

IN BOARD OF SELECTMEN

September 9, 2008

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

The Minutes of July 15, 2008 were held. The Minutes of August 12, 2008 were approved as amended.

In Board of Selectmen

September 9, 2008

Page 2 of 22

ELECTION WARRANT

The Board considered the question of executing the Election Warrant for the September 16, 2008 State Primary.

On motion, it was unanimously,

VOTED: To execute the Election Warrant for the September 16, 2008 State Primary.

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 for roll call

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

PUBLIC COMMENT

There was no public comment.

FIRE PERSONNEL

The Board considered the question of making the following appointments within the Fire Department:

**Captain Robert W. Nelson to Deputy Chief
FF Jeremiah Foster to Lieutenant**

Chief Skerry stated that he was pleased to recommend these promotions due to the recent retirement of the Chief of Operations.

Captain Robert Nelson was appointed to the Department in 1988. He is a certified EMT and is presently serving as the Temporary Deputy Chief in the Training Division.

Firefighter Jeremiah Foster was appointed in 2003. He is a certified EMT and is presently serving as a Temporary Lieutenant at Fire Station 1.

Selectman Allen stated that it is nice to see young talent rise through the ranks like Firefighter Foster. It portrays a young and healthy department. He also acknowledged the experience and commitment of Captain Nelson. Captain Nelson has been doing an excellent job in the training division.

The Board congratulated both candidates and wished them a long and healthy career.

On motion, it was unanimously,

VOTED: To make the following appointments within the Fire Department:

**Captain Robert W. Nelson to Deputy Chief
FF Jeremiah Foster to Lieutenant**

HOUSING PARTNERSHIP EVENT

Chris Norris and Renee Elliott of the Metropolitan Boston Housing Partnership appeared to updated the Board on the Housing Conversation in Brookline Event scheduled for September 17, 2008.

In Board of Selectmen

September 9, 2008

Page 6 of 22

HOUSING PARTNERSHIP EVENT cont'd

Mr. Norris noted that the Metropolitan Boston Housing Partnership is a regional non-profit housing agency that serves Brookline and 29 other nearby cities and towns. The event will provide resources and address housing concerns for the community.

The event will take place on September 17, 2008 from 10:30 a.m. to 12:00 p.m. at the Main Library on Washington Street.

The Board thanked them for the update and invitation.

NAMING COMMITTEE GUIDELINES

The Board considered the question of approving the Naming Committee Guidelines.

Chair of the Naming Committee Fred Lebow outlined the guidelines of the Naming Committee. Mr. Lebow stated that there was some additional language added.

Selectman DeWitt asked if the proposed guidelines contain the same language as in Warrant Article. Mr. Lebow replied yes.

On motion, it was unanimously,

VOTED: To approve the Naming Committee Guidelines.

AGREEMENT

The Board considered the question of approving and executing an Agreement with Avtex Solutions of Bloomington, MN in the amount of \$12,000 in connection with REF #P-08-25 IFB for Mass Notification /Reverse 911 Services for the Emergency Management Team.

Bill McGroarty, Director of Veteran Services, and member of the Emergency Team stated that this agreement will provide mass notification and emergency 911 services for the Emergency Management Team. This will allow communication to transport at a much quicker rate.

On motion, it was unanimously,

AGREEMENT cont'd

VOTED: To approve and execute an Agreement with Avtex Solutions of Bloomington, MN in the amount of \$12,000 in connection with REF #P-08-25 IFB for Mass Notification /Reverse 911 Services for the Emergency Management Team.

DONATIONS

The Board considered the question of accepting donations from various sponsors in the total amount of \$1,596.00 to be used to support the Police Department's Aware Program. (Formerly the D.A.R.E. Program).

Chief O'Leary stated that the Aware Program has taken the place of the D.A.R.E. Program. The Aware program allows the Town to design the program specifically to the needs of the Town and the youths in the community.

On motion, it was unanimously,

VOTED: To accept donations from various sponsors in the total amount of \$1,596.00 to be used to support the Police Department's Aware Program. (Formerly the D.A.R.E. Program).

GRANT

The Board considered the question of accepting a grant on behalf of the Brookline Police Department in the amount of \$15,000 in connection with the FFY Child Passenger Safety Equipment Grant Program.

Chief O'Leary stated that since 2002 the Department has had technicians trained in the proper installment of child safety seats. Brookline is one of the few Departments that provides this service. This grant will be used for equipment and to provide donations of safety seats to residents in need of them.

On motion, it was unanimously,

VOTED: To accept a grant on behalf of the Brookline Police Department in the amount of \$15,000 in connection with the FFY Child Passenger Safety Equipment Grant Program.

The Board considered the question of approving the following Change Orders/Amendments:

<u>Brookline High School</u>	
Commercial Roofing	(\$61,074.48) (Decrease)
<u>Town Hall Renovations</u>	
Colantonio, Inc.	\$ 318.44
Acct. No. 2599WS08 6B0107	Change Order #9,
HMFH Architects	\$ 2,595.00
Acct No. 2599WS08 6B0107	Amendment #2
<u>Transfer Station</u>	
Signature Roofing Systems	\$ 829.00
Acct. No. 2594C157 6B0074	Change Order #1

Project Manager Tony Guigli stated that this change order includes a large deduction of cost due to the roofing project at the High School. The cost recovery mainly stems from the insulation aspect of the project.

The Board was pleased to see the deduction, and thanked Mr. Guigli.

On motion, it was unanimously,

VOTED: To approve the following Change Orders/Amendments:

<u>Brookline High School</u>	
Commercial Roofing	(\$61,074.48) (Decrease)
<u>Town Hall Renovations</u>	
Colantonio, Inc.	\$ 318.44
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<u>Transfer Station</u>	
Signature Roofing Systems	\$ 829.00
Acct. No. 2594C157 6B0074	Change Order #1

APPROPRIATION

The Board considered the question of approving the following appropriation transfer within the Water/Sewer budget:

FROM:	4991EW40 543052	\$25,000
TO:	4999EW40 522016	\$25,000

Director of Water and Sewer Andy Pappastergion stated that these funds originated in fiscal year 2008 for the purpose of digitizing existing water service pipe records. The work was not completed before the year end close and payment was due upon competition. The allocated funds were put in the surplus account. This transfer will allow payment to be made.

On motion, it was unanimously,

VOTED: To approve the following appropriation transfer within the Water/Sewer budget:

FROM:	4991EW40 543052	\$25,000
TO:	4999EW40 522016	\$25,000

CONTRACT

The Board considered the question of executing Contract No. PW/09-08 “Various Sewer and Drainage Improvements” in the amount of \$36,500 with G.R. Construction Corp. of Fitchburg. Said contract was awarded on August 12, 2008 and will be funded from account 4997C144 6C0005.

Director of Engineering Peter Ditto stated that this contract was previously awarded.

On motion, it was unanimously,

VOTED: To execute Contract No. PW/09-08 “Various Sewer and Drainage Improvements” in the amount of \$36,500 with G.R. Construction Corp. of Fitchburg. Said contract was awarded on August 12, 2008 and will be funded from account 4997C144 6C0005.

The Board considered the question of executing Contract No. PW/09-09 “Streetlight Maintenance” in the amount of \$83,882.08 with Republic Intelligent Transportation Services of Billerica. Said contract was awarded on August 12, 2008 and will be funded from account 42004250 522051.

Director of Engineering Peter Ditto stated that this contract was previously awarded, and is now prepared for signatures.

On motion, it was unanimously,

VOTED: To execute Contract No. PW/09-09 “Streetlight Maintenance” in the amount of \$83,882.08 with Republic Intelligent Transportation Services of Billerica. Said contract was awarded on August 12, 2008 and will be funded from account 42004250 522051.

CONTRACT

The Board considered the question of executing Contract No. PW/009-10 “Summit Path Repair” in the amount of \$56,320.00 with Ronald Marini Corp of Newton, MA. Said contract was awarded on August 12, 2008 and will be funded as follows:

4998WS03 6P0021	\$12,656.20
4998WS06 6P0021	\$43,663.80

Director of Engineering Peter Ditto stated that this contract was previously awarded, and is now prepared for signatures.

On motion, it was unanimously,

VOTED: To execute Contract No. PW/009-10 “Summit Path Repair” in the amount of \$56,320.00 with Ronald Marini Corp of Newton, MA. Said contract was awarded on August 12, 2008 and will be funded as follows:

4998WS03 6P0021	\$12,656.20
4998WS06 6P0021	\$43,663.80

AMENDMENT

The Board considered the question of approving Amendment No. 1 in the amount of \$12,063.30 for work to be completed by Whitney Trucking, Inc. in connection with Contract No. PW/05-23 “Curbside Collection of Recyclable Materials”. Said Amendment to be funded from account 40004300 523593.

AMENDMENT cont'd

Director of Engineering Peter Ditto stated that this is the result of a renegotiated price adjustment for FY09. The result is an increase of 2% due to fuel and transportation cost increases.

On motion, it was unanimously,

VOTED: To approve Amendment No. 1 in the amount of \$12,063.30 for work to be completed by Whitney Trucking, Inc. in connection with Contract No. PW/05-23 “Curbside Collection of Recyclable Materials”. Said Amendment to be funded from account 40004300 523593.

CONTRACT

The Board considered the question of awarding and executing Contract No. PW/09-05 “Fairbanks Street Sewer Replacement” in the amount of \$94,880.00 with J. Cougler, Inc. of Worcester. Said contract to be funded from account 4997C144 6C0005

Director of Engineering Peter Ditto stated that this project consists of replacing approximately 260 ft of sewer pipe. The awarded bidder is a new vendor to the Town, and Mr. Ditto added that he has gone over the Town’s expectations with the vendor.

On motion, it was unanimously,

VOTED: To award and execute Contract No. PW/09-05 “Fairbanks Street Sewer Replacement” in the amount of \$94,880.00 with J. Cougler, Inc. of Worcester. Said contract to be funded from account 4997C144 6C0005.

CHAPTER 90

The Board considered the question of approving and executing a Chapter 90 Reimbursement Request in the amount of \$246,438.03 in connection with the “Resurfacing of Allendale Road, Goddard Avenue and Lagrange Street.

Director of Engineering Peter Ditto stated that this is State reimbursement for the resurfacing of Allendale Rd, Goddard Avenue, and Lagrange Street”.

On motion, it was unanimously,

VOTED: To approve and execute a Chapter 90 Reimbursement Request in the amount of \$246,438.03 in connection with the “Resurfacing of Allendale Road, Goddard Avenue and Lagrange Street”.

EXTRA WORK ORDER

The Board considered the question of approving Extra Work Order #1 in that amount of \$1,900.50 for work to be completed by Fred DeRoma & Son, Inc. in connection with Contract No. PW/08-03. Said work order to be funded from the Sidewalk and Walkway Revolving Fund Account 4998SW30 6H0022.

Director of Engineering Peter Ditto stated that a Carlton Street resident requested sidewalk repair in front of their residence. Under the new sidewalk policy, the homeowner will pay fifty percent of the cost.

On motion, it was unanimously,

VOTED: To approve Extra Work Order #1 in that amount of \$1,900.50 for work to be completed by Fred DeRoma & Son, Inc. in connection with Contract No. PW/08-03. Said work order to be funded from the Sidewalk and Walkway Revolving Fund Account 4998SW30 6H0022.

CDBG CONTRACTS

The Board considered the question of approving and executing the following FY2009 CDBG funded contracts:

Brookline Health Department Emergency Preparedness for Vulnerable Populations	\$ 6,600
HCHR Brookline Housing Project 112	\$15,000
BCMHC Facilities Improvements	\$50,000

Assistant Director of Planning & Community Development Joe Viola stated that these funds will go towards administration for the Emergency Preparedness, a social worker for the Project 112, and construction (windows), for the Brookline Community Mental Health Center.

CDBG CONTRACTS cont'd

On motion, it was unanimously,

VOTED: To approve and execute the following FY2009 CDBG funded contracts:

Brookline Health Department Emergency Preparedness for Vulnerable Populations	\$ 6,600
HCHR Brookline Housing Project 112	\$15,000
BCMHC Facilities Improvements	\$50,000

TEMPORARY WINE AND MALT BEVERAGE LICENSE

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

Barbecue B&W Hospital	September 11th 5:00 p.m.-10:00 p.m.
Reception Development Office	September 23rd 6:00 p.m. – 8:00 p.m.
Reception Trustees	September 26th & 27th 5:00 p.m. – 9:00 p.m.
Reception Boston Wedding Group	September 30th 5:00 p.m. -9:00 p.m.

On motion, it was unanimously,

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

Barbecue B&W Hospital	September 11th 5:00 p.m.-10:00 p.m.
Reception Development Office	September 23rd 6:00 p.m. – 8:00 p.m.

Reception Trustees	September 26 th & 27 th 5:00 p.m. – 9:00 p.m.
Reception Boston Wedding Group	September 30 th 5:00 p.m. -9:00 p.m.

TEMPORARY WINE AND MALT BEVERAGE LICENSE

The Board considered the question of granting a temporary Wine and Malt beverages license to Lincoln School PTO in connection with an Auction to be held on November 15, 2008 from 6:30 p.m. – 10:00 p.m. at 15 Kennard Road.

On motion, it was unanimously,

VOTED: To grant a temporary Wine and Malt beverages license to Lincoln School PTO in connection with an Auction to be held on November 15, 2008 from 6:30 p.m. – 10:00 p.m. at 15 Kennard Road.

POLICE – PERSONNEL

The Board considered the question of authorizing the Police Chief to request a list from the State's Human Resources Division for the position of permanent Police Sergeant.

Chief O'Leary stated that this position has become available due to a recent retirement.

On motion, it was unanimously,

VOTED: To authorize the Police Chief to request a list from the State's Human Resources Division for the position of permanent Police Sergeant.

PERSONNEL – AUTHORIZATIONS

The Board considered the question of authorizing the filling of the following vacancies:

Sr. Acct.-Audit Clerk – C4
Librarian - K6

In Board of Selectmen

September 9, 2008

Page 15 of 22

PERSONNEL – AUTHORIZATIONS cont'd

**Info Tech GIS Web Developer
Recreation Leader – Day Camp -GN7
Preservation Planner – T-6**

Town Administrator Richard Kelliher stated that all five Department Heads are present to answer any questions.

Chuck Flaherty, Town Librarian stated that this position is for a Librarian in the Children's Room. This is an important position due to the increase of circulation.

On motion, it was unanimously,

VOTED: To authorize the filling of the following vacancies:

**Sr. Acct.-Audit Clerk – C4
Librarian - K6
Info Tech GIS Web Developer
Recreation Leader – Day Camp -GN7
Preservation Planner – T-6**

HOMEBUYER ASSISTANCE PROGRAM

Housing Officer Fran Price and Housing Advisory Chair Roger Blood appeared to update the Board on a Housing Advisory Board proposal to change the Homebuyer Assistance Program allotment from a maximum of \$125,000 per homebuyer to a maximum range between \$100,000 and \$175,000 depending on unit size.

Housing Advisory Board Chair Roger Blood stated that due to the significant increase in property values, HAB has recommended an increase in homebuyer assistance funds provided by the Federal Government and CDBG. This is a small program that provides qualified first time homebuyers with a 0 percent interest, deferred-payment, 30 year junior position loan as a gap closer for homeowners with incomes up to 80 percent of the median income.

Selectman Mermell asked if the applicants have tapered off in the program.

Ms. Price replied that under the guidelines, there are still limited units that would qualify under the program. It is for modest units, because that even with the grants, the buyer must afford the mortgage.

HOMEBUYER ASSISTANCE PROGRAM cont'd

On motion, it was unanimously,

VOTED: To change the maximum loan provided under the Town's Homebuyer Assistance Program, and funded from the Town's HOME and CDBG funds to

\$ 100,000 for an SRO/room in group or congregate housing

\$ 125,000 for a studio

\$ 150,000 for a one bedroom unit

\$ 175,000 for a unit of two or more bedrooms

with buyers assisted to purchase units appropriate to their household size and composition.

BAA HALF MARATHON

Josh Nemzer of the Boston Athletic Association (BAA) appeared to update the Board on plans for the 8th Annual BAA Half Marathon to be held on Sunday October 12, 2008.

Mr. Nemzer outlined the schedule of events for the Board. This is the eighth annual B.A.A. Half Marathon, and he anticipates another successful event.

Selectman Allen noted that the Town's Flag Day race event has grown in recent years and asked Mr. Nemzer if the B.A. A. would be available should the Town need assistance in organizing the event. Mr. Nemzer replied that they would be happy to.

On motion, it was unanimously,

VOTED: To grant a Special Use Permit to the Boston Athletic Association (BAA) for the 8th Annual BAA Half Marathon to be held on Sunday October 12, 2008.

FISHER HILL PROJECT

The Board considered the question of voting on the issuance of the proposed RFP for the Fisher Hill Town-Owned Reservoir Redevelopment Project.

FISHER HILL PROJECT cont'd

Director of Planning & Community Development Jeff Levine stated that since the last meeting, they have been working very hard on the RFP, addressing some of the concerns stated.

Most of the changes start in section 4. Some of the language has been clarified. Mr. Levine added that the Town's Landscape Architect felt that the project should be looked at as a whole for landscaping rather than looking at it piece by piece. The landscape design should be consistent in character and quality with Olmsted's landscape legacy and original vision for Fisher Hill. Mr. Levine went over some of the changes.

Chairman Daly mentioned that a resident expressed concern about an old deed, and whether the Town could sell this property to a developer.

Town Counsel Jennifer Dopazo replied that she looked at the old deed from 1874 which stated that the term had a twenty year restriction. So, that would apply to twenty years from 1874. Ms. Dopazo will review it at the registry as well.

Chairman Daly reminded everyone that this is just the request for proposal; there will be more details once the project is ready to go to Town Meeting. Chairman Daly also added that if the two parcels were sold, it would not force more density into the rest of the site.

Selectman Benka expressed concern about the buffer request by the immediate abutter. The request was very specific over a portion of the boundaries. The buffer ran through a portion of the boundaries where her home is and then nothing beyond that. Should there be some reference in the language that is sensitive to the structures on the abutting property.

Mr. Levine replied that it is intended to provide buffers as appropriate.

Judy Rosow, 117 Dean Rd. stated that she understands the need for affordable housing, but she questions the suitability of any development at this site. She feels that putting housing there simply because the land is there is old thinking. It would change the historic importance and layout of the neighborhood. Ms. Rosow expressed concerns on the impact of traffic and overcrowding in the Town. She hopes that the Board will postpone the vote on the RFP, until it is decided that this is the appropriate use of the land. She suggested an Olmsted Memorial, a hotel, or a merge with Newbury College and Pine Manor and use the existing buildings for housing.

Lauri Union, 30 Hayden Rd. and direct abutter stated that it was no ones intention to leave her property unprotected. It was always discussed to protect the

single family abutters. Ms. Union requested that her buffer plan be incorporated into the RFP. As she stated before, she is willing to sign a release, she does not want to turn to legal action.

Paula Friedman, 170 Hyslop Road stated that she supports the RFP. It is not perfect, it would not satisfy everyone. It is a delicately balanced and crafted RPF that they all can live with. Ms. Friedman's only request is to change the "should" to "shall in section 4.2.5 of the RFP.

Paul Saner, 462 Chestnut Hill Avenue added that it is time to move on. He supports the changes in the RFP. It is now time for the development community to come forward so the process can move along.

Director of Planning & Community Development Jeff Levine does not have a problem with Ms. Friedman's requested change, there was a concern about how it would effect the GFA, there could be some restriction, but not that big of a change to make a difference.

Gil Fishman TMM# 14 thinks the changes presented tonight are good changes, and it is time to move on. He agrees with the "should to shall" change. Mr. Fishman added that there is still a lot of work that remains to be done. With respect to the landscape buffers, the Town will be in a much better position several months from now to react once it hits the development community. He supports the RFP. Mr. Fishman thanked Selectman DeWitt and everyone who worked on this proposal.

Selectman Allen agrees that it is time to move forward on this process. He added that if they think that a developer is going to read this proposal in the depth that was put into it is naive. The details will come in down the road. It is important to pay attention to the nearest abutters. He agrees with Ms. Union that her proposal should be incorporated into the RFP in section 4.2.25. This will allow a picture of what is intended for that area.

Selectman Benka stated that in section 4.2.4.3, he would like the word "square feet" put in. In 4.2.5 he agrees with the "should be changed to shall". He expressed concern on how to treat the zoning aspect at Town Meeting. How can it be zoned if it is not known whether the 2 parcels in question will be sold or not? Selectman Benka is happy with how the RFP stands now because it signals what the intent is. In section 4.2.15 he would like to suggest language more suited for the abutting property.

Selectman Mermell added that she supports the RFP and affordable housing. Selectman Mermell thanked everyone involved and added that it is time to take action after all these years. She agrees that it is imperfect, but it is a good compromise. It successfully as possible balances the interest for the neighborhood and affordable

In Board of Selectmen

September 9, 2008

Page 19 of 22

housing advocates. It describes the buffer for all the abutters, she disagrees with Selectman Allen on incorporating Ms. Union's plan into the RFP. She supports the change from "should to shall".

Chairman Daly added that she does not support Ms. Union's plan. She expressed concern that the person who buys the lots would be responsible to permanently irrigate the buffer.

Selectman DeWitt moved favorable action on the September 15, 2008 Fisher Hill Town-Owned Reservoir Redevelopment Project Request for Proposal with the amendments of "square feet" added in section 4.2.4.3., and to change the word "should" changed to "shall" in section 4.2.5. Selectman DeWitt also noted that dates would have to be updated throughout the RP.

Selectman Allen noted that he feels this vote should be unanimous, and being an affordable housing advocate he will vote in favor, however he made it known that there will continue to be a focus on buffer zones, and to work on an outcome that is fair to everyone.

On motion, it was unanimously,

VOTED: favorable action on the September 15, 2008 Fisher Hill Town-Owned Reservoir Redevelopment Project Request for Proposal with the amendments of "square feet" added in section 4.2.4.3., the word "should" changed to "shall" in section 4.2.5, and the dates in the RFP amended.

(Selectman Allen left the meeting)

GRANT OF LOCATION

Continued public hearing on the question of approving the petition of NextG Networks of New York, Inc., for permission to construct, and locations for, lines of conduit and manholes with the necessary cables in various locations throughout the Town.

Town Counsel Jennifer Dopazo stated that the Town granted a Grant of Location to ExteNet that does a similar type of build out construction for distributed antennae systems. With respect to the licensing agreement and the financial piece, it includes a 5% of gross revenues (\$19,500k) plus \$60 per pole which there are 18 poles. In addition, for use of the Town's conduits, the rate is \$2 per square feet. (Verizon receives .49 cents per square foot.) There will be a pole maintenance fee that will be drafted in the amount of \$10k which will go into the general fund. Ms. Dopazo feels the rates are fair and reasonable,

GRANT OF LOCATION cont'd

Chairman Daly asked about the amount of trenching that would be done.

Director of Engineering replied that the Town has standards and guidelines on how to treat the final pavement.

Selectman Benka asked about “micro-trenching” and its use as opposed to trenching.

Mr. Ditto replied that the Town is not comfortable with this procedure after taking a hard look at it. NextG was unable to provide a reference from a comparable city or town that has used this procedure. That being said, he is not comfortable with the system. The Town will expect that their standards and proper procedures be adhered to.

Peter Heimdahl of NextG Networks stated that there is no risk to the Town in using Micro-trenching, but NextG will comply with the Towns wishes. He added that there are areas in Boston that has used the Micro-trenching.

Selectman Benka expressed concern about repetitive trenching in the Town from one carrier to another. He asked if NextG would be able to add additional carries to their poles. Selectman Benka would like assurance that there is a competitive environment without a lot of wires and trenches being added.

Mr. Heimdahl replied they can carry up to three carriers per pole. He added that NextG would not have a problem incorporating access to the poles. Their goal is to make sure their system is up to its capacity.

Ruth Molloy of Fairway Road stated that there is a DAS demo placed in front of her home and she is concerned about health and safety issues. The unit is directly in front of her toddler’s room.

Mr. Heimdahl replied that there is flexibility on the location. A health study found that the system has no negative health effects. He would be happy to provide the study to the Town. The signals are deemed safe by the FCC. However, he did add that the system in front of her home has been taken down.

Town Counsel Jennifer Dopazo suggested that the vote be taken tonight and that the license agreement be brought back for approval and Board signatures with the additional language that NextG will open up those other three additional spaces for capacity, and if so, any other changes or typos can be squared away.

On motion, it was unanimously,

VOTED: To approve the petition of NextG Networks of New York, Inc., for permission to construct, and locations for, lines of conduit and manholes with the necessary cables in various locations throughout the Town. Subject to the Board's approval of the final language.

CLIMATE ACTION COMMITTEE

The following candidates for appointment to the Climate Action Committee appeared for interview:

**Matthew Alvarado
Jon Cody Haines
Alan Leviton**

Matthew Alvarado is a Post-Doctoral Researcher at the Center for Global Change Science at Massachusetts Institute of Technology. His main focus is on atmospheric chemistry, air pollution and climate change. Mr. Alvarado holds a Ph.D. in Climate Physics and Chemistry from MIT.

Jon Cody Haines Holds a Master of Science in Engineering Management from Northeastern University. He is currently an Intern at IncTank Ventures where he researches potential ventures. Mr. Haines is interested in new technology including "green technology" and the importance of it in the community.

Alan Leviton was employed for 37 years in the engineering division at Rohm and Haas Company. He was involved in design, construction and operation of chemical plants. Mr. Leviton also has extensive experience in chemical plant energy analysis. He holds a Master of Science in Chemical Engineering from the University of Illinois.

The Board thanked them for their interest.

WARRANT ARTICLES

Deputy Town Administrator Sean Cronin appeared to review the Warrant Articles submitted for the November 18, 2008 Fall Town Meeting.

Deputy Town Administrator Sean Cronin briefly went through the Warrant Articles for the 2008 Fall Town Meeting.

Articles 1-3 are the annual budget issues. Articles 4-6 are health insurance related. Articles 7-12 are General By-law amendments. Articles 13-18 are zoning

In Board of Selectmen

September 9, 2008

Page 22 of 22

WARRANT ARTICLES cont'd

related. Articles 19-20 are miscellaneous DPW related. Articles 21-25 are General Legislation. Articles 26-28 are resolutions, and Article 29 is reports of Town Officers and Committees.

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

ATTEST

IN BOARD OF SELECTMEN

September 16, 2008

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

**The Minutes of July 15, 2008 were approved as amended
The Minutes of September 9, 2008 were approved as amended**

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

Town Administrator Richard Kelliher sadly announced the sudden death of Randall Graham, daughter of longtime employee Gail Lewis, CDBG Administrator in the Planning and Community Development Department.

Chairman Daly asked for a moment of silence.

Chairman Daly made note that the West Nile virus has been detected in the area again. She advised residents to take precautions, and indicated that there is information on the Town's website on West Nile.

AGREEMENT

The Board considered the question of approving and executing an agreement with NextG Networks of New York, Inc., for permission to construct, and locations for, lines of conduit and manholes with the necessary cables in various locations throughout the Town.

Town Counsel Jennifer Dopazo stated that the agreement has been finalized. NextG is not tax exempt, and will be required to pay all taxes and Government fees. Ms. Dopazo went over the fees and rates, and also indicated that NextG will be required to provide pole space for an additional three carriers seeking to provide service to the Town.

On motion, it was unanimously,

VOTED: To approve and execute an agreement with NextG Networks of New York, Inc., for permission to construct, and locations for, lines of conduit and manholes with the necessary cables in various locations throughout the Town.

PURCHASE AND SALE AGREEMENT

The Board considered the question of authorizing Town Counsel to execute a Purchase and Sale Agreement for the land at Kerrigan Place.

Town Counsel Jennifer Dopazo stated that in 2007 Town Meeting voted to authorize the Board to create a purchase and sale agreement between the Town and 111 Boylston Street LLC. Chairman Daly added that a PILOT agreement (payment in lieu of taxes) has been made to ensure tax revenue to the Town should a non-profit organization occupies the site.

PURCHASE AND SALE AGREEMENT cont'd

On motion, it was unanimously,

VOTED: To authorize Town Counsel to execute a Purchase and Sale Agreement for the land at Kerrigan Place.

TEMPORARY WINE AND MALT BEVERAGE LICENSE

The Board considered the question of granting a temporary Wine and Malt beverages license to the Brookline High School Class of 68 in connection with a Reunion to be held on September 20, 2008 from 4:30 p.m. – 10:00 p.m. at Brookline High School, MLK Room, 115 Greenough Street.

On motion, it was unanimously,

VOTED: To grant a temporary Wine and Malt beverages license to the Brookline High School Class of 68 in connection with a Reunion to be held on September 20, 2008 from 4:30 p.m. – 10:00 p.m. at Brookline High School, MLK Room, 115 Greenough Street.

TEMPORARY WINE AND MALT BEVERAGE LICENSE

The Board considered the question of granting a temporary Wine and Malt beverages license to the Senior Center in connection with the following events to be held at 93 Winchester Street :

September 24 th 5:00 p.m. – 7:00 p.m.	Concert/Dinner
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October 29 th 6:00 p.m. – 10:00 p.m.	Annual Benefit
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Director of Council on Aging Ruthann Dobek outlined the events for the Board. The Annual Benefit is the annual fundraiser that provides funds for the senior van, supplies, and other necessities that are not covered under their budget. This is an important and successful event for the Senior Center.

On motion, it was unanimously,

TEMPORARY WINE AND MALT BEVERAGE LICENSE cont'd

VOTED: To grant a temporary Wine and Malt beverages license to the Senior Center in connection with the following events to be held at 93 Winchester Street :

September 24th Concert/Dinner
5:00 p.m. – 7:00 p.m.

October 29th Annual Benefit
6:00 p.m. – 10:00 p.m.

TEMPORARY WINE AND MALT BEVERAGE LICENSE

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

October 16th Banquet/Reception
6:00 p.m. – 8:00 p.m.

October 25th Fundraiser
5:30 p.m. – 10:00 p.m.

On motion, it was unanimously,

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

October 16th Banquet/Reception
6:00 p.m. – 8:00 p.m.

October 25th Fundraiser
5:30 p.m. – 10:00 p.m.

CITIZEN COMPLAINT APPEAL

Police Chief Daniel O'Leary appeared to present a report on a Citizen Police Complaint Appeal received by the Board of Selectmen.

CITIZEN COMPLAINT APPEAL cont'd

- a. **Question of holding a hearing in connection with a Citizen Police Complaint Appeal.**

Chief O'Leary stated that a complaint was filed in reference to an arrest made on April 13, 2008, based on the statement of a tow truck driver and a witness as follows: On this date a tow truck driver was assaulted when he pulled up to a vehicle with a New York license plate parked in a fire lane. As he was hooking the vehicle up to the tow truck, the owner came out. The tow truck driver told him there would be a drop fee of \$50 to release the vehicle. The accused tried to get the price lowered. When the driver went to get the paperwork he was struck on the side of the face. As the driver was trying to flee the truck the accused shut the door on his head twice resulting in injuries. When the police arrived, the subject was placed under arrest for assault and battery and assault and battery with a dangerous weapon.

On May 3, 2008 the mother of the subject filed an improper arrest and procedure. She stated that the charges were inflated and that the driver was struck accidentally. She asked that the charges be dropped.

Chief O'Leary added that the tow company has nothing to do with the Police Department; they are under contract with the Housing Authority. Lt. Burke interviewed the officers and found the complaint unfounded based on probable cause and the case is now underway in the Brookline courts. The victim is proceeding with the case. Chief O'Leary added that whether the door was struck accidentally, or other allegations stand up, that will be up to the court to decide. He feels that the Officers acted appropriately and were justified with the arrest. Chief O'Leary added that the mother made other allegations against the Police Department stemming back 14 years when there was an incident with her daughter at C.V.S., in 2003 on a domestic dispute, and in 2004 on the hospitalization of a family member authorized by school department personnel. The mother stated there were many witnesses, but produced none when asked to identify them. Chief O'Leary then passed out to the Board photos of the tow truck driver's injuries taken by police at the incident.

Selectman Mermell asked if the son is a minor, and if that is why the mother is filing the complaint. The Chief replied that the son is an adult. Selectman Mermell asked if the son has issued any complaints himself, the Chief replied no, the son has not.

Selectman DeWitt asked about the charges against the son. Chief O'Leary stated that he was arrested that day and charged with assault and battery and assault and battery with a dangerous weapon. It is currently in court. There was a status hearing on September 10, 2008 in which the victim brought in medical

CITIZEN COMPLAINT APPEAL cont'd

records indicating his injuries. It is now scheduled for a pre-trial conference in October.

Chairman Daly stated that the mother was sent a copy of the reports, but was not in attendance. She feels that the police officer acted appropriately under the circumstances, and she is not inclined to move forward with a hearing.

Selectman Benka added that the Chief explained the genesis and the mother who is black made the statements of “the lying white tow truck driver and the lying white witness” accounts were taken in order to make the arrest. She also indicated that the door struck the tow truck driver by accident and that the injuries to the victim were made by self infliction. He feels that the claim confuses two questions, one whether the subject hit the tow truck driver, and whether the police acted properly in making the arrest. Given the evidence, whatever the race of the subject is, he is in agreement with the Police Department. It is up to the courts to determine the truth.

On motion, it was unanimously,

VOTED: To not proceed with a hearing in connection with a Citizen Police Complaint Appeal.

BOARDS AND COMMISSIONS

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

Human Relations/Youth Resources

Dr. Laurie Dopkins

Commission for the Disabled

Doreen Hinds Wilkinson,

Conservation Commission

Carey F. Bergeron

Human Relations/Youth Resources -Dr. Laurie Dopkins works at the Center for Urban and Regional Policy, School of Social Science, Urban Affairs, and Public Policy at Northeastern University. Dr. Dopkins has experience in community and youth development; capacity- building and advocacy; program evaluation; strategic

In Board of Selectmen

September 16, 2008

Page 7 of 12

BOARDS AND COMMISSIONS cont'd

planning; and community assets and civic engagement. Dr. Dopkins holds a Ph.D, and Masters Degree in Sociology.

Commission for the Disabled -Doreen Hinds Wilkinson is retired from the Massachusetts State Department of Education where she worked for over twenty years. Previous to that she has worked in the Brookline Public School System, and Cambridge Alternative Public School. Ms. Wilkinson holds a Doctorate Degree and Masters Degree in Education. She is interested in the Commission for the Disabled, her son is disabled, but would consider another commission if there are no vacancies on this one.

Conservation Commission - Carey F. Bergeron is an attorney for Goodwin Procter LLP. Ms. Berger previously worked for Verizon as a Joint Lines Specialist and other positions in their Engineering Division.

Selectman Mermell noted that Ms. Bergeron may be a candidate for the Climate Action Committee. Ms. Bergeron replied that she would be interested in that committee, she has worked on climate and environmental issues as an intern in college with the Coast Guard.

The Board thanked the candidates for their interest.

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. September 1st , 2008 to December 1, 2008.

Mike Howe of Aggregate Industries updated the Board on the Route 9 Project. There have been some delays due to weather. He feels that the project will be finished in 2-3 weeks, and then the clean up will take place. He added that he is moving along as quickly as possible, however utility companies have been doing work in the area knowing that the road is going to be paved, and working on emergency calls. This contributes to the delays.

Director of Engineering Peter Ditto stated that he has not received any complaints since the last meeting.

Several residents from 323 Boylston Street appeared to urge the Board to vote against the Noise Bylaw Waiver. The majority have infants or small children

NOISE BYLAW WAIVER cont'd

which makes it difficult to sleep with the noise on the road. The residents' expressed concern of sleep deprivation, and the effect is has on them during their work day.

One resident was concerned about the work being performed after September 1, 2008 when the last waiver expired. Chairman Daly replied that with the Labor Day Holiday, the Board has not been able to schedule it until now. The general question was why the work could not be done during the day, or the louder work be done earlier in the evening.

Mr. Howe replied that to perform the work that needs to be done during the day would require blocking off the road causing traffic and safety concerns. He added that he will try to get the louder work done earlier in the day and keep the project website current. He did add that the project is continually moving and he does not expect to be working in the area of 323 Boylston for a couple of weeks when the project makes its way back on the east side. He expects two more loud nights in the area.

Chairman Daly stated that this Road is under MassHighway, and the project is a MassHighway Project. MassHighway has made the comment that under their jurisdiction they do not have to officially apply for a noise waiver, but do as a consideration. This puts the Town in a difficult position. Chairman Daly asked Mr. Ditto to take the names of the residents and to follow up with the utility companies on when they will be working in the area as well. She also requested that an effort be made to perform the nosier work earlier in the evening. Chairman Daly stated that Route 9 is a major roadway, and this area is a major intersection. Closing it down would be very difficult.

Mr. Howe replied that he will try to get the noisier work done in the earlier hours.

Selectman Mermell stated that they have heard from numerous residents on this project. She asked if the residents at 323 Boylston be notified on when the work is scheduled to be done in their area at least two days ahead of time.

Selectman Benka stated that he had previously asked MassHighway for a commitment to look into noise barriers which they did not. For this reason he will again vote against the waiver.

Selectman DeWitt expressed concern on the genuine misery of the residents and disappointment that MassHighway has refused to change the hours of the project. She feels it is a bad decision to put traffic ahead of residents. She will be voting against the waiver. There has been no effort to mitigate the job.

In Board of Selectmen

September 16, 2008

Page 9 of 12

NOISE BYLAW WAIVER cont'd

Selectman Allen disagreed on the mitigation. He feels that this contractor has been trying to mitigate from the beginning of the project, and he has made himself available to everyone with concerns. He commented that Route 9 has more traffic than Storrow Drive based on studies and it would be extremely difficult to close it down during the day. The road is in a deplorable state and needs to be repaired. However it is a difficult balancing act, but once the project is finished the overall noise from the daily traffic should be reduced. Selectman Allen is looking forward to the end of the project.

Chairman Daly added that she has repeatedly asked for the louder work to be done earlier in the evening. However, the project needs to get done and MassHighway has the jurisdiction over the road.

On motion, it was,

VOTED: 3-2 To grant the request of the Massachusetts Highway Department (MHD) for a Noise Bylaw Waiver in connection with reconstruction work along Route 9 to be performed by Aggregate Industries from 8:00 p.m. to 5:00 a.m. September 1st, 2008 to December 1, 2008.

(Selectmen DeWitt and Benka voted against)

FALL TOWN MEETING WARRANT

The Board considered the question of executing the Warrant for the November 18, 2008 Fall Town Meeting.

Deputy Town Administrator Sean Cronin stated that there is a format change in Article 9. There is no change in the substance of the Article.

On motion, it was unanimously,

VOTED: that the requirements in Section 2.1.3 of the by-laws be waived per section 2.1.4.

VOTED: To execute the Warrant for the November 18, 2008 Fall Town Meeting.

WARRANT ARTICLES

Review of the following Warrant Articles for the November 18, Fall Town Meeting:

<u>Article No.</u>	<u>Title</u>
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1.	Unpaid Bills
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There are no unpaid bills at this time

On motion, it was unanimously,

VOTED: 5-0 No Action on Article 1.

<u>Article No.</u>	<u>Title</u>
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2.	Collective Bargaining (Human Resources)
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Deputy Town Administrator Sean Cronin stated that there are two unions still in Collective Bargaining. There was no vote on Article 2.

<u>Article No.</u>	<u>Title</u>
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7.	Recycling Containers (Andrew Ghobrial)
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Petitioner Andrew Ghobrial stated that this Article is intended to help Brookline with its recycling efforts. He would like to have a recycling bin at every trash barrel in Town to reduce the number of recyclable items put into trash receptacles. He would like to see a focus at the MBTA stations and Parks.

Selectman Mermell likes the idea of the Article but suggested that he talk with DPW and SWAC (Solid Waste Advisory Commission) on this issue because SWAC has been working on expanding the recycling program, and may be working on this or a similar concept.

Chairman Daly and Selectman Benka expressed concern on using the word “all” which could pose problems with the cost, and pick up logistics.

Selectman Allen expressed concern on the contractor’s trucks getting into parks to pick up the containers, as well as the cost and personnel to administrate it.

WARRANT ARTICLES cont'd

Selectman DeWitt shared the Board's views on mandating it and the cost to enforce it. She too advised that he speak with SWAC because they are already encouraging more recyclable containers.

There was no vote on Article 7.

Article No.

Title

8. Naming Committee Membership
(Naming Committee)

Fred Lebow, Chair of the Naming Committee stated that this is a housekeeping issue. The Committee would be made up of 5 members to provide an odd number to facilitate the voting process, and adding an alternate position should a member of the committee be unwilling or unable to act.

On motion, it was unanimously,

VOTED: 5-0 Favorable Action on Article 8.

BOARDS AND COMMISSIONS

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

Park & Recreation Commission

Chuck Silverston

Park & Recreation Commission - Chuck Silverston is a realtor and local business owner of a restaurant in Coolidge Corner. He is interested in preserving and maintaining the Town's parks and open spaces. As a parent and a realtor in the community he understands the importance of this. Mr. Silverston would consider an appointment on another Board/Commission should the Board deem fit.

Climate Action Committee

Ira Krepchin

Jim Solomon

Climate Action Committee - Ira Krepchin is a research manager in E Sources Technology Assessment Group which analyzes and evaluates energy efficiency and renewable energy technologies. He is also working on a major technology transfer

In Board of Selectmen

September 16, 2008

Page 12 of 12

BOARDS AND COMMISSIONS cont'd

effort with the California Energy Commission. He has served on Brookline's Green Technology Committee as well as the Citizens Commission on Energy in Newton MA; and as co-chair of the Mayor's Advisory Committee on Renewable Resources. Mr. Krepchin holds an MS in mechanical engineering from MIT.

Climate Action Committee - Jim Solomon is the owner of the Fireplace restaurant in Brookline. The Fireplace is the first "Green Certified" restaurant in Boston, and the only one in Brookline, certified by the Green Restaurant Association that helps restaurants and its customers become more environmentally sustainable in ways that are convenient and cost effective. Mr. Solomon would like to help other local business owners develop and maintain green certification.

The Board thanked them for their interest.

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

ATTEST

IN BOARD OF SELECTMEN

September 23, 2008

Present: Chairman Daly, Selectman Robert Allen, Jesse Mermell, and Richard Benka.

The Minutes of September 16, 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).

Selectman Allen left the meeting

CONTRACT

The Board considered the question of renewing Contract No. PW/08-08 “Rental Rates for Snow Plowing and Ice Control in the amount of \$70,250.00 with D’Alessandro Corp., of Avon. Said contract to be funded from account 42004230 523070.

Director of Highway Kevin Johnson stated that this is for renewal of a two year contract. The contract provides extra equipment and service during bad weather. This vendor was the low bidder last year and a new vendor to the Town. He is happy with their work.

On motion, it was unanimously,

VOTED: To renew Contract No. PW/08-08 “Rental Rates for Snow Plowing and Ice Control in the amount of \$70,250.00 with D’Alessandro Corp., of Avon. Said contract to be funded from account 42004230 523070.

TEMPORARY WINE AND MALT BEVERAGE LICENSE

The Board considered the question of granting a temporary wine and malt beverages license to Boston University/Boston Magazine in connection with a Banquet to be held on October 6, 2008 from 6:00 p.m. – 9:00 p.m. at 808 Commonwealth Avenue.

On motion, it was unanimously,

VOTED: To grant a temporary wine and malt beverages license to Boston University/Boston Magazine in connection with a Banquet to be held on October 6, 2008 from 6:00 p.m. – 9:00 p.m. at 808 Commonwealth Avenue.

GRANT

The Board considered the question of accepting a grant in the amount of \$2,250.00 from the Brookline Community Foundation in support of various Women Commission initiatives.

Casey Hatchett, Chair of the Brookline Women’s Commission updated the Board on coming events and projects that the Commission is working on. The Commission is pleased to accept this grant from the Brookline Community Foundation to help expand their programs.

GRANT cont'd

Selectman Mermell commented on the group's ability to provide events and programs with minimum or no budget. This grant will allow them to expand and continue to provide programs and services that benefit women of the community.

On motion, it was unanimously,

VOTED: To accept a grant in the amount of \$2,250.00 from the Brookline Community Foundation in support of various Women Commission initiatives.

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.

HOME HEATING TASK FORCE

Director of Public Health and Human Services Alan Balsam and other members of the Home Heating Task Force appeared to update the Board.

Director of Public Health and Human Services Alan Balsam, Director of Council on Aging Ruthann Dobek, Housing Planner Virginia Bullock, and Mary Dewart, member of the Climate Change Action Committee addressed the Board on the serious issue of home heating cost and how it effects more families now than in previous years. The issue is spreading from low income residents to the working and middle class residents which may cause a strain on funds and accessibility.

Ms. Dobek expressed concern for the elderly residents that may need assistance, but have not contacted any services, therefore they are unknown to the service providers.

The Task Force is working on the following:

1. To advocate for increased resources to assist Brookline residents with heat this winter.
2. To provide information and link residents to home energy audits and conservation strategies, heating assistance programs, and direct aid.
3. To strictly enforce the health code and other protections for residents regarding heating requirements and provide shelter in case of a heat emergency.

HOME HEATING TASK FORCE cont'd

- 4. To educate residents regarding the dangers of alternative heating techniques. Document, via research, the extent of the home heating challenge in Brookline.**

Selectman Benka asked about availability of funds. Particularly if there would be enough to go around. Dr. Balsam replied no, he does not think there will be enough to go around. Right now there are enough funds to last until January. He added that this is the potential crisis.

Selectman Mermell asked if they are prepared to deal with the unexpected amount of residents seeking relief. Dr. Balsam replied yes, they are prepared to deal with an unexpected crisis.

The Board thanked them for the update, and their work in addressing this important challenge.

B-CASA GRANT

Director of Public Health and Human Services Alan Balsam and Mary Minott appeared to request that the Board accept a grant in the amount of \$625,000 from the Office of National Drug Control Policy and Substance Abuse and Mental Health Services Administration to support the Brookline Coalition Against Substance Abuse (B-CASA).

Director of Public Health and Human Services Alan Balsam stated that this grant will be dispersed over five years. In recognition and support of ongoing programming to prevent teen substance abuse, the Brookline Public Health Department, in conjunction with the Brookline Schools, has been awarded a \$625,000 Drug Free Communities grant to support B-CASA (Brookline Coalition Against Substance Abuse). B-CASA's mission is to prevent teen alcohol, marijuana and other drug abuse and attendant risky behavior.

Selectman Benka asked if there were any conditions attached to the grant. Dr. Balsam replied that the grant allows Brookline to design programs based on their individual needs. The only condition is that it is researched based when designing a program.

On motion, it was unanimously,

VOTED: To accept a grant in the amount of \$625,000 from the Office of National Drug Control Policy and Substance Abuse and Mental Health Services Administration to support the Brookline Coalition Against Substance Abuse (B-CASA).

GRANT

The Board considered the question of accepting a grant in the amount of \$6,000 from the Brookline Community Foundation to be expended by the Health Department to develop a comprehensive plan to assist individuals who hoard to effectively manage the disorder.

Director of Public Health and Human Services Alan Balsam stated that this grant will help develop a comprehensive plan to assist individuals who hoard to effectively manage this disorder. Hoarding is a sign of Obsessive Compulsion Disorder and is defined as the excessive gathering and storing of material at a specific location that renders the location useless and or dangerous for its intended use.

Lloyd Gellineau, Human Services Coordinator stated that this is an increasing concern in Brookline. There were ten cases of hoarding last year in town. When hoarding incidents are reported, it is generally at the stage where the dwelling needs to be condemned and the occupants displaced. The Public Health and Human Services Office will work to prevent these cases from getting to that point, minimizing the risk of displacing the occupants.

On motion, it was unanimously,

VOTED: To accept a grant in the amount of \$6,000 from the Brookline Community Foundation to be expended by the Health Department to develop a comprehensive plan to assist individuals who hoard to effectively manage the disorder.

BOARDS AND COMMISSIONS

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

Advisory Council On Public Health - John H. Hermos, MD is a staff physician in medicine, Section of General Internal Medicine, at the VA Boston Healthcare System. Dr. Hernos is also an Associate Professor of Medicine at Boston University Schools of Medicine and Public Health. Dr. Hermos has been involved in several Brookline civic organizations.

The Board thanked him for his interest.

WARRANT ARTICLES

Review of the following Warrant Articles for the November 18, Fall Town Meeting:

<u>Article No.</u>	<u>Title</u>
9.	Noise Control By-Law (Selectmen)

Fred Lebow Chair of the Noise By-law Committee stated that the original By-law was created 20 years ago. At the request of Town Meeting, the Board of Selectmen charged a committee with reviewing and revising the Town's Noise Bylaw. The Committee has worked for several years reviewing the By-laws of other municipalities, learning about methods of noise reduction, and rewriting the By-law. This warrant article is a revised Noise By-law offered by the Committee set up by the Board of Selectmen. One of the main areas of focus was leaf blowers and how to regulate the noise level on them.

Selectman Benka stated that this is a complicated issue in terms of enforcement and equipment regulations. He hopes it will be used in a creative and useful way. Selectman Benka added that the Article needs to be tweaked.

Selectman Mermell expressed concern about the effects after the Article passes. There are a lot of changes and many non-residents will need to be informed, particularly landscapers. Mr. Lebow replied that the Article will be translated into four different languages, ones most commonly used among local landscapers.

Commissioner DeMaio submitted a note stating that he suggests that Public Works be exempt from the Noise By-law relative to all DPW operations.

There was no vote on Article 9.

<u>Article No.</u>	<u>Title</u>
10.	Leaf Blowers, (Andrew Fisher/Margolis)

Petitioner Andrew Fisher stated that this Article is intended as a compliment to the Noise By-law that is beyond the scope of the Noise By-law Committee. Mr. Fisher outlined the explanation:

WARRANT ARTICLES cont'd

This article is offered in conjunction with and supplementary to the amendments to the noise ordinance. Leafblowers are not just noise pollutants, but are usually a wholly unnecessary source of carbon emissions. At a time when we seek to reduce our carbon footprint and our dependence on foreign oil, we see too many instances where a landscape employee powers up a gas powered leafblower to blow a few grass clippings off a walkway. This is an unnecessary use of oil and the kind of behavior we need to eliminate if we are to battle global warming and our dependence on foreign oil.

While the noise ordinance regulates leafblowers in part, it does not limit their use. On the other hand, while some would ban leafblowers altogether, this article provides a reasonable regulation, still allowing homeowners to use leafblowers for their intended use, to gather leaves up in the fall, without limitation, (except as regulated by the noise ordinance), but limiting the excessive use where inappropriate.

The Article permits the use of leafblowers only between the hours of 8:00 a.m. and 5:00 p.m. Mondays through Fridays and 9:00 a.m. and 5:00 p.m. on Saturdays and Sundays. The dates allowed for use are between March 15 and May 15, and between September 15 and November 15 each year.

Selectman Mermell asked about the 9-5 worker who may want to do some yard work after 5 when they get home.

Petitioner Jonathan Margolis replied that they would be able to do yard work on the weekends. After 5 is generally dinner time for most families and not the best time for leafblowers.

Mr. Fisher added that during the fall months it is dark out earlier so folks would not be doing yard work.

Selectman Benka asked whether the intent is to prohibit homeowners, as well as commercial users. Would everybody be covered under the specified dates? Mr. Fisher replied that everybody would be covered. Mr. Benka noted that the times were inconsistent with the Noise By-law. Mr. Fisher replied that he had not received the Noise By-law, but the times could be made consistent with the By-Law.

Commissioner DeMaio submitted a note stating that the Department of Public Works does not have the personnel to over see this control.

Fred Lebow, Chair of the Noise By-law Committee expressed several concerns with Article 10. He does not feel that Article 10 is needed because of its presence in Article 9, Noise Control By-Law. His concerns include the recommended hours, commercial users, equipment standards, and enforceability.

WARRANT ARTICLES cont'd

There was no vote on Article 10.

Article No.

Title

- 12. Green Cleaning Products (Tom Vitolo)**

Petitioner Tom Vitolo went over the outline of his Article:

Traditional cleaning products can lead to acute or chronic injury to both janitorial staff and general occupants of buildings, through direct contact, inhalation, or ingestion, and result in temporary or permanent pain, discomfort, and health side effects, including, but not limited to, burns to the eyes and skin, headaches, nausea, and increased rates of reproductive disorders, cancers, allergies, and respiratory ailments. Traditional cleaning products can lead to environmental problems both locally and globally, including bioaccumulation of toxic substances in living organisms, ozone depletion, eutrophication, and air, water, and groundwater pollution. Many cleaning products have green options, equally effective alternatives which are safer for both building users and the surrounding environment, and tested and certified by independent organizations such as Green Seal.

Mr. Vitolo added that this Article pertains to town owned buildings whenever a green product has been shown to work as well as the traditional cleaning product. Some departments are already using the products, and the newly renovated Train Health Center is already using green cleaning products.

Selectman Benka asked about the Green Seal Standard (GS-37) and what the certified standards are. Selectman Benka would also like to learn more about the products available, and the cost difference. Mr. Vitolo provided the Board with backup materials.

Selectman Mermell asked if a building has a surplus of products that were not GS-37, how would that fit into the Article? Mr. Vitolo replied that the product would continue to be used until it was depleted.

Chairman Daly asked about bleach and the fact it is used as a disinfectant where there are small children. Mr. Vitolo replied that bleach would fall under the category of acceptable products.

There was no vote on Article 12.

WARRANT ARTICLES cont'd

Article No. Title

13. Zoning Map (William Powell)

Martin Rosenthal spoke as a petitioner and stated that the properties involved are important parcels that provide green space and character to the neighborhood. There have been a number of recent changes involving tearing down houses and building taller buildings, radically adding density on originally single-family sites. Often, the visual quality of the newer buildings is jarring next to the much older houses and apartment buildings, which are the remainder of our heritage from the last two centuries. The petitioners believe that it is in Brookline's best interests to protect our vulnerable neighborhoods in North Brookline through areas perceived to be most at risk. Down-zoning these parcels will also lessen the possibility of "clear-cutting" our small remaining Single-Family housing stock in these key areas, and their replacement by big-box, urban-scaled development. There are twelve properties included in the Article:

7, 9 Craig Pl	M- 1.5	F-1.0
11, 13 Craig Pl	M- 1.5	F-1.0
15 Craig Pl	M- 1.5	F-1.0
17 19 Craig Pl	M- 1.5	F-1.0
219 Freeman St	M- 1.5	F-1.0
221, 223 Freeman St	M- 1.5	F-1.0
134 Babcock St	M- 1.5	T-5
106 Naples Rd	M- 2.0	T-5
37, 35 Winchester St	M- 2.0	F-1.0
43 Winchester St	M- 2.0	F-1.0
67 Winchester St	M- 2.0	F-1.0
73, 71 Winchester St	M- 2.0	F-1.0

Director of Planning & Community Development Jeff Levine stated that many of these parcels are currently conforming with respect to Floor Area Ratio, and would be made non-conforming as a result of this rezoning. The owners of these buildings would lose the ability to add to their buildings by right, and would instead have to receive relief from the Board of Appeals for additions, no matter how small. With respect to use non-conformities, this rezoning would clearly require use variances to increase the number of units above 2 or 3, depending on the exact rezoning. However, even if non-conforming, these buildings could generally be rebuilt in the event of a catastrophe, as long as they were not larger than the buildings currently on these properties.

WARRANT ARTICLES cont'd

Mr. Rosenthal added that if an owner objected it should be determined if they are suffering a real hardship or losing big profits from selling to a developer.

Selectman Benka would like to take a look at the properties, and encourages Town Meeting Members to do the same in order to get a better of idea of what we are dealing with.

There was no vote on Article 13.

Articles 19 and 20 were postponed.

CITIZEN COMPLAINT APPEAL

Further consideration of the Citizen Complaint appeal voted by the Board on Tuesday September 16, 2008.

There was a mis-communication with the complainant last week, so she was unable to attend the discussion. Ms. Roberts is present.

Selectman Benka made the motion to reconsider.

On motion, it was unanimously,

VOTED: 3-0 To reconsider a Citizen Complaint appeal.

Chief O'Leary went over the complaint from last week. There had been several instances with the complainant's family. Complainant, Ms. Roberts feels that her family members were not treated fairly. A car was illegally parked in the Egmont Street parking lot. A tow truck under contract with the Housing Authority attempted to tow a car illegally parked. An incident took place, and the driver called police after allegedly being assaulted with a strike to the head and the truck door. After an investigation the police placed the complainant's son under arrest. Ms. Roberts feels that the driver's injuries were self inflicted and that the arrest was made improperly. The Police Department investigated the charge and found it unfounded.

Ms. Roberts responded and referred to an incident with her daughter in 1995 when the daughter was a minor, stating that this incident is sealed, that is why there is no record of it. Another incident her daughter shoplifted from CVS and the manager called police. She put the item back, but the police were already dispatched, and approached her in an unnecessary way. A neighborhood resident

CITIZEN COMPLAINT APPEAL cont'd

notified Ms. Roberts of the incident. She added that the police are constantly harassing the neighborhood kids, and show no remorse about it. Ms. Roberts named another incident at the High School when her daughter was pink slipped for getting into a fight with another girl. A guidance counselor was struck by her daughter and the police were called and sent to their home. It took an hour and a half to discuss whether it was necessary to give out the pink slip. Ms. Roberts sat on her daughters lap to prevent the police from taking her in an ambulance. Her son intervened and was arrested for trying to protect his mother. Ms. Roberts added that her son was a notable football player for the High School.

On the day of this complaint, April 13, 2008 the incident had already happened by the time she was aware of it. She saw the tow truck driver with a red face, and his shoulder had scratches, but there was no broken skin. She observed the pictures of the victim's injuries and feels they are not consistent with being struck with a truck door. She questions whether the door struck his head or his shoulders. She feels that it could not strike both as the pictures indicate. When Mrs. Roberts tried to intervene, the police told her to stay away. The one witness of the incident is a fifteen year old who has had previous trouble with the police, and the witness's father told her he feels that the police should not have questioned him without a parent present. Ms. Roberts feels that the police are trying to make her son a felon. The victim was not bleeding when the police first arrived, but minutes later there was a steady trickle of blood. These instances happen routinely in her neighborhood and she feels that they are being targeted because of race, class and religion. The truck driver could have hooked up the car without getting out which she feels started the situation.

Chairman Daly responded by stating that they can only deal with the recent complaint concerning the tow truck driver, they cannot go back for the other incidents with her daughter.

Selectman Benka stated that the issue of race, class and religion needs to be taken seriously. However the two questions here are whether the son did what was alleged, and whether the police acted appropriately. Only the second question is before the Board, and what actually happened with the tow truck driver is now in the courts. Ms. Roberts believes that he is lying and that the "white" witness is lying, and that the door was accidentally closed on the driver, and the wounds were self inflicted. The police took note of the injury, the statement of the tow truck driver, and the witness, and made a determination on that. Selectman Benka added that if the victim were a black man and the subject a white man he would expect and demand the same outcome with the white man being arrested. Given the evidence the police did what they were supposed to do. If the driver is lying it will be decided in court. He will vote to deny the appeal.

CITIZEN COMPLAINT APPEAL cont'd

Selectman Mermell agrees with Selectman Benka. They are not here to determine guilt or innocence. Given the situation with the witness and the driver, the police did act appropriately. Selectman Mermell added that she is glad that Ms. Roberts is here to open up this discussion and talk about her experience with courage and conviction on this important issue.

Chairman Daly added that she feels the police did not do anything wrong and as for the other incidents she encouraged Ms. Roberts to place a complaint right away, so it can be dealt with appropriately.

On motion, it was unanimously,

VOTED: To not hold a hearing on the appeal of Ms. Robert's citizen complaint.

PUBLIC HEARING POLICE POLICIES AND PROCEDURES

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

Selectman Mermell added that this is a big step for the Town. Both she and Selectman Allen have worked on a committee to achieve the accreditation. This would put Brookline in an elite category. There are policies and standards that the Department is required to meet. Selectman Mermell added that the Citizens Complaint Review Committee will be making its recommendations in the near future. The document the Board is looking at tonight is a living document that will be added to, if necessary. She added that the Brookline Police Department received the IACP civil rights award last year as well as recognition from the Governors Highway Safety Council.

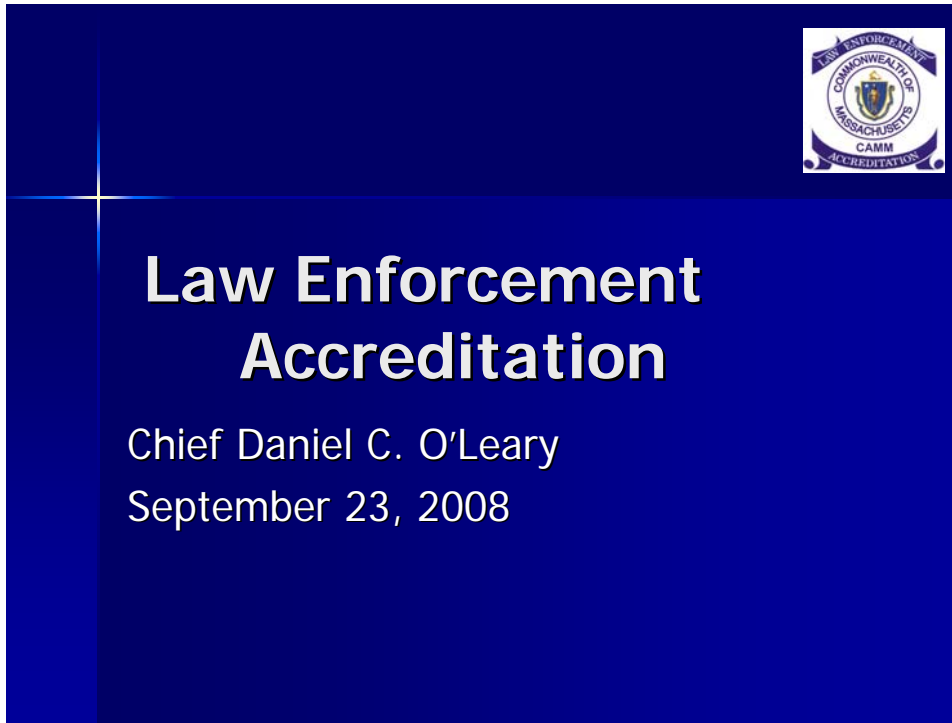
Chief O'Leary stated that the Department is updating its Rules and Regulations, Policies and Procedures in order to receive accreditation for the State. The standards for the Massachusetts Police Accreditation Program are based upon national standards established by the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA). The standards reflect the best professional practices in each area of police management, administration, operations, and support services. This is a very important accomplishment for the Department, and is given to only a handful of communities. Chief O'Leary stated that the Department is in the process of getting accredited. The Chief added that the department rolled out its first wireless cruiser last week. This is a successful and impressive accomplishment that is already being recognized from other communities.

In Board of Selectmen

September 23, 2008

Page 15 of 30

The Chief made the following Powerpoint presentation:





Tonight's Discussion

- What is accreditation
- Why seek accreditation
- What are the standards
- What is the process
- Where is Brookline



What is Accreditation

- A self- initiated evaluation process by which departments strive to meet and maintain standards that have been established by the profession.
- First Step: Certification
- Standards cover 23 areas such as: police management, operations and technical support activities such as policy development, emergency response, training, communications, use of force and vehicular pursuit.

Massachusetts Police Accreditation Commission



- Accreditation process is overseen by the Massachusetts Police Accreditation Commission (MPAC), a non-profit corporation.
- MPAC's primary role is to establish and administer both the standards and the assessment process.

Why seek accreditation?

- The standards of accreditation:
 - improve officer and public safety
 - address high liability/risk management issues
 - generally promote operational efficiency

What areas of policing do these standards address:

- Written directives
- Management decisions
- Preparedness program
- Relationship with the community
- Accountability
- Liability and risk exposure
- Professional excellence

Written Directives:



- 11.4.1 Administrative reporting system
- 11.4.3 System to ensure periodic reports
- 12.2.1 Written directive system
- 26.1.1 Code of conduct and appearance
- 43.1.1 Policies for investigating vice, drug and organized crime complaints
- 46.1.2 An "All Hazard" Incident Command System established
- 52.1.5 Annual statistical summary
- 72.7.1 Procedure regarding detainee's rights
- 73.1.1 Court security function
- 82.1.1 Directive establishes privacy and security of records
- 83.2.1 Guidelines and procedures to collecting and processing evidence

Analysis and Review to Make Management Decisions:



- 1.3.13 Analysis of use of force
- 15.3.1 Crime analysis
- 16.1.2 Workload assessments
- 16.2.1 Review of specialized assignments
- 25.1.3 Analysis of employee grievances
- 41.2.2 Analysis of pursuits
- 44.1.3 Annual review of juvenile programs
- 45.1.1 Analysis of Crime Prevention Programs
- 55.1.2 Analysis of victim/witness needs and available services
- 61.1.1 Traffic enforcement activities review

Preparedness Program:



- 2.1.3 Mutual aid agreements
- 15.1.3 Multiyear plans
- 17.5.3 Property in state of readiness
- 33.5.1 Annual re-training of personnel
- 46.1.8 Critical Incident equipment readiness inspection
- 46.1.3 Incident Command after action report
- 81.3.1 Security measures for communications center
- 81.3.2 Alternate source of electrical power



Relationship with Community:

- 1.2.3 Conduct of field interviews
- 1.2.9 Bias based profiling
- 31.2.1 Ethnic and gender reflect community
- 31.3.2 Posts job announcements with community organizations
- 41.2.7 Directives regarding person with mental illness
- 44.2.5 Participation with community recreational youth programs
- 45.2.1 Community involvement
- 45.2.4 Survey of citizen attitudes and opinions
- 52.1.1 All complaints against the agency to be investigated
- 52.1.5 Internal Affairs statistical summary
- 54.1.2 Agency involves news media in development of public info polices
- 55.2.3 Victim/witness assistance services rendered
- 61.1.5 Uniform traffic enforcement policies



Accountability:

- 1.3.7 Procedures for reviewing use of force
- 3.1.1 Contractual agreements
- 11.3.1 Responsibility for authority and accountability
- 12.1.12 Command protocol
- 17.3.1 Accounting system
- 17.5.1 Agency property inventory
- 26.1.4 Disciplinary system
- 35.1.2 Annual performance evaluation
- 41.2.2 Pursuit of motor vehicles
- 42.1.4 Accountability of criminal investigations
- 46.1.1 Position responsible for coordinating response to critical incidents
- 53.1.1 Line inspections required
- 84.1.6 Inspections, inventory, and audits of evidence & in-custody property



Liability and Risk Exposure:

- 1.2.3 Procedures for compliance with constitutional requirements
- 1.2.4 Search and seizure
- 1.2.5 Procedures for arrest
- 1.2.8 Procedures for strip searches
- 1.3.11 Annual training in use of force
- 32.1.3 Elements of selection process are evaluated in uniform manner
- 32.2.8 Emotional stability and psychological fitness examination
- 33.1.4 Training lesson plans
- 35.1.9 Personnel Early Warning system
- 41.1.3 Special-purpose vehicles or units
- 52.1.6 Procedures to ensure the legality & integrity of criminal intelligence
- 41.2.3 Use of roadblocks and procedures
- 72.5.4 Methods for handling person under the influence or self-destructive
- 71.3.3 Security concerns in temporary holding areas
- 82.1.6 Audit of central records computer system
- 74.1.3 Procedures for maintaining a warrant and wanted persons file
- 84.1.1 Procedures for receiving evidentiary and in-custody property



Accreditation facilitates
an agency's pursuit of
professional excellence.

What is the process of Accreditation?



- Get CALEA Standards Manual
- Self-Assessment
- Implement necessary modifications and updates to policies and procedures and, when necessary, implement new policies to meet standards.
- Put standards into effect.
- Maintain folder for each standard
- Request assessment for Certification
- Once certified, continue process toward Accreditation.

Where is Brookline?



- We are enrolled as an agency seeking certification
- A Lieutenant is assigned as the Department's Accreditation Manager
- We feel we've met the necessary criteria for certification
- Next step: to have a vote by the Board of Selectmen to accept our policies and procedures
- Then: to have an assessment conducted by the MPAC for Certification.

Chairman Daly added that the policy and procedures are available at the Library, the Public Safety Building, and it is on the Town's website. Public comment can be submitted via email or by mail.

Martin Rosenthal TMM#9 stated that he had worked on the policy and regulations back in 1987. At that time he encouraged the Town to go forward with becoming accredited. He added that the Town is fortunate to have its Police Department and Chief. Mr. Rosenthal added that he is very pleased with what he has seen of the new policy book. He did recommend adding to the mission statement a reference to civil rights, constitutional rights, and civil liberties. This is an important value to the Department. One of the areas he would like to address is the focus on the question of the Selectmen's role under the statute to make regulations for the Department. It is very important to defer to the Chief on almost everything, but equally important that the Selectmen take ownership on policy. The manual does address this, but he feels that the manual could be a little clearer on this issue. He would like to codify or solidify the title of the Selectmen as Police Commissioners. There are different opinions on this. He also feels that the process on notification of public hearings could be improved.

Arthur Conquest TMM# 6 asked about the Public Comment period which ends on October 7th. If the Citizens Complaint Review Committee is meeting on October 6th and one meeting after that, will their recommendations be included in the document? Selectman Mermell replied that the document is open right now and will remain so until the Board takes a final look at all of the recommendations once submitted. The reason for the deadline is to start the process for the accreditation. The manual itself will remain open.

Selectman Benka addressed Mr. Rosenthal on where he thinks there should be a line drawn between policy and procedures. Mr. Rosenthal replied that there is no short answer. He will share a memo that he submitted to the Citizens Complaint Committee.

BOARDS AND COMMISSIONS

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

HOUSING ADVISORY BOARD

Rufus Phillips

Rufus Phillips – is the Vice President of The Property and Casualty Initiative an affordable housing lender. Mr. Phillips was also a Department Head in the Research and Program Development Department for the Massachusetts Housing

In Board of Selectmen

September 23, 2008

Page 24 of 30

Finance Agency. He holds a Master in City and Regional Planning, and has served on the Brookline Housing Advisory Board from 1996-1998.

ENTERTAINMENT LICENSE

The Board considered the question of approving the application of Matthew Kevin Beigi, Inc. d/b/a Franky n' the Boys holder of a Common Victualler license at 284 Washington Street for an entertainment license to include: Radio and Taped Music.

Owner Peyman Beigi was present.

On motion, it was unanimously,

VOTED: To approve the application of Matthew Kevin Beigi, Inc. d/b/a Franky n' the Boys holder of a Common Victualler license at 284 Washington Street for an entertainment license to include: Radio and Taped Music.

COMMON VICTUALLER LICENSE

The Board considered the question of approving the application of Café Fixe, Inc. d/b/a/ Café Fixe, Maksin Mikstein, Owner, for a Common Victualler license at 1642 Beacon Street.

Maksin Mikstein, Owner stated that the establishment will serve coffee, teas, and various prepared foods.

The Board noted the following conditions:

The establishment is renovated to comply with Health Code requirements

The operator maintain required food safety certification

An odor control system be installed and maintained to prevent cooking odors should cooking odor complaints occur

The establishment must comply with the Town By-Law prohibiting the use of Artificial Trans Fats which first phase takes effect on 11/30/08

The establishment receives a pre-operational inspection before the license is released.

On motion, it was unanimously,

VOTED: To approve the application of Café Fixe, Inc. d/b/a/ Café Fixe, Maksin Mikstein, Owner, for a Common Victualler license at 1642 Beacon Street.

COMMON VICTUALLER LICENSE

The Board considered the question of approving the application of Café Fixe, Inc. d/b/a/ Café Fixe, Maksin Mikstein, Owner, holder of a Common Victualler license at 1642 Beacon Street for an Entertainment License to include radio, and taped music.

On motion, it was unanimously,

VOTED: To approve the application of Café Fixe, Inc. d/b/a/ Café Fixe, Maksin Mikstein, Owner, holder of a Common Victualler license at 1642 Beacon Street for an Entertainment License to include radio, and taped music.

COMMON VICTUALLER LICENSE

The Board considered the question of approving the application of Theodore Kakrida, Owner, d/b/a Boston Pizza Express for a Common Victualler license at 1026A Commonwealth Avenue.

Theodore Kakrida, Owner, stated that the business will run as it has under the previous owner.

On motion, it was unanimously,

VOTED: To approve the application of Theodore Kakrida, Owner, d/b/a Boston Pizza Express for a Common Victualler license at 1026A Commonwealth Avenue.

The Board considered the question of approving the application of Theodore Kakrida, Owner, d/b/a Boston Pizza Express holder of a Common Victualler license at 1026A Commonwealth Avenue for an Entertainment License to include: radio, television and taped music; instrumental music to include (2) guitars, (1) vocalist.

On motion, it was unanimously,

VOTED: To approve the application of Theodore Kakrida, Owner, d/b/a Boston Pizza Express holder of a Common Victualler license at 1026A Commonwealth Avenue for an Entertainment License to include: radio, television and taped music; instrumental music to include (2) guitars, (1) vocalist.

COMMON VICTUALLER – INCREASE SEATING

The Board considered the question of approving the application of Panera LLC, 299 Harvard Street for an increase in seating as follows:

From:	105 Inside Seats 20 Outside Seats
To:	131 Inside Seats 28 Outside Seats

Attorney Eric Goldberg representing Panera Bread stated that due to the success of the business they would like to expand the seating capacity. The Zoning Board of Appeals had approved the increase. The parking requirements for the establishment had been waived due to the heavy foot traffic, public transportation, and public parking nearby.

Selectman Benka noted that one of the requirements is for management to subsidize an employee T- pass program. Mr. Goldberg replied that is correct. Some employees have already taken advantage of it.

On motion, it was unanimously,

COMMON VICTUALLER – INCREASE SEATING cont'd

VOTED: To approve the application of Panera LLC, 299 Harvard Street for an increase in seating as follows:

From:	105 Inside Seats 20 Outside Seats
To:	131 Inside Seats 28 Outside Seats

With all the conditions applied as directed by the Zoning Board of Appeals.

OPEN AIR PARKING LICENSE

Public Hearing on the application of Deborah R. Helvarg, Revocable Trust, Jane Delgado, Trustee for a license to conduct and maintain an open air parking space for nine (9) automobiles at 25 Davis Avenue.

Attorney Ronny Sydney, representing the petitioner stated that Ms. Helvarg had recently passed away after a brief illness. There was a complaint on the snow

In Board of Selectmen

September 23, 2008

Page 27 of 30

removal at the property which triggered the attention of the Building Department that there was no license for an open air parking lot as required by the Town. The process has begun and this is the final step. There are some conditions that will be applied.

Property Manager Scott McNeill stated that the snow removal company has been changed and there have been no further complaints.

Mitchell Notis, 15 Davis Ave spoke in favor for the license. He stated that the area is in dire need for additional parking spaces, especially with the elimination of of parking spaces in recent years.

On motion, it was unanimously,

VOTED: To approve the application of Deborah R. Helvarg, Revocable Trust, Jane Delgado, Trustee for a license to conduct and maintain an open air parking space for nine (9) automobiles at 25 Davis Avenue with all conditions attached as directed by the Zoning Board of Appeals.

POSTPONED

LODGING HOUSE LICENSE

Public Hearing on the application of Sara Hannassai, Owner Susan Wiesen, Manager for a Lodging House license for 21 lodgers at 105 Marion Street.

CLIMATE ACTION COMMITTEE

The Board considered the question of making appointments to the Climate Action Committee.

Selectman Mermell would like to hold the vote on this until all the nominations from the different appointees are in place.

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 individual².**
- _____ (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.**
- _____ (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:**

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).

provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee or a subcommittee appointed by a governmental body, to consider and interview applicants who have passed a prior preliminary screening.

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

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

VOTED: to go into Executive Session

**Roll Call Vote: Voting in the Affirmative: 3
Voting in the Negative: 0**

Selectman Allen absent

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

On motion, it was unanimously,

VOTED: To reconvene in Open Session.

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

ATTEST