERRIDE FUNDS
Beginning on July 1, 2008, an additional \$750,000 shall be included per the Override. This amount shall be increased annually by the 2.5% allowable growth in the tax levy starting on July 1, 2009.

DEBT MANAGEMENT POLICIES

Debt financing of capital projects shall be utilized in accordance with the following policies:

- Debt financing shall be reserved for capital projects and expenditures which either cost in excess of \$100,000 or have an anticipated life span of five years or more, or are expected to prolong the useful life of a capital asset by five years or more.
- Bond maturities shall not exceed the anticipated useful life of the capital project being financed. Except for major buildings and water and sewer projects, bond maturities shall be limited to no more than ten years.
- Bond maturities shall be maintained so that at least 60% of the outstanding net direct debt (principal) shall mature within 10 years.
- Total outstanding general obligation debt shall not exceed 2.5% of the total assessed value of property.
- Total outstanding general obligation debt per capita shall not exceed \$2,000. Beginning on July 1, 2004, the \$2,000 per capita shall be adjusted annually by the consumer price index (CPI) for all urban consumers (northeast region all items).
- Total outstanding general obligation debt per capita shall not exceed 6% of per capita income, as defined by the Census Bureau of the U.S. Department of Commerce.

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FREE CASH

After using free cash in accordance with the Town's free cash policy, available free cash shall be used exclusively to supplement the capital improvements program.

On motion, it was unanimously,

VOTED: To accept the recommend revisions in CIP Policies as a result of the recommendation of the Override Study Committee.

ANNUAL APPOINTMENTS

The Board considered the question of making annual appointments, as recommended by the Town Administrator, of department heads, administrators and other officials and employees and of setting the salaries therefore effective July 1, 2008.

Town Administrator Richard J. Kelliher stated that he is pleased to recommend both the reappointments of our Department Heads/Administrators and also the approval of their annual compensation adjustments in accordance with the Management Pay Plan. He added that he is also pleased to add that this past year, the Override Study Committee found that the Town is extremely well run and cost efficient, which is a credit to the leadership of the Management Team. Going forward this group is ready to meet the demands of the Efficiency Initiative and the challenge it will bring. He mentioned that as a group, the team is seasoned, committed and considered leaders among their peers throughout the Commonwealth.

On motion, it was unanimously

VOTED: To make the following annual appointments for July 1, 2008 through June 30, 2009 inclusive, unless otherwise noted in the following schedule:

Department Heads:

Planning and Community Development Director
Commissioner of Public Works
Public Works Deputy Commissioner/Director of
Water & Sewer
Director of Engineering/Transportation
Director of Parks and Open Space
Director of Highways
Building Commissioner
Project Administrator

Jeffrey Levine
A. Thomas DeMaio

Andrew Pappastergion
Peter M. Ditto
Erin Chute Gallentine
Kevin Johnson
Michael Shepard
Tony Guigli

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Director of Public Buildings
Recreation Director
Chief Information Officer
Executive Officer, Police
Chief of Operations, Fire
Director of Finance and Treasurer/Collector
Chief Assessor
Comptroller
Chief Procurement Officer
Public Health and Human Services Director
Human Relations-Youth Resources Director
Council on Aging Director

Charles Simmons
Lisa Paradis
Kevin Stokes
Robert Mello
Michael O'Reilly
Stephen E. Cirillo
Gary McCabe
Judith Haupin
David Geanakakis
Alan Balsam
C. Stephen Bressler
Ruthann Dobek

Appointments:

Selectmen:

Deputy Town Administrator
Assistant Town Administrator
Assistant to the Town Administrator
Recording Secretary
Head Clerk
Senior Clerk Secretary

Sean Cronin
Melissa Goff
Patricia T. Parks
Kate MacGillivray
Sile Hurrie
Brenda P. Costello

Human Resources:

Human Resources Director
Assistant Human Resources Director
Human Resources Coordinator
Benefits Coordinator
Principal Clerk

Sandra Debow
Leslea E. Noble
Margie Lalli
Kathleen McGinnis
Christopher McLaughlin

Legal:

Town Counsel
Associate Town Counsel
Associate Town Counsel
Associate Town Counsel
Senior Paralegal Secretary
Paralegal Secretary
Senior Clerk Typist

Jennifer Dopazo (3 Year Appt. thru 2011)
Patricia Correa
Joslin H. Murphy
John Buchheit
Kerry Fleming
Tracey Maloney
Jane Tavolieri

Agent For Burial Of Indigent
Soldiers, Sailors And Marines

William Mcgroarty

State Aid Agent

William Mcgroarty

Sealer Of Weights And Measures

George Carroll

Inspector Of Petroleum

Peter Skerry

Director Of Civil Defense

Peter Skerry

Keeper Of The Lock-Up

Daniel C. O'leary

Right To Know Coordinator

Sandra Debow

Agent For Management Of Real Estate

John T. Mulhane

Dog Officers

Pierre Verrier

Fence Viewer

Peter Ditto

Inspector Of Animals

**Robin Magner
Patrick Maloney**

Inspector Of Wires

Theodore Steverman

**Local Moth Superintendent Of
Insect Pest Control**

A. Thomas Demaio

Weigher Of Coal

William McGroarty

Measurers Of Wood/Bark

**George Carroll
Patrick Maloney**

OPEB TASK FORCE

Tom Reed candidate for appointment to the OPEB Task Force appeared for interview.

Tom Reed is a lawyer at the Boston law firm Holtz & Reed, LLP. He has a general civil and criminal trial practice, including appeals, with an emphasis on business litigation and complex commercial cases. He has advised clients in disputes concerning accounting, business competition, construction, corporate acquisitions, debt instruments, executive compensation, professional liability, real estate, RICO, shareholder rights, trade secrets, and unfair and deceptive business practices. He is a graduate of Dartmouth College, Princeton University (Ph.D.), and Harvard Law School.

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EFFICIENCY INITIATIVE COMMITTEE

The following candidates for appointment to the Efficiency Initiative Committee appeared for interview:

**Peter Ames
John Macht
Michael Korschun
Bobbi Kaplan**

Peter Ames is a consultant to non-profits where he advises non-profits/government agencies in the U.S., U.K., Canada, Turkey, New Zealand and other countries on planning, cultural policy, performance indicators, and board development. He holds a B.A. from Harvard College in European History, and a law degree from Harvard Law School.

John Macht is the founder of The Macht Group where he provides management, retail and marketing and consulting services for clients in both manufacturing and retailing, specializing in Strategic Planning, Brand Extension and Development, and Licensing and Implementation of pre- agreed strategies. Mr. Macht holds a B.A. from the University of Michigan, and attended Columbia Law School.

Michael Korschun is a CPA where he provides public accounting, corporate controllership, audit management, and recovery audit consulting. Mr. Korschun holds a B.A. from the College of New Jersey.

Bobbi Kaplan is a Technical Trainer for the Office of the State Comptroller, and a member of the procurement management team. She also serves as Labor Chair for the National Association of Government Employees, (NAGE), Health and Welfare Trust Fund. She has worked on labor disputes, contractual disputes, and labor/management contract negotiations. Ms. Kaplan holds a B.A. from Bridgewater State.

COMMON VICTUALLER LICENSE

The Board considered the question of approving the application of Rita's Café, Rita Barakat, Owner for a Common Victualler license at 224 Cypress Street.

The Board considered the question of approving the application of Rita's Café, Rita Barakat, Owner, holder of a Common Victualler license at 224 Cypress Street for an Entertainment License to include: radio and television.

COMMON VICTUALLER LICENSE cont'd

Rowand Barakat, sister of the applicant, stated that this establishment will be a coffee shop selling baked goods and prepared foods. No food will be prepared on the premises.

Neighbors Fred Von Krusenstiern and David Hamlin both spoke in favor of this license. They feel it is a welcome addition to the neighborhood.

On motion, it was unanimously,

VOTED: To approve the application of Rita's Café, Rita Barakat, Owner for a Common Victualler license at 224 Cypress Street.

VOTED: To approve the application of Rita's Café, Rita Barakat, Owner, holder of a Common Victualler license at 224 Cypress Street for an Entertainment License to include: radio and television.

Selectman Allen recused himself; one of the parties is a client.

TRANSFER – ALL KINDS PACKAGE STORE

Public Hearing on the application of Lepe Enterprises, Inc. d/b/a Village Liquor and Convenience, Antonio G. Lepe, Owner, holder of an All Kinds of Alcoholic Beverages License as a Package Store at 294 Washington Street for a transfer of said license to Brookline Village Wines and Spirits, Inc. d/b/a Village Liquors & Convenience, John N. McIntyre, Owner.

The Board considered the question of approving the pledge of the All Kinds of Alcoholic Beverages license as a package store held by Brookline Village Wines and Spirits, Inc. d/b/a Village Liquors & Convenience, John N. McIntyre, Owner to Lepe Enterprises, Inc.

John McIntyre Sr. and John McIntyre Jr. appeared before the board to go over their plans for the package/convenience store. Mr. McIntyre Jr. stated that their intention is to keep the shelves stocked and the store clean. The delivery hours will remain the same.

The Board made note that the former owners were recently cited in a Police Sting for selling alcohol to underage patrons.

Mr. McIntyre Sr. replied that he is unaware of this and expressed concern on how this may effect the transaction, or reflect on his license once approved. Chairman Daly replied that there would be no reflection on his license, however,

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there may be a license suspension for the current owners, and they should inquire with the Chief of Police if that happens as to the time frame of the suspension.

On motion, it was unanimously, 4-0

VOTED: To grant the application of Lepe Enterprises, Inc. d/b/a Village Liquor and Convenience, Antonio G. Lepe, Owner, holder of an All Kinds of Alcoholic Beverages License as a Package Store at 294 Washington Street for a transfer of said license to Brookline Village Wines and Spirits, Inc. d/b/a Village Liquors & Convenience, John N. McIntyre, Owner.

VOTED: To approve the pledge of the All Kinds of Alcoholic Beverages license as a package store held by Brookline Village Wines and Spirits, Inc. d/b/a Village Liquors & Convenience, John N. McIntyre, Owner to Lepe Enterprises, Inc.

OPEN AIR PARKING RENEWALS

The Board considered the question of renewing Open Air Parking Licenses for 2008-2009.

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

VOTED: To renew the following Open Air Parking Licenses for 2008-2009.

<u>LICENSEE</u>	LOCATION	AREA S.F.	CARS
Brookline Auto Body, Inc. d/b/a Kenmore Sales	40 Aspinwall Ave.	13,728	24
Anwar H. Kazmi	173 Babcock St	6,400	16
Temple Ohabei Shalom Alan Shepro	1187 Beacon St.	7,489	20
Stanley H. Sydney	1309 Beacon St.	15,000	29
Stanley H. Sydney	1319 Beacon St.	8,369	15
Gail Birger	Rear of 1572 Beacon St.	2,045	4
Seaglass Associates	1646 Beacon St.	10,000	25
Frederick Clayton	94 Beaconsfield Rd.	7,500	15
James Pinho	265 Boylston St.	2,500	16
The Dominion Trust	124 Brook St.	1,140	6

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Shepard A. Spunt, Tr.

Village Plaza Limited Partnership	2 Brookline Place	631 951 693	48
Trustees of Boston	766 Commonwealth Ave.	31,657	106
Trustees of Boston University Webster Lancaster, Director Parking Services	808 Commonwealth Ave	72,460	143
Pleasant Ventures June Miller	900 Commonwealth Ave	800	5
Dah-Chiang Shon	147 Coolidge St.	8'x23'	4
The Kurkjian Realty Trust Aracse Kurkjian	227 Cypress St.	9,799	14
Pleasant Ventures June Miller	135 Dummer St.	2,300	17
Benglewood LLC..	. 18 Englewood Ave.	20,000	62
Marsha & Gary Jones	72 Francis St.	5,900	7
Stephen S. Gray	114 Naples Rd	7,332	7
Harold Brown Ron Del Dotto, Agent	224 Fuller St.	4,100	13
Tzviyah Rosenstock	41 Gorham Ave	1,800	2
Steve Koplou	12 Harris St	8,000	9
Betsy J. Polatin	54 Harvard Ave.	14,750	5
Michael Worhunsky	56 Harvard Ave.	11,787	14
Dustin Carter	66 Harvard Ave.	7,634	5
Stop & Shop Co.	137 Harvard St.	12,800	24
Langley Corporation J.M. Zuromskis	209 Harvard St.	20,000	25
Max Gelerman	413 Harvard St	5,415	9

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Howard & Shaindy Steinberg	60 Kilsyth Rd.	4,600	14
Buehler Realty Tr.	83 Longwood Ave	10,000	27
Joseph Banks	101 Longwood Ave.	6,000	20
Peter Polgar	105 Longwood Ave	1,500	13
Peter Polgar	111 Longwood Ave	1,500	9
Roger P. Beckert	123 Longwood Ave.	1,440	9
Marion Square LLC	77 Marion St.	5,168	9
Linda Barron	108 Naples Rd.	7,000	19
William Fong	149 Naples Rd	2,928	8
John S. Pappas	36 Osborne Rd.	1,200	5
Nordblom Management Co. Pelham Hall Tr.	28 Pleasant St	10,395	24
Nordblom Management Co. Pelham Hall Trust	32 Pleasant St.	15,000	36
Paul F. Merzon	195 Rawson St	10,240	20
David Yaghobi	115 School St	1,993	5
St. Paul Manor Lawrence Horlick, Treas.	12 St. Paul St	14,862	37
Brookline Housing Tr. James M. Moskow, Tr.	12 Sterns Rd	8,474	18
Steven Dannin	0-9 Summit Ave	5,750	16
Florence Showstack-Mercier	116 Thorndike St.	1,350	6
Brighton Auto Clinic (Mark Diarbakerly)	3 Washington St	1,430	5
Victor E. Shashoua & Angela Shashoua	397 Washington Rear	16,127	39
Washington Place Assoc. Realty Trust	637 Washington St	7,000	25

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William C. & Helene C. Burrows"	43 Winchester St	2,190	9
Marcel & Daniel Sander	76 Winchester St.	4,500	9
Julianna Crosier	80 Winchester St.	5,000	5
William Stievater	27 Winslow Rd.	2,000	4
Louise Thomas Harold Brown	41 Winslow Rd	23,020	20
Susan & Marc Cooper	165 Winthrop Rd.	3,600	9

2008-2009 ACTION LIST

Discussion of the Board's Action List for the upcoming Fiscal Year.

The Board was presented with the FY09 Action list. Town Administrator Richard J. Kelliher stated that the Board may want to add the Poet Laureate, and master School Plan to the Action List. There were no other additions or updates on the list at this time. There was no vote.

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

ATTEST

IN BOARD OF SELECTMEN

June 24, 2008

**Present: Chairman Nancy Daly, Selectmen Robert Allen, Betsy DeWitt,
Jesse Mermell and Richard Benka**

The Minutes of June 17, 2008 were approved.

EXECUTIVE SESSION

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

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

- _____ (1) To discuss the reputation, character, physical condition or mental health rather than the professional competence of a particular individual¹.
- _____ (2) To consider the discipline or dismissal of, or to hear complaints or charges brought against, a public officer, employee, staff member, or individual¹.
- 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.

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: 3**
 Voting in the Negative: 0
 Selectman Benka absent for roll call
 Selectman Allen absent

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

In Board of Selectmen

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PUBLIC COMMNET

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

There was no public comment.

EFFICIENCY COMMITTEE

The following candidate for appointment to the Efficiency Committee appeared for interview:

Lloyd Dahmen was a portfolio manager at Scudder, Stevens & Clark where he managed accounts for individuals, pension and profit sharing trusts and charitable trust. He founded Dahmen Associates Inc. in 1969 which later merged with Franklin Management Corp where he became vice president and Director. He later joined Claflin Capital Management, Inc. an early stage venture capital firm. Mr. Dahmen has served on the Override Committee and the Pension Obligation Bond Committee.

Linda Carlisle was not present for the interview, the Board was provided with her resume and application. In addition, she has been available for questions.

Linda Carlisle is the Principal for the Carlisle Group, providing management, program and project management consulting to public and not-for profit sector clients. She previously served as Commissioner of the Massachusetts Department of Social Services in Boston, were she implemented significant changes to the state's child welfare system. She currently serves on the Brookline Library Foundation, and the Brookline Education Foundation, Board of Directors.

Selectman Allen arrived

CONTRACT

The Board considered the question of approving and executing a contract for the Roofing Repairs to the High School in the amount of \$1,169,000.00 with Commercial Roofing and Contracting, Inc. of Putnam CT. Said contract to be funded effective July 1, 2008.

On motion, it was unanimously,

VOTED: To approve and execute a contract for the Roofing Repairs to the High School in the amount of \$1,169,000.00 with Commercial Roofing and Contracting, Inc. of Putnam CT. Said contract to be funded effective July 1, 2008.

CONTRACT

The Board considered the question of approving and executing a contract for Masonry Repairs to the High School in the amount of \$889,000.00 with Ace Restoration Co., Inc. of Medford. Said contract to be funded effective July 1, 2008.

On motion, it was unanimously,

VOTED: To approve and execute a contract for Masonry Repairs to the High School in the amount of \$889,000.00 with Ace Restoration Co., Inc. of Medford. Said contract to be funded effective July 1, 2008.

CONTRACT

The Board considered the question of awarding Contract No. PW/09-02 “Servicing Traffic Signals and Related Work”, in the amount of \$79,440.00 to Republic Intelligent Transportation Services, Inc., of Billerica. Said Contract to be funded from account 42004250 522052.

Director of Engineering Peter Ditto stated that this contract comes up every three years for the annual contract for emergency repair of traffic signals controllers, interconnect cables, interconnect equipment, underground conduit, master controllers, and associated equipment.

On motion, it was unanimously,

VOTED: To award Contract No. PW/09-02 “Servicing Traffic Signals and Related Work”, in the amount of \$79,440.00 to Republic Intelligent Transportation Services, Inc., of Billerica. Said Contract to be funded from account 42004250 522052.

CONTRACT

The Board considered the question of awarding Contract No. PW/09-01 “Pavement Markings” in the amount of \$42,570.000 to HiWay Safety Systems, Inc. of Hanover. Said contract to be funded from account 42004250 523596.

Director of Engineering Peter Ditto stated that this annual contract consist of painting white and yellow reflective traffic lane lines and legends, and other tasks if needed.

On motion, it was unanimously,

VOTED: To award Contract No. PW/09-01 "Pavement Markings" in the amount of \$42,570.000 to HiWay Safety Systems, Inc. of Hanover. Said contract to be funded from account 42004250 523596.

TRANSFER

The Board considered the question of approving the following transfer within the FY2005 CDBG funds:

FROM:	Col Floyd Site	
	Preservation	\$34,860.07
	BHA – 1807G005 6C0018	
TO:	Egmont Street	
	Veterans Project	\$34,860.07
	BHA – 1807G005 6C0033	

On motion, it was unanimously,

VOTED: To approve the following transfer within the FY2005 CDBG funds:

FROM:	Col Floyd Site	
	Preservation	\$34,860.07
	BHA – 1807G005 6C0018	
TO:	Egmont Street	
	Veterans Project	\$34,860.07
	BHA – 1807G005 6C0033	

AMENDMENT AND EXTENSION

The Board considered the question of approving an amendment and extension of the FY2005 Egmont Street Veterans Project Contract. Said Contract to be funded from account BHA 1807G005 6C0033.

Director of the Housing Authority Brian Cloonan stated that a State grant paid for some of the repairs to stairs and handrails, but not the fence. The fence was put up in 1988 and is now at the end of its useful life. These funds would provide for a new fence.

Chairman Daly made the comment that the Housing Authority has been slow to disburse CDBG funds. Mr. Cloonan replied that the project went to bid three times, and each time came in over budget.

On motion, it was unanimously,

VOTED: To approve an amendment and extension of the FY2005 Egmont Street Veterans Project Contract. Said Contract to be funded from account BHA 1807G005 6C0033.

EXECUTING CDBG CONTRACT EXTENSIONS

The Board considered the question of approving and executing the following CDBG Contract extensions:

**Vanasse Hangen Brustlin, Inc.
1841G007 6T0034 CDB07**

**Brookline Housing Authority
FY2008 Marion & Foster Street
1807G008 6C0037**

**Brookline Housing Authority
FY2008 Safety First
1807G008 6C0036**

**Brookline Housing Authority
FY2007 Safety First
1807G007 6C0036**

**Juniper Street Playground Reconstruction
1842G007 6C0036**

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EXECUTING CDBG CONTRACT EXTENSIONS cont'd

**Juniper Street Playground Reconstruction
1842G008 6C0007**

Chairman Daly expressed concern about awarding something and than not going forward on it in a timely manner. She added that once funds are allocated, they should be disbursed.

On motion, it was unanimously,

VOTED: To approve and execute the following CDBG Contract extensions:

**Vanasse Hangen Brustlin, Inc.
1841G007 6T0034 CDB07**

**Brookline Housing Authority
FY2008 Marion & Foster Street
1807G008 6C0037**

**Brookline Housing Authority
FY2008 Safety First
1807G008 6C0036**

**Brookline Housing Authority
FY2007 Safety First
1807G007 6C0036**

**Juniper Street Playground Reconstruction
1842G007 6C0036**

**Juniper Street Playground Reconstruction
1842G008 6C0007**

TEMPORARY WINE AND MALT BEVERAGE LICENSE

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

June 27th	Writing Workshop	7pm-10pm
June 28th	Writing Workshop	7pm-10pm
July 11th	MFA Reception	5pm-8pm

TEMPORARY WINE AND MALT BEVERAGE LICENSE cont'd

July 12 th	MFA Reception	5pm-8pm
July 18 th	MFA Reception	5pm-9pm
July 19 th	MFA Reception	5pm-9pm

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:

June 27 th	Writing Workshop	7pm-10pm
June 28 th	Writing Workshop	7pm-10pm
July 11 th	MFA Reception	5pm-8pm
July 12 th	MFA Reception	5pm-8pm
July 18 th	MFA Reception	5pm-9pm
July 19 th	MFA Reception	5pm-9pm

CONTRACT

The Board considered the question of approving the following Contracts in connection with BHS Language Lab updates. Said contracts to be funded from the CIP BHS LAB Account 3199WS09 6E0070 which will be available July 1, 2008.

CBE Technologies	\$11,396.00
Apple Computer	\$85,716.75
WB Mason	\$11,860.25
Sound Tree	\$25,590.88

Deputy Superintendent of School Administration and Finance Peter Rowe stated that this is to move forward with the funds in the CIP for the new language lab at the High School. He added that a neighboring community has already installed the same lab and is very happy with it.

On motion, it was unanimously,

VOTED: To approve the following Contracts in connection with BHS Language Lab updates. Said contracts to be funded from the CIP BHS LAB Account 3199WS09 6E0070 which will be available July 1, 2008.

CBE Technologies	\$11,396.00
Apple Computer	\$85,716.75
WB Mason	\$11,860.25
Sound Tree	\$25,590.88

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PERSONNEL – TREASURER/COLLECTOR

Question of authorizing the filling of a vacancy in the position of Head Cashier (C-9) in the Treasurer/Collector Division.

Director of Finance Steve Cirillo stated that in January 2008, the Town's Head Cashier resigned. Since there was a hiring freeze in effect it has not been filled. He added that he will likely fill the position from within the Finance Department. Mr. Cirillo stated that all revenue going in and out of the Town crosses this position. It is an important position in maintaining cash flows and service levels.

On motion, it was unanimously,

VOTED: To fill the vacancy in the position of Head Cashier (C-9) in the Treasurer/Collector Division.

MEETING NOTICE REQUIREMENTS

CIO Kevin Stokes appeared to advise the Board on the status of the revamped meeting notification system for compliance with Article 6 approved by the November 2007 Special Town Meeting.

Mr. Stokes informed the Board that at the end of this month the Town will begin using an email list to notify Town Meeting members of every public meeting that falls under the Open Meeting Law. This will be the primary direct electronic notification for all public meetings, in addition to the postings that will continue on the Town website calendar. This is required by the 2007 Town Meeting.

Selectman DeWitt asked if there were any concerns on the volume of emails this will produce. Mr. Stokes replied no, the network will be able to hold it.

Selectman Benka asked if there would be some assistance for a volunteer committee member who could have difficulty with the technology, and whether they could be able to post meeting from their home computers. Mr. Stokes replied that the Information Technology Department will be available to offer assistance, but that a committee member could not yet post information from a home computer. The goal is to train members how to post the information.

Regina Frawley, TMM#16 asked if the agendas will be posted with the Town Clerk's office as well as the meeting notice. She noted that some committees never post an agenda. Chairman Daly replied that the Article states that the agenda be included to the extent possible. She added that they will get the word out to attempt to produce an agenda.

WATER AND SEWER RATES

Water and Sewer Director Andrew Pappastergion appeared to recommend setting the Water and Sewer rates for FY09.

Director of Water and Sewer Andy Pappastergion outlined the following letter to the Board:

As the final part of the fiscal year 2009 budget process, the Department of Public Works has examined the rate structure for water and sewer to provide for full cost recovery of the Town's water and sewer enterprise. The attached rate calculations are based on the projected water and sewer budget expenditures for the fiscal year, including MWRA wholesale assessments and the estimated water consumption and sewer use for the same period.

Due to significant reductions in water consumption, beginning in fiscal year 2001, the enterprise has incurred annual revenue deficits each year that have been recovered in the rate structure for each following year. Consumption estimates have adjusted downward each year in an attempt to balance actual water use and estimate the resulting revenue deficits. For fiscal year 2008, actual water consumption figures have finally shown an increase over projected consumption estimates used in the rate schedules, yielding a slight revenue surplus in the enterprise. However, increases in MWRA assessments for fiscal year 2009 have made a modest rate increase necessary.

In order to continue the full cost recovery of the enterprise, the Department of Public Works respectfully request approval of the Board of Selectmen of the following rates, effective July 1, 2008:

**Increase the Water Rate from \$4.50 to \$4.55 per hundred cubic feet (hcf) (1.1%)
Increase the Sewer Rate from \$5.75 to \$5.95 per hundred cubic feet (hcf) (3.5%)**

The combined increase of \$0.25(2.44%) is the lowest rate increase since FY 1997 and represents an increase in the annual charge for the average family of four of about \$30.00 (based on an estimated annual use of 120 hcf).

Selectman Benka noted that the Town's dollar amount has gone down while MWRA amounts have gone up, resulting in external forces beyond our control. Selectman Allen added that this is the lowest increase in eleven years and commended Mr. Pappastergion for a well run department.

On motion, it was unanimously,

VOTED: To approve the following rate increases:

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Increase the Water Rate from \$4.50 to \$4.55 per hundred cubic feet (hcf) (1.1%)

Increase the Sewer Rate from \$5.75 to \$5.95 per hundred cubic feet (hcf) (3.5%)

GRANT OF LOCATIONS

Public Hearing on the request of Extenet Systems, Inc. for a grant of location to place new poles as follows:

Node 5, Newton Street

Place a new pole across the street from existing poles #40 &41 – Intersection of Newton Street and Hallwood Road.

Node 8, Clyde Street

Place a new pole between the private driveway of 127-99 Clyde Street and existing pole #27 – Across from 114 Clyde Street.

Node 24, Aston Road

Place a new pole between the private driveway of 5 Aston Road and Hammond Street – Across from 10 Aston Road

Tom Asta from Extenet Systems stated that this request allows Extenet to install 3 new utility poles at select locations within the utility corridor in the public right-of-way of South Brookline. This is in order to construct and operate a Distributed Antenna System (DAS) network in the South Brookline area.

Chairman Daly asked about the location being too close to residential homes. Director of Engineering Peter Ditto replied that they have surveyed the sites for the best location with the least impact to residential homes. Chairman Daly asked for public comment. There was no opposition to the Extenet request.

On motion, it was unanimously,

VOTED: To grant Extenet Systems, Inc. a grant of location to place new poles as follows:

Node 5, Newton Street

Place a new pole across the street from existing poles #40 &41 – Intersection of Newton Street and Hallwood Road.

GRANT OF LOCATIONS cont'd

Node 8, Clyde Street

Place a new pole between the private driveway of 127-99 Clyde Street and existing pole #27 – Across from 114 Clyde Street.

Node 24, Aston Road

Place a new pole between the private driveway of 5 Aston Road and Hammond Street – Across from 10 Aston Road

COMMITTEE APPOINTMENTS

The Board considered the question of making appointments to:

Other Post Employment Benefits (OPEB) Task Force

On motion, it was,

VOTED: To appoint the following candidates to the Other Post Employment Benefits Task Force: (OPEB)

Oliver Buckley, Graydon Clouse, Bobbi Kaplan, Mark Manin, and Tom Reed. Selectman Chairman Nancy Daly, Advisory Committee Member Roberta Ornstein, School Committee Member Susan Wolf Ditkoff, Union Representative Jody Curran, Chairman of the Retirement Board Chet Riley, and Audit Committee member Greg Grobstein.

COMMITTEE APPOINTMENTS

The Board considered the question of making appointments to:

Efficiency Initiative Committee

On motion, it was,

VOTED: To appoint the following candidates to the Efficiency Initiative Committee:

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COMMITTEE APPOINTMENTS cont'd

Samuel Batchelder, Linda Carlisle, Lloyd Dahmen, Josette Capriles Goldish, Girard Healy, Maggie Wells, and Peg Senturia. Selectman Dick Benka, School Committee member Alan Morse, and Advisory Board member Neil Wishinsky.

LIQUOR LICENSE HEARING

Public Hearing pursuant to General Laws Chapter 138, Section 64, on the question of modifying, suspending, revoking or canceling the All Kinds of Alcoholic Beverages license as a Package Street held by Lepe Enterprises, Inc., d/b/a Village Liquor and Convenience, Antonio Lepe, Manager at 294 Washington Street.

Selectman Allen recused himself because the landlord of the premises is a client

Chairman Daly read the following:

This is a public hearing pursuant to Massachusetts General Laws, Chapter 138, Sections 34 and 64, to determine whether the Board of Selectmen, as the Licensing Authority for the Town of Brookline, should modify, suspend, revoke or cancel the liquor license issued to Lepe Enterprise, Inc. d/b/a Village Liquor and Convenience, 294 Washington Street. Antonio Lepe, Manager on the complaint of Chief Daniel O'Leary of the Brookline Police Department, as the enforcing agency for the Board of Selectmen, that Village Liquor and Convenience has violated or permitted to be violated the conditions of its license and the provisions of Massachusetts General Laws Chapter 138, Sections 34 and 64, in that it sold and/or delivered or permitted the sale of delivery of alcoholic beverages to a minor on or about May 24, 2008.

The Notice of this hearing dated June 12, 2008, was delivered by hand to Antonio Lepe, Manager Village Liquor and Convenience, and sets out the charge in detail. That notice together with the return of service is marked as Exhibit 1 and is incorporated by reference into the minutes of this hearing.

Chairman Daly: Who is to represent the Brookline Police Department?

Associate Town Counsel Ms. Correa: Lt, Gerald McGrath

Chairman Daly: Who is here to represent Village Liquor and Convenience?

Mr. Ronald Lepe, owner's son of Village Liquor and Convenience introduced himself.

Chairman Daly: Are you satisfied with the notice of hearing?

Mr. Lepe: Yes, he received it about a week and a half ago

Chairman Daly: Are there any other exhibits to be marked at this time?

Chairman Daly: Are there any preliminary motions?

Associate Town Counsel Ms. Correa: None at this time

Chairman Daly: Will all the witnesses please stand to be sworn in?

Do you solemnly swear that the testimony you are about to give the Board in the matter now before us will be the truth, the whole truth, and nothing but the truth?

Mr. Lepe: yes

Lt. McGrath: yes

Chairman Daly: Ms. Correa, are you prepared to present the Police Department's case?

Associate Town Counsel Ms. Correa stated that this matter is on a charge of Village Liquor and Convenience serving alcoholic beverages to a minor, violation under Chapter 138, Sections 34 and 64, and the Town's Liquor License Regulations Section A(13). The sale took place on May 24, 2008 shortly before 8:00 at night as part of a compliance check sting conducted by Lt. Gerald McGrath. This is the second offense. On November 16, 2006 there was the first violation of serving to minors.

A copy of a letter from Lt. McGrath dated June 1, 2008 outlining the violation history is exhibit A. Ms. Correa called on Lt. McGrath.

Lt. Gerald McGrath, Brookline Police Department's Liquor Inspector went over the events of the compliance checks which took place on May 23rd, and 24th, 2008. During this time there were 16 inspections done. Out of the sixteen establishments, two failed, two were closed, and the remaining 12 passed the compliance checks.

On May 24, 2008, a compliance check, sting, was conducted at the Village Liquor, 294 Washington Street. The minor involved is a Northeastern student working as a co-op student in the Police Department. Her date of birth is 11/9/1987. She was versed in policy and ready for the compliance check. She was given money to purchase the alcohol. After she entered the store, Mr. McGrath parked the car about three stores away. He watched her enter, walk to the end of the store and remove a six pack of Budweiser from the cooler case. She then walked to the front of the store and placed the beer on the counter. She had a conversation with the employee which he could not hear, and then observed the money being exchanged. The beer was placed in a plastic bag, and she left the store with the six-pack and the change from a \$20 dollar bill. She entered the car and informed Lt. McGrath that she just purchased the alcohol from Village Liquor.

LIQUOR LICENSE HEARING cont'd

Lt. McGrath produced the six-pack of Budweiser beer (Exhibit D), a sealed envelope with the change from the purchase (\$12). (Exhibit C), and a copy of the Police Report (Exhibit 1)

Lt. McGrath stated that the student stated she purchased the alcohol without showing identification. She was asked for some identification, and she informed the employee that it was in her car. He proceeded to sell the alcohol without her retrieving her identification. Once she informed Lt. McGrath of the circumstances the two of them went into the store, with the alcohol and change. Lt. McGrath identified himself, and told Mr. Lepe that he failed a compliance of check by selling liquor to an individual under the age of 21.

Chairman Daly asked Mr. Lepe if he had any questions. Mr. Lepe relied no.

Mr. Lepe stated that everything that was said is the truth. He had asked the student for identification, she replied that she left it in the car. He added that she looked familiar so he did not pursue it. He is not happy about the situation; he is embarrassed to be here.

Associate Town Counsel Correa introduced Ms. Alexis Dedousis, the underage operative.

Ms. Dedousis stated her name and date of birth. She stated that she is working as an intern at the Police Department. She stated the Lt. McGrath gave her \$20 to purchase a six-pack of Bud Light beer at Village Liquors. She entered the store, took a six-pack of Bud Light beer to the counter. The employee asked her for identification and she said she had to go to the car to get it if he wanted her to. He replied that's ok, she handed him the \$20 bill and took the purchase and the change to the car where Lt. McGrath was.

Chief O'Leary stated that this is the second out of three stings done at Village Liquors that failed. The first one was on 11/16/06. On 11/29/07 another compliance check was done and they passed. This past one failed as well. The second offense of sale to minors is a recommendation of 6-10 day suspension and he recommend 6 days be imposed.

Mr. Lepe stated that he had nothing to add, however he thought that the penalty for a second offense was a 3-4 day suspension. He requested that the penalty be imposed as soon as possible.

On Chairman Daly's motion, it was unanimously,

LIQUOR LICENSE HEARING cont'd

VOTED: 4-0 that the licensee is responsible for the violation described in the Hearing Notice dated June 12, 2008, and marked as Exhibit 1.

Selectman Mermell stated that this business is about to be sold. She asked how this suspension will affect the new owners. Mr. Lepe replied that the sale is in the process at the ABCC. This is why he is requesting the suspension be as soon as possible so it will not impact the new owner. He added that it is his fault, not the new owners.

Selectman Benka made the comment that given the history of this establishment over the last couple of years, he supports an even greater penalty, with the six day suspension at the minimum of the penalty guidelines.

On Chairman Daly's motion, it was unanimously,

VOTED: 4-0 that the liquor license of Lepe Enterprises, Inc. d/b/a Village Liquor and Convenience shall be suspended for a period of 6 days, with these 6 days imposed and served on the following dates: June 25-June 30, 2008.

Selectman Allen arrived

LIQUOR LICENSE HEARING

Public Hearing pursuant to General Laws Chapter 138, Section 64, on the question of modifying, suspending, revoking or canceling the All Kinds of Alcoholic Beverages license as a Package Street held by Best Cellars MA, Inc. Nicole Davis, Manager at 1327 Beacon Street.

Chairman Daly: This is a public hearing pursuant to Massachusetts General Laws, Chapter 138, Sections 34 and 64, to determine whether the Board of Selectmen, as the Licensing Authority for the Town of Brookline, should modify, suspend, revoke or cancel the liquor license issued to Best Cellars Inc. 1327 Beacon Street, Nicole Davis Manager on the complaint of Chief Daniel O'Leary of the Brookline Police Department, as the enforcing agency for the Board of Selectmen, that Best Cellars Inc. has violated or permitted to be violated the conditions of its license and the provisions of Massachusetts General Laws Chapter 138, Sections 34 and 64, in that it sold and/or delivered or permitted the sale of delivery of alcoholic beverages to a minor on or about November 29, 2007.

The Notice of this hearing dated June 12, 2008, was delivered by hand to Nicole Davis, Manager, Best Sellers, and sets out the charge in detail. That notice together with the return of service is marked as Exhibit 1 and is incorporated by reference into the minutes of this hearing.

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Attorney Gerald Caruso was present to represent Best Sellers along with the current Manager Nicole Davis.

Attorney Caruso stated that he is not contesting the underlining facts set forth in the Police report. The previous manager of record admitted to the police officer that she had served the minor in the store. He is here to let the Board know the steps Best Sellers has taken to prevent this from happening in the future.

Since there is no contesting the charge, the Chief went right into the penalty phase. The Chief stated that as a first offense the penalty is a three to five day suspension, he recommended a three day suspension imposed.

Chairman Daly stated that it has been past practice to hold the suspension.

Attorney Caruso called Manager Nicole Davis to the stand to discuss the steps she is taking on employee training.

Attorney Caruso: When did you become General Manager of Best Cellars?

Ms. Davis: In March 2008

Attorney Caruso: When were you hired?

Ms. Davis: November 2007

Attorney Caruso: When you were hired what was your position?

Ms. Davis: Assistant manager

Attorney Caruso: Who was the manager?

Ms. Davis: Jennifer Meacham

Attorney Caruso: Was Jennifer the person involved in the sting for minors

Ms. Davis: Yes

Attorney Caruso: Can you tell the board what Best Cellar's policy is for IDing patrons?

Ms. Davis: We ID everyone who appears under 35 years old. We card at the tasting table as well as at the cash register.

Attorney Caruso: Does Best Cellars have other locations in Mass?

Ms. Davis: Yes, Boylston Street in Boston.

Attorney Caruso: What policy is the Boylston Street location?

Ms. Davis: The same as Brookline's policy.

Attorney Caruso: Was Ms. Meacham required to make any written commitment to comply with the Best Cellars' policy regard IDing patrons?

Ms. Davis: Yes

Attorney Caruso: Do you have a copy of it?

Ms. Davis: you, I do.

Attorney Caruso: This is our 1st exhibit (copy of policy and written statement by Ms. Meachen that she will comply with the policy)

Attorney Caruso: On the night in question, were you working?

Ms. Davis: I was not

Attorney Caruso: Did Ms. Meachen tell you what happened?

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Ms. Davis: The next day she did.

Attorney Caruso: What did she tell you happened?

Ms. Davis: That there was a sting operation and that she had sold a bottle of wine to a minor.

Attorney Caruso: Did she tell you why she made that mistake?

Ms. Davis: She said she was in the back of the store, and observed a customer at the register, So she went to the front to cover the register. She thought that the tasting table had already carded the minor.

Attorney Caruso: Since the evening of the incident what steps have you taken as the Manager to ensure that these types of events do not happen again?

Ms. Davis: I have circulated out our policy of IDing everyone looking under 35 years of age as well as strictly enforcing that everyone at the tasting table and the register get asked for ID.

Attorney Caruso: Why don't you explain what the tasting table is?

Ms. Davis: We have a tasting table set up at the store for wine tasting where we taste out different wines to customers.

Attorney Caruso: Is the policy to ID everyone at the tasting table

Ms. Davis: yes, As well as the cash register

Attorney Caruso: Since the night of the incident have you been notified that there was a second sting operation?

Ms. Davis: Yes

Attorney Caruso: What did it say?

Ms. Davis: That we have passed.

Attorney Caruso: Do you have it with you?

Ms. Davis: Yes

Attorney Caruso: 2nd exhibit (letter from Brookline Police indicating that Best Cellars past the sting on May 27, 2008).

Attorney Caruso: Have you been tips trained?

Ms. Davis: Yes

Attorney Caruso: and after the incident did you know if Ms. Meacham was tip trained before she left?

Ms. Davis: Yes she was

Attorney Caruso: I don't have any other questions?

Associate Town Counsel Ms. Correa: Do you supervise any other employees?

Ms. Davis: Yes, I do

Associate Town Counsel Ms. Correa: How many?

Ms. Davis: About 8

Associate Town Counsel Ms. Correa: Do you have employees sign a form what's been marked exhibit 1 when they are hired?

Ms. Davis: Yes I do.

Associate Town Counsel Ms. Correa: You are responsible for hiring, and verbally explaining the stores policy, have you implemented any corrective action plan?

Ms. Davis: When we received notice of the failed sting, I wrote an email to all of the employees reminding them of the store policy.

Selectman Benka asked if there have been other compliance checks or stings other than these two, the one in November of 2007 and in May of 2008?

Chief O'Leary replied that he did not bring the record with him, but in the last eight years there would have been about six stings. Best Cellars past all but one in the year 2000.

Selectman Allen asked how often the emails are being sent and what else is being done to prevent this? Ms. Davis replied that in addition to the email she posted a note at the register to remind employees of the policy.

Attorney Caruso asked that the three days suspension which is the minimum penalty for the first offense, because the prior offense was over six years ago, be withheld. This is a crime and the licensee used the Towns compliance check as a learning tool and an opportunity to check their own procedures, and improve their procedures to make sure they are in compliance. They understand that checking ID's is something that gets done on a regular basis.

On Chairman Daly's motion, it was unanimously,

VOTED: 5-0 that Best Cellars Inc. is responsible for the violation described in the Hearing Notice dated June 12, 2008.

Selectman Benka stated that he distinguishes the differences between this case and the last case. He recognizes that they past the second compliance check. He asked how they would feel about a five day suspended sentence, assuming there are no further violations within the next 5-6months. Attorney Caruso replied that would be a challenge. He thinks that is a reasonable approach.

Selectman Daly stated that should there be another violation, they would be serving a five day from the first one, plus whatever the penalty would be for the seconded offense. She added it would be quite a substantial penalty. Attorney Caruso replied that he understood.

Selectman Allen stated that he agrees with Selectman Benka's recommendation. The goal is not to punish, it is to make sure they are in compliance. Best Cellars has been a good corporate citizen, participating in Coolidge Corner events. He urged them to put forth positive practices in place to adhere to the liquor regulations. He appreciates the efforts that they have made. He noted that the manager who made the sale has been replaced and that Best Cellars had used the incident to improve its policies.

Selectman DeWitt added that tasting table could be an area that would need special attention. It would be easy for someone to approach the table and taste the wine without being noticed.

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Chief O'Leary added that a sting will be done in the upcoming months at Best Cellars.

On Chairman Daly's motion, it was unanimously,

VOTED: The motion is that the liquor license of Best Cellars shall be suspended for a period of 5 days with 0 days imposed and served. And the remaining days of said suspension shall be withheld on the following terms and conditions: If this Board finds the licensee in violation of any provision of Massachusetts General Laws Chapter 138, the regulations of the Alcoholic Beverage Control Commission, or the Town of Brookline's Sale of Alcoholic Beverages Regulations on or after June 24, 2008 to December 31, 2008, said remaining 5 days suspension shall be imposed by the Board and served by the licensee without further hearing on such dates as this Board may designate, in addition to any further sanctions that may be voted by this Board for such additional violations, and if this Board does not find Best Cellars in violation of any provision of Massachusetts Chapter 138, the Alcoholic Beverage Control Commission regulations or the Town of Brookline's Sale of Alcoholic Beverages Regulation on or after June 24, 2008 through December 31, 2008 said remaining 5 days shall be dismissed.

2008-2009 ACTION LIST

The Board discussed the Action List for the upcoming Fiscal Year.

The Board was presented with the upcoming Action List. The list consisted of 53 Action Items. A Selectman was designated for each action item.

There was no vote on this agenda item.

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

ATTEST