

IN BOARD OF SELECTMEN

November 5, 2008

The Minutes of October 28, 2008 were approved as amended

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

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
 Voting in the Negative: 0**

Selectman Allen absent

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.

Chairman Daly announced the Veterans Day events.

FUNDING REQUEST

The Board considered the question of authorizing the Chairman to execute a letter to the Massachusetts Technology Collaborative requesting funding in the amount of \$3,775.00 for the purchase of a new “Big Belly 3” unit to be placed in front of the newly renovated Town Hall.

Director of Engineering Peter Ditto stated that the “Big Belly” solar powered compactor units have proved to be quite efficient. They require fewer pick ups and cut down on litter.

On motion, it was unanimously,

VOTED: To authorize the Chairman to execute a letter to the Massachusetts Technology Collaborative requesting funding in the amount of \$3,775.00 for the purchase of a new “Big Belly 3” unit to be placed in front of the newly renovated Town Hall.

INSTALLATION OF MOSAIC ART

The Board considered the question of authorizing the installation of mosaic art on the front portico entrance of Town Hall as reviewed by the Planning Board and Building Commission.

Chairman Daly stated that she requested the Building Commissioner to ask the architect for the Town Hall renovation to look at a method to install mosaic tiles on the columns outside Town Hall. It would not involve drilling, and can be easily removed. The mosaics would be a gift to the Town from Bette Ann Libby and other private donors. Selectman DeWitt added that there are samples of the tiles at the temporary Town Hall.

On motion, it was unanimously,

INSTALLATION OF MOSAIC ART cont'd

VOTED: To authorize the installation of mosaic art on the front portico entrance of Town Hall as reviewed by the Planning Board and Building Commission.

MWRA FUNDS

The Board considered the question of accepting \$528,000 from the MWRA to be used in connection with Contract PW/07-03 "Sewer Separation Design Contract" for lower Beacon Street to be distributed as follows:

Contract Amendment #2	\$513,000
Police Details	\$ 15,000

Director of Engineering Peter Ditto stated that once accepted the funds will be used in the final design phase; this includes police details associated with the project. He assured the Board that the roads will be returned to their new condition, and the project is paid for by the MWRA. Selectman DeWitt would like an outline of the timetable for the project available once drafted. Mr. Ditto replied that the contractor will have it once the contract has been awarded.

On motion, it was unanimously,

VOTED: To accept \$528,000 from the MWRA to be used in connection with Contract PW/07-03 "Sewer Separation Design Contract" for lower Beacon Street to be distributed as follows:

Contract Amendment #2	\$513,000
Police Details	\$ 15,000

CONTRACT

The Board considered the question of awarding Contract PW/09-11 "Lower Beacon Street Sewer Separation Phase-I" in the amount of \$1,387,673.50 to D'Allessandro Corp. of Avon. Said contract to be funded from the Sewer Separation account 4995SW54 524003.

Director of Engineering Peter Ditto stated that the work in this contract consists of separating combined sewers by installing separate storm drain pipes and manholes on side streets off lower Beacon Street.

The MWRA will be reimbursing the Town for the project.

On motion, it was unanimously,

VOTED: To award Contract PW/09-11 “Lower Beacon Street Sewer Separation Phase-I” in the amount of \$1,387,673.50 to D’Alessandro Corp. of Avon. Said contract to be funded from the Sewer Separation account 4995SW54 524003.

CONTRACT

The Board considered the question of executing Contract PW/09-15 “Cold Plane & Resurface Two Roadways” in the amount of \$151,900.00 with D&R General Contracting, Inc. of Stoneham. Said Contract was awarded October 21, 2008 and will be funded from the following accounts:

4998WS07 6H0026	\$ 9,851.97
4998WS08 6H0026	\$110,382.58
4998WS09 6H0026	\$ 31,665.45

Director of Engineering Peter Ditto stated that this would be a quick construction project on Kent Street and Pond Ave. There have been many complaints on the conditions of these roads.

On motion, it was unanimously,

VOTED: To execute Contract PW/09-15 “Cold Plane & Resurface Two Roadways” in the amount of \$151,900.00 with D&R General Contracting, Inc. of Stoneham. Said Contract was awarded October 21, 2008 and will be funded from the following accounts:

4998WS07 6H0026	\$ 9,851.97
4998WS08 6H0026	\$110,382.58
4998WS09 6H0026	\$ 31,665.45

EXTRA WORK ORDER

The Board considered the question of approving Extra Work Order #1 in the amount of \$17,500.00 for work to be completed by GR Construction of Fitchburg in connection with Contract PW/09-11 “Various Sewer & Drain Repairs”. Said work order to be funded from account 4997C144 6C005.

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EXTRA WORK ORDER cont'd

Director of Engineering Peter Ditto stated that this work involves installation of sewers and drains to the Municipal Service Center, and repairs at Cleveland Road, Goddard Ave, and Avon Street.

Selectman Mermell asked about individual dumping in curbside storm drains. She has heard some complaints from residents in her neighborhood on this, in particular, dog waste. Mr. Ditto replied that is a problem, they clean the catch basins once a year. It is a violation to dump materials into the storm drains. It is noted so in the yearly DPW flyer.

On motion, it was unanimously,

VOTED: To approve Extra Work Order #1 in the amount of \$17,500.00 for work to be completed by GR Construction of Fitchburg in connection with Contract PW/09-11 "Various Sewer & Drain Repairs". Said work order to be funded from account 4997C144 6C005.

GRANT

The Board considered the question of accepting a grant in the amount of \$30,000 from the FFY08 Violence Against Women Act STOP Grant to be used by the Police Department to continue the expansion of domestic violence prevention, intervention, education and enforcement efforts.

Chief O'Leary stated that these funds will be used to expand upon domestic violence prevention, intervention, education, and enforcement efforts. The Chief was happy to add that this year the funds have increased.

Selectman Mermell added that she is glad to see this funding continue, as it provides an important service to the community.

On motion, it was unanimously,

VOTED: To accept a grant in the amount of \$30,000 from the FFY08 Violence Against Women Act STOP Grant to be used by the Police Department to continue the expansion of domestic violence prevention, intervention, education and enforcement efforts.

COMMITTEE APPOINTMENT

The Board considered the question of appointing a Committee for the Runkle School Renovations and Additions Designer Selection.

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COMMITTEE APPOINTMENT cont'd

Chairman Daly stated that the Massachusetts School Building Authority appointed a panel for the Additions Designer Selection for the Runkle School Renovations. Three panel members are to be from the Town of Brookline. The members shall be a School Committee Member, the Superintendent of Schools, ex officio, or his/her designee, and a chief executive officer of the Town, ex officio, or his/her designee.

On motion, it was unanimously,

VOTED: To appoint Nancy Daly, Selectman Chair, Helen Charlupski, School Committee member, and Kenneth Kaplan Building Commission member, to the Committee for the Runkle School Renovations and Additions Designer Selection.

RESOLUTION

The Board considered a Resolution honoring Assistant Treasurer John Mulhane for his forty-two (42) years of dedicated service to the Town.

Town Administrator Richard Kelliher stated that Mr. Mulhane will be retiring after serving 42 years of dedicated service.

On motion, it was unanimously,

VOTED: To adopt the following resolution honoring John Mulhane:

WHEREAS, on Thursday November 6, 2008 John Mulhane will be honored by his family, friends and associates when they will recognize his forty-two (42) years of dedicated service to the Town of Brookline; and

WHEREAS, John started his career with the Brookline Municipal Court in 1965; in 1966 this position was assigned to the Police Department where he worked until 1970 when he transferred to the Treasurer's office; and

WHEREAS, John who was born and raised in Brookline, and attended Brookline Public Schools; worked his way up the ladder in the Treasurer's Office until 1979 when he was appointed Assistant Treasurer under then Treasurer Shirley Sidd; and

WHEREAS, he not only takes pride in his work as Assistant Treasurer, but also in the community; he has been a town meeting member since 1994, appointed to TMMA in 2006, member of the Knights of Columbus, and member of St. Mary's Holy Name Society and Parish Council; and

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WHEREAS, John's knowledge of people and events around the Town is without match; he is like a Brookline walking encyclopedia; and

WHEREAS, it is well that we let John know that his tremendous service is appreciated, that we tell him in so many words that he has the gratitude of the entire citizenry of Brookline.

BE IT THEREFORE RESOLVED, that we, the Board of Selectmen, as the Town's governing body join in this most deserved tribute and extend to John a sincere thank you for a job well done, together with best wishes for many years of happiness and good health in retirement.

RESOLUTION

The Board considered a resolution on the passing of former Town Treasurer Shirley Sidd.

The Board acknowledged Ms. Sidd's many years of dedication to the Town of Brookline.

On motion, it was unanimously,

VOTED: To adopt the following resolution honoring Shirley Sidd:

***RESOLUTION
ON THE DEATH OF
SHIRLEY SIDD
FORMER BROOKLINE TREASURER***

***It is with deepest regret that we,
the members of the Board of Selectmen
record the passing of former Town Treasurer
Shirley Sidd
September 25, 2008***

WHEREAS, after the unexpected loss of her husband Allan in 1977, Shirley Sidd ran for his position as treasurer and was overwhelmingly elected; and

WHEREAS, Shirley served the citizens of Brookline in her post as Treasurer for fourteen years; and

WHEREAS, her passing takes from us an amazing citizen who spent a lifetime devoted to progressive politics and women's rights; and

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WHEREAS, she was an energetic and wise advisor for numerous political campaigns including those for Robert Drinan, Barney Frank and Michael Dukakis; and

WHEREAS, after retiring from the Town in 1992 she moved to San Francisco to be close to her only daughter Diane Sidd-Champion where she continued her advocacy; and

WHEREAS, an outstanding daughter of Brookline of sterling character, sincerity of purpose and considerable achievement has been taken from our midst, and in our desire to record our appreciation for her substantial contributions to the community.

BE IT THEREFORE RESOLVED, that we, the undersigned members of the Board of Selectmen on behalf of the citizens of Brookline, extend our deepest sympathy to the family of the late Shirley Sidd and let them know that she will be greatly missed by all.

Selectman Allen arrived 7:55

BOARDS AND COMMISSIONS

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

Conservation Commission
Werner Lohe

Werner Lohe – is seeking re-appointment. He has recently worked on the Conservation Restriction Policy. Mr. Lohe has served as Chair of the Commission which rotates the position. He looks forward to continuing work on the Commission.

BOARDS AND COMMISSIONS

Advisory Council on Public Health
Patricia Maher
Panos Voukydis, MD

Patricia Maher – is seeking re-appointment. She has recently worked on flu vaccinations, and the trans-fat ban. She hopes to continue her work concentrating on communicable disease and mental health issues.

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BOARDS AND COMMISSIONS cont'd

Panos Voukydis, MD – is the Director of Electrophysiology Service at Mount Auburn Hospital. Dr. Voukydis is also an Assistant Clinical Professor of Medicine at Harvard Medical School. He would like to share his expertise in general issues of disease prevention.

GRANT OF LOCATIONS

Public Hearing on the petition of Boston Edison Company d/b/a/ NSTAR Electric for permission to construct and a location for such a line of conduits and manholes with the necessary cables therein under the following public way:

Fisher Avenue: Southerly @ Hyslop Road – a distance of 30 feet - conduit @ manhole (MH10670)

Hyslop Road: Southerly @ Fisher Avenue - a distance of 300 feet – conduit, and install one (1) new manhole (MH29111).

Director of Engineering Peter Ditto stated that this work is to improve service in the Hyslop Road and Fisher Ave area.

Ms. Sheila Gillis from NStar added that there have been no responses from the notification mailings.

On motion, it was unanimously,

VOTED: To grant permission to the Boston Edison Company d/b/a/ NSTAR Electric for permission to construct and a location for such a line of conduits and manholes with the necessary cables therein under the following public way:

Fisher Avenue: Southerly @ Hyslop Road – a distance of 30 feet - conduit @ manhole (MH10670)

Hyslop Road: Southerly @ Fisher Avenue - a distance of 300 feet – conduit, and install one (1) new manhole (MH29111).

WARRANT ARTICLES

Further review and vote of the following Warrant Articles for the November 18, Fall Town Meeting:

WARRANT ARTICLES

<u>Article No.</u>	<u>Title</u>
14.	Zoning Day Care Facilities (Shabelsky)

Director of Planning & Community Development Jeff Levine reviewed his position on Article 14 as outlined.

As per your request last Tuesday, I offer some suggestions as to a way to accomplish the goal of retaining the ability to operate large family daycare in Brookline in the short term, while developing a longer term strategy for addressing the issue.

We have done some research as to how other municipalities regulate family day care. In general, they appear to permit *family day care* by right, although one community requires a special permit. About half of the communities surveyed permit *large family daycare* by right, and about half require a special permit. Other cities and towns generally permit large family day care in most or all zoning districts. We have only found one community that does not permit *large family day care* in their zoning ordinance, and that may be an oversight as much as an intentional distinction.

We have also learned that the state is currently in the process of revising all of their regulations related to family child care. The proposed regulations indicate that the state may be considering significant changes to the licensing process. This might be a good reason to hold off on a permanent set of zoning changes regulating these facilities.

For background information, I attach a map showing where the nine large family daycare licenses within Brookline are located. This map is based on the state's database, which may be somewhat out of date, and does not include a facility that we had earlier thought was located in Brookline. It also does not include the facility on Hammond Street, perhaps because it was recently licensed. The facilities we are aware of are all located in T or M districts, and would therefore be eligible to seek Special Permits under the proposed article.

In order to prevent the Town from potentially having to seek closure of all of the existing large family daycare facilities, I recommend that the Board consider a recommendation of approval for Article 14, with the amendment that it would sunset after about 18 months. You could also recommend in your report on Article 14 to Town Meeting that this time period be used to have the Zoning Bylaw Committee and appropriate Town officials develop a more lasting approach in light of the possible regulatory changes at the state level and the overall need to examine this issue further.

WARRANT ARTICLES cont'd

Mr. Levine felt that this time table makes sense given the schedule of the upcoming Town Meetings.

Selectman DeWitt asked about the difference between family day care, and day care centers. Director of Public Health, Dr. Balsam replied that there are about 30 group day care centers in Brookline. Some have 100 or more children enrolled. They are larger and usually in commercial areas. They are well regulated in Brookline, which is one of a handful of communities that assume the function of licensing them. In most communities the State takes that on. The smaller home based day cares historically have been able to serve up to 6 children. Because of the tremendous demand in day care, the State has increased that number to 10. Brookline's By-law allows up to 6 children, and the State allows up to 10 children.

Selectman DeWitt expressed concern on the communication between the State and the Town on where the licenses are issued. Mr. Levine replied the State's website can provide that information. The State does not notify the Town on day care licensing.

Selectman Benka asked how many large family day cares are operating with more than 6 children. Mr. Levine replied that he is aware of one with 6 children. Selectman Benka added that the sunset clause will allow large family daycare on a temporary basis and not undercut operators operating within the State's regulations.

Mr. Levine added that those operating with over 6 children will require a special permit. The Building Commissioner will send out notices requiring the providers to either operate with less then 7 children or apply for a special permit.

Selectman Mermell asked about a 12 month sunset clause. Mr. Levine replied that given the process and research needed, it was felt that 18 months would be an appropriate amount of time. During the sunset period, they would be able to come in and apply for a special permit. If the permit is denied, the grace period is over, and the facility would have to go down to 6 kids.

Dr. Balsam added that he feels the special permit process is the way to go. It is proven to work well in other communities.

The Board discussed the sunset period and the length of time appropriate for it.

Selectmen Benka and DeWitt favor a one year sunset clause. They would like for this issue to be resolved quickly and for the day care operators to be in compliance with the Town's By-law.

Principal Uses	Residence					Business			Ind.
	S	S C	T	F	M	L	G	O	I
<p>15B. Large family day care home defined as any private residence, operated by the occupant of that residence, which on a regular basis receives for temporary custody and care during part or all of the day, children under seven years of age or children under sixteen years of age if such children have special needs, and receives for temporary custody and care for a limited number of hours, children of school age in accordance with regulations promulgated by the Commonwealth's Department of Early Education and Care; provided, however, in either case, that the total number of children under sixteen in a large family day care home shall not exceed ten, including participating children living in the residence. * *</p> <p>*(Use 15, 15A and 15B) A day care center or a family day care home shall be licensed in accordance with M.G.L. chapter 28A, §10. If such facility has an outdoor play area, that area shall be at such a distance and so screened from any lot line and from any residential structure on an adjoining lot to avoid a noise nuisance.</p> <p>** THIS USE SHALL BE PERMITTED UNTIL JUNE 1, 2010</p>	No *	SP*	SP *	SP*	SP*	Yes *	Yes*	Yes*	Yes*

and further recommended that the Zoning Bylaw Committee shall work with the Planning Board and Advisory Committee on Public Health to develop a more permanent solution to the regulation of large family daycare, for submission to a future Town Meeting prior to June 1, 2010.

WARRANT ARTICLES

Further review and vote of the following Warrant Articles for the November 18, Fall Town Meeting:

<u>Article No.</u>	<u>Title</u>
27.	Resolution on Sidewalk Snow Removal (Safer)

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WARRANT ARTICLES cont'd

Chairman Daly stated that the DPW has made a lot of effort to get a programming up and running on sidewalk snow removal. She had some concerns with the language of the Article.

Town Administrator Richard Kelliher added that he went over the amended version in section "c" with the Commissioner of Public Works. The Commissioner agrees that this approach would encourage neighborhood organizations to step in and help find a solution.

Martin Rosenthal TMM#9 stated that he and the petitioner are not inclined to the amendment. He feels that it personifies twenty years of frustration. The clause in question had enough wiggle room to keep it as it was.

Chairman Daly made the motion of Favorable Action on Article 27 as amended.

On motion, it was unanimously,

VOTED: 5-0 Favorable Action To see if the Town will adopt the following Resolution:

Resolution Seeking More Resident Sidewalk Snow & Ice Clearing

WHEREAS: despite many committees and Town Meeting articles over two decades, the Town remains fiscally unable to dramatically increase sidewalk snow removal and resident compliance with the removal By-Law remains erratic; and

WHEREAS: failure to remove sidewalk snow leaves many serious safety problems, especially for children, seniors, and people with disabilities who are forced to walk in streets; and

WHEREAS: the 2007 Moderator's Committee on Sidewalk Snow Removal urged that the "Town work to dramatically increase resident involvement in maintaining clear sidewalks," stating, "The actions to be taken should include increased enforcement of existing regulations and regular use of citations for failure to clear sidewalks"; and

WHEREAS: the Moderator's Committee urged the Town to "make procedural, contractual, and budget changes to allow for seasonal employees to assist with sidewalk snow removal. An annual budget of \$35,000 should be provided to maintain a pool of seasonal employees responsible for sidewalk snow removal"; and

WHEREAS: our systems for helping residents who are unable to shovel and for giving citations and warnings are both far from adequate -- the latter according to a May 29, 2008 Police Dept. memorandum, showing, "[a]s of this date, Permits Plus has 977 snow

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tickets issued in the Town since 2003. The breakdown is as follows: Health Dept. 615, DPW 501, Building 114, Police 108"; and a May 27, 2008 BPD memorandum, "Snow Enforcement Tickets Issued: 2005= 21, 2006 = 16, 2007 = 9, 2008 = 2";

NOW, THEREFORE BE IT RESOLVED that the Town Meeting urges that the Selectmen:

A. establish a unified snow removal enforcement/warning program so that far more citations -- especially warnings -- are issued, and that enforcement not be merely complaint-driven; and

B. as part of such program, prioritize town-wide enforcement by cruising police officers -- if necessary by recording date & time of violations, then afterwards issuing/delivering citations and warnings by mail or by DPW and/or Health Dept. officials; and

C. examine whether a credible, well-publicized, fair, and readily available fee-based program, and/or a pool of seasonal employees or laborers, Town-employed and/or independent contractors, to help residents who cannot clear their own abutting sidewalks can be reasonably established
and

D. review at a public hearing each November the various departments' plans for public education, enforcement, and assistance for residents who need help.

, or act on anything relative thereto.

Article No.

Title

28.

**Resolution on Invasive Plant
Species (Wolff)**

Chairman Daly stated that she took a look at the language and re-wrote it. She is trying to keep the main concerns in it while validating the Town's efforts in addressing invasive plants.

Selectman Benka added that he feels this language addresses the petitioner's concerns.

Selectman DeWitt stated that this also addresses the concerns of the Conservation Commission where they felt that they were already doing what they could to address this issue.

Chairman Daly made the motion of Favorable Action as revised on Article 28.

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On motion, it was unanimously,

WARRANT ARTICLES cont'd

VOTED: 5-0 Favorable Action To see if the Town will adopt the following resolution:

RESOLUTION TO REDUCE THE PROLIFERATION OF INVASIVE PLANT SPECIES

Whereas, there exists certain plant species which are considered invasive because they are not native to the region and they can starve out native species and plant (“invasive species”)

Whereas, these invasive species are on the Massachusetts Prohibited Plant List as of January 2009 and are specifically banned from sale or propagation by the Commonwealth of Massachusetts Department of Agriculture. <http://www.mass.gov/agr/>;

Whereas, when these species grow on private property, they may spread to Brookline parks, conservancies, other public property or other private property;

Whereas, these species can harm trees, wetlands, or the habitat of wildlife;

Whereas, these species are growing increasingly costly to control on public land; and

Whereas, the Parks Department and the Conservation Commission of the Town of Brookline has been working to get information to the public about the dangers of invasive species and to eradicate invasive species from public land wherever possible;

Therefore Be It Resolved, that Town Meeting acknowledge the need to control invasive species on both public and private land in the Town, recognize the efforts of the Parks Department and the Conservation Commission to control invasive species on public property and to encourage the Town to continue to provide information to the public on invasive species and how to control those species on private property.

Or act on anything relative thereto.

POLICE POLICIES AND PROCEDURES

Further review and vote on the proposed changes to the Rules & Regulations, Policies & Procedures for the Police Department. The Police Department is updating these provisions for purposes of professional accreditation.

Chairman Daly began by stating that Selectman Benka would not like to vote on this tonight, he has some concerns on the language. The Chairman advised him

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POLICE POLICIES AND PROCEDURES cont'd

to submit his changes to Selectmen Allen and Mermell who have been working on the document.

Selectman Benka asked if holding the vote would interfere with the accreditation process.

Chief O'Leary replied that it would not set them back. They are in the self assessment phase now and he anticipates it being completed within the next two weeks.

Arthur Conquest, 115 Tappan Street addressed the Board with some concerns. His first concern was on the distribution of the document. There was a misunderstanding as to who had a copy and how it was retrieved. He asked about the community relations component of the document that was presented last month. After viewing the document himself, the community relations section was excluded. He asked why this is so. Selectman Mermell replied that this section is not required for the accreditation. She added that the Chief's presentation included some bonus information with some extra bullet points.

Mr. Conquest asked about who has reviewed that document particularly the part on civil rights. Ms. Mermell replied that the material being reviewed by the Citizens Complaint Committee on civil rights is not part of the document. It is a separated endeavor.

Mr. Conquest asked about citizens rights to sit in on the accreditation process.

Chief O'Leary replied that the accreditation process is where the State sets a standard that they have to meet. It says nothing about going above and beyond these standards. Brookline is well beyond the required standards. As far as citizens input, that is what we are doing here tonight, as well as in September. The book has been available. He has received public input. The Department will look at them, but they are not part of the accreditation process. The State would not come in and hold a public hearing on the process.

Selectman Benka asked about how this process will relate to the recommendations that will be made by the Citizens Complaint Committee. He has a concern on approving something that they know is going to be changed.

The Chief replied that all of the policies are fluid, there will be adjustments. There is a policy that is needed to operate now. He acknowledged that it will be changed, and it will not impact the accreditation process.

Selectman Mermell added that they can submit what they have, and that there is no reason why it can't be amended at a later time.

POLICE POLICIES AND PROCEDURES cont'd

Chief O'Leary stated that today, if a citizens complaint comes in, they have to follow a policy. He is hoping to maintain the policy until the new one comes out and they will make the adjustments going forward. Laws change, procedures change, and the Department has to react it.

Selectman DeWitt stated that there are two parallel processes going on now. The accreditation process, which provides the State with our policy manual, which must meet their standards, and the Citizen's Complaint Review Committee which is a separate process, eventually they will cross over.

Selectman Allen added that when the Public Safety Building was renovated a number of procedures were changed due to the new layout of the building. This included security, and transporting of prisoners. The procedures were in the process, and once they got in the practice of doing it, the procedures were updated. This is an example of the fluidity of the manual, and how it continues to grow.

Chief O'Leary stated that every three years the State will take a look at the policy to make sure it is up to the standards. The State expects the policy to change, but requires the standards are met.

Martin Rosenthal TMM#9 stated that the accreditation process is widely reputed to be a wonderful process. It is good to have a separate pair of eyes looking at your procedures, it is worthwhile. It was recommended many years ago to go through the process. He is happy to see the civil rights, civil liberties added, and still has a concern on the Selectmen's role which he feels needs to be clarified, but he added that that is for another time, and not required for this process. As a member of the Citizens Complaint Committee, he feels their recommendations will be available in January, although there has been no formal date set.

Arthur Conquest stated that he has a personal interest in the law enforcement documents due to his personal experience. He would like to take part in the shaping of the document. His hope is that what happened to him will not happen to another citizen.

Chairman Daly replied that the policies will continue to be revised and improved.

VIDEO CAMERA MONITORING SYSTEM

Chief O'Leary appeared to present proposed Video Camera Monitoring Policy as part of the Metro-Boston Urban Areas Security Initiative to enhance local management of emergency situations.

VIDEO CAMERA MONITORING SYSTEM cont'd

Chief O'Leary stated that Brookline's Emergency Team, along with several members of the Police Department, has been working extensively on an evacuation plan for the Town of Brookline. This plan is in its final stages of development and will be ready for review by the Board shortly. As part of the planning effort, we have also been working with other communities that are part of the Urban Areas Security Initiative (UASI), Boston region. To move our planning efforts forward, we are seeking the endorsement of the Board of Selectmen to install video cameras at critical intersections along our evacuation route. These cameras will be mounted in positions that will allow our personnel to monitor any evacuation that impacts the Town and if a problem is developing along the route, we can deploy to correct it.

The Department has applied for a grant to support the system. Brookline's share of the project is approximately \$150,000. This entire amount is being funded by UASI.

The Department identified key intersections of where the cameras will be placed. For several months a camera has been up for testing on the corner of Harvard and Beacon Streets. The camera will also be used as a secondary tool where an accident or a crime has occurred. They can only be used on public areas, on public ways. The reviewing of the data will be secured within the Police Department.

Selectman Allen asked if the cameras are constantly recording and how long will the back up be available. Chief O'Leary replied the standard amount of time is 30 days, although he was told that with the amount of cameras in use it may only have the capability of 17 days. That being said, it is safe to say a minimum of 17 days and a maximum of 30 days.

Selectman DeWitt asked about backing the server up. Chief O'Leary replied that if the film was needed in court it would be backed up separately, and stored per the evidence policy. Officer Scott Wilder stated that the data would be backed up everyday, saved for thirty days and rerecorded.

Selectman Mermell asked if the other communities would have access to the Brookline images all the time or only during the emergency evacuations. Officer Wilder replied that they would have to ask for permission, or given rights to the film. The same is true for achieves. This is addressed in the policy.

Selectman Allen asked if the videos would be used for civil offenses. The Chief replied no, unless the result was an accident.

Selectman DeWitt asked about the use of the videos during a snow emergency. Chief O'Leary replied that this would not be considered an evacuation.

In Board of Selectmen

November 5, 2008

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VIDEO CAMERA MONITORING SYSTEM cont'd

It could help in getting a good look at the roads beforehand. They could see what was transpiring, and make adjustments.

Chairman Daly stated that there will be a public hearing on this issue.

Martin Rosenthal TMM# 9 stated that he is open minded about this, however there may be some privacy issues. He added that the plan appears to be well thought out.

BOARDS AND COMMISSIONS

The Board considered the question of making appointments to the Advisory Council on Public Health.

On motion, it was unanimously,

VOTED: To re-appoint Patricia Maher to the Advisory Council of Public Health for a term ending August 31, 2011 or until a successor can be appointed.

VOTED: To appoint Dr. Anthony Schlaff, to the Advisory Council of Public Health for a term ending August 31, 2011 or until a successor can be appointed.

There being no further business, the Chair adjourned the meeting at 9:45 p.m.

ATTEST

IN BOARD OF SELECTMEN

November 18, 2008

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

Melissa Goff was the Recording Secretary

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 an amendment to Contract PW/08-15 “Singletree Tank Painting” in the amount of \$4,500 for work to be completed by Weston & Sampson Engineers, Inc. of Peabody. Said amendment to be funded from account 4997C159 W&S CIP 6E0066.

Director of Water & Sewer Andy Pappastergion stated that he had previously informed the Board of some structural damage found during sandblasting operations. The Board had approved the additional construction cost associated with the required repairs at their October 28th meeting. This item is for engineering services related to the design and coordination of the repair work.

On motion, it was unanimously,

VOTED: To approve an amendment to Contract PW/08-15 “Singletree Tank Painting” in the amount of \$4,500 for work to be completed by Weston & Sampson Engineers, Inc. of Peabody. Said amendment to be funded from account 4997C159 W&S CIP 6E0066.

CONTRACT

The Board considered the question of executing Contract No. PW/09-11 “Lower Beacon Street Sewer Separation Phase 1” in the amount of \$1,387,673.50 with D’Alessandro Corp. of Avon. Said contract was awarded on November 5, 2008 and will be funded from the Sewer Separation account 4995SW54 524003.

Director of Engineering Peter Ditto stated that this contract was previously awarded, and is now ready to execute. Chairman Daly added that this project will be reimbursed by the MWRA.

On motion, it was unanimously,

VOTED: To execute Contract No. PW/09-11 “Lower Beacon Street Sewer Separation Phase 1” in the amount of \$1,387,673.50 with D’Alessandro Corp. of

Avon. Said contract was awarded on November 5, 2008 and will be funded from the Sewer Separation account 4995SW54 524003.

PERSONNEL – FIRE DEPARTMENT

The Board considered the question of appointing the following firefighters for the purpose of attending the Firefighter Training Academy commencing November 24, 2008 and for assignment to permanent Fire Department duty upon successfully fulfilling training requirements:

**Peter Gately
Jermain D. Graham
Christopher E. Mitchell
James J. Ward
Frank J. Bowen
Nicholas Feener
Ryan P. Guilfooy**

Chief Skerry stated that he is requesting permission to hire the above firefighter candidates, effective Monday November 24, 2008. They have gone through a rigorous testing process and have all passed. They were given conditional offers of employment on October 14, 2008, and now will be attending the Training Academy.

Selectman DeWitt asked about the current vacancies in the Fire Department. Chief Skerry replied that there were 10 vacancies approved, if these appointments are approved three vacancies will remain, in addition there was recently a retirement which will bring the current level of vacancies to four.

On motion, it was unanimously,

VOTED: To appoint the following firefighters for the purpose of attending the Firefighter Training Academy commencing November 24, 2008 and for assignment to permanent Fire Department duty upon successfully fulfilling training requirements:

**Peter Gately
Jermain D. Graham
Christopher E. Mitchell
James J. Ward
Frank J. Bowen
Nicholas Feener
Ryan P. Guilfooy**

PERSONNEL – POLICE DEPARTMENT

The Board considered the question of authorizing the filling of a vacancy in the position of Dispatcher in the Public Safety Dispatcher Center.

Chief O’Leary stated that a dispatcher has recently resigned. It is critical to fill this position because not doing so would require coverage using overtime which is not desired due to concerns about staff burn out. Selectman DeWitt asked about new requirements put in place to prevent turnover in this position. The Chief replied that the schedule has been changed, and expanded by 1 FTE. Computer testing will be a part of the new hire process. He added that testing, new software, and screening enhancements have been added. This should help the Department identify the best possible candidates for the job. Chief Skerry added that this job has evolved over the years, and now requires someone with a more technical background.

On motion, it was unanimously,

VOTED: To authorize the filling of a vacancy in the position of Dispatcher in the Public Safety Dispatcher Center.

WARRANT ARTICLES

Reconsideration and discussion of the Board’s votes on the following Warrant Articles for the November 18, Fall Town Meeting:

<u>Article No.</u>	<u>Title</u>
3.	FY2009 Budget Amendments (Selectmen)

Selectman Mermell moved for reconsideration.

On motion, it was unanimously,

VOTED: 4-0 to reconsider Article 3.

Petitioner Stanley Spiegel expressed concern that no one knows what the cuts will be concerning local aid. At the time this was approved, fiscal concerns were not as dire as they are now. He sees this as a prudent step that the Town should take. He added that the City Cambridge is able to fund an RFID because they have ample free cash. Other cities and towns are purchasing it without public funding. Mr. Spiegel noted that this is not an attack on the Library, but this funding should not be high on the Town’s priority list when we are facing budget cuts.

WARRANT ARTICLES cont'd

Chuck Flaherty, Library Director, expressed concerns about being left out of the RFP process if the Town does not have money identified for RFID. It has been a long process working with other Minute Man communities and the Town should want to be an active participant in the decision-making process. Already this fiscal year the Department has seen a 7% increase in circulation.

Carol Axelrod, Library Trustee Chair, expressed concern on the timing and process of this motion. She does not believe that this is the way to run a budget process. The Library has been very careful in moving forward with RFID and should not be penalized for dotting their "I"s and crossing their "T"s.

Selectman Mermell stated that this is part of a personnel efficiency project to keep up with the circulation. There was a sub-committee that is responsible for providing further review and oversight. Selectman DeWitt asked about the suggestion that the cost will depreciate. Chuck Flaherty, Library Director replied that the tags may become cheaper, but the software has remained unchanged.

Selectman Benka described the Advisory Committee vote to amend the petitioner's proposal. The Advisory Committee motion keeps the RFID funding in place. All it suggests is that the monies not be committed or expended until after the 2009 Annual Town Meeting next spring. The recommendation preserves the option for Town Meeting to consider this item in light of any unforeseen or drastic changes to our financial situation between now and then. He does not see a problem with giving Town Meeting another look at the RFID.

Chairman Daly added that she is not in favor of Mr. Spiegel's amendment. She feels that this is not the time to undermine fiscal policies. She is persuaded by the Library's argument and cannot see how the RFP can move forward without the funds voted on.

Selectman Mermell moved No Action on the Advisory Committees recommendation.

On motion, it was,

VOTED: 3-1 No Action on the Advisory Committees recommendation.

DeWitt Aye

Mermell Aye

Daly Aye

Benka No

Selectman Mermell moved No Action on the Petitioner's recommended amendment.

WARRANT ARTICLES cont'd

On motion, it was unanimously,

VOTED: 4-0 No Action on the Petitioner's recommended amendment as follows:

MOVED: That the Town reduce the sum appropriated in line item 42A - Library RFID Conversion in the FY 2009 Town Budget by the amount of \$465,000 or such lesser amount as may be currently available for reduction, and transfer the amount of said reduction to line item 24 - Reserve Fund.

<u>Article No.</u>	<u>Title</u>
14.	Zoning Day Care Facilities (Shabelsky)

Selectman DeWitt moved for reconsideration on Article 14.

On motion, it was unanimously,

VOTED: 4-0 To reconsider Article 14.

Selectman DeWitt stated that she felt that she would like to change her vote to agree with the 18 month sunset provision. She felt that it sent the wrong message voting for a 12 month sunset provision vs. an 18 month sunset provision. She would like the Selectmen's recommendation unanimous.

On motion, it was unanimously,

VOTED: 4-0 Favorable Action That the Town amend the Zoning By-Law, **until June 1, 2010**, by adding a new principal use regulation in Section 4.07, Table of Use Regulations and amend Section 4.07 Use No.15A as follows (new language appears in **bold**, deleted language is underlined):

§4.07 – TABLE OF USE REGULATIONS

Principal Uses	Residence	Business	Ind.

	S	SC	T	F	M	L	G	O	I
<p>15A. Family day care home defined as any private residence, operated by the occupant of that residence, which on a regular basis receives for temporary custody and care during part or all of the day, children under seven years of age or children under sixteen years of age if such children have special needs; provided, however, in either case, that the total number of children under sixteen in a family day care home shall not exceed six, including participating children living in the residence.</p> <p><u>*(Use 15 and 15A) A day care center or a family day care home shall be licensed in accordance with M.G.L. chapter 28A, §10. If such facility has an outdoor play area, that area shall be at such a distance and so screened from any lot line and from any residential structure on an adjoining lot to avoid a noise nuisance.</u></p>	Yes*	Yes*	Yes*	Yes*	Yes*	Yes*	Yes*	Yes*	Yes*
<p>15B. Large family day care home defined as any private residence, operated by the occupant of that residence, which on a regular basis receives for temporary custody and care during part or all of the day, children under seven years of age or children under sixteen years of age if such children have special needs, and receives for temporary custody and care for a limited number of hours, children of school age in accordance with regulations promulgated by the Commonwealth's Department of Early Education and Care; provided, however, in either case, that the total number of children under sixteen in a large family day care home shall not exceed ten, including participating children living in the residence.**</p> <p><u>*(Use 15, 15A and 15B) A day care center or a family day care home shall be licensed in accordance with M.G.L. chapter 28A, §10. If such facility has an outdoor play area, that area shall be at such a distance and so screened from any lot line and from any residential structure on an adjoining lot to avoid a noise nuisance.</u></p> <p>** THIS USE SHALL BE PERMITTED UNTIL JUNE 1, 2010</p>	No*	SP*	SP*	SP*	SP*	Yes*	Yes*	Yes*	Yes*

and further recommended that the Zoning Bylaw Committee shall work with the Planning Board and Advisory Committee on Public Health to develop a more permanent solution to the regulation of large family daycare, for submission to a future Town Meeting prior to June 1, 2010.

Article No.

Title

27. Resolution on Sidewalk Snow Removal (Safer)

Selectman Benka moved for reconsideration of Article 27.

On motion, it was unanimously,

WARRANT ARTICLES cont'd

VOTED: 4-0 To reconsider Article 27.

Selectman Benka questioned whether the shovel our snow program through the Recreation Department was active. Selectman DeWitt stated that it is still active, but not working as well as it could be.

On motion, it was unanimously,

VOTED: 4-0 Favorable Action That the Town adopt the following Resolution:

Resolution Seeking More Residential Sidewalk Snow & Ice Clearing

WHEREAS: despite many committees and Town Meeting articles over two decades, the Town remains fiscally unable to dramatically increase sidewalk snow removal and resident compliance with the removal By-Law remains erratic; and

WHEREAS: failure to remove sidewalk snow leaves many serious safety problems, especially for children, seniors, and people with disabilities who are forced to walk in streets; and

WHEREAS: the 2007 Moderator's Committee on Sidewalk Snow Removal urged that the "Town work to dramatically increase resident involvement in maintaining clear sidewalks," stating, "The actions to be taken should include increased enforcement of existing regulations and regular use of citations for failure to clear sidewalks"; and

WHEREAS: the Moderator's Committee urged the Town to "make procedural, contractual, and budget changes to allow for seasonal employees to assist with sidewalk snow removal. An annual budget of \$35,000 should be provided to maintain a pool of seasonal employees responsible for sidewalk snow removal"; and

WHEREAS: our systems for helping residents who are unable to shovel and for giving citations and warnings are both far from adequate -- the latter according to a May 29, 2008 Police Dept. memorandum, showing, "[a]s of this date, Permits Plus has 977 snow tickets issued in the Town since 2003. The breakdown is as follows: Health Dept. 615, DPW 501, Building 114, Police 108"; and a May 27, 2008 BPD memorandum, "Snow Enforcement Tickets Issued: 2005= 21, 2006 = 16, 2007 = 9, 2008 = 2";

NOW, THEREFORE BE IT RESOLVED that the Town Meeting urges that the Selectmen:

A. establish a unified snow removal enforcement/warning program so that far more citations -- especially warnings -- are issued, and that enforcement not be merely complaint-driven; and

In Board of Selectmen

November 18, 2008

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- B. as part of such program, prioritize town-wide enforcement by cruising police officers -- if necessary by recording date & time of violations, then afterwards issuing/delivering citations and warnings by mail or by DPW and/or Health Dept. officials; and
- C. examine whether a credible, well-publicized, fair, and readily available fee-based program, and/or a pool of seasonal employees or laborers, Town-employed and/or independent contractors, to help residents who cannot clear their own abutting sidewalks can be reasonably established; and
- D. review at a public hearing each November the various departments' plans for public education, enforcement, and assistance for residents who need help.

<u>Article No.</u>	<u>Title</u>
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28.	Resolution on Invasive Plant Species (Wolff)
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This item was on the Board's agenda because the Advisory Committee voted on a different version of this article. Chairman Daly wanted the opportunity to review the Advisory Committee's recommendation on Article 28. Selectman DeWitt replied that she believes that the Advisory Committee will be taking a look at the Selectmen's recommendation.

There was no additional vote on Article 28.

There being no further business, the Chair adjourned the meeting at 6:30 p.m.

ATTEST

IN BOARD OF SELECTMEN

November 25, 2008

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

The Minutes of November 5th, and 18th were approved as amended.

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.**
- (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: 5
 Voting in the Negative: 0**

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

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

There was no Public Comment

CDBG

The Board considered the question of approving and authorizing the Chairman to execute the following FY2009 CDBG Sub-recipients:

Brookline Visually Impaired Elders Program	\$ 3,000.00
After Hours U	\$12,500.00
Hallway Design @Veterans Developments	\$85,000.00
Humanity House Kitchen	\$30,000.00
Walnut Street Apartments Fire Safety Doors	\$69,600.00
Brookline Learning Project	\$10,000.00
Modernization Work @ Col Floyd Apts.	\$50,000.00

Assistant Director of Planning & Community Development Joe Viola stated that these are the approved FY09 contracts that are ready for dispersement.

Selectman DeWitt asked about the Housing Authority projects.

Director of the Housing Authority Brian Cloonan stated that some of these projects are needed to make them in compliance. State funds have not been available and pushed back into later years. He is happy to receive funds from the CDBG.

On motion, it was unanimously,

VOTED: To approve and authorize the Chairman to execute the following FY2009 CDBG Sub-recipients:

Brookline Visually Impaired Elders Program	\$ 3,000.00
After Hours U	\$12,500.00
Hallway Design @ Veterans Developments	\$85,000.00
Humanity House Kitchen	\$30,000.00
Walnut Street Apartments Fire Safety Doors	\$69,600.00
Brookline Learning Project	\$10,000.00
Modernization Work @ Col Floyd Apts.	\$50,000.00

TEMPORARY WINE AND MALT BEVERAGE LICENSE

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

Reception	December 3rd 5:15 p.m. – 8:00 p.m.
Holiday Party	December 12th 5:30 p.m. – 9:30 p.m.

On motion, it was unanimously,

VOTED: To grant a temporary Wine and Malt liquor license to Pine Manor College in connection with the following events to take place at 400 Heath Street:

Reception	December 3rd 5:15 p.m. – 8:00 p.m.
Holiday Party	December 12th 5:30 p.m. – 9:30 p.m.

TEMPORARY WINE AND MALT BEVERAGE LICENSE

The Board considered the question of granting a temporary All Kinds of Alcoholic beverages license to the Museum of Transportation in connection with a Wedding (Mosconitz/Schnurr) to be held on December 31, 2008 from 6:00 p.m. – 1:00 a.m.

VOTED: To grant a temporary All Kinds of Alcoholic beverages license to the Museum of Transportation in connection with a Wedding (Mosconitz/Schnurr) to be held on December 31, 2008 from 6:00 p.m. – 1:00 a.m.

FIRE PERSONNEL

The Board considered the question of appointing the following firefighter for the purpose of attending the Firefighter Training Academy and for assignment to permanent Fire Department duty upon successfully fulfilling training requirements:

Marcus Paes

Chief Skerry stated that Mr. Paes is currently employed by the Brookline DPW, and was one of the ten candidates given conditional offers of employment on October 14, 2008. He has successfully completed all of the components of the hiring process.

Selectman Allen noted that Mr. Paes would be a great addition to the team. He added that two of the firefighter candidates were DPW employees, adding two more vacancies in that Department.

On motion, it was unanimously,

VOTED: To appoint the following firefighter for the purpose of attending the Firefighter Training Academy and for assignment to permanent Fire Department duty upon successfully fulfilling training requirements:

Marcus Paes

FIRST LIGHT

Commercial Areas Director Marge Amster appeared to update the Board on plans for First Light events scheduled for December 4, 2008.

Commercial Areas Director Marge Amster, Barbara Soifer, Little Swiss House, and Harry Robinson, Brookline Chamber of Commerce updated the Board

on the events for 1st Light Festival. Ms. Soifer expressed a need for camera help. She requested that anyone filming the event send their films to BAT to help cover the event. The Board looks forward to another successful event.

POLICE POLICIES AND PROCEDURES

Further review and vote on the proposed changes to the Rules and Regulations, Policies and Procedures for the Police Department which is updating these provisions for purposes of professional accreditation.

Chief O'Leary stated that this is a continuation of the Public Hearing as part of the process to enter into the certification stage, which is recognized across the country. This is the first step in the accreditation process. The Chief added that the manual goes well beyond what is required, and that the Department has taken into account some recommendations, and made some changes.

Selectman Allen replied that this is the third time the Board has looked at this, and anticipates moving to the next step. The Board thanked the Chief, Associate Counsel Patty Correa, and the Police Department for their response and work on this.

On motion, it was unanimously,

VOTED: To accept the proposed changes to the Rules and Regulations, Policies and Procedures for the Police Department which is updating these provisions for purposes of professional accreditation.

VIDEO CAMERA MONITORING SYSTEM

Public Hearing on the question of adopting a policy for the Brookline Police Department Video Camera Monitoring System as part of the Metro-Boston Urban Areas Security Initiative to enhance local management of emergency situations.

Chief O'Leary made the following statement:

Tonight, we are here to discuss the opportunity we have to make a major impact on the manner we deliver public safety services to the Town of Brookline.

As you all know, Brookline is a member of the Urban Areas Security Initiative's Boston Region. We are one of nine cities and towns in the Boston Region that have been designated by the Federal Government as having a high risk of potential terrorist threats and terrorist activities. By being so designated, we are able to

participate in decision-making concerning security planning for our region. As part of the overall efforts of our Town's Emergency Management Team, we have been working on a plan to provide for an evacuation of people out of the area as well as a more localized evacuation of part of Brookline based on a terrorist action, man-made problem and/or a weather related incident.

Before you tonight, is one part of such evacuation plan. This part is a method of monitoring our roadways through the installation of a video camera system. As part of our evacuation plan, we, the Town's Emergency Management Team has identified twelve traffic intersection locations that we feel are critical to the success of a safe evacuation of people. The camera system will allow us to monitor the flow of traffic during a major event and ensure there are no backups or bottlenecks that will negatively impact the evacuation. Through this camera system, we will be able to monitor traffic throughout the Boston UASI Region and to assign personnel as needed to ensure an orderly evacuation.

The locations in Brookline that we have identified are as follows:

- 1. Brookline Ave. & Aspinwall Avenue**
- 2. Beacon Street & Carlton Street**
- 3. Beacon Street & St. Paul Street**
- 4. Beacon Street & Harvard Street**
- 5. Beacon Street & Washington Street**
- 6. Beacon Street & Chestnut Hill Avenue**
- 7. Boylston Street & Hammond Street**
- 8. Boylston Street & Chestnut Hill Avenue**
- 9. Boylston Street & Sumner Road/Warren Street**
- 10. Boylston Street & Cypress Street**
- 11. Brookline Fire Department Station 1**
- 12. Longwood Avenue & St. Paul Street**

Furthermore, Boston has cameras set up for this same purpose along our borders in areas such as Kenmore Square, the Brookline Avenue Medical Center and Cleveland Circle that will allow us to better manage the traffic flow.

This system allows us to monitor the traffic on a 24/hour 7 day a week basis. It allows this monitoring to take place in real time at a location other than that where the camera is situated. The images are stored and will be maintained for a period not to exceed 30 days. At the end of this 30 day period the vast majority of these images will be automatically recorded over and thus destroyed. Although this planned destruction of images will automatically occur for the vast majority of video footage, there are some exceptions which are addressed in our proposed policy.

It is important to state that, based on the mere fact that these traffic monitoring cameras will be placed in public places, images other than traffic flow will be both monitored and recorded. It is because of these reasons that we felt that there was a

critical need to develop a policy governing the use of these cameras, bring the policy to the Board of Selectmen for your review and as with all major police policy changes, hold a public hearing on the matter. We are doing this kind of review prior to the installation of these cameras. All nine UASI communities are at some point in their installation. UASI has thus implemented this traffic camera system in two phases. Phase I communities of Boston, Everett, Chelsea and Revere have operational camera systems. The Phase II communities of Somerville and Winthrop have active systems; Cambridge and Quincy have their cameras mounted and are awaiting servers. Brookline has conducted a study of the locations, a test of the cameras capabilities and the power and connectivity build outs have been worked on. We have not installed any cameras in Town other than the test cameras.

These proposed cameras will be placed on the roadways, mostly on the arm of a traffic signal that extends across the road. They will be pointed in a preferred direction but be able to be moved based on need and as guided by policy.

It's important to note, again, that these camera locations have been selected based on the need to ensure the orderly flow of traffic in an emergency. They have not been selected because we feel these are high crime areas. However, we must acknowledge that we will be able to utilize these cameras to enhance the public safety of our residents. Some examples are:

- 1. As part of our policy, we will be posting signs in the area of the camera locations to alert people that there are video cameras present and recording thus aiding in crime prevention.**
- 2. Assist us in our criminal investigations. The images from the cameras will be displayed at two locations in the Public Safety Building. Both of these places have personnel present at all times. Therefore, our personnel may observe a crime taking place in the cameras view and alert our police officers to respond. We will also have the capability of reviewing recordings after a crime has occurred. From this review we may be able to learn the identity of the suspect, as well as the manner in which the crime occurred. Example: Bank surveillance photo.**
- 3. A crime is committed and the perpetrator flees, police department members can use the camera system to view potential escape routes and direct officers as needed to apprehend the suspect. Example: During our test phase – Sexual assault in Coolidge Corner.**
- 4. All of these locations view areas where we have a high volume of traffic. Some of these intersections experience a lot of accidents. When an accident does occur, our accident investigators can make a request, as permitted under our policy, to review the video and possibly use the recorded images to aid in their investigation. Example: During test phase OUIL in Coolidge Corner.**

5. Again, because of the high volume of traffic at these intersections, our officers may observe on the monitor that an accident or some other type of medical emergency has occurred. This will provide us the ability to have a quicker dispatch of emergency medical Personnel to the scene.

I feel it is extremely important for everyone to understand that this system will not be used to spy on any individual or group. Over the years, members of the Brookline Police Department, have, through our actions, proven that we do not use tactics that violate people's constitutional rights. We have handled many demonstrations involving large numbers of persons on opposite sides of an issue. We have been at the forefront of demonstrations involving some very emotionally charged issues such as abortion, war, labor disputes, animal rights activities and demonstrations by people supporting or not supporting different political views from around the world. We have successfully managed all of these events because our primary focus has always been to provide for those present to exercise their rights without interfering with the rights of others. The cameras that we are looking to install can be bought, off the shelf, by any citizen. The cameras we are proposing have no audio capability and have a lens described as 36x our normal vision. These cameras, like many others, have the capability to pan, tilt and zoom. There is nothing extraordinary about our camera system.

Tonight you are being asked to review a proposed policy we have put forth to govern our Department members in the use of this system. This well-thought out policy has been meticulously put together by members of our Department and Patricia Correa of our Town Counsel's office. Patty Correa has done extensive research on some of the "best practices" that have been put in place around the country and recommended by civil liberties advocates concerning policies governing the use of cameras. In particular, Patty Correa has studied those policies in place in both San Francisco and Washington D.C. Its worth noting that in this past Sunday's Boston Globe, mention was made that Washington D.C., as a critical part of the security measures for President elect Barak Obama's inaugural, will be using their video camera system that has more than 5,000 cameras to bolster their efforts at ensuring a peaceful inauguration day for all of us. Patty Correa has developed what I feel is an excellent, well thought out policy that is based on protecting the rights of citizens while allowing for the use of cameras to enhance public safety. This is a strict policy that will govern the manner in which we use this system.

Over the past week or so, much as been written in various venues by people expressing concerns over the use of these cameras. I would like to address some of these concerns and point out areas where our proposed policy applies.

CONCERNS:

1. Big Brother is watching us: We do not have the staff to monitor these cameras on a continuous basis. Although they will be viewed at both the

- Public Safety dispatch Center and the Commanding Officers office, we will not be requiring them to be monitored at all times.**
- 2. Cities are moving away from the use of cameras: On the contrary, the uses of cameras are becoming more widespread and more common through the U.S.**
 - 3. Planned uses are not clear. As stated previously and as written in our proposed policy, these cameras are being purchased to assist in evacuations. However, because they will be situated in public places that will be clearly marked, they will aid in the prevention of crime, assist in criminal investigations, aid in apprehending fleeing suspects, assist in accident investigations and in some cases give us the ability to provide prompt medical attention.**
 - 4. Modern surveillance cameras are enormously powerful: The cameras being used are Bosh 300 series PTZ cameras with a 36x zoom. All the equipment being used in this project is standard industry off the shelf equipment. Checking video cameras sold on Ebay the prices we found available to anyone: \$500.00 for a Vandguard 44x zoom camera, Sony EVID 100 (40x zoom) \$845.00, IVC PTZ 3130-08 has a (144x zoom) cost not listed, you can also buy lenses that have a 40x zoom for under \$70.00.**
 - 5. Question about data stored and shared: The video DVR-Server is a RAID 5 configuration; the data is striped across 3 hard drives and has a 30 day cycle that overwrites the oldest day. There is no server for backing up data, since it is written across 3 drives contained in the DVR system. When an event occurs that is significant enough to retain the images, a request is made and approval is subject to review by a superior officer. DVR recordings that are kept are then maintained and stored as evidence pursuant to our departmental policy that governs the storage of recorded evidence. The sharing of data is address in several places under the policy Section III Operations and Management Subsection D, 2c and Section IV Request for Reproduction.**
 - 6. Information regarding the sharing of information with other governmental agencies: Massachusetts has a public records law that governs this; per Section IV (D) of the draft policy, municipalities and other government agencies must make a public records request and footage will be released/redacted etc. as appropriate under the public records law (e.g., it may be redacted under the privacy exemption, etc.) EXCEPTION: Section IV (A) of the draft policy states that "Department personnel of the rank of Sergeant or higher may authorize disclosure of a copy of...footage to any federal, state, or municipal law enforcement agency in connection with an open investigation."**

- 7. Use of cameras violate constitutional rights of Individuals: In general, video camera monitoring of public areas from vantage points publicly available is legal under both the First Amendment and the Fourth Amendment.**

- 8. Financial Costs: The initial cost of approximately \$155,000.00 is being paid for by Homeland Security at no cost to the Town. The on-going maintenance agreement cost approximately \$15,000 per year that will be our on-going costs. As stated earlier, we will not be assigning personnel to continuously monitor these cameras. There will be some related personnel costs associated with managing the system and/or making recordings as required, but these costs will be assumed by the police personnel who are already performing these functions for the Police Department.**

- 9. Surveillance Cameras are not worthwhile: I disagree with this statement. Much of what I have spoken about tonight has shown the benefits of putting such a system in place to enhance public safety. In addition to what I have mentioned tonight, there are numerous studies and articles that indicate cameras are an effective tool. As recently as August 24, 2008, Professor Jack Levin, who is the Director of the Brudnick Center on Violence and Conflict at Northeastern University, has been quoted as saying, in part, "Research has shown that the presence of surveillance cameras can perform some of the same functions as a large police presence. They can be used to identify not only terrorists but would be rioters or would be criminals."**

- 10. Statements that there is data from other jurisdictions re: misuse of Cameras to harass and intimidate. What is not clear from references to such data whether such incidents of harassment/discrimination occurred in jurisdictions where there is no policy or law restricting the use of such systems to proper uses; Brookline's draft policy contains strong safeguards against such conduct (including a clear list of impermissible uses and statements that violations of use restrictions can result in criminal penalties/civil sanctions and/or discipline by the department).**

Some people have mentioned the term "harassment by video". Throughout the years, there is no evidence to support this statement when dealing with the Brookline Police Department. We have used cameras in the past for criminal investigations at our school and public buildings. We have lawfully filmed demonstrations for proper law enforcement purposes. We have tested out cameras in public places in Brookline during this past year. Our goal has always been to provide the highest level of public safety services to our residents while always acting in conformance with the law.

This policy that we are asking you to consider addresses a lot of concerns expressed by a number of people thus far. It is a strict policy that allows us to do our work while holding all of us accountable. As you review the policy, you will see that it addresses issues such the operation and management of the system, viewing of the

recordings, training and certification of our personnel. It also defines what is considered an impermissible use of the system, as well as management responsibilities. Furthermore, this policy addresses the release and retention of the recordings. Finally, a complaint procedure is outlined as well as the manner in which people can obtain a copy of this policy.

The capability and the technology of the cameras we are seeking to install can be purchased today by any person who so desires. If a person chooses to film an event taking place in a public place he or she may do so. There is nothing illegal about it. A major difference between the citizen filming and what we are trying to accomplish is that we will be acting under the strict guidelines that are set forth in this policy. This policy will set limits on how we use these cameras, store the images obtained from the cameras, maintain and/or destroy the video images, provide for the release of copies of these videos and provide for disciplinary action for those who violate the guidelines set out by this policy. We are living in an age where technology is impacting our lives in various ways. It is up to us to utilize the advancements in all areas of technology to improve the manner in which we go about our business. I believe that the use of this video camera monitoring system, under the policy that you are considering, is a proper use of technology and will enhance the delivery of public safety services to our residents.

Chairman Daly expressed concerns on public record request. What if there were some violent or embarrassing videos taken, how would the images be kept out of the public and not end up on the internet. Associate Town Counsel Patty Correa replied that the records are public record, including electronic, if filming a public street. There could be some exceptions, but that would be a legal determination.

Selectman Mermell asked what happens if Brookline does not implement this system. The Chief replied that the Federal Government designates the monies to a region. Brookline is part of a larger community. There are nine communities participating. If Brookline says no, the cameras would be taken by one of the remaining eight communities. It would leave a big hole in the region. Selectman Mermell asked about the monies coming from the Federal Government, which is an outside entity. What would be required in return? How could Brookline refuse any request from the Government if they are the ones footing the bill? The Chief replied that all the communities are accepting money for the region. There is no pressure on how they want things done. It is up to the communities to decide what is best for them.

Selectman DeWitt asked if the public can review the data. The Chief replied yes.

Chairman Daly asked if the cameras can go on only when certain events trigger it. The Chief replied that that it is possible; however he is not comfortable with that type of operation.

Abram Chipman, Washington St expressed concern on civil liberties. He feels there is no positive good to come out of it. You don't need a camera to know that there is heavy traffic on the main roadways.

Melinda Taylor TMM#4 asked why the Federal Government feels the Brookline is at risk for terrorist threats. Why do the Selectmen feel that this hearing will provide enough information to base this complex decision and how many studies have been read on this. Does Brookline have enough crime to warrant 24/7 surveillance. She hopes that there will be no decision until all questions have been answered from the public.

Joan Lancourt, Beaconsfield Rd feels that the installation is a threat to our privacy and civil liberties. The monitoring is intimidating.

Susan Ellis TMM#7 has the same concerns as expressed. Ms. Ellis thanked the Chief for the detailed information. She asked how much police time and energy will be devoted to this. She noted that if there were an evacuation how the monitors could help the traffic would be grid locked anyway. It seems that the major function would be monitoring civilians and drivers. The Chief replied that the Police functions would not be time consuming. It would be passive monitoring. Staff would not be dedication to monitor the data 24/7.

Sarah Wunsch stated that she does appreciated the effort put in this policy, however she expressed concerns about general police surveillance. She feels that the cameras will be used as a full time surveillance, and is uneasy with having the police monitor it. There is also a concern on the zoom ability of the cameras and the public record is a real concern. Ms. Wunsch handed out some studies on this issue stating that there is no evidence that this will reduce crime. Selectman Benka asked if she could identify some communities that installed the cameras and then took them down. Ms. Wunsch replied that she will get that information for him.

Edward Koplow, Wallis Rd inquired about a two stage warrant system. A government monitoring system is a search of public activity that must be authorized and reviewed by more than the operating executive. This would involve the court system specifying conditions.

Amy Hendrickson, Longwood Ave has concerns on invasion of privacy and the relationship with homeland security. There is also the concern on sharing the images with the Federal Government, and how secure the images will be.

Frank Farlow TMM#4 and member of PAX stated that the cameras do not reduce crime. He also questioned the maintenance, tracking and security of the data. Mr. Farlow handed out a PAX's position against the cameras.

Susan Allen, Westbourne Terrace believes there are some legal issues. The Town has no lawful authority to use the cameras. She has filed a complaint with the Attorney General.

Marty Rosenthal TMM#9 wondered why the Selectmen are to make a decision on this issue. He feels that although the project is presented in good faith, there is a lack of benefits it will provide to the community. He hopes to see this in Town Meeting, and not under the decision of the Selectmen.

Clint Richmond, Greenough Circle expressed concern on the Homeland Security involvement. Will the cameras be used to assist evacuation or as spy cameras. Also how could we know that the rules will be held forever? He feels that there is no need for people to monitor it, there is automatic monitoring has growing capabilities.

Mariela Ames TMM#15 agrees with Mr. Rosenthal, the residents should weigh in on this important issue, it affects everyone. She hopes it goes to Town Meeting.

Rob Hanson, a Boston resident stated that Boston has cameras in place and operating, however neither City Council nor the Mayor has voted in favor of them. He hopes that Brookline sets an example and rejects the project.

Heleni Thayre, Euston St. has concerns on the zoom factor of the cameras and their capability to zoom into homes and car windows. As for evacuation the main problem would be gridlock, and how to get out of the city efficiently. There are other ways to monitor traffic flow.

Chairman Daly thanked everyone for appearing and expressing their concerns, she stated that this hearing will continue at next weeks Selectman's meeting. She acknowledged that this is a holiday week and some residents were unable to attend tonight.

PLEDGE OF LICENSE

The Board considered the question of approving the application of JJAZ Restaurant, Inc. d/b/a LaMorra, Joshua Ziskin, Owner, holder of an All Kinds of Alcoholic Beverages license as a Common Victualler at 48 Boylston Street, for a Pledge of said License to Brookline Bank.

Joshua Ziskin, owner, stated that he is requesting this pledge of the license in order to secure a bank note.

On motion, it was unanimously,

VOTED: To approve the application of JJAZ Restaurant, Inc. d/b/a LaMorra, Joshua Ziskin, Owner, holder of an All Kinds of Alcoholic Beverages license as a Common Victualler at 48 Boylston Street, for a Pledge of said License to Brookline Bank.

COMMON VICTUALLER – INCREASE IN HOURS

The Board considered the question of approving the application of Chestnut Hill Restaurant, Katelyn Aing-Santomo, Owner, holder of a Common Victualler License at 616 Hammond Street for an increase in hours as follows:

FROM:	Mon-Sat	6am-11pm
TO:	Mon-Sat	6am-11pm
	Sun	6am-5pm

Katelyn Aing-Santomo, owner stated that she would like to open on Sundays to increase business due to the slow economy.

On motion, it was unanimously,

VOTED: To approve the application of Chestnut Hill Restaurant, Katelyn Aing-Santomo, Owner, holder of a Common Victualler License at 616 Hammond Street for an increase in hours as follows:

FROM:	Mon-Sat	6am-11pm
TO:	Mon-Sat	6am-11pm
	Sun	6am-5pm

LODGING HOUSE LICENSE

Public Hearing on the application of 1077 Beacon Street, LLC Sidney R. Handler, Manager, for a Lodging House License at 1077 Beacon Street for fourteen (14) Lodgers.

Sidney Handler, Manager stated that this is a family owned business that has been here since 1969. He is requesting to transfer the license in order to make it an LLC. The management will stay the same.

Barbara Anthony, 1085 Beacon Street, and also a lodging house owner expressed concerns on the upkeep and maintenance in the general area. She hopes that Town officials will concern themselves with this block of Beacon Street. She

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would like to be informed of any changes to residential uses in the area. She also feels that the area has met the compliance of affordable housing.

On motion, it was unanimously,

VOTED: To grant the application of 1077 Beacon Street, LLC Sidney R. Handler, Manager, for a Lodging House License at 1077 Beacon Street for fourteen (14) Lodgers.

TRANSFER – LIQUOR – PACKAGE STORE

Public Hearing on the application of Best Cellars, MA, Inc., d/b/a Best Cellars, Chris McGarry, President, holder of an All Kinds of Alcoholic Beverages License as a Package Store at 256 Harvard Street for a transfer of said license to Glendale Package Store of Waltham, Inc., d/b/a GPS Liquors, Jason Williams, President .

Jason Williams appeared before the Board. Selectman Benka stated that this is a prominent corner in Brookline, and the wine store was a shop, he is opposed to a full liquor store on this corner. It is not the kind of establishment the Town should draw attention to on this very visible location. He is aware that the current establishment has a full liquor license, but the current establishment did not use it to the full intent of the license.

Tom Williams co-owner of GPS Liquors stated that this is a family run business. He has been in the liquor business for many years, and is involved nationally with the American Beverage Association. He added that the license is an all kinds alcohol beverage license and he should be able to secure and use it as such. The establishment will keep the concept of Best Cellars and the store will be an upscale package store. He added that it is not profitable to just offer wines.

Selectman Allen stated that the license is an all kinds liquor now and would be transferred as such. It could be used to the full extent of the license. He added that Best Cellars has been a good concept and a good corporate citizen, however they were cited for serving underage patrons. He hopes the new owner will take this issue seriously.

Selectman DeWitt asked if they were planning on selling “nips” at the store. She finds them offensive and unhealthy and hopes they are not part of their inventory. Mr. Williams replied that they are planning to sell them; the liquor store across the street sells them.

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TRANSFER – LIQUOR – PACKAGE STORE cont'd

On motion, it was,

VOTED: 4-1 Selectman Benka opposed - To grant the application of Best Cellars, MA, Inc., d/b/a Best Cellars, Chris McGarry, President, holder of an All Kinds of Alcoholic Beverages License as a Package Store at 256 Harvard Street for a transfer of said license to Glendale Package Store of Waltham, Inc., d/b/a GPS Liquors, Jason Williams, President .

There being no further business, the Chair adjourned the meeting at 9:40 p.m.

ATTEST