

**IN BOARD OF SELECTMEN**

**April 7, 2009**

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

**The Minutes of March 31, 2009 were approved as amended.**

In Board of Selectmen

April 7, 2009

Page 2 of 37

**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.**

**GRANT APPLICATION**

**The Board considered the question of authorizing Chief O'Leary to apply for the Recovery Act Edward Byrne JAG Program grant.**

**Chief O'Leary stated that this is the first step required to apply for the JAG grant under the stimulus package. He added that the department has never received a grant for this much money. Brookline is eligible to apply for \$96,388; it is part of a regional award for fourteen jurisdictions.**

**On motion, it was unanimously,**

**VOTED: To authorize Chief O'Leary to apply for the Recovery Act Edward Byrne JAG Program grant.**

**NEWBURY COMMENCEMENT**

**The Board considered the question of approving the request of Newbury College to hold their May 10, 2009 commencement exercises at the Fisher Hill Reservoir.**

**Paul Martin, Vice President of Student Affairs for Newbury College stated that this is an annual request. They are requesting to close Fisher Ave from 9a.m. to 12 noon on May 10, 2009 to hold commencement exercises. The school will provide a police detail, off-site parking and a shuttle service.**

**On motion, it was unanimously,**

**VOTED: To approve the request of Newbury College to hold their May 10, 2009 commencement exercises at the Fisher Hill Reservoir.**

**The Board considered the question of approving the following transfer within the Building Department budget:**

<b>FROM:</b>	<b>25002510 522400</b>	<b>\$10,000.00</b>
	<b>Services</b>	
<b>TO:</b>	<b>25002510 532300</b>	<b>\$10,000.00</b>
	<b>Supplies</b>	

**Assistant Town Administrator Melissa Goff stated that the Building Department determined some projects cost effective to be done in-house. This transfer will fund the supplies needed to do the projects with Town staff.**

**On motion, it was unanimously,**

**VOTED: To approve the following transfer within the Building Department budget:**

<b>FROM:</b>	<b>25002510 522400</b>	<b>\$10,000.00</b>
	<b>Services</b>	
<b>TO:</b>	<b>25002510 532300</b>	<b>\$10,000.00</b>
	<b>Supplies</b>	

**CONTRACT**

**The Board considered the question of awarding Contract No. PW/09-19 “Walnut Street Cemetery – Stone Masonry Restoration” in the amount of \$29,996.00 to JJS Universal Construction of Dudley MA. Said contract to be funded from account 4995SW01 6P0058.**

**Director of Parks and Open Spaces Erin Gallentine stated that this work will be paid for out of the Cemetery Trust Fund. The wall at the Walnut Street Cemetery is in poor condition. Selectman DeWitt inquired about deterioration due to water damage. Ms. Gallentine replied that the proper materials will be used to address this.**

**On motion, it was unanimously,**

**VOTED: To award Contract No. PW/09-19 “Walnut Street Cemetery – Stone Masonry Restoration” in the amount of \$29,996.00 to JJS Universal Construction of Dudley MA. Said contract to be funded from account 4995SW01 6P0058.**

**CONTRACT**

The Board considered the question of awarding Contract No. PW/09-20 “Landscape Improvements to Driscoll Park” in the amount of \$152,778.00 to JT Construction of Bridgewater, MA. Said contract to be funded from the following accounts:

4998WS08 6P0018	\$123,601.64
4998WS09 6P0018	\$ 29,176.36

Director of Parks and Open Spaces Erin Gallentine stated that the contract consists of furnishing and installing new playground equipment and rubber surfacing, making it handicapped assessable. The low bidder did not meet the minimal qualifications. The bid went to the second lowest bidder that did meet the qualifications.

On motion, it was unanimously,

**VOTED:** To award Contract No. PW/09-20 “Landscape Improvements to Driscoll Park” in the amount of \$152,778.00 to JT Construction of Bridgewater, MA. Said contract to be funded from the following accounts:

4998WS08 6P0018	\$123,601.64
4998WS09 6P0018	\$ 29,176.36

**CONTRACT**

The Board considered the question of awarding Contract No. PW/09-18 “Olmsted Park – Stone Masonry Restoration in the amount of \$60,150.00 to Roger A. Tremblay Contractors of Salem, MA. Said contract to be funded from account 1868G001 6C0007.

Director of Parks and Open Spaces Erin Gallentine stated that this is phase two of the Bubbling Brook Restoration Project. The contract consists of washing and re-pointing masonry walls and bridge.

On motion, it was unanimously,

**VOTED:** To award Contract No. PW/09-18 “Olmsted Park – Stone Masonry Restoration in the amount of \$60,150.00 to Roger A. Tremblay Contractors of Salem, MA. Said contract to be funded from account 1868G001 6C0007.

**TEMPORARY WINE AND MALT BEVERAGE LICENSE**

The Board considered the question of granting a temporary wine and malt beverages license to Lawrence School PTO (Amy Luster, President) in connection with a PTO Event to be held on May 8, 2009 from 7:00 p.m. – 10:00 p.m. in the School cafeteria/small gym at 27 Francis Street.

On motion, it was unanimously,

**VOTED:** To grant a temporary wine and malt beverages license to Lawrence School PTO (Amy Luster, President) in connection with a PTO Event to be held on May 8, 2009 from 7:00 p.m. – 10:00 p.m. in the School cafeteria/small gym at 27 Francis Street.

**GRANT AGREEMENT**

The Board considered the question of Executing a Grant Agreement with the Department of Environmental Protection for the Municipal Sustainability Grant.

Highway Director Kevin Johnson stated that this grant is for an idling reduction toolkit. Selectman Benka asked if there is a need for idling sometimes. Mr. Johnson replied that in high traffic areas the trucks need to be on for the safety flashers, and if a compressor is hooked up to the vehicle. Other than that there is a strict policy on idling. The staff is reminded of the policy at its meetings.

On motion, it was unanimously,

**VOTED:** To execute a grant agreement with the Department of Environmental Protection for the Municipal Sustainability Grant.

**RESERVE FUND TRANSFER**

The Board considered the question of approving and transferring to the Advisory Committee the request of Veterans Director William McGroarty for a Reserve Fund Transfer in the amount of \$25,000 for Veterans Benefits.

Director of Veterans Services Bill McGroarty stated that the department's budget last year was based on recent figures. Due to the economic climate, there has been an increase of Veterans seeking emergency assistance. Residents on fixed incomes are finding themselves in economic distress.

On motion, it was unanimously,

**RESERVE FUND TRANSFER cont'd**

**VOTED: To approve and transfer to the Advisory Committee the request of Veterans Director William McGroarty for a Reserve Fund Transfer in the amount of \$25,000 for Veterans Benefits.**

**SALE OF BONDS**

**The Board considered the question of authorizing the Treasurer/Collector Stephen Cirillo to finalize the sale of \$11,390,000 in General Obligation Bonds.**

**Finance Director Stephen Cirillo stated that the Town conducted a bond auction for \$11,390,000. The purpose of the borrowing was to finance the Town Hall, the High School, the landfill, water tank repairs, and sewer system improvements. The water tank and sewer improvements will be supported by the Enterprise fund. The low bidder came in at 3.239%. The nineteen year Town Hall project averaged 3.5% while the other projects, scheduled for a ten year payment plan averaged 2.5%. Mr. Cirillo added that the Town received a Aaa bond rating again this year, resulting in the favorable rates.**

**On motion, it was unanimously,**

**I, the Clerk of the Board of Selectmen of the Town of Brookline, Massachusetts (the "Town"), certify that at a meeting of the board held April 7, 2009, of which meeting all members of the board were duly notified and at which a quorum was present, the following votes were unanimously passed, all of which appears upon the official record of the board in my custody:**

**VOTED: that the sale of the \$11,390,000 General Obligation Municipal Purpose Loan of 2009 Bonds of the Town dated April 15, 2009 (the "Bonds"), to Roosevelt & Cross, Inc. at the price of \$11,567,070.80 and accrued interest is hereby approved and confirmed. The Bonds shall be payable on April 15 of the years and in the principal amounts and bear interest at the respective rates, as follows:**

<u>Year</u>	<u>Amount</u>	<u>Interest Rate</u>	<u>Year</u>	<u>Amount</u>	<u>Interest Rate</u>
2010	\$815,000	3.000%	2020	\$365,000	3.500%
2011	815,000	2.000	2021	365,000	3.500
2012	815,000	2.000	2022	360,000	3.500
2013	815,000	2.000	2023	360,000	3.750
2014	815,000	2.250	2024	360,000	4.000
2015	815,000	2.500	2025	360,000	4.000
2016	815,000	5.000	2026	360,000	4.125
2017	815,000	3.000	2027	360,000	4.250
2018	810,000	3.250	2028	360,000	4.250
2019	810,000	3.250			

**Further Voted:** that in connection with the marketing and sale of the Bonds, the preparation and distribution of a Notice of Sale and Preliminary Official Statement dated March 19, 2009, and a final Official Statement dated March 31, 2009, (the "Official Statement"), each in such form as may be approved by the Town Treasurer, be and hereby are ratified, confirmed, approved and adopted.

**Further Voted:** that the Bonds shall be subject to redemption, at the option of the Town, upon such terms and conditions as are set forth in the Official Statement.

**Further Voted:** that the consent to the financial advisor bidding for the Bonds, as executed prior to the bidding for the Bonds, is hereby confirmed.

**Further Voted:** that the Town Treasurer and the Board of Selectmen be, and hereby are, authorized to execute and deliver a continuing disclosure undertaking in compliance with SEC Rule 15c2-12 in such form as may be approved by bond counsel to the Town, which undertaking shall be incorporated by reference in the Bonds, for the benefit of the holders of the Bonds from time to time.

**Further Voted:** that each member of the Board of Selectmen, the Town Clerk and the Town Treasurer be and hereby are, authorized to take any and all such actions, and execute and deliver such certificates, receipts or other documents as may be determined by them, or any of them, to be necessary or convenient to carry into effect the provisions of the foregoing votes.

I further certify that the votes were taken at a meeting open to the public, that no vote was taken by secret ballot, that notice stating the place, date and time of the meeting was filed with the Town Clerk and a copy thereof posted in the office of the Town Clerk or on the principal official bulletin board of the Town at least 48 hours, including Saturdays but not Sundays and legal holidays, prior to the time of the meeting and remained so posted at the time of the meeting, that no deliberations or decision in connection with the sale of the Bonds were taken in executive session, and that the official record of the meeting was made available to the public promptly and remains available to the public, all in accordance with G.L. c.39, s.23B as amended.

### **POLICE PERSONNEL**

The Board considered the question of offering conditional employment to Timothy R. Callinan, as a full time Police Officer.

Chief O'Leary stated that they are in the process of hiring seven recruit officers. The Department received his name on the re-employment certification, issued by the Commonwealth's Department of Human Resources, of officers previously laid off. Officer Callinan was with the Winthrop Police Department from

**POLICE PERSONNEL cont'd**

October 2001, thru December 2008. He is a Winthrop native. Selectman Benka asked if the re-employment list has the same preference as the residency list. The Chief replied yes, and the hiring process would be the same, although the training would be in-house.

Town Administrator Richard Kelliher added that the authorization for these hires was given last year. The Department has fourteen vacancies.

On motion, it was unanimously,

**VOTED:** To offer conditional employment to Timothy R. Callinan, as a full time Police Officer.

**WARRANT ARTICLES**

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

<u>NO.</u>	<u>TITLE</u>
16.	Posting of Caloric Information (Ghobrial)

Petitioner Andrew Ghobrial reviewed his explanation:

For better health and to increase weight management and help curtail obesity I am proposing a new by-law for Brookline. When people go out to eat they just order regardless of the calories the item may contain. To help raise awareness, I am proposing that Brookline adopt a by-law to require any food service establishment to affix and post the calories in any given item on their menu. This would be on both the paper menu and the display menu that is hanging down from the ceiling. Since this might be a financial burden on restaurants, restaurants would be required to comply by the fifth year from the issuance of this by-law. In the case that a restaurant would undergo a renovation before the five years elapse it would be required that the restaurant plan on placing the calorie information before the permit is released. In the case of a new restaurant, the restaurant would open having complied with this by law. Again this article is meant to crack down on obesity, help raise awareness and help people in determining their calorie intake. When people see this, their lifestyles will change for the better.

Mr. Ghobrial added that there has been a lot of opposition to his Article and would like to adopt a resolution with a recommendation instead of a mandate. He asked the Board not to vote on the Article, he would like to re-draft it.



**WARRANT ARTICLES cont'd**

Chairman Daly stated that New York City has a similar request, but it only pertains to chain restaurants. It is much easier for them because they have a set menu.

Gerry Finnegan, owner of the Washington Square Tavern spoke in opposition of the Article. He spoke of the difficulties of determining caloric intake on a weekly basis, and even more difficult for daily specials. The restaurants that provide this information are large chains with standardized items.

Abe Faber, owner of Clear Flour Bread agreed. He spoke in opposition of the Article. It would be a burden to try to determine the calorie intake.

Selectman Mermell added that obesity is a real and serious issue, but is concerned about the cost. It would be a much greater expense for the mom and pop establishments. Mr. Ghobrial replied that is why he put a five year passage of the by-law. He added that cost is in the thousands.

The Board expressed concern on the cost and the burden this would place on the local restaurant merchants.

Regina Frawley stated that most people overeat in their homes. She opposed the Article. A resident spoke in opposition stating that it could put the small ethnic restaurants out of business. She also does not like the emphasis on calories and the message it could send to young children.

Director of Health and Human Services Alan Balsam stated that he supports the State's proposed regulations. It would require the posting of calorie information for food establishments with 15 or more locations doing business in the United States, offering for sale substantially the same menu items. Studies show that when faced with the caloric intake, most people modify their food choices. He objects to mandating this to all food establishments.

Mr. Ghobrial replied that this would put Brookline in the forefront of the issue. Brookline has been the first to make controversial steps in the past.

There was no vote on Article 16.

<b><u>NO.</u></b>	<b><u>TITLE</u></b>
23.	Resolution on Citizen Complaint Policy (Farlow)

**WARRANT ARTICLES cont'd**

**Petitioner Frank Farlow reviewed the explanation:**

**Number of selectman votes required for granting an appeal hearing**

The CCRC has commendably recommended that every appellant be permitted an informal presentation to the Selectmen before they decide whether to hold an appeal hearing. At the same time, however, it recommends that a majority of board members be required for granting a full hearing. The left hand giveth, but the right hand taketh away.

This provision of the CCRC report, which would raise the barrier back to its level of the mid-1980's, drew the most extensive and forceful response from those who testified at the committee's final hearing. It would constitute a major step backward, directly opposing the spirit of the policy adopted by a unanimous board more than two decades ago, which has remained unchallenged and unrevised since.

Especially since the 1987 procedures were in large part motivated by civil rights concerns, even any small step retreating from them must be taken very cautiously. This step has not been taken either carefully or for valid reasons.

During the selectmen's meeting at which their response to Conquest's appeal was to be rendered, Selectmen Hoy tried to broaden the scope of the discussion and grant a hearing, but he was outvoted 3-1 (Selectman DeWitt having recused herself). Any selectman can currently mandate a hearing for a complaint deemed either Class A, alleging "excessive force, unreasonable deprivation of individual rights, conduct or behavior derogatory of a person's race, religion, or ethnic origin," or Class C, questioning "policy issues." And in this case, even the police deemed the complaint partly racial, stating, "[The appellant] feels that the police response ... was influenced by his race. Whether we define it as 'racial profiling', 'racial discrimination,' or 'racial bias,' the complaint is there and needs to be addressed." Nevertheless, with minimal discussion and over Hoy's objection, the board deemed the complaint of a lesser Class B (all other nontrivial complaints), requiring two votes for a hearing, and Conquest's appeal for a hearing was denied.

The current less-than-majority vote policy for accepting an aggrieved petitioner's appeal was modeled on the Supreme Court's procedure for determining whether to accept petitions for certiorari. Even despite this low barrier, historically the Board has almost never granted an appeal hearing; the CCRC was able to find only one such instance since the barrier was lowered in 1987.

As CCRC member (and PAX co-chair) Marty Rosenthal notes in the committee's minority report, "it seemed that most or all members were troubled by that track record, at least the appearance of a problem." Rep. Frank Smizik wrote in a letter to the committee: "This strikes me as a step backwards.... Since the adoption of the

In Board of Selectmen

April 7, 2009

Page 11 of 37

**1987 report, rarely if ever have the Selectmen conducted a full hearing. I see little rationale for making it more difficult to [do so], especially since such hearings also serve to reassure the public that the complaint process is transparent and fair.”**

**The CCRC vote on this issue at its final hearing was 6-3, the stated rationales of the majority being (1) the opportunity to appear and ask for a hearing would likely lead to the granting of more hearings, and (2) civil service law requires a majority vote to docket a full hearing. The former, while a hopeful surmise, is unfortunately nothing more than that. The latter, a more complex legal matter, is misplaced. Petitioners will present a detailed response, including pertinent legal citations, to the Selectmen and the Advisory Committee, who will presumably advise Town Meeting on their conclusions regarding the validity of this concern on the part of certain CCRC members. In the meantime, Town Meeting Members wishing to pursue this issue in detail are referred to pages 33-36 of the CCRC report, where Rosenthal’s lawyerly presentation appears in the minority report. See**

**[http://www.brooklinema.gov/index.php?option=com\\_content&view=article&id=581:final-report-citizen-complaint-review-committee&catid=1:latest&Itemid=179](http://www.brooklinema.gov/index.php?option=com_content&view=article&id=581:final-report-citizen-complaint-review-committee&catid=1:latest&Itemid=179)**

**Guidelines to be followed when officers seek the issuance of criminal complaints regarding situations in which they, themselves, are not witnesses to the alleged crime**

**The incident on May 24, 2007, occurred in the sixth-floor hearing room following a meeting of the Zoning Board of Appeals. It began as an encounter between a male member of the Board of Appeals and TMM-6 Ruthann Sneider, who criticized the appeal board’s decision. It quickly became a verbal confrontation between the ZBA member and African-American TMM-6 Conquest, who took issue with the manner in which the ZBA member was addressing Sneider. As Conquest was leaving the room, the police were called at the ZBA member’s request. Conquest and others proceeded to the first floor lobby, where officers detained him. After a hasty police inquiry in which seven citizen eyewitnesses (including TMM’s) were not questioned, Conquest was singled out for fault and was not only told that he would be charged with criminally assaulting the ZBA member, but also issued an extraordinary and constitutionally suspect “no trespass” order – neither of which ultimately occurred.**

**Conquest filed a complaint concerning his treatment in the lobby, and the Police Department conducted a formal investigation, which culminated in an October report characterizing the complaint as twofold – “racial bias” and “rudeness/discourtesy.” The investigating officer found the former “unfounded” and the latter “not sustained.” So Conquest appealed for a selectmen’s hearing.**

**Current policy contains no provision governing situations in which police officers consider the issuance of criminal complaints when they, themselves, were not witnesses to the alleged crime. Telling someone that he/she will be accused by the Police of a crime is no small matter. In fact, in the Conquest matter, there were citizen allegations that the initial decision was both ill-founded and unfair. The**

In Board of Selectmen

April 7, 2009

Page 12 of 37

**procedure to be followed in such matters needs to be at least minimally spelled out by the selectmen and the Chief to reduce the likelihood of future unfairness, not to speak of recurrences of major embarrassment to both citizens and the Town.**

**During the CCRC's original consideration of this item, one of the bases expressed by individual members for its rejection was the concern that it might be beyond the committee's charge. However, in its final report the committee (unanimously) says:**

**The Committee considered the Charge as a general set of guidelines... [and] never considered itself strictly limited to its provisions. If information arose during our work concerning matters not explicitly addressed in the Charge, but relevant to our overall mission, the Committee considered itself free to examine such matters. In this regard our consideration of no-trespass orders, training, and investigative techniques are examples of the Committee's mission-based approach.**

**State law provides that when officers do not make an arrest, for a misdemeanor they must – and for a felony they usually do – apply to the Clerk of Court for a criminal complaint. After a hearing on the application, if such a complaint is issued it goes on one's criminal (CORI) record (permanently even if later dismissed). The committee was told by Chief O'Leary: "Criminal Complaints – again, we are guided by law on this. We also have a system of checks and balances on these matters, such as report review, supervisory review and review by the courts."**

**The recently adopted 500-page *Rules and Regulations for the Government of the Police Department* indeed contains the following section concerning the seeking of criminal complaints (emphasis added):**

**ARREST: ... It shall be the responsibility of the arresting officer to make criminal complaint applications against any person arrested. Complaint applications shall be made out as soon after the arrest as possible, and in any case shall be made out prior to arraignment. *In situations where there is no arrest but a summons is to be issued, it shall be the responsibility of the investigating officer to seek such criminal complaint.***

**Especially in light of the Chief's statement quoted above, it appears that this issue could be studied and eventually covered in the Rules and Regulations by a single sentence, e.g., "*Under circumstances in which no arrest is made, any proposal to seek a court complaint shall be reviewed by a superior officer and shall not be conveyed to the alleged victim or perpetrator at the scene.*"**

**Procedures for handling citizen complaints concerning Town officials and employees of departments other than the Police Department**

**This proposal is actually unfinished business from the 1987 *Report of Selectmen's***

***Subcommittee on Police and Community Relations (emphasis added):***

**SECTION VI: *Department Disciplinary Process And Selectmen's Review: ... [W]e believe that all town departments should develop similar procedures to process civilian complaints. While the procedures may not be identical and equally detailed, the overall objectives of openness, responsiveness, and fairness to all parties are equally pertinent – particularly to enforce the town-wide civil rights policy (Section I of this report).***

**RECOMMENDATIONS: ... VII. 1. ... [T]he Town Administrator shall work with other department heads to prepare a proposal for *disciplinary procedures for Town employees*, including a review process by the Board of Selectmen.**

**Although situations involving non-police personnel are unlikely to arise with similar frequency, it seems prudent to establish a procedure to govern them rather than risk the embarrassment that could result from “muddling through.”**

**Requiring that written submissions by appellants and/or witnesses disputing or supplementing the police investigative report be appended thereto**

**The investigative report concerning the Conquest incident contains numerous statements to which Conquest and most if not all seven citizen witnesses take exception. Some concern the description of certain events; others, the citizen witnesses’ own statements; and still others, the investigating officer’s conclusions based on his summaries of the interviews he conducted.**

**It is difficult at best for any organization to conduct unbiased critical inquiries concerning the conduct of its own members. It is likely that, at times, appellants or witnesses will again take issue with certain aspects of an investigative report. Clearly there will also be more occasions in the future on which appeal hearings will be denied. And when the two events coincide – citizen disagreements with the report but no opportunity to present them in full – the official historical record of the event tells the story of the investigation but remains silent concerning the smoldering resentment generated by unheard disputes.**

**In this instance, the number of citizen witnesses was extraordinarily large and even included elected Town officials. If the overall policy is inadequate to guarantee that even such a substantial group gets its “day in court,” something obviously needs to change to enable both sides to more completely tell their story. Requiring that written responses to the investigative report from the appellant(s) and witness(es) who take issue with it to be appended to the report would seem to be one way to reduce this problem. Let the light shine in.**

**Chief O’Leary spoke in opposition to the Article. He stated that the Citizens Complaint Committee looked at the overall police policy and recommended a lot of changes. The section about the number of votes required by the Board of Selectmen**

cannot be looked at individually it has to be looked at as a whole. One of the main categories of what the Committee looked at was how the department handles complaints, and the investigation techniques. One recommendation to the Board was to stress to the complainant and/or witnesses that they would like signed statements. If a complainant feels they are not being heard, there is a procedure to address this. Chief O'Leary outlined the steps and procedures. The Chief added that there are a number of checks and balances built into the procedures. There are four options available: 1. call for a disciplinary hearing of an officer, it invokes civil service rights of the officer. 2. send the report back to the Chief's office for further investigation. 3. hire an outside investigator. 4. find no basis for an appeal and end the case at that point. This is a lot of responsibility. When a criminal complaint is made against an officer a sergeant is required to be consulted. If a complaint is going to be sought, it goes to a lieutenant for review. If the decision is to go forward it then goes for review to a Captain, Superintendent, and court prosecutor. At this point the complaint could leave and go into the court system. He does not know how much more to put into this, the checks and balances are there. The complainant is given an opportunity to respond right at the beginning.

Selectman Benka reiterated that the complaint review goes from a Sergeant to Lieutenant to Captain. He added that the rules and regulations may not spell this out. Martin Rosenthal stated that he is happy to hear about this procedure. The resolution has a reference to this and perhaps it is spelled out already. This issue could be a non issue in the resolution. The Chief replied that it is built into the report review.

Mr. Farlow added that the file is not readily available to the residents. Also the only person given an opportunity to present a formal statement to the Board is the complainant and not any witnesses.

Chairman Daly added that the Town Counsel's office has been working on rewriting the discipline part of the report. It is being re-written along the lines of the Committee's report and will be presented in the near future for debate.

Selectman Benka asked what the civil service law requires. He would like to know this answer before going forward. Town Administrator Richard Kelliher replied that Town Counsel's office will address this when they present the draft report.

There was no vote on this Article

<u>NO.</u>	<u>TITLE</u>
24.	Resolution in Support of Surveillance Cameras (Selectmen)

Selectman DeWitt reviewed the explanation:

**In the several months leading up to the Selectmen's January 13, 2009 vote approving the CIMS Pilot Program described in the Article, many Town residents and others testified both for and against the presence of public surveillance cameras within the Town and expressed concerns regarding the Police Department's initial draft of its Special Order. While most spoke against public surveillance cameras at the public hearings, Selectmen also received many other comments representing a mix of views – both for and against – from residents in other venues.**

**Based on public comments and other information considered by the Selectmen about the proposed CIMS program and about the Police Department's proposed Special Order, it appeared that a CIMS program could potentially serve a number of uses for the benefit of residents of the Town without financial cost to the Town during the initial year of implementation. Since federal grant funding for the CIMS program would not be available to the Town after January 31, 2009, a majority of the Selectmen voted on January 13, 2009 to approve a 12-month trial CIMS program. The trial period is subject to governance under a tightened Special Order that addressed many of the concerns expressed by residents (now known as Special Order 2009-1), and subject to other conditions set forth in the January 13, 2009 vote and described generally above in the "Whereas" clauses of the Article.**

**The conditions include appointing a Surveillance Camera Oversight Committee whose charge is to assist the Chief of Police in measuring the impact of the installation of 12 video surveillance cameras in Brookline during the 12-month trial period, by, but not limited to, the following:**

**(1) Developing an assessment protocol to measure**

- The effectiveness in achieving the intended emergency preparedness or law enforcement purposes, with specific reference to each and every significant incident captured in footage and the final disposition of each such incident, and**
- The impact on civil liberties and constitutional rights and values, including privacy and anonymity, free speech and association, government accountability, and equal protection.**

**(2) Overseeing the trial and evaluation of the camera program, including the implementation of Special Order 2009-01 and the January 13, 2009 vote of the Board of Selectmen. At the same time, a majority of the Selectmen voted to seek further public input regarding the presence of public surveillance cameras within the Town and regarding the CIMS Pilot Program by filing an Article for the May 2009 Annual Town Meeting regarding the CIMS Pilot Program for Town Meeting's consideration.**

**Petitioner the Board of Selectmen intends the "Whereas" clauses of the Article to provide the Town with information regarding the background of and reasons for**

In Board of Selectmen

April 7, 2009

Page 16 of 37

**the Article. For the Town's convenience, the Petitioner attaches to this Article a copy of the Brookline Police Department's Special Order 2009-1 and the Selectmen's vote of January 13, 2009.**

Selectman DeWitt added that the Town is part of a consortium grant to install the cameras for emergency situations. It is for the communities among the evacuation route. There is a twelve month trial period with quarterly reports due from the Chief's office.

There was no vote on this Article

<u>NO.</u>	<u>TITLE</u>
25.	Resolution Opposing Surveillance Cameras (Wunsch/Farlow)

Petitioner Sarah Wunsch reviewed the explanation:

*“[T]he privacy and dignity of our citizens [are] being whittled away by sometimes imperceptible steps. Taken individually, each step may be of little consequence. But when viewed as a whole, there begins to emerge a society quite unlike any we have seen...”* - U.S. Supreme Court Justice William O. Douglas

In January, 2009, by a 3-2 vote, the Board of Selectmen narrowly approved a proposal by the Chief of Police to allow the installation and operation of general surveillance cameras, funded by the Bush Administration's U.S. Department of Homeland Security (DHS), in twelve locations in Brookline, for the stated primary purpose of aiding in “evacuations” from Boston. Because of considerable public opposition, the three-member majority of the Board added the stipulation that the issue be brought to Town Meeting. The majority also restricted the operation of the system to a one-year trial period and created an oversight committee to study the operation during the trial period.

Shortly thereafter, the Cambridge City Council voted unanimously, 9-0, to oppose the installation of similar DHS-funded cameras in that city, in part because public safety officials already knew where traffic logjams would occur and because “the potential threats to invasion of privacy and individual civil liberties outweigh the current benefits [of the cameras] – which do not seem significant in improving public safety.”

This petition calls on Town Meeting to put Brookline on record as joining with Cambridge and expressing its opposition to the use of general police surveillance cameras in our public spaces (not those used for investigation of specific crimes or in highly sensitive locations), and to reject the one-year trial use of the camera system. There is no evidence to support use of the cameras even for a one-year period, or to justify the expenditure of Town funds for aspects of the program not funded by



**DHS, such as police officer and Town Hall staff time. Nor can a one-year trial period without valid scientific review provide the same degree of evaluation that has been carried out elsewhere. Furthermore, the one-year trial period will be unable to measure the incremental damage to a free society in which residents expect not to be watched by the police as they go about their daily business. Brookline should go on record as being opposed to the development of a government surveillance infrastructure throughout the U.S. with hundreds of millions of dollars spent by DHS on public surveillance systems helping to create a digital database for federal, state, and local authorities.**

**The purposes are unclear and provide no justification for the cameras – After months of debate, Town officials have not provided a coherent or consistent justification for the surveillance system. While the cameras were initially proposed primarily as a means of aiding emergency “*evacuations*,” when this justification was questioned as at odds with common sense, other justifications were given, e.g., as a deterrent to crime or assistance in criminal investigations. However, the police have acknowledged that the purpose of the surveillance cameras is not primarily to fight crime.**

**There is no evidence that the camera system will achieve valid purposes – The use of general police surveillance camera systems has been thoroughly studied and has been shown not to be effective in preventing crime, solving crimes, or deterring terrorism. While there may be anecdotes about the benefits of such cameras, the evidence does not support their effectiveness.**

**Indeed, any hypothetical benefit is vastly outweighed by the specter of living in a society where the government(s), local or national, are watching all our public actions. At the same time, studies have shown that measures like improved lighting can reduce all types of crime - including violent crime - by 20% or more. Good community policing is also effective at preventing crime.**

**A free society is one in which police do not follow and track our movements in public places – Brookline is a free and open community, in which no citizen should feel that he or she is being watched by a government Big Brother. The operation of 24/7 surveillance cameras is a step in the wrong direction, toward radically changing our sense of being a free society. To those who say that what we do in public places is not protected by a right to privacy, we urge consideration of general principles that we have long held dear in the U.S.: that we are not and should not become a society in which the police watch our every move in public and in which technology will enable the police to use cameras to identify us by facial recognition and to track our movements, creating digital databases with information about where we are going and with whom we are associating. While public places may not, in a technical *legal* sense, be places where we have an “expectation of privacy,” the right to be let alone and not identified or tracked by the police is a fundamental aspect of a free society. And while the Chief of Police and the Selectmen have imposed limits on the use of the cameras, the digital data created is available to**

other government agencies as well as to the public under the state public records law. Moreover, as advancing technology increases the capabilities of camera systems, “mission creep” is bound to occur.

**The camera system is not “free” of costs to the Town – The offer of “free equipment” is highly misleading.** Even with the initial purchase of cameras “wholly funded” by Homeland Security in the first year, and DHS paying \$15,000 for the first year of maintenance, this figure grossly underestimates the actual cost to the Town, given all the components in the system requiring maintenance, including the cameras themselves; the wireless link to Brookline headquarters; the computers and monitors that the video appears on; the software to administer, control and manage the camera system; the recording equipment; the computer equipment and supplies to make permanent copies on CD of the images for public information requests; and the network link to Boston central headquarters.

In addition, we know already that police officers are spending considerable amounts of time, paid for by Brookline, for training personnel and testing equipment and the entire operation of the system, and the Town will be paying for monitoring of the cameras and operating costs for continued upgrading, replacement and installation of any of the above components. At a time when the Town faces budget shortfalls and possible cuts to vital services, the surveillance system is not only an erosion of our freedom, it is one we cannot afford.

Co-petitioner Frank Farlow added that a main concern is the cost. He feels that Town Meeting Members need to see not simply a rough estimate of the equipment maintenance portion of the total budget for the initial year of the program, but a realistic, fully detailed accounting of the dollar value of Police Department and Town Hall personnel time and other resources that would be required to implement the proposal.

Clint Richmond, Greenough Circle stated that the trial period seems to assume there are benefits to the cameras. We have already taken possession of the cameras. It is not an isolated decision, it is a bigger decision.

Selectman Mermell stated that she is confident that the independent committee will operate fairly. She is interested in what the Chief’s quarterly reports would detail. Selectman DeWitt replied that this is being worked on by the Committee. The cameras will be passively monitored unless a situation has triggered action. Studies show that the cameras may not be effective in crime prevention but will be in investigation and prosecution. The Chief added that the cameras are up and operational; the department has received and reviewed the policy on the cameras.

Sarah Wunsch added that the main purpose is evacuation and not other law enforcement situations.

Selectman Benka asked about the cost. Selectman DeWitt replied that the Committee is taking this into consideration. The cost of the cameras, installation and maintenance is covered by the grant. The Chief added that this would be part of the job responsibilities within their budget. Selectman DeWitt added that without a history it is hard to determine the cost. She referenced that in fairness to some questions made earlier she would like to ask the Chief what the cost of processing citizen's complaints might be. The trial period would allow time to figure out what the cost is.

TMM#16 Regina Frawley asked about removal of the cameras. The Chief replied that the cameras are part of the system; he feels there are other communities that would like to have them.

<u>NO.</u>	<u>TITLE</u>
26.	PAYT (Selectmen)

Selectman Mermell stated that one third of the cities and towns in Massachusetts have adopted a similar policy. This supports the implementation of a two tiered pay as you throw system by the end of this calendar year. A price per bag is recommended by the PAYT Committee. This could have been implemented by the Board but the Committee would like Town Meetings support.

TMM#13 Roger Blood proposed amendments to the PAYT resolution. He is not for or against the resolution. Mr. Blood stated that the resolution refers to charging an additional fee for "bulky" household items. The Town has always offered pick up for such items for free in an efficient and effective way. The charge is included in the annual refuse fee. He also feels that this feature should be deleted from the resolution; it would not prompt residents to put out less items. He also feels that it would add additional cost for administration. Another concern is college students leaving their belongings behind which has been an ongoing issue. The question has been is it fair that someone puts out a bag for \$1 when their neighbor can put out a sofa for free. It is fair, everyone is treated the same. Why get into an elaborate financial transaction. He would also like to see the rate system revised to where the fee structure is formulated to cover only the DPW costs that are attributable to its waste collection services to PAYT rate payers, and not the Town and the public schools. He agrees that all costs in DPW should be included, including supervision and fringe benefits including OPEB.

Pay as You Throw Committee member John Dempsey replied that the Committee looked at "bulky waste". It did seem unfair that one household could put out their bags for a small fee and their neighbor could put out large items for free. The objective is to reduce solid waste. He added that it was agreed that there should be a charge for hazardous waste. He agrees with Mr. Blood about the administration pertaining to removal of bulky waste. This could be looked at. The

In Board of Selectmen

April 7, 2009

Page 20 of 37

hope is that once PAYT has been up and running for awhile that solid waste could pay for itself. He added that the removal of waste from municipal properties should be shared by all residents that use the services.

Commissioner DeMaio stated that this should be looked at very closely before a decision is made. It is important that it is done right.

Selectman Mermell noted that today you still need to call the DPW for pick up of bulky waste. The transaction is there now. What is being looked at is a sticker that may be adhered to the item, and what is the cost is for this part of the system.

Selectman DeWitt stated that she feels it would be very unlikely to get compliance from students leaving the area. She is concerned that this may promote illegal dumping in order to avoid paying for disposal of bulky waste.

Tommy Vitolo TMM #1 encouraged the use of classifieds, charities, and other means to get rid of bulky waste.

Selectman Benka asked about the cost of disposing of bulky items. Commissioner DeMaio replied that he does not have it on hand tonight but the DPW has it. Selectman Benka added that some communities allow one bulky item a week to be picked up.

Selectman Benka asked about the cost of recycling. Is it included in this program? Commissioner DeMaio stated that recycling cost is estimated at \$130 per ton. This is to pick up, transport, and dispose. Solid waste is about \$150 per ton. Selectman Benka added that the flat fee covers the cost of sending the recycling truck around. The per bag cost pays for the disposal of solid waste.

NO.

TITLE

9. FY10 Budget Amendment – 7 Fire Companies (Inchierca)

**Petitioner Nicholas Inchiera reviewed the Article:**

We the Petitioner and signatories to this article, believe the Town is at minimum levels of staffing and equipment for the Fire Service and any further reduction or cuts will result in severe risks to the public safety of firefighters, residents, business owners and any visitors to the town and their property. This article is submitted to prevent these risks and to insure the safety of the public.

Mr. Inchiera would like the residents and Town Meeting to voice their opinion on this budget item.

**WARRANT ARTICLES cont'd**

**NO.                      TITLE**

- 10.      FY10 Budget Amendment – NFPA Standard 1710 (Inchierca)**

**Petitioner Nicholas Inchiera stated that NFPA Standard 1710 is a code, a guideline, not a law. It is the standards of the quality health and safety of everyone involved. The code 1710 is proven to be effective operations of the Fire Department. The guidelines require the first responders to arrive within 4 minutes after the emergency call, with a minimum of 4 firefighters, and 5 pieces of apparatus to respond.**

**Chief Skerry added that this is a standard that local communities can adopt. In almost every case Brookline is adhering to the standards. Brookline has a 4 man minimum and arrives within 4 minutes.**

**Chairman Daly noted that it is unusual to submit a warrant article that amends a budget item. Mr. Inchiera replied that this is to prevent pulling an engine company out of service should that situation arise.**

**Deputy Chief Rob Ward added that on Article 9 the issue is to prevent any ‘brown outs’ where there could be stations unmanned. Chairman Daly stated that this is a difficult budget year. Mr. Ward replied that the Fire Department has had a busy and difficult year.**

**NO.                      TITLE**

- 11.      FY10 Budget Amendment – Keep Wires Division in Fire Department (Carroll)**

**Chairman Daly stated that the petitioner has withdrawn Article 11.**

**On motion, it was unanimously,**

**VOTED: 4-0 No Action on Article 11.**

**Review of the following FY10 Departmental Budgets:**

**Planning & Community Development  
Capital Improvements Program/  
Debt Interest**

**Planning & Community Development**

**Director of Planning and Community Development Jeff Levine reviewed his memo to the Board.**

**For the purposes of budgeting discussions, this memo considers the scenario of funding the Commercial Areas Coordinator position as a 0.77 position within the current Planning & Community Development Department budget. Since the official work week is 37.5 hours with 8.375 hours Monday-Thursday and 4 hours on Friday, a 0.77 position would be as if one of the longer days (Monday-Thursday) would be a non-work day.**

**In addition, the Department is seeking a federal grant to begin a microenterprise program for FY10. We are optimistic this program will be funded. If so, this would bring the Commercial Areas Coordinator position up to a FTE (1.0), but the additional 0.23 time would be devoted to implementation of the microenterprise program.**

**Fiscal Impact**

**The difference between a 0.77 position and the current part-time (0.53) budgeted salary is:**

<b>Part-Time (0.77) Funding Position</b>	<b>\$68,799 x 0.77 + \$52,976</b>
<b>Less Budgeted (0.53) Part-Time Position:</b>	<b><u>(\$36,463)</u></b>
	<b>\$16,513</b>

**Within the current FY10 budget for Planning & Community Development, this money could be recovered by:**

- Eliminating First Light Funds (estimated at \$12,000) and making additional cuts within the Economic Development Division budget of \$1,500. This assumes that the Town still funds staff time towards the First Light Festival. The following line item changes would occur to the proposed Economic Development Division budget:**

Acct#	Item	Econ. Dev. Exist. Budget	Econ. Dev. Prop. Budget	Savings
524010	Prof. Technical Services	\$7500	\$5000	\$2500
525030	Printing Services	\$3000	\$1000	\$2000
525060	Advertising	\$5000	\$2000	\$3000
533111	Special Program Supplies	\$6000	\$0	\$6000
<b>Total</b>				<b>\$13,500</b>

- **Stop in-house printing of Kiosk posters for non-profits and other Town Departments, thereby reducing the office supplies budget (Acct#53102) of Economic Development’s Office Supplies from \$1,600 to \$325, for estimated savings of: \$1,275.**
- **Reduce budgeted printing services (Acct# 525030) within the Housing budget from \$1,805 to \$505, for a savings of: \$1,300**
- **Reduce budgeted education/training/conferences (Acct#551099) within the Administration budget from \$1,600 to \$1,162, for a savings of: \$438.**

**Impact to Town Services**

**To offset the proposed reduction in hours for this position funded by the Town, some services would be cut or transferred to others within Planning & Community Development, or transferred to other Departments. Below is one example scenario to show how services could be changed to reflect the reduction in hours and reduced funding towards First Light.**

**1) The First Light Festival will be dependent on funding by sponsors for non-staff related expenses. Since \$12,000 of Town funds towards First Light would be reduced, these monies would need to be raised in addition to the money typically raised, which has historically been \$20,000 - \$30,000. The risk of the business community and other Town groups assuming all non-staff funding combined with uncertain economic times means that the First Light Planning Committee may determine that First Light Festival will be significantly scaled back or possibly cancelled for 2009.**

**2) The free printing for the kiosk posters will no longer be an available service by the Town. This means that non-profits and other town departments that utilize this service will need to provide their own posters, estimated to be a retail cost of \$200 a piece. Planning & Community Development Department will work with printing**

**shops in Brookline to see if a discounted program for these posters could be established. The Department will also provide graphic standards to these companies and online to give guidance on quality control for our kiosk program. The scheduling, sign-off on the quality of the graphic design and printing, and actual posting of the posters will be absorbed from the Economic Development Division to Planning & Community Development as a whole.**

**3) The Economic Development Director will absorb all work previously done by the Commercial Areas Coordinator related to construction coordination, external communications/promotion for the Town. Construction coordination includes singular events such as the Coolidge Corner Streetscape work or the Gateway East project.**

**4) The annual vacancy rate survey will no longer be completed by the Commercial Areas Coordinator. There is a potential that this work could be done by unpaid internships or other Departments within Town Hall on a periodic basis.**

**5) Staffing event-related committees will be limited to working on the First Light Festival. This will have an effect on singular events that occur from time to time, such as Images of Brookline event, Brookline 300, etc. This also means that annual events such as the Flag Day Festival, the Food Festival, and the farmers Market will no longer be staffed by Planning & Community Development.**

**Selectman DeWitt asked about the vacancy rate survey, it may be a significant loss. Mr. Levine replied that there may be other ways to provide the survey. Interns, the Economic Developer Director, and realtors could provide information on this survey. It could be looked at on a case by case situation.**

**Economic Developer Director, Clara Brewton added that the Assessor is working on information to provide for the survey.**

**Selectman Benka asked if the money is not raised for 1<sup>st</sup> light, it could be cancelled. How would this interfere with staff assigned to 1<sup>st</sup> light? Mr. Levine replied that the staff for 1<sup>st</sup> light would be shifted to other duties.**

**Selectman Mermell added that if there is no funding for the 1st light, it would be subject to cancellation and the coordinator would be subject to reallocation. Selectman Benka added it would be a challenge to the business community to put up more of the funding.**

**Harvey Bravman from the Coolidge Corner Merchant Association stated that he supports Mr. Levine's recommendation. He asked why the town could not add the \$32,000 into the operating budget so that this debate will not extend into future years. It is a revenue producing position; it could have little negative impact on the budget.**



In Board of Selectmen

April 7, 2009

Page 25 of 37

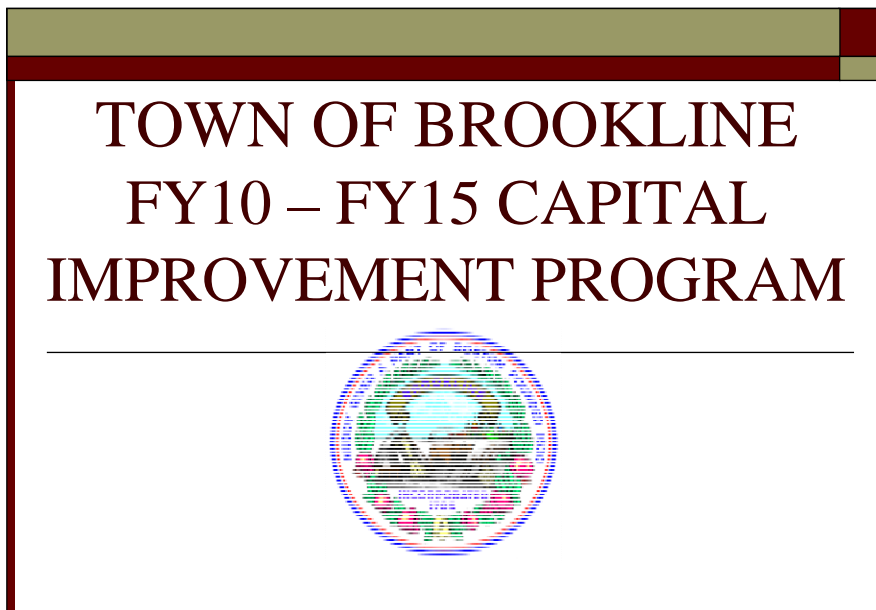
**FY 10 FINANCIAL PLAN cont'd**

**Chairman Daly added that every Department Head is experiencing cuts this year with an emphasis on the School Department. She hopes that 1<sup>st</sup> Light could continue, and appreciates the support from the commercial community.**

**Abe Faber stated that the 1<sup>st</sup> Light been funded by the merchant community in the amount of \$30k over the years. The business community has paid over 75% of event.**

**Capital Improvements Program/Debt Interest**

**Deputy Town Administrator Sean Cronin reviewed the Capital Improvements Program:**



April 7, 2009

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## HEADLINES

- \$147.8M Six-Year CIP (FY10 – FY15).
- Conforms with the Town's CIP Policies, except for temporarily departing from the 5.5% Policy. Net reduction of \$564K to CIP in FY10 (after AHTF deferral).
- Critical to phase-up back to the 5.5% level by FY12 (5.25% in FY11; 5.5% in FY12).
- Continues the additional funding for streets and sidewalks included in the 2008 Override.
- Major challenges posed due to infrastructure needs, uncertainty about School Building Assistance, and landfill requirements.
- Undertakes major (Runkle School, Devotion School) and minor (UAB, Baldwin School, Pierce) School renovation projects.
- Assumes Town funding for Runkle School at \$15.8M and Devotion School at \$33M, or 60% of each project.
- Includes funding to increase classroom capacity.
- Continues to upgrade Public Safety equipment.
- Continues to invest in the Town's infrastructure (streets, sidewalks, water/sewer system, parks/playgrounds) and in IT.
- Includes funding for implementation of the Roof Study.
- Includes a funding plan for the roll-out of multi-space meters in Town-owned lots.
- Incorporates a funding plan for the Village Square project.
- Re-allocates a \$500K surplus from the Town Hall project.

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## CHANGES FROM CIP AS PRESENTED ON DEC 9, 2008

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1. **Cut in 5.5% Policy** – \$564K of projects slated for FY10 pushed back, causing projects in the out-years to also be pushed back.
  
2. **Reservoir Bldg's** – reduced by \$25K to \$75K.
  
3. **Pierce School Auditorium** – just design funds in FY10 (\$75K), pushing the construction (\$750K) to FY11.

## CHANGES FROM CIP AS PRESENTED ON DEC 9, 2008 (con't.)

4. This \$775K in FY10 (\$25K Res Bldg + \$750K Pierce) absorbed by the following:
- a) Adding \$450K to enable the purchase of a Quint (\$1M) instead of an Engine-Rescue Truck (\$550K)
  - b) Adding \$5K to Energy Conservation
  - c) Moving \$100K from FY 11 for Building Security and Life Safety
  - d) Moving \$100K from FY 11 for Energy Management
  - e) Moving \$120K from FY 11 for Parking Lot rehab

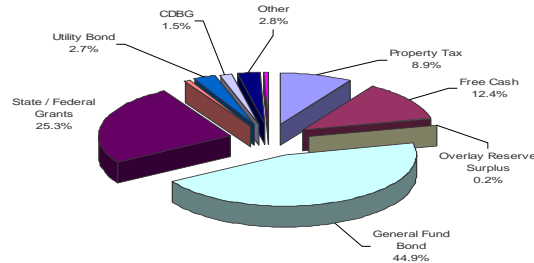
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## SUMMARIES

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

	FY10	FY11	FY12	FY13	FY14	FY15	TOTAL	% OF TOTAL
Property Tax	1,774.2	2,552.1	1,914.2	2,869.0	3,015.0	992.2	13,116.7	8.9%
Free Cash	3,121.4	3,084.9	3,071.3	3,057.0	3,038.0	3,017.8	18,390.4	12.4%
Overlay Reserve Surplus	255.0	0.0	0.0	0.0	0.0	0.0	255.0	0.2%
General Fund Bond	21,315.0	0.0	0.0	5,900.0	31,600.0	7,580.0	66,395.0	44.9%
State / Federal Grants	11,259.4	819.4	1,299.4	2,699.4	20,699.4	699.4	37,476.1	25.3%
Utility Budget	0.0	0.0	500.0	270.0	255.0	0.0	1,025.0	0.7%
Utility Bond	0.0	0.0	1,000.0	0.0	3,000.0	0.0	4,000.0	2.7%
CDBG	0.0	2,250.0	0.0	0.0	0.0	0.0	2,250.0	1.5%
Other	0.0	4,000.0	100.0	0.0	0.0	0.0	4,100.0	2.8%
Re-Appropriation of Funds	830.0	0.0	0.0	0.0	0.0	0.0	830.0	0.6%
<b>TOTAL</b>	<b>38,554.9</b>	<b>12,706.4</b>	<b>7,884.9</b>	<b>14,795.4</b>	<b>61,607.4</b>	<b>12,289.4</b>	<b>147,838.2</b>	<b>100.0%</b>

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

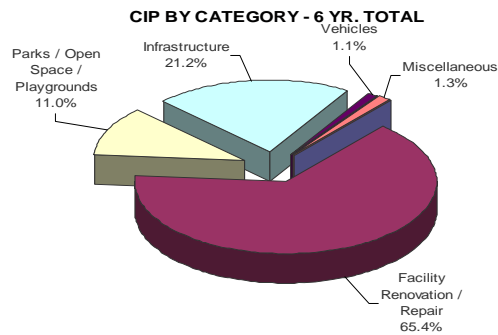


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## SUMMARIES (con't)

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

	FY10	FY11	FY12	FY13	FY14	FY15	TOTAL	% OF TOTAL
New Facility Construction	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0%
Facility Renovation / Repair	29,180.6	1,970.0	1,386.5	7,710.0	53,455.0	2,970.0	96,672.1	65.4%
Parks / Open Space / Playgrounds	530.0	3,795.0	1,060.0	2,985.0	1,505.0	6,405.0	16,280.0	11.0%
Infrastructure	7,230.4	6,596.4	5,068.4	3,580.4	6,222.4	2,639.4	31,337.1	21.2%
Vehicles	1,350.0	0.0	0.0	150.0	150.0	0.0	1,650.0	1.1%
Miscellaneous	264.0	345.0	370.0	370.0	275.0	275.0	1,899.0	1.3%
<b>TOTAL</b>	<b>38,554.9</b>	<b>12,706.4</b>	<b>7,884.9</b>	<b>14,795.4</b>	<b>61,607.4</b>	<b>12,289.4</b>	<b>147,838.2</b>	<b>100%</b>



6

## MAJOR PROJECTS

- Devotion School Rehab - \$33.2M of Town funding + possibility of \$22.1M of State funding in FY11-FY14 for feasibility, design, and construction
- Runkle School Rehab - \$15.8M of Town funding + possibility of \$10.6M of State funding in FY10-FY11 for design and construction
- Newton St. Landfill - \$4.3M (FY10) + \$4.4M (FY15)
- Fisher Hill Reservoir Re-Use - \$3.25M (FY11)
- Village Square - \$3M (FY11)
- Wastewater System - \$3M (FY14)
- Baldwin School - \$2M (FY14-FY15)
- UAB - \$1.4M (FY12-FY13)
- Brookline Reservoir Park - \$1.4M (FY15)
- Parking Meters - \$1.36M (FY10-FY13)
- Town Hall/Main Libr. Garages + Driveway - \$1.2M (FY10)

## CONTINUED MAJOR INVESTMENT

- Street & Sidewalk Rehab - \$15.9M
- Parks & Open Space - \$11.9M
- Water & Sewer Infrastructure - \$5M
- General Town/School Bldg. Repairs - \$4.5M
- Town/School Roof Repairs/Repl. - \$2.6M
- Public Safety Equipment - \$1.7M
- Information Technology - \$1.5M
- Pierce School Auditorium - \$825K
- Branch Libraries - \$585K
- Classroom Capacity - \$400K

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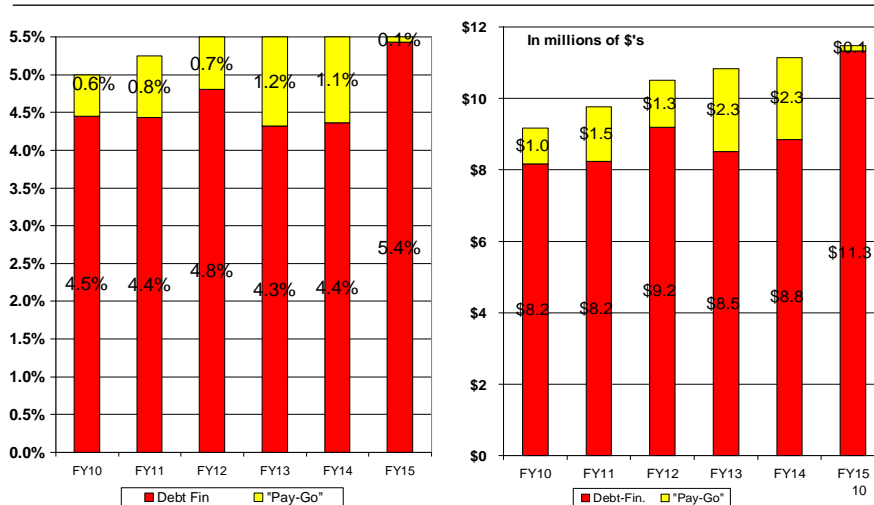
## CIP GENERAL FUND FUNDING SUMMARY

	2010	2011	2012	2013	2014	2015
5.5% Policy	9,170,365	9,766,976	10,515,071	10,833,910	11,146,914	11,481,947
Net-Debt *	8,164,895	8,234,727	9,197,540	8,508,802	8,845,943	11,332,393
% of Prior Yr Net Rev	4.45%	4.43%	4.81%	4.32%	4.36%	5.43%
Pay-as-you-Go	1,005,471	1,532,249	1,317,530	2,325,107	2,300,972	149,554
% of Prior Yr Net Rev	0.55%	0.82%	0.69%	1.18%	1.14%	0.07%
2008 Override Funds	768,750	787,969	807,668	827,860	848,556	869,770
Free Cash	3,121,351	3,284,906	2,901,383	3,227,025	3,218,215	3,187,104
Re-Approp.	830,000	0	0	0	0	0
Overlay Surplus	255,000	0	0	0	0	0
<b>TOTAL</b>	<b>14,145,467</b>	<b>13,839,850</b>	<b>14,224,122</b>	<b>14,888,794</b>	<b>15,213,685</b>	<b>15,538,822</b>

\* Defined as General Fund debt less debt supported by a debt exclusion.

9

## DEBT-FINANCED vs “PAY-AS-YOU-GO”



## CIP FINANCING – FREE CASH

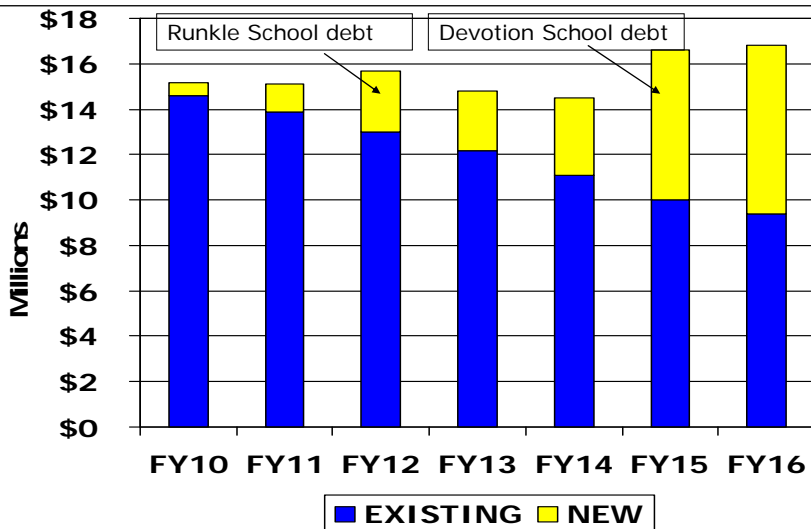
- Town’s Free Cash Policy:
  - An amount equivalent to 0.25% of the prior year’s net revenue shall be appropriated as part of the Town’s 1% Appropriated Budget Reserve Fund.
  - To the extent necessary, Free Cash shall be used to fund the Stabilization Fund at a level equivalent to 3% of the prior year’s net revenue.
  - To the extent necessary, Free Cash shall be used to reach the funding target of the Town’s Liability / Catastrophe Fund (1% of the prior year’s net revenue).
  - To support the Affordable Housing Trust Fund, when Free Cash exceeds \$6M.
  - Free Cash may be used to augment the trust funds related to fringe benefits and unfunded liabilities related to employee benefits.
  - Dedicate all remaining funds to the CIP.
- The FY10-FY15 CIP follows the Policy except for the diversion of the funds that would have gone to the AHTF.
- The \$7M of Free Cash for FY10 use is \$1.1M more than last year and is above the \$3.75M est used to build the out-years of the previous (FY09–FY14) CIP.
- An est. of \$3.75M is used to build the out-years of the CIP.

## DEBT MANAGEMENT PLAN

Project	Yrs Authorization	2010	2011	2012	2013	2014	2015	2016	
Fisher Hill (previously authorized)	10	1,350,000	199,125	192,713	186,300	179,888	173,475	167,063	160,650
Muddy River (previously authorized)	10	745,000	109,888	106,349	102,810	99,271	95,733	92,194	88,655
Runkle School Design - TOWN @ 60% (seeking authorization)	10	1,440,000		212,400	205,560	198,720	191,880	185,040	178,200
Landfill Corrective Action (seeking authorization)	20	4,275,000		438,188	426,966	415,744	404,522	393,300	382,078
Garages/Driveway @ Town Hall/Main Libr. (seeking authorization)	10	1,200,000		177,000	171,300	165,600	159,900	154,200	148,500
Runkle School - TOWN @ 60% (seeking authorization)	20	14,400,000			1,476,000	1,438,200	1,400,400	1,362,600	1,324,800
UAB Roof/Chimney/Gutters & Downspouts (seeking authorization)	10	1,275,000				188,063	182,006	175,950	
Devotion School Design - TOWN @ 60%(seeking authorization)	10	3,000,000				442,500	428,250	414,000	
Waldstein Playground + Warren Field (seeking authorization)	10	1,600,000				236,000	228,400	220,800	
Roof Repairs / Replacements (seeking authorization)	10	1,600,000					236,000	228,400	
Devotion School - TOWN @ 60%(seeking authorization)	20	30,000,000					3,075,000	2,996,250	
Baldwin School (seeking authorization)	10	1,780,000						262,550	
Rear Landfill (seeking authorization)	15	4,400,000						513,333	
Brookline Reservoir Park (seeking authorization)	10	1,400,000						206,500	
<b>NEW GEN FUND DEBT SERVICE (cumulative)</b>			309,013	1,126,649	2,568,936	2,497,423	3,292,472	6,504,053	7,300,666
Water Main Improvements (seeking authorization)	10	1,000,000				145,000	140,500	136,000	131,500
Wastewater (seeking authorization) *	10	3,000,000							217,500
<b>NEW ENTERPRISE FUND DEBT SERVICE (cumulative)</b>			0	0	0	145,000	140,500	136,000	349,000
<b>TOTAL NEW DEBT SERVICE (cumulative)</b>			309,013	1,126,649	2,568,936	2,642,423	3,432,972	6,640,053	7,649,666

\* Borrowings phased over multiple years.

## DEBT SERVICE – ALL FUNDS



## DEBT SERVICE – AS A % OF REVENUE

DESCRIPTION	FY07 (Act.)	FY08 (Act.)	FY09 (Bud.)	FY10 (Bud.)	FY11 (Proj.)	FY12 (Proj.)	FY13 (Proj.)	FY14 (Proj.)	FY15 (Proj.)
General Fund Debt Service as a % of General Fund Revenue	6.2%	5.7%	6.0%	6.2%	6.2%	6.4%	5.9%	5.7%	6.6%
Net General Fund Debt Service as a % of General Fund Revenue Without SBA Reimbursement	4.4%	3.9%	4.4%	4.6%	4.7%	4.9%	4.7%	4.5%	5.5%
Water & Sewer Enterprise Fund Debt Service as a % of Revenue	12.1%	11.6%	10.7%	10.3%	9.2%	8.4%	8.5%	8.3%	7.4%
Golf Course Enterprise Fund Debt Service as a % of Revenue	17.0%	15.4%	15.3%	14.6%	13.5%	10.6%	10.2%	9.4%	7.4%
<b>TOTAL Debt Service as a % of Total Rev. Supporting Debt Svc.</b>	<b>6.9%</b>	<b>6.4%</b>	<b>6.5%</b>	<b>6.6%</b>	<b>6.6%</b>	<b>6.7%</b>	<b>6.2%</b>	<b>6.0%</b>	<b>6.7%</b>

14

## DEBT MANAGEMENT POLICIES

VARIABLE	FY10	FY11	FY12	FY13	FY14	FY15
<b>Legal Limit for Out. Debt = 5% of Equalized Valuation (EQV)</b>						
EQV for 1/1/08 = \$15,524 billion. Assume 2.5% annual growth. (In millions)	\$15,912.1	\$16,309.9	\$16,717.6	\$17,135.5	\$17,563.9	\$18,003.0
Outstanding Debt as a % of EQV	0.6%	0.6%	0.6%	0.5%	0.6%	0.6%
Total Outstanding Debt (in millions)	\$97.4	\$101.9	\$92.7	\$88.9	\$110.6	\$107.7
General Fund Outstanding Debt (in millions)	\$83.6	\$89.2	\$80.0	\$77.0	\$99.9	\$97.4
Total Debt Service (in millions)	\$14.9	\$15.2	\$15.8	\$15.2	\$15.1	\$17.4
General Fund Debt Service (in millions)	\$12.2	\$12.4	\$13.3	\$12.5	\$12.4	\$14.9
Total Debt Service Per Capita	\$271	\$277	\$289	\$278	\$276	\$317
General Fund Debt Service Per Capita	\$223	\$227	\$243	\$229	\$226	\$271
Total Debt Service as a % of Revenue	6.6%	6.6%	6.7%	6.2%	6.0%	6.7%
General Fund Debt Service as a % of General Fund Revenue	6.2%	6.2%	6.4%	5.9%	5.7%	6.6%
A. Total Outstanding Debt Per Capita as a % of Per Capita Income	2.8%	2.8%	2.5%	2.3%	2.8%	2.7%
General Fund Outstanding Debt Per Capita as a % of Per Capita Income	2.4%	2.5%	2.2%	2.0%	2.6%	2.4%
B. Total Outstanding Debt Per Capita	\$1,777	\$1,859	\$1,691	\$1,622	\$2,018	\$1,965
General Fund Outstanding Debt Per Capita	\$1,525	\$1,627	\$1,459	\$1,405	\$1,822	\$1,778
C. Total Outstanding Debt as a %age of Assessed Value (AV)	0.6%	0.6%	0.6%	0.5%	0.6%	0.6%
General Fund Outstanding Debt as a %age of Assessed Value (AV)	0.5%	0.6%	0.5%	0.5%	0.6%	0.6%
D. Total Debt Maturing Within 10 Years	89%	85%	86%	88%	78%	83%
General Fund Debt Maturing Within 10 Years	88%	82%	83%	85%	75%	80%
E. CIP Financing as a %age of Prior Year's Net Revenue	5.00%	5.25%	5.50%	5.50%	5.50%	5.50%
Debt-Financed CIP as a %age of Prior Year's Net Revenue	4.45%	4.43%	4.81%	4.32%	4.36%	5.43%
Revenue-Financed CIP as a %age of Prior Year's Net Revenue	0.55%	0.82%	0.69%	1.18%	1.14%	0.07%

**Town Policies**

- A. Total Outstanding Debt Per Capita = shall not exceed 6% of Per Capita Income.
- B. Total Outstanding Debt Per Capita = shall not exceed \$2,334 (for FY09).
- C. Total Outstanding Debt = shall not exceed 2.5% of Assessed Value (AV).
- D. Bond Maturities = 60% of General Fund principal shall mature within 10 years.
- E. CIP Financing = 5.5% of Prior Year's Net Revenue, with a goal of 4.25% from Debt-Financed and 1.25% from Revenue-Financed.



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## ADDITIONAL REVENUE SOURCES

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- **CDBG Funds** – \$2.25M is used, including utilizing the Section 108 Loan Guarantee Program.
- **State / Federal Grants** – \$38.2M is anticipated, including the assumption that SBA funds cover 40% of the Runkle School and Devotion School projects.
- **Proposed Private Development** - \$4.2M total, with \$3.25M for Fisher Hill Reservoir Re-Use (FY11) and \$750K from 2 Brookline Pl for Gateway East (FY11).
- **Cemetery Trust Funds** - \$200K for Old Burial Ground projects.
- **Re-Appropriation of Funds** - \$830K of existing CIP project accounts will be re-appropriated in FY10 to help balance the CIP, \$500K of which is from the Town Hall proj.

16

**Selectman DeWitt asked about the Gateway East Project, do we qualify for new revenue for it. Mr. Cronin replied that the project is not “shovel ready”. There are some opportunities out there, they will keep looking.**

**Selectman Mermell asked about the process of the CIP. She is interested in green policy and incorporating green elements into the CIP. Mr. Cronin replied that the process starts right after Town Meeting. He sits with Department Heads and goes through their request for capital improvements. Mr. Cronin makes recommendations on what other departments should be consulted. They then look at the final top priorities.**

### **General Government**

**Chairman Daly asked about the Town Hall and Library Repairs. Director of Public Buildings Charlie Simmons replied that its current condition cause water to leak into the garages under the Pierce School and Town Hall into the Main Library.**

**Selectman DeWitt asked about the Reservoir Buildings. Building Commissioner Mike Sheppard replied that the pump house is condemned and should be demolished. The gatehouse is scheduled for repairs. Selectman DeWitt hopes that the job would be able to be completed within the short budget. She added that the area has been used by MassHighway to house a trailer. She hopes they will provide adequate clean up when they depart.**

**Planning and Community Development**

Selectman Mermell asked about the Cypress Village zoning analysis. Would the development of the Red Cab site interfere with the analysis? Mr. Levine replied that this is an overall study of the area. The red cab site is spoken for and should not interfere with the study. Should the plans change, the site would be re-looked at.

Chairman Daly asked about the Village Square Circulation Improvements. Mr. Levine replied that the contract design has been fully funded. It is still in the comprehensive plan to redesign that site.

**Public Safety**

Chairman Daly asked about the purchase of a "Quint" fire truck. Chief Skerry replied that he originally planned to replace two vehicles with a rescue pumper. A Quint is a combination pumper/ladder truck. This will result in future savings. The Chief is in support of the four man minimum. He understands that there may be further budget cuts. The Quint will give the Department the flexibility needed to deal with tight budgets in future years.

**Library**

Chairman Daly asked where the other cities and towns are on the RFID project given the current budget situations. Town Librarian Chuck Flaherty replied that three communities are actively reviewing RFP's. He hopes to inform the Board sometime in May with a contract. Other communities have three years to join into the contract.

**Engineering/Highway**

Chairman Daly asked about the Parking Meter System Replacement. Would one machine be serving many spaces? Director of Engineering Peter Ditto stated that this is what is being used now in a couple of areas. A backup meter is needed in those areas case one meter goes down.

Selectman Mermell asked about the Parking Lot Rehabilitation. How quickly would the process be? Mr. Ditto replied that they will start in the School Street lot and onto the Babcock Street lot. He estimates 3-4 weeks, and hopes to do them over the summer, maybe a year from now.

### **Parks/Playgrounds**

**Chairman Daly asked about the Fisher Hill Acquisition, Design & Construction, and the sale of the town owned lot for affordable housing. What would happen if the funding were not available, could the park on Fisher Hill be phased in?**

**Director of parks and Open Spaces Erin Gallentine replied that they are planning on receiving the funding as planned. The intention is to make the site safe and enjoyable to the public. If the funding were not available some long term planning and a different approach would be needed.**

### **Schools**

**Chairman Daly asked about the Baldwin School HVAC/Electrical/elevator/windows/ADA/roof project. What are we doing there, and why are we spending so much money on it?**

**Deputy Superintendent for Administration and Finance, Peter Rowe stated that the building is utilized as an alternative program for the High School and staff day care. The building is in need of repairs to get it ready for longer term usage in the future. The long term use will need to be determined. Mr. Cronin added that a discussion on the Master Plan is needed. There are some big issues that need planning.**

**Chairman Daly asked about the Runkle School Project. There is a question on the funding for the extended day program. Mr. Rowe replied that anything that will not be funded by the State will need to be funded by the Town.**

**Selectman Benka stated that FY10 assumes a 40% reimbursement. Mr. Cronin added that they need to look at what is eligible and not eligible for funding by the State School Building Authority.**

**Chairman Daly asked about the Pierce School renovation. If the school is slotted to be fully renovated, is it wise to renovate the auditorium at this time. Mr. Rowe stated that it is worth spending the money now, the full project is far enough out.**

**Chairman Daly asked about the Classroom Capacity. Would the modular units be needed this fall? Mr. Rowe replied that additional capacity will be needed in the next two-five years.**

**BUDGET WARRANT ARTICLE**

The Board considered the question of voting on Article 8 for purposes of recommending funding for the FY2010 Financial Plan.

Selectmen  
Town Counsel  
Council on Aging  
Veterans Services  
Planning and Community Development  
Human Resources/Personnel benefits  
Fire  
Building  
Police  
Library  
Public Works  
Water and Sewer  
Health and Human Services  
Human Relations/Youth Resources  
Capital Improvements/Debt & Interest

Chairman Daly held the vote on this agenda item.

**ELECTION WARRANT**

The Board considered the question of executing the Warrant for the May 5, 2009 Annual Election.

On motion, it was unanimously,

**VOTED:** To execute the Warrant for the May 5, 2009 Annual Election.

**ARTS PROJECT**

Joni Burnstein of the South Brookline Neighborhood Association appeared to request approval of a Proposal for South Brookline Traffic Signal Cabinet Beautification.

In Board of Selectmen

April 7, 2009

Page 37 of 37

**ARTS PROJECT cont'd**

**Ms. Burnstein stated that the South Brookline Neighborhood Association would like to sponsor the beautification of the traffic signal cabinet at the corner of South and Grove Streets.**

**Town Administrator Richard Kelliher added that an outline of policy, procedures, and guidelines were submitted.**

**On motion, it was unanimously,**

**VOTED: To approve the Proposal for South Brookline Traffic Signal Cabinet Beautification.**

**There being no further business, the Chair adjourned the meeting at 10:45 p.m.**

**ATTEST**

**IN BOARD OF SELECTMEN**

**April 14, 2009**

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

**EXECUTIVE SESSION**

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

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

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

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

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

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

**VOTED: to go into Executive Session**

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

*Selectman Allen absent for roll call*

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



### **PUBLIC COMMENT**

**Regina Frawley, TMM#16 questioned if the Police Department Homeland Security stipend in the Police Department's budget was for the surveillance cameras. Town Administrator Richard Kelliher replied no, that stipend is out of the Town's budget for weapons, and emergency response training, it is not for surveillance training. Ms. Frawley added that the Board should not use acronyms when addressing the public.**

### **CONTRACT**

**The Board considered the question of awarding a contract in connection with the Putterham Library HVAC Renovations in the amount of \$487,207 to Falite Brothers of Littleton, MA.**

**Program Administrator Tony Guigli stated that this contract is for HVAC and fire alarm upgrades at the Putterham Library. Selectman DeWitt commented on the large gap between the bids. Mr. Guigli replied that the contractor is comfortable with his bid. Selectman Benka asked if the hours at the Library were to be cut back is this project still appropriate. Mr. Guigli replied that the existing system is in disrepair. The upgrade would make it more energy efficient. He feels the project would still be appropriate.**

**On motion, it was unanimously,**

**VOTED: To award a contract in connection with the Putterham Library HVAC Renovations in the amount of \$487,207 to Falite Brothers of Littleton, MA.**

### **CHANGE ORDER**

**The Board considered the question of approving Change Order #14 (deduction) in the amount of (\$7,088.98) in connection with work done by Calantonio, Inc. in connection with the Town Hall Renovation Project.**

**Program Administrator Tony Guigli stated that the change order consists of a mailbox, wiring, speaker relocation, window alteration, outlet additions, building directories, gate latch, door adjustments, a credit from NSTAR and a utility credit. Selectman DeWitt asked about the directories. Would there be any in the elevators? Mr. Guigli replied that there will not be any in the elevators, but in the main lobby and each floor facing the elevators.**

**On motion, it was unanimously,**

**VOTED: To approve Change Order #14 (deduction) in the amount of (\$7,088.98) in connection with work done by Calantonio, Inc. in connection with the Town Hall Renovation Project.**

**CONTRACT**

**The Board considered the question of awarding Contract No. PW/09-04 “Offsite Waste Relocation and Property Restoration” in the amount of \$1,136,765 to I.W. Harding Construction Company, Inc. of West Bridgewater. Said contract to be funded from account 4998WS09 6L0001.**

**Director of Engineering Peter Ditto stated that this work consists of relocating solid waste incinerator ash from various properties on Martha’s Lane, Kensington Circle, and Newton Street. This is the first phase for eight properties. Mr. Ditto added that they will monitor the landscaping aspect of the project as well. That subcontractor would also need qualifications satisfactory to the Town. Selectman Allen asked if there will be staff on hand during the project. Mr. Ditto replied that the same staff will continue to be there.**

**On motion, it was unanimously,**

**VOTED: To award Contract No. PW/09-04 “Offsite Waste Relocation and Property Restoration” in the amount of \$1,136,765 to I.W. Harding Construction Company, Inc. of West Bridgewater. Said contract to be funded from account 4998WS09 6L0001**

**ANNUAL OUTDOOR SEATING**

**The Board considered the question of renewing the following Annual Outdoor seating licenses:**

<b>The Fireplace 1634 Beacon Street</b>	<b>20 seats</b>
<b>The Public House 1648 Beacon Street</b>	<b>20 seats</b>
<b>The Golden Temple 1651 Beacon Street</b>	<b>32 seats</b>

**ANNUAL OUTDOOR SEATING cont'd**

**Chairman Daly stated that this is an annual request. All papers are in order.**

**On motion, it was unanimously,**

**VOTED: To renew the following Annual Outdoor seating licenses:**

**The Fireplace                      20 seats  
1634 Beacon Street**

**The Public House                  20 seats  
1648 Beacon Street**

**The Golden Temple                32 seats  
1651 Beacon Street**

**TEMPORARY ALL KINDS OF ALCOHOLIC**

**The Board considered the question of granting a temporary All Kinds of Alcoholic beverages license to Larz Anderson Auto Museum in connection with the following events to be held at 15 Newton Street:**

**Graduation Party                  April 19, 2009  
Harvard Business School      4:00pm-12M**

**Clambake                              April 20, 2009  
Mass College of Pharmacy    11:30am-6:00pm**

**Bar Mitzvah (Levy)                May 23, 2009  
6:00pm-12M**

**Wedding (Coggeshall)            May 30, 2009  
5:30pm-11:30pm**

**Wedding (Nelson)                 May 31, 2009  
4:00pm-11:30pm**

**On motion, it was unanimously,**

**VOTED: To grant a temporary All Kinds of Alcoholic beverages license to Larz Anderson Auto Museum in connection with the following events to be held at 15 Newton Street:**

**Graduation Party                  April 19, 2009**

<b>Harvard Business School</b>	<b>4:00pm-12M</b>
<b>Clambake</b>	<b>April 20, 2009</b>
<b>Mass College of Pharmacy</b>	<b>11:30am-6:00pm</b>
<b>Bar Mitzvah (Levy)</b>	<b>May 23, 2009</b>
	<b>6:00pm-12M</b>
<b>Wedding (Coggeshall)</b>	<b>May 30, 2009</b>
	<b>5:30pm-11:30pm</b>
<b>Wedding (Nelson)</b>	<b>May 31, 2009</b>
	<b>4:00pm-11:30pm</b>

### **AUTHORIZATION TO HIRE**

The Board considered the question of approving authorizations to hire in the following departments:

<b>Assessing</b>	<b>(1)</b>
<b>DPW</b>	<b>(10)</b>
<b>Recreation</b>	<b>(2)</b>

**Town Administrator Richard Kelliher reviewed his memo as following:**

**When I presented the Hiring Freeze to the Board last October I indicated to you that I would seek a “window” in late winter/early spring for review of vacant positions in certain instances. Because this year’s Freeze was instituted at such an early point in the budget cycle, I felt it important to allow for the possibility of some degree of flexibility after the Governor’s Budget was released and the Town’s own Financial Plan presented.**

**We are obviously well beyond the presentation of the Annual Financial Plan and a substantial number of positions have gone unfilled in the meantime. You will see from the attached Vacancy List that there are now 59 vacancies, 50 of which are subject to the Freeze.**

**Although serious questions remain as to the possibility of more budget cutbacks due either to additional Local Aid reductions and/or to further decline in local receipts, it is virtually certain that the FY10 budget would not require the elimination of anything approaching 59 positions, even under the most inconceivable of worst case scenarios. Therefore to avoid the possibility of unnecessary diminished departmental performance, I recommend that Authorization to Hire be approved for the following 13 positions:**

**AUTHORIZATION TO HIRE cont'd**

<b>Assessing</b>	<b>Commercial Valuation Director (1)</b>
<b>DPW</b>	<b>Junior Civil Engineer (1)</b> <b>Motor Equipment Repairperson (1)</b> <b>Transfer Scale Operator (1)</b> <b>MEO2 (3)</b> <b>Laborer (2)</b> <b>Utility Craftsman (2)</b>
<b>Recreation</b>	<b>Asst. Recreation Leader (2)</b>

**I am not seeking authorization to fill the six net (after budget elimination) police vacancies per the strategy discussed previously with the Board for the use of potential COPS funding. At the moment there are also a net of five Fire vacancies which are not yet to the numbers normally accumulated as the basis for arranging a training academy. Further, the longer term question of overall configuration of fire services remains uncertain, the resolution of which will likely entail collective bargaining and further study. As for the other non-public safety positions remaining on the list, their status will be revisited after the budget process is completed.**

**Assessing**

**Chief Assessor Gary McCabe stated that this position has been vacant since June 2008. The position was reexamined to determine the needs of the department, and community. This position deals with the commercial and mixed use properties. It is a complex and demanding position that is assigned to approximately 1,000 properties. The department looked at outsourcing the position, but felt that it would loose its administration, supervisory and community involvement aspects. Selectman Benka agreed that there are difficult methodological questions that need to be addressed in this property category.**

**On motion, it was unanimously,**

**VOTED: To approve the authorization to hire in the Assessors Department:**

**Commercial Valuation Director (1)**

**AUTHORIZATION TO HIRE cont'd**

**DPW**

Director of Water and Sewer Andy Pappastergion stated that there are twenty-three vacant positions in the Department of Public Works. The hiring of these positions will relieve some strain put upon the Department. Selectman DeWitt asked about seasonal employees. Mr. Kelliher replied that seasonal employees were not included in the hiring freeze. There was discussion on hiring more seasonal employees, but contractual agreements would not allow this.

Selectman Allen took a moment to acknowledge the passing of Tom Condon in the Engineering Division. Tom had worked for the Town for forty-two years. He will be missed.

On motion, it was unanimously,

**VOTED: To approve the authorization to hire in the Department of Public Works Department:**

**Junior Civil Engineer (1)  
Motor Equipment Repairperson (1)  
Transfer Scale Operator (1)  
MEO2 (3)  
Laborer (2)  
Utility Craftsman (2)**

**Recreation**

Director of Recreation Lisa Paradis stated that these are two important vacant positions. Both positions are within the children's programs. One is a head teacher at Soule Recreation, and the other is for a teacher's aid for the preschool program. Ms. Paradis added that these positions provide positive connections with the families and community. It is important that the positions be permanent to build the relationship.

On motion, it was unanimously,

**VOTED: To approve the authorization to hire in the Recreation Department.**

**Asst. Recreation Leader (2)**

**RESERVE FUND TRANSFER**

The Board considered the question of approving and transmitting to the Advisory Committee a request for the following Reserve Fund Transfers for Fuel Oils:

DPW	\$107,000
Fire	\$ 2,000
Building	\$ 6,600
Police	\$ 56,000
Health	\$ 600
Recreation	\$ 5,600

Assistant Town Administrator Melissa Goff stated that this transfer is necessary due to higher than budgeted per gallon prices for Gasoline and Diesel fuels. Selectman Benka added that the usage has been consistent. Ms. Goff stated that the budget is prepared based on a three year average.

On motion, it was unanimously,

**VOTED:** To approve and transmit to the Advisory Committee a request for the following Reserve Fund Transfers for Fuel Oils:

DPW	\$107,000
Fire	\$ 2,000
Building	\$ 6,600
Police	\$ 56,000
Health	\$ 600
Recreation	\$ 5,600

**APPROPRIATION TRANSFER**

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

From: 21002010 521010	\$10,000
Electricity	
To: 21002010 534211	\$10,000
Gasoline	
From: 21002010 521011	\$ 5,000
Natural Gas	
To: 21002010 534211	\$ 5,000
Gasoline	

**RESERVE FUND TRANSFER cont'd**

Assistant Town Administrator Melissa Goff stated that this transfer will cover the projected deficit due to the high fuel prices.

On motion, it was unanimously,

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

From:	21002010 521010	\$10,000
	Electricity	
To:	21002010 534211	\$10,000
	Gasoline	
From:	21002010 521011	\$ 5,000
	Natural Gas	
To:	21002010 534211	\$ 5,000
	Gasoline	

**GRANT OF LOCATIONS**

Public Hearing on the petition of NSTAR Communications, Inc. for permission to construct, and a location for, such a line of conduits and manhole with the necessary cables therein under the following public way:

Brookline Avenue – from NSTAR Manhole #28358 (located approximately 100 feet northeast of its intersection with Washington Street, centered in the southwest-bound travel lanes) running northwesterly an estimated 30 feet, providing service to One Brookline Place.

NSTAR Project Coordinator Mike Jackimowicz stated that this project will provide fiber optics to 1 Brookline Place, tying communication services to other hospitals in the area.

On motion, it was unanimously,

**VOTED:** To grant the petition of NSTAR Communications, Inc. for permission to construct, and a location for, such a line of conduits and manhole with the necessary cables therein under the following public way:

Brookline Avenue – from NSTAR Manhole #28358 (located approximately 100 feet northeast of its intersection with Washington Street, centered in the southwest-bound travel lanes) running northwesterly an estimated 30 feet, providing service to One Brookline Place.



**BUDGET WARRANT ARTICLE**

**The Board considered the question of voting on Article 8 for purposes of recommending funding for the FY2010 Financial Plan.**

**Selectmen  
Town Counsel  
Council on Aging  
Veterans Services  
Planning and Community Development  
Human Resources/Personnel benefits  
Fire  
Building  
Police  
Library  
Public Works  
Water and Sewer  
Health and Human Services  
Human Relations/Youth Resources  
Capital Improvements/Debt & Interest**

**Selectman Benka stated there is the issue of starting to fund the Other Post Employment Benefits (OPEB) obligations. It could have implications with the solid waste collection and its fee. It would be better discussed if Town Meeting expresses the desire to go with a PAYT system. That would be the time to build the amount into the rate for PAYT.**

**Selectman Benka would like to make the motion to include OPEB funding in part of the water and sewer rates. They are part of the actual cost of providing the service, and amounts to about \$5400 per employee per year. This was included in the rates until 2004 when the Town made the decision not to include them in the rates. The unfunded liability the Town is facing for OBEP has gone to \$118 million to \$250-\$300 million today. We are just pushing the cost to later citizens of the town, and not acting responsibility by paying for services that we are getting now.**

**Chairman Daly added that she is the Chair of the OPEB Task Force looking at the OPEB funding. The funding did stop a few years ago at the suggestion of an earlier financial planning committee. The Task Force is recommending that we go back to charging the Enterprise funds the current cost of this future liability. The Committee is close to getting their report out that has to go before the Selectmen and to negotiations with the unions to see if the employees will pay a share of the future liabilities. At best it could be a two year process.**

**Selectman DeWitt asked if OPEB was added to the Golf Enterprise Fund, or any other Enterprise Fund. Deputy Town Administrator Sean Cronin replied no, it is**

**BUDGET WARRANT ARTICLE cont'd**

his opinion that the golf course could not handle this. Recreation could handle it right now, but the rates would have to be re-adjusted. Should it be included into the golf fund, the Town fee that goes into the operating budget would decrease. The golf fees are stretched right now due to the economy. This would put a greater strain on their budget. Selectman DeWitt would like to see the cost incorporated into all the enterprise funds and not just one. Selectman Benka added that the reason he identified Water and Sewer as opposed to recreation and the Golf Course is because of the magnitude of its budget. It is a much more substantial commitment within the Water and Sewer. The solid waste fee is something that could also be looked at should a pay as you throw program be adopted.

Selectman DeWitt asked Chairman Daly when she feels the OPEB Task Force's recommendation will be completed. Chairman Daly replied at the earliest two months, which is after Town Meeting. She added that the shocking figures in OPEB are due to the high cost of health insurance, which is higher than the actuary uses to formulate. It is predicted that in 2040 the entire operating budget would go to pay the post retirement health care cost if this is not addressed.

Selectman Allen stated that this is not something the Town has been ignoring. He remembers that the Town had returns of about 26% for about a ten year period. To say the entire operating budget in 2040 will be all OPEB is unrealistic. He is concerned with today and what people are dealing with today. Residents looking at an increase in their water bill, with an added cost to cover OPEB. He would like to see a public process to inform the residents of fee increases. He feels that there will be State action on this somewhere down the line.

Director of Water and Sewer Andy Pappastergion stated that the preliminary rate increases look to be at 3.1%. If he adds in fully funded OPEB it is at 5.25%. This does not include any potential revenue deficit for FY09. There are still two months left in the fiscal year. Right now the revenues are down 26% with two months left to go. This is substantial. He feels they will incur a revenue deficit for FY09 which will need to be made up in the next fiscal year. He will not have a better feel for the projections until the beginning of May 2009. Consumptions have been down consistently over the past year. The 5.25% could go up substantially if there is a revenue deficit. He wants to caution the Board on that.

Selectman DeWitt would like to see a plan in place. She does not like the idea of doing it piecemeal.

Selectman Mermell stated that she feels the time has come to stop procrastinating on this issue she agrees with Selectman DeWitt and would also like to see a broader plan established. She added that the water bill is a valid concern and would like to open opportunities to educate the residents on the situation.

**BUDGET WARRANT ARTICLE cont'd**

**Selectman Benka made the motion for the Water & Sewer budget to include Other Post Employment Benefits (OPEB) cost into the Water & Sewer rates, and put the amount into funding OPEB, at 100% of the cost.**

**On motion, it was,**

**VOTED: 2-3 Motion failed.**

**Benka Aye**

**Daly Aye**

**Allen No**

**DeWitt No**

**Mermell No**

**On motion, it was,**

**VOTED: 4-1 Selectman Benka against**

**To approve the budget for fiscal year 2010 set forth in the attached Tables I and II; to appropriate the amounts set forth for such fiscal year in the departments and expenditure object classifications within departments, as set forth in Tables I and II, subject to the following conditions; to raise all sums so appropriated, unless other funding is provided herein; and to establish the following authorizations:**

**1.) TRANSFERS AMONG APPROPRIATIONS:** Transfers between the total departmental appropriations separately set forth in Tables 1 and II shall be permitted by vote of Town Meeting or as otherwise provided by Massachusetts General Laws Chapter 44, Section 33B(b). Within each separate departmental appropriation, expenditures shall be restricted to the expenditure object classifications set forth in the recommendation of the Advisory Committee, and voted by the Town Meeting, for each department, subject to the following exceptions:

- A) Expenditures within the appropriation for the School Department shall not be restricted.
- B) The following transfers within the appropriations for each department (other than the School Department and the Library Department), shall be permitted only with the prior written approval of the Board of Selectmen and Advisory Committee:
  - i) Transfers from the appropriation for the capital outlay object classification to any other object classification.

- ii) Transfers to the appropriation for the personal services object classification from any other object classification.
  - iii) Any transfer which has the effect of increasing the number of positions or the compensation for any position, exclusive of adjustments in wages and benefits voted separately by Town Meeting.
  - iv) Within the Building Department appropriation, any transfer of more than \$10,000 to or from the repairs to public building appropriations, unless coming from or going to public building maintenance supplies.
  - v) Transfers within the Department of Public Works from the Parks Division to any other purpose.
  - vi) Transfers within the Department of Public Works from the Snow and Ice budget to any other purpose.
- C) Transfers within the Library Department appropriation shall be permitted with the approval of the Board of Library Trustees, and written notice of such approval shall be submitted promptly to the Advisory Committee, Town Administrator and Town Comptroller.
- D) All other transfers within the total appropriation for a particular department shall be permitted with the written approval of the Town Administrator, subject to review and approval of the Board of Selectmen, and upon the condition that written notice of each such approval shall be submitted promptly to the Advisory Committee and Town Comptroller.

**2.) PROCUREMENT CONTRACTS AND LEASES:** The Chief Procurement Officer is authorized to lease, or lease with an option to purchase, any equipment or capital item funded within the FY2010 budget, and to solicit and award contracts for terms of more than four years, provided that in each instance the longer term is determined to be in the best interest of the Town by a vote of the Board of Selectmen.

**3.) ALLOCATION OF SALARY ADJUSTMENTS:** Appropriations for salary and wage adjustments (Item #21) shall be transferred by the Town Comptroller to the various affected departments within (60) days from the beginning of the fiscal year, or in the absence of duly approved collective bargaining agreements, within (60) days of the approval of the collective bargaining agreements by Town Meeting. The Board of Selectmen shall determine the salaries, which may include merit adjustments, for employees not included in any collective bargaining agreement.

Should a balance remain after the Town Comptroller has made the transfers specified herein, said balance shall be transferred by the Town Comptroller to a budget line entitled Personnel Services Reserve (Item #20), which shall be used to fund costs incurred over the course of the fiscal year pursuant to employee contracts and/or established personnel policies. The Town Comptroller shall include an accounting of all transfers made from this reserve in the Annual Financial Report.

**4.) SALARIES OF ELECTED OFFICIALS:** The salaries of members of the Board of Selectmen shall be at the rate of \$3,500 per year for the Chairman and at the rate of \$2,500 per year for each of the other four members. The annual salary of the Town Clerk shall be at the rate of \$94,917 effective July 1, 2009, plus any adjustment approved by vote of the Board of Selectmen. The Town Clerk shall pay all fees received by the Town Clerk by virtue of his office into the Town treasury for Town use.

**5.) VACANT POSITIONS:** No appropriation for salaries, wages, or other compensation shall be expended for a position which has become vacant during the fiscal year unless the Board of Selectmen, at an official meeting, has determined that the filling of the vacancy is either essential to the proper operation of the Town or is required by law. This condition shall not apply to appropriations of the School Department.

**6.) GOLF ENTERPRISE FUND:** The following sums, totaling \$1,266,200 shall be appropriated into the Golf Enterprise Fund, and may be expended under the direction of the Park and Recreation Commission, for the operation of the Golf Course:

Salaries	\$435,107
Purchase of Services	\$177,242
Supplies	\$129,975
Other	\$4,100
Utilities	\$48,364
Capital	\$85,580
Debt Service	\$184,484
Reserve	<u>\$15,000</u>
Total Appropriations	\$1,079,851
Indirect Costs	<u>\$186,349</u>
Total Costs	\$1,266,200

Total costs of \$1,266,200 to be funded from golf receipts with \$186,349 to be reimbursed to the General Fund for indirect costs.

**7.) WATER AND SEWER ENTERPRISE FUND:** The following sums, totaling \$24,108,856, shall be appropriated into the Water and Sewer Enterprise Fund, and may be expended under the direction of the Commissioner of Public Works for the Water and Sewer purposes as voted below:

	W ater	Sewer	T otal
Salaries	1,975,724	280,233	2,255,956
Purchase of Services	102,968	186,326	289,294
Supplies	97,815	21,000	118,815
Other	6,400	0	6,400
Utilities	136,297	0	136,297
Capital	141,400	138,300	279,700
Intergovernmental	5,242,610	11,000,000	16,242,610
Debt Service	1,432,218	1,040,135	2,472,352
Reserve	107,689	130,417	238,106
Total Appropriations	9,243,120	12,796,410	22,039,530
Indirect Costs	<u>1,629,928</u>	<u>439,398</u>	<u>2,069,326</u>
Total Costs	10,873,048	13,235,808	24,108,856

Total costs of \$24,108,856 to be funded from water and sewer receipts with \$2,069,326 to be reimbursed to the General Fund for indirect costs.

**8.) REVOLVING FUNDS:**

- a.) The Park and Recreation Commission is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for special recreation programs and events. All receipts from said programs and events shall be credited to the fund. Annual expenditures from the fund shall not exceed \$2,000,000.
- b.) The Building Commissioner is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the repair and maintenance of the Town's rental properties, including all those listed in the vote under Article 13 of the Warrant for the 1999 Annual Town Meeting. All receipts from said rental properties shall be credited to the fund. Annual expenditures from the fund shall not exceed \$100,000.
- c.) The Commissioner of Public Works is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the construction and reconstruction, upkeep, maintenance, repair and improvement of sidewalks and walkways along public streets and ways over, across and through town owned property. Annual expenditures from the fund shall not exceed \$200,000.

- d.) The Director of Planning and Community Development is authorized to maintain and operate, under the provisions of General Laws Chapter 44, Section 53E1/2 and Chapter 79 of the Acts of 2005, a revolving fund for the Façade Improvement Loan Program. Annual expenditures from the fund shall not exceed \$30,000.

**9.) SCHOOLHOUSE MAINTENANCE AND REPAIR:** The sum of \$4,600,382, included within the Building Department appropriation for school building maintenance, shall be expended for School Plant repair and maintenance and not for any other purpose. The listing of work to be accomplished shall be established by the School Department. The feasibility and prioritization of the work to be accomplished under the school plant repair and maintenance budget shall be determined by the Superintendent of Schools and the Building Commissioner, or their designees.

**10.) SNOW AND ICE BUDGET:** The sum of \$368,127, included within the Department of Public Works appropriation for snow and ice operations, shall be expended for snow and ice operations and not for any other purpose, unless transferred per the provisions of Section 1.B.vi of this Article.

**11.) INTERFUND TRANSFERS:** In order to fund the appropriations voted for the various departments itemized on Table 1, the Town Comptroller is authorized to make the following interfund transfers:

Parking Meter Special Revenue Fund [to the Department of Public Works - \$1,275,000] [to the Police Department - \$1,275,000]	\$2,550,000
State Library Aid Special Revenue Fund [to the Library]	\$ 41,555
Cemetery Sales Special Revenue Fund [to the Department of Public Works]	\$ 50,000
Recreation Revolving Fund [to the General Fund for benefits reimbursement]	\$ 210,870

**12.) BUDGETARY REPORTING:** The Town Comptroller shall provide the Advisory Committee with a report on the budgetary condition of the Town as of September 30, December 31, March 31, and June 30, within 45 days of said dates. This financial report shall include a summary of the status of all annual and special appropriations voted in this article; a report on the status of all special appropriations voted in prior years which remain open at the reporting date; and a summary of the status of all revenues and inter-

fund transfers which have been estimated to finance the appropriations voted under this article.

**13.) SPECIAL APPROPRIATIONS:** The appropriations set forth as items 34 through 54, inclusive, in Table 1 shall be specially appropriated for the following purposes. In addition, with the exception of Item #54 and the bond component of Item #53, they shall be transferred from the General Fund to the Revenue-Financed Capital Fund.

- 34.) Raise and appropriate \$75,000, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen, for the costs associated with the removal of the pumphouse and transformer buildings near the intersection of Route 9 and Warren Street at the Brookline Reservoir.
- 35.) Raise and appropriate \$239,000, to be expended under the direction of the Chief Information Officer, with the approval of the Board of Selectmen, for the enhancement of town-wide hardware and software.
- 36.) Raise and appropriate \$350,000, to be expended under the direction of the Fire Chief, with the approval of the Board of Selectmen, for the refurbishment of Fire Engine #4.
- 37.) Appropriate \$1,000,000, to be expended under the direction of the Fire Chief, with the approval of the Board of Selectmen, for the purchase of a fire engine; to meet the appropriation raise \$475,000; transfer \$255,000 from the overlay surplus account to undesignated fund balance; transfer \$17,246 from the balance remaining in the appropriation voted under Article 9, Section 13, Item 65 of the 2002 Annual Town Meeting; transfer \$46,000 from the balance remaining in the appropriation voted under Article 11, Section 12, Item 50 of the 2003 Annual Town Meeting; transfer \$35,284 from the balance remaining in the appropriation voted under Article 7, Section 12, Item 64 of the 2005 Annual Town Meeting; transfer \$12,000 from the balance remaining in the appropriation voted under Article 7, Section 13, Item 59 of the 2006 Annual Town Meeting; transfer \$80,945 from the balance remaining in the appropriation voted under Article 7, Section 13, Item 66 of the 2006 Annual Town Meeting; and transfer \$79,000 from the balance remaining in the appropriation voted under Article 7, Section 13, Item 67 of the 2006 Annual Town Meeting.
- 38.) Raise and appropriate \$1,720,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the rehabilitation of streets.
- 39.) Raise and appropriate \$100,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for traffic calming studies and improvements; provided that the Department of Public Works and Transportation Board provide status reports to the Board of Selectmen on a semi-annual basis.



- 40.) Raise and appropriate \$256,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the rehabilitation of sidewalks.
- 41.) Appropriate \$60,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the purchase of multi-space parking meters; to meet the appropriation transfer \$60,000 from the balance remaining in the appropriation voted under Article 7, Section 12, Item 58 of the 2001 Annual Town Meeting.
- 42.) Raise and appropriate \$120,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the rehabilitation of Town-owned parking lots.
- 43.) Raise and appropriate \$260,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the renovation of playground equipment, fields, and fencing.
- 44.) Raise and appropriate \$120,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for the rehabilitation of Town and School grounds.
- 45.) Raise and appropriate \$150,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen and the Tree Planting Committee, for the removal and replacement of trees.
- 46.) Raise and appropriate \$25,000, to be expended under the direction of the Chief Procurement Officer, with the approval of the Board of Selectmen and the School Committee, for school furniture upgrades.
- 47.) Raise and appropriate \$50,000, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for removal of asbestos from Town and School buildings.
- 48.) Raise and appropriate \$50,000, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for ADA renovations to Town and School buildings.
- 49.) Raise and appropriate \$100,000, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for improvements to life safety systems and building security in Town and School facilities.

- 50.) Raise and appropriate \$105,572, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for energy conservation projects in Town and School buildings.
- 51.) Raise and appropriate \$100,000, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for upgrades to energy management systems.
- 52.) Appropriate \$625,000, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen, for roof repairs and replacements in Town and School facilities; to meet the appropriation raise \$125,000 and transfer \$500,000 from the balance remaining in the appropriation voted under Article 7, Section 13, Item 58 of the 2007 Annual Town Meeting.
- 53.) Raise and appropriate \$75,000, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen and the School Committee, for engineering or architectural services for plans and specifications for remodeling, reconstructing, or making extraordinary repairs to the auditorium at the Pierce School.
- 54.) Raise and appropriate \$400,000, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen and School Committee, for the expansion of classroom capacity in various schools; also, amend the language for portable classrooms, approved under Article 7, Section 13, Item 55 of the 2007 Annual Town Meeting, by adding after the words “for portable classrooms” the following: “and for the expansion of classroom capacity in various schools.”
- 55.) Appropriate \$3,280,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for costs and settlement of claims associated with the Newton Street Landfill; to meet the appropriation raise \$2,030,000 and transfer \$1,250,000 from the overlay surplus account to undesignated fund balance.
- 56.) Appropriate \$4,275,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for assessment and corrective action associated with the Newton Street Landfill, and to meet the appropriation, authorize the Treasurer, with the approval of the Board of Selectmen, to borrow \$4,275,000 under General Laws, Chapter 44, Section 8, Clauses 21 and 24 as amended, or pursuant to any other enabling authority; and authorize the Selectmen to apply for, accept, receive and expend grants, aid, reimbursements, loans and all other forms of funding and financial assistance from both state and federal sources and agencies for such purpose.
- 57.) Appropriate \$1,200,000, to be expended under the direction of the Building Commission, with the approval of the Board of Selectmen, for remodeling,

renovating, reconstruction or making extraordinary repairs to the garages located on the grounds of the Town Hall complex, including but not limited to the driveway areas between the Main Library and Town Hall, and to meet the appropriation, authorize the Treasurer, with the approval of the Board of Selectmen, to borrow \$1,200,000 under General Laws, Chapter 44, Section 7, Clause 3A as amended, or pursuant to any other enabling authority; and authorize the Selectmen to apply for, accept, receive and expend grants, aid, reimbursements, loans and all other forms of funding and financial assistance from both state and federal sources and agencies for such purpose.

**14.) FREE CASH:** Appropriate and transfer \$7,053,295 from free cash for the following purposes:

- a.) Reduce the tax rate (Special Appropriations) – \$5,151,351;
- b.) Operating Budget Reserve Fund (MGL Chapter 40, Section 6) – \$458,547;
- c.) Liability/Catastrophe Fund (Chapter 66 of the Acts of 1998, as amended) –
- d.) \$1,443,397.

FY10 BUDGET - TABLE 1

	FY07 ACTUAL	FY08 ACTUAL	FY09 BUDGET	FY10 BUDGET	\$\$ CHANGE FROM FY09	% CHANGE FROM FY09
<b>REVENUES</b>						
Property Taxes	128,871,387	133,849,950	147,273,069	152,552,834	5,279,765	3.6%
Local Receipts	23,281,093	24,524,074	20,475,664	20,217,125	(258,539)	-1.3%
State Aid	18,023,846	18,946,277	19,623,691	17,157,180	(2,466,511)	-12.6%
Free Cash	5,387,435	3,814,792	5,954,963	7,053,295	1,098,332	18.4%
Overlay Surplus	950,000	850,000	0	1,505,000	1,505,000	-
Other Available Funds	7,998,053	7,753,612	5,986,332	5,938,101	(48,232)	-0.8%
<b>TOTAL REVENUE</b>	<b>184,511,814</b>	<b>189,738,706</b>	<b>199,313,719</b>	<b>204,423,534</b>	<b>5,109,815</b>	<b>2.6%</b>
<b>EXPENDITURES</b>						
<b>DEPARTMENTAL EXPENDITURES</b>						
1 . Selectmen	583,148	622,009	615,989	600,160	(15,828)	-2.6%
2 . Human Resources	400,705	478,335	485,892	512,008	26,115	5.4%
3 . Information Technology	1,411,216	1,362,103	1,416,878	1,421,058	4,180	0.3%
4 . Finance Department	2,923,699	2,934,091	2,997,394	3,049,791	52,397	1.7%
5 . Legal Services	690,527	772,840	688,792	748,648	59,857	8.7%
6 . Advisory Committee	18,507	21,940	19,439	19,615	176	0.9%
7 . Town Clerk	551,363	525,170	577,007	480,094	(96,913)	-16.8%
8 . Planning and Community Development	663,106	644,375	715,849	627,081	(88,768)	-12.4%
9 . Police	13,708,009	13,636,806	14,724,421	14,381,212	(343,209)	-2.3%
10 . Fire	11,719,128	12,125,596	12,513,780	12,206,045	(307,735)	-2.5%
11 . Building	6,059,407	6,542,701	6,826,827	6,982,354	155,526	2.3%
(1) 12 . Public Works	12,309,177	13,178,799	12,913,639	12,879,990	(33,649)	-0.3%
<i>a. Administration</i>	860,631	868,055	902,881	910,739	7,858	0.9%
<i>b. Engineering/Transportation</i>	811,671	849,680	879,764	924,628	44,864	5.1%
<i>c. Highway</i>	4,597,800	4,723,284	4,893,195	4,767,067	(126,128)	-2.6%
<i>d. Sanitation</i>	2,785,605	2,870,421	2,726,872	2,816,942	90,070	3.3%
<i>e. Parks and Open Space</i>	2,670,725	2,694,138	3,143,199	3,092,487	(50,712)	-1.6%
<i>f. Snow and Ice</i>	582,745	1,173,221	367,729	368,127	399	0.1%
13 . Library	3,366,890	3,398,242	3,473,208	3,465,937	(7,270)	-0.2%
14 . Health	1,055,741	1,024,069	1,081,115	1,099,574	18,459	1.7%
15 . Veterans' Services	203,128	203,829	214,521	241,409	26,888	12.5%
16 . Council on Aging	718,469	746,900	778,480	762,772	(15,708)	-2.0%
17 . Human Relations	139,109	143,236	146,939	101,870	(45,069)	-30.7%
18 . Recreation	1,024,380	992,864	943,196	972,808	29,611	3.1%
(2) 19 . Energy Reserve	153,167	0	0	0	0	0%
(2) 20 . Personnel Services Reserve	1,416,017	750,000	1,282,281	750,000	(532,281)	-41.5%
(2) 21 . Collective Bargaining - Town	1,100,000	1,600,000	3,042,804	960,000	(2,082,804)	-68.5%
<i>Subtotal Town</i>	<i>57,545,709</i>	<i>59,353,905</i>	<i>62,413,647</i>	<i>62,262,426</i>	<i>(151,221)</i>	<i>-0.2%</i>
22 . Schools	60,671,696	62,924,864	68,021,240	68,974,271	953,031	1.4%
<b>TOTAL DEPARTMENTAL EXPENDITURES</b>	<b>118,217,405</b>	<b>122,278,769</b>	<b>130,436,887</b>	<b>131,236,696</b>	<b>799,810</b>	<b>0.6%</b>

In Board of Selectmen

April 14, 2009

Page 23 of 38

NON-DEPARTMENTAL EXPENDITURES							
(1)	23 . Employee Benefits	32,289,078	34,564,193	38,307,598	40,270,929	1,963,331	5.1%
(3)	a.) Pensions	10,129,853	11,256,221	11,651,618	12,293,565	641,947	5.5%
	b.) Group Health	19,011,273	19,855,771	23,084,980	24,245,364	1,160,384	5.0%
(3)	c.) Retiree Group Health Trust Fund	0	0	0	250,000	250,000	
	d.) Employee Assistance Program (EAP)	24,568	24,968	28,000	28,000	0	0.0%
	e.) Group Life	152,721	151,643	161,000	162,000	1,000	0.6%
	f.) Disability Insurance	0	12,813	16,000	16,000	0	0.0%
(3)	g.) Worker's Compensation	1,450,000	1,600,000	1,550,000	1,350,000	(200,000)	-12.9%
(3)	h.) Public Safety IOD Medical Expenses	245,000	250,000	300,000	300,000	0	0.0%
(3)	i.) Unemployment Compensation	125,000	166,000	166,000	166,000	0	0.0%
	j.) Medical Disabilities	16,643	15,718	30,000	30,000	0	0.0%
	k.) Medicare Coverage	1,134,020	1,231,059	1,320,000	1,430,000	110,000	8.3%
(2)	24 . Reserve Fund	603,861	774,834	1,746,546	1,834,186	87,640	5.0%
	25 . Stabilization Fund	22,248	0	0	0	0	-
	26 . Liability/Catastrophe Fund	225,039	254,629	297,476	1,443,397	1,145,921	385.2%
	27 . General Insurance	275,989	276,146	279,490	286,198	6,708	2.4%
	28 . Audit/Professional Services	196,148	99,433	138,987	138,987	0	0.0%
	29 . Contingency Fund	15,796	11,806	15,000	15,000	0	0.0%
	30 . Out-of-State Travel	2,260	1,979	3,000	3,000	0	0.0%
	31 . Printing of Warrants & Reports	16,805	14,487	20,000	20,000	0	0.0%
	32 . MMA Dues	11,389	10,959	11,532	11,820	288	2.5%
	Subtotal General	765,674	1,444,273	2,512,031	3,752,588	1,240,557	49.4%
(1)	33 . Borrowing	14,376,306	13,824,443	12,374,047	12,572,215	198,168	1.6%
	a. Funded Debt - Principal	9,696,587	9,432,797	8,218,816	8,536,243	317,427	3.9%
	b. Funded Debt - Interest	4,582,344	4,354,324	3,978,698	3,686,572	(292,126)	-7.3%
	c. Bond Anticipation Notes	55,593	0	116,533	289,400	172,867	148.3%
	d. Abatement Interest and Refunds	41,782	37,322	60,000	60,000	0	0.0%
	<b>TOTAL NON-DEPARTMENTAL EXPENDITURES</b>	<b>47,431,058</b>	<b>49,832,909</b>	<b>53,193,676</b>	<b>56,595,732</b>	<b>3,402,057</b>	<b>6.4%</b>
	<b>TOTAL GENERAL APPROPRIATIONS</b>	<b>165,648,463</b>	<b>172,111,678</b>	<b>183,630,562</b>	<b>187,832,429</b>	<b>4,201,866</b>	<b>2.3%</b>

SPECIAL APPROPRIATIONS								
	34 . Reservoir Buildings (revenue financed)				75,000			
	35 . Technology Applications (revenue financed)				239,000			
	36 . Fire Apparatus Rehab (revenue financed)				350,000			
	37 . Fire Engine (\$475,000 = revenue financed, \$255,000 = overlay surplus, \$270,000 = capital project surplus)				1,000,000			
	38 . Street Rehabilitation (revenue financed)				1,720,000			
	39 . Traffic Calming Studies and Improvements (revenue financed)				100,000			
	40 . Sidewalk Repair/Reconstruction (revenue financed)				256,000			
	41 . Parking Meter System Replacement (capital project surplus)				60,000			
	42 . Parking Lot Rehabilitation (revenue financed)				120,000			
	43 . Playground Equipment, Fields, Fencing (revenue financed)				260,000			
	44 . Town/School Grounds Rehab (revenue financed)				120,000			
	45 . Tree Removal and Replacement (revenue financed)				150,000			
	46 . School Furniture Upgrades (revenue financed)				25,000			
	47 . Town/School Asbestos Removal (revenue financed)				50,000			
	48 . Town/School ADA Renovations (revenue financed)				50,000			
	49 . Town/School Building Security / Life Safety (revenue financed)				100,000			
	50 . Town/School Energy Conservation Projects (revenue financed)				105,572			
	51 . Town/School Energy Management System (revenue financed)				100,000			
	52 . Town/School Roof Repair - Replacement (\$125,000 = revenue financed, \$500,000 = capital project surplus)				625,000			
	53 . Pierce School Auditorium - Design (revenue financed)				75,000			
	54 . Classroom Capacity (revenue financed)				400,000			
	55 . Newton St. Landfill Settlement (\$1,250,000 = overlay surplus, \$2,030,000 = revenue financed)				3,280,000			
	56 . Newton St. Landfill - Corrective Action (bond)				4,275,000			
	57 . Town Hall / Main Library Garage Repair & Driveway Improvements (bond)				1,200,000			
	<b>TOTAL SPECIAL APPROPRIATIONS</b>	<b>7,874,562</b>	<b>5,928,000</b>	<b>8,575,746</b>	<b>9,260,572</b>	<b>684,826</b>	<b>8.0%</b>	
	<b>TOTAL APPROPRIATED EXPENDITURES</b>	<b>173,523,025</b>	<b>178,039,678</b>	<b>192,206,308</b>	<b>197,093,001</b>	<b>4,886,692</b>	<b>2.5%</b>	
	<b>NON-APPROPRIATED EXPENDITURES</b>							
	Cherry Sheet Offsets	117,738	120,749	122,866	112,111	(10,755)	-8.8%	
	State & County Charges	5,375,086	5,410,405	5,424,518	5,543,424	118,906	2.2%	
	Overlay	1,451,262	1,858,148	1,535,026	1,650,000	114,974	7.5%	
	Deficits-Judgments-Tax Titles	0	0	25,000	25,000	0	0.0%	
	<b>TOTAL NON-APPROPRIATED EXPEND.</b>	<b>6,944,086</b>	<b>7,389,302</b>	<b>7,107,410</b>	<b>7,330,535</b>	<b>223,125</b>	<b>3.1%</b>	
	<b>TOTAL EXPENDITURES</b>	<b>180,467,111</b>	<b>185,428,981</b>	<b>199,313,719</b>	<b>204,423,535</b>	<b>5,109,815</b>	<b>2.6%</b>	
	<b>SURPLUS/(DEFICIT)</b>	<b>4,044,703</b>	<b>4,309,725</b>	<b>0</b>	<b>0</b>			

(1) Breakdown provided for informational purposes.

(2) Figures provided for informational purposes. Funds were transferred to departmental budgets for expenditure.

(3) Funds are transferred to trust funds for expenditure.

(4) Amounts appropriated. Bonded appropriations are not included in the total amount, as the debt and interest costs associated with them are funded in the Borrowing category (item #33).

In Board of Selectmen

April 14, 2009

Page 24 of 38

FY10 BUDGET - TABLE 2

Department/Board/Commission	Personnel Services	Purchase of Services	Supplies	Other Charges/Expenses	Utilities	Capital Outlay	Inter-Gov'tal	Snow & Ice	Debt Service	Personnel Benefits	Agency Total
Board of Selectmen (Town Administrator)	578,497	7,463	4,500	6,400		3,300					600,160
Human Resources Department (Human Resources Director)	256,646	228,587	8,500	15,900		2,375					512,008
Information Technology Department (Chief Information Officer)	864,971	490,432	23,336	27,550		15,769					1,421,058
Finance Department (Director of Finance)	1,886,930	1,088,839	39,502	17,783	1,011	15,727					3,049,791
Legal Services (Town Council)	511,541	126,442	2,200	104,700		3,768					748,648
Advisory Committee (Chair, Advisory Committee)	17,247	36	1,275	570		487					19,615
Town Clerk (Town Clerk)	398,974	67,270	9,000	1,600		3,251					480,094
Planning and Community Department (Plan. & Com. Dev. Dir.)	588,793	16,817	9,432	4,513		7,525					627,081
Police Department (Police Chief)	13,083,437	334,845	224,103	53,000	324,357	361,470					14,381,212
Fire Department (Fire Chief)	11,609,007	95,284	119,500	25,125	230,486	126,643					12,206,045
Public Buildings Department (Building Commissioner)	1,911,243	1,851,968	127,770	5,800	3,056,685	28,887					6,982,354
Public Works Department (Commissioner of Public Works)	7,184,246	2,902,776	625,972	35,150	1,043,719	700,000	20,000	368,127			12,879,991
Public Library Department (Library Board of Trustees)	2,482,871	141,702	503,454	4,502	281,307	52,101					3,465,937
Health Department (Health Director)	756,548	255,518	14,570	4,120	40,817	28,000					1,099,574
Veterans' Services (Veterans' Services Director)	121,116	2,718	650	116,200		725					241,409
Council on Aging (Council on Aging Director)	601,207	58,282	18,825	5,300	70,258	8,900					762,772
Human Relations/Youth Resources (Human Relations Dir.)	96,017	1,807	2,800	450		796					101,870
Recreation Department (Recreation Director)	678,334	89,179	40,703	2,400	131,312	30,880					972,808
School Department (School Committee)											68,974,271
<b>Total Departmental Budgets</b>	<b>43,627,626</b>	<b>7,759,964</b>	<b>1,775,092</b>	<b>431,063</b>	<b>5,179,952</b>	<b>1,390,601</b>	<b>20,000</b>	<b>368,127</b>			<b>129,536,700</b>
<b>DEBT SERVICE</b>											
Debt Service (Director of Finance)									12,572,215		12,572,215
<b>Total Debt Service:</b>									<b>12,572,215</b>		<b>12,572,215</b>
<b>EMPLOYEE BENEFITS</b>											
Contributory Pensions Contribution (Director of Finance)										12,063,565	12,063,565
Non-Contributory Pensions Contribution (Director of Finance)										230,000	230,000
Group Health Insurance (Human Resources Director)										24,245,364	24,245,364
Retiree Group Health Insurance - OPEB's (Director of Finance)										250,000	250,000
Employee Assistance Program (Human Resources Director)										28,000	28,000
Group Life Insurance (Human Resources Director)										162,000	162,000
Disability Insurance										16,000	16,000
Workers' Compensation (Human Resources Director)										1,350,000	1,350,000
Public Safety IOD Medical Expenses (Human Resources Director)										300,000	300,000
Unemployment Insurance (Human Resources Director)										166,000	166,000
Ch. 41, Sec. 100B Medical Benefits (Town Counsel)										30,000	30,000
Medicare Payroll Tax (Director of Finance)										1,430,000	1,430,000
<b>Total Employee Benefits:</b>										<b>40,270,929</b>	<b>40,270,929</b>
<b>GENERAL / UNCLASSIFIED</b>											
Reserve Fund (*) (Chair, Advisory Committee)				1,834,186							1,834,186
Liability/Catastrophe Fund (Director of Finance)				1,443,297							1,443,297
General Insurance (Town Administrator)		286,198									286,198
Audit/Professional Services (Director of Finance)		138,987									138,987
Contingency (Town Administrator)				15,000							15,000
Out of State Travel (*) (Town Administrator)		3,000									3,000
Printing of Warrants (Town Administrator)		10,000	10,000								20,000
MMA Dues (Town Administrator)					11,820						11,820
Town Salary Reserve (*) (Director of Finance)	960,000										960,000
Personnel Services Reserve (*) (Director of Finance)	750,000										750,000
<b>Total General / Unclassified:</b>	<b>1,710,000</b>	<b>438,185</b>	<b>10,000</b>	<b>3,304,403</b>							<b>5,462,588</b>
<b>TOTAL APPROPRIATIONS</b>	<b>45,337,626</b>	<b>8,198,149</b>	<b>1,785,092</b>	<b>3,735,467</b>	<b>5,179,952</b>	<b>1,390,601</b>	<b>20,000</b>	<b>368,127</b>	<b>12,572,215</b>	<b>40,270,929</b>	<b>187,832,428</b>

(\*) NO EXPENDITURES AUTHORIZED DIRECTLY AGAINST THESE APPROPRIATIONS. FUNDS TO BE TRANSFERRED AND EXPENDED IN APPROPRIATE DEPT.

**HOME FUNDS**

**Public Hearing to discuss and vote on the following Reprogramming of HOME Investment Partnerships Program Funds.**

**The reprogramming of \$140,447.14 from Fiscal Year 2008 (Federal Fiscal Year 2007) Affordable Housing Development Pool to:**

**Fiscal Year 2008 (Federal Fiscal Year 2007) CHDO Operating Expenses:  
\$ 24,000**

**Fiscal Year 2009 (Federal Fiscal Year 2008) Homebuyer Assistance Program: \$116,447.14**

**The reprogramming of \$238,543 from Fiscal Year 2009 (Federal Fiscal Year 2008) Affordable Housing Development Pool to:**

**Fiscal Year 2009 (Federal Fiscal Year 2008) Homebuyer Assistance Program**

**Housing Division Manager Fran Price stated that each year the Town provides its HOME budget for inclusion in the WestMetro HOME Consortium's HUD one year action plan. The budget is our best guess about how to commit such funds over the next two to three years. The funds are usually parked in the affordable housing pool before they are allocated.**

**Selectman Benka asked if this transfer would drain the affordable housing account. Ms. Price replied yes, this will close out the Affordable Housing FY08 account. The Town is obligated to commit these funds, or return the funds to other communities within the consortium.**

**On motion, it was unanimously,**

**VOTED: To approve the following Reprogramming of HOME Investment Partnerships Program Funds:**

**The reprogramming of \$140,447.14 from Fiscal Year 2008 (Federal Fiscal Year 2007) Affordable Housing Development Pool to:**

**Fiscal Year 2008 (Federal Fiscal Year 2007) CHDO Operating Expenses:  
\$ 24,000**

**Fiscal Year 2009 (Federal Fiscal Year 2008) Homebuyer Assistance Program: \$116,447.14**

**The reprogramming of \$238,543 from Fiscal Year 2009 (Federal Fiscal Year 2008) Affordable Housing Development Pool to:**

**Fiscal Year 2009 (Federal Fiscal Year 2008) Homebuyer Assistance Program.**

**WARRANT ARTICLES**

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

<b><u>NO.</u></b>	<b><u>TITLE</u></b>
<b>15.</b>	<b>Planning Board Membership (Mattison)</b>

**WARRANT ARTICLES cont'd**

**Petitioner Hugh Mattison reviewed his explanation:**

**The purpose of this warrant article is to insert language which will expand the Planning Board by adding two members, and by requiring that at least one member have relevant and significant training in urban planning.**

**Background**

**Brookline's current Planning Board consists of five members appointed by the Board of Selectmen to serve five-year staggered terms. There are no specific qualifications. Their duties are specified in Mass. General Laws Chapter 41, Section 70 as making "careful studies of the resources, possibilities and needs of the town....and make plans for the development of the municipality, with special reference to proper housing of its inhabitants."**

**In Brookline, the Planning Board is specifically charged with developing the Comprehensive Plan, implementing subdivision regulations, reviewing Board of Appeals cases, reviewing matters and cases dealing with the zoning by-law, open-space planning and preservation, and review of facades and signs.**

**Mass. General Laws Chapter 41, Section 81A permits a size of five to nine members, either elected, or appointed by the Board of Selectmen. A survey of 48 municipalities in the Greater Boston Area shows that 56% are appointed, and these tend to be concentrated in the more populous communities around the core city. Thirty-one of the 48, or 65%, have 5 members. Others have 6 to 9 members, with some having alternates.**

**Chairman Daly questioned whether this should be a decision of the Committee on Town Organization and Structure (CTOS). Mr. Mattison replied that he feels action is needed now. Chairman Daly stated that there is difficulty filling this Board because if they have work in Brookline it is a conflict of interest. Mr. Mattison replied that he feels there would be no shortage of applicants.**

**Selectman Allen added that the staff already has urban planners on board. He asked what the additional need for an urban planner is, and what the Planning Board feels about it. Director of Planning & Community Development Jeff Levine replied that the Planning Board did not hold a public meeting on this. He added that two of the five members hold master degrees in urban planning or certification. He feels this qualification is already met. Mr. Levine feels that two alternates may help with the workload, the main issue is scheduling. Selectman Allen added that seven members may slow things down.**

**Selectman DeWitt stated that this is a hard working Board, they are often selected to sit on sub-committees as well as their own Board. Some relief may be**

**helpful. She would like to hear from the CTOS, who studied the Planning Board for a warrant article several years ago.**

**Selectman Benka asked what the State Statue on this is. Mr. Mattison replied that the State is silent on this.**

**There was no vote on Article 15.**

<u>NO.</u>	<u>TITLE</u>
17.	Zoning – Day Care Facilities (Planning)

**Director of Planning & Community Development Jeff Levine reviewed the explanation:**

**Prior to the fall of 2008, the Town of Brookline permitted “family day care homes” provided that the number of children did not exceed 6. At the same time, the state permitted family day care facilities with up to 10 children under certain conditions. A warrant article was proposed for the Special Town Meeting in 2008 that would permit these “large family day care homes” in certain zones by right and in others by Special Permit. This amendment allowed the several large family day care facilities in Town, most of which have been operating without issues, to come to the Town for legalization. However, due to concerns that this might not be the best approach to regulating large family day care facilities, and also due to the fact that the state was in the process of amending its own regulations related to these facilities, this amendment will sunset in June of 2010.**

**The Zoning By-law Committee (ZBL) met several times since the fall of 2008 to discuss this issue. First, it looked at some basic issues related to regulating large family day care homes. Next, it delineated the basic issues that would need to be addressed in any final zoning language. Finally, it reviewed and commented on a staff draft of revised zoning language. At its February meeting, it recommended unanimously to submit this proposal.**

**This proposed language would:**

- Clarify that such facilities are accessory uses, and therefore are limited in size and scale;
- Update the terminology to bring it in line with the new state regulations;
- Provide the Building Commissioner with clear submission requirements and allow him/her some discretion with respect to whether the smaller facilities can meet basic requirements that protect neighbors from impacts;



In Board of Selectmen

April 14, 2009

Page 28 of 38

- Require Special Permits for Large Family Child Care Homes in residential districts, with a set of criteria to be used by the Board of Appeals in reviewing these facilities.
- Make other clarifications, such as stating that children who live in the building must also count towards the total number of children served.

**There was discussion at the ZBL Committee about the possibility of only allowing one facility by right on each parcel, and requiring that any second or third such facilities receive Special Permits, at least in S, T and F zones. There were concerns, however, about whether these different treatments might raise legal and fairness concerns. In the end, it was felt that the discretion given to the Building**

**Commissioner to reject applications for facilities when they are not appropriate could accomplish the same goal without raising legal issues.**

**If approved, this language would require that several existing facilities come to the Board of Appeals for Special Permits. Other smaller facilities would continue to be able to operate by right provided they continue to meet these requirements.**

**Laurie Lasky, Greenough Circle stated that she has operated a daycare at her home for 18 years. It is one of the first larger daycares in the community. She has some concerns in the language of the Article about the number of employees, square footage, and abutters. Ms. Laskey noted that Massachusetts is the most highly regulated daycare State in the nation. She hopes that the daycare providers will be included in the process. Chairman Daly replied that quality daycare is important to the Town, and that Mr. Levine will have a conversation with the providers.**

**Selectman Benka acknowledged the square footage and the staff issue as written in the language. It is unclear on the two employees; is it two at one time? Mr. Levine replied that as written it is shall not have more than two employees. This needs more conversation. If the operational need is for more than two employees it needs to be addressed.**

**Selectman DeWitt stated that a large family daycare is a business and can be intrusive with the number of times people come and go especially if in a residential neighborhood. It has implications on a neighbor that did not sign up for this. The neighborhoods concerns need fair consideration.**

**Selectman Benka added that under State law the Town cannot restrict small daycares, but can with the larger daycares.**

**Selectman Allen added that all the parties involved need to get together to discuss this Article.**

**There was no vote on Article 17.**

**WARRANT ARTICLES**

<b><u>NO.</u></b>	<b><u>TITLE</u></b>
18.	Zoning – Accessory Dwelling Units (HAB)

**Roger Blood Chair of the Housing Advisory Board reviewed the following explanation:**

**An accessory dwelling unit (“ADU”) is a self-contained or segregated space within a single family home, comprised of a kitchen, bathroom and living/sleeping area and subject to size, design, ownership, and use restrictions. This Article limits ADU’s to single family homes located in zones S-10, S-15, S-25 and S-40, and on parcels of 10,000 square feet or greater. The principal residence or the ADU must be owner-occupied, the ADU can be no greater than 700 square feet or 30 percent of the home’s total habitable space, whichever is less, and it can have no more than one bedroom. Parking must be provided or otherwise proven adequate. The house must continue to appear as a single family home and can have only one set of metered utilities.**

**All ADU’s would require a Special Permit that would be recorded, would set forth all applicable restrictions, and would include a special certification of owner-occupancy. Based upon the many specific restrictions included in the article and the fact that the ADU permit is subject to expiration, a single family home containing an authorized ADU would be very different than a two family home.**

**The map on the following page shows single family areas zoned as S-10, S15, S-25 and S-40. There are just under 1,300 properties in these areas which would meet baseline thresholds of minimum lot size and owner occupancy.**

**Consistent with the Town’s Comprehensive Plan, which favored meeting the Town’s affordable housing goals through use of the existing housing stock over new development, the Housing Advisory Board has been urged on several occasions over the years -- by members, Town officials and citizens -- to look at accessory dwelling units as a possible way to increase the Town’s inventory of affordable housing units, After doing so, the HAB concluded, that an ADU “Affordable Housing Program” requiring single family home owners to voluntarily deed restrict their homes and meet program requirements for tenant selection, limits on income and rents and annual reporting would not be successful.**

**However, at the same time the HAB became aware of the growing popularity of ADU’s in urban, suburban and rural communities, both in Massachusetts and nationwide. This trend is mainly a result of households becoming smaller, the**

**continued aging of our population, and more inclusive definitions of “family”. The AARP has reported very favorable research on accessory dwelling units, the Commonwealth has developed a model ADU bylaw, and many of our neighboring communities now permit ADU’s.**

**A brief mail survey conducted by the HAB in April of 2008 produced 190 responses that were more favorable than unfavorable by about a two-to-one margin. However, most respondents’ replies were conditioned upon knowing more specifics, and many of those who replied expressed concern about possible issues, mainly relating to parking and density.**

**A review of numerous Greater Boston area communities that have adopted zoning provisions permitting ADU’s indicates on the one hand significant variations in specific provisions and, on the other hand, remarkable uniformity in the overall volume of resulting activity, which has been low everywhere. The HAB has found no evidence that these communities have experienced any adverse neighborhood effects.**

**The HAB sees ADU’s as one component of a strategy that encourages a diversity of housing types to serve many legitimate social, economic and housing needs of our diverse Brookline citizenry.**

**In particular, ADU’s are seen as potentially helpful to:**

- young families or single working parents seeking stable childcare options;**
- middle-aged parents helping adult children to become independent;**
- frequent travelers, or retirees who winter in warmer climate, concerned about leaving homes unattended;**
- elderly homeowners seeking to remain in homes, while needing personal assistance/ companionship;**
- families seeking to care for older parents while maintaining independence for both;**
- families with disabled members seeking stable and convenient options for in-house care;**
- homeowners of all ages struggling to pay costs;**
- renters seeking more lower-cost living options.**

**In summary, the HAB believes that this Article will enable Brookline to provide a way for some homeowners to reduce their own housing (or other life) costs and/or for the occupants of ADU’s to live more economically, increasing affordability in general without public cost or further new development. And ADU’s also offer greater safety by providing a legal alternative to illegal units which complies with all fire and safety codes, and would allow some existing illegal units to be brought into compliance.**

**WARRANT ARTICLES cont'd**

**Mr. Blood reiterated that this is not affordable housing.**

**Selectman DeWitt expressed concerns that this will allow single family homes to convert to two family homes in single family districts. Mr. Blood replied that it could not be a two family because it is restricted by size, he added that a single family owner would not want to deed restrict their home.**

**Selectman Mermell asked about ADA compliance. Mr. Blood replied that it did not come up, they are not intended as rental housing.**

**Selectman Allen added that this would be beneficial as au pair quarters, and seniors to live independently with their families. Selectman Benka added that it would allow seniors to house occupants in exchange for household chores.**

**The Board discussed the issue of illegal dwellings that exist now. Would this deter this unsafe practice and allow dwellings to be within compliance.**

**There was no vote on Article 18.**

<b><u>NO.</u></b>	<b><u>TITLE</u></b>
<b>19.</b>	<b>Zoning – Off-Street Parking (Planning)</b>

**Planning & Community Development Director Jeff Levine reviewed the following explanation:**

**The Zoning By-law currently contains a section that allows a commercial property to seek a Special Permit for relief of any new or increased requirement for 6 or less parking spaces, in many cases. This section had long been interpreted to permit many commercial uses to seek relief for up to 6 parking spaces by Special Permit, even if the overall parking need of the use was more than 6 spaces. For example, a new building needing 20 parking spaces could apply for a Special Permit to only provide 14 spaces.**

**Last fall a zoning amendment was proposed, at the request of the Zoning By-law Committee, to codify this practice. Town Meeting did not approve this amendment, but expressed sympathy for existing commercial spaces that have increased parking requirements due to bringing in a new use.**

The Zoning By-law Committee discussed this issue at several meetings over the winter, and decided that the current language in the Zoning Bylaw is a good start, but should be changed in 2 ways:

- The relief should only be permitted for uses that are primarily in *existing* buildings; and
- The relief in those circumstances should not arbitrarily be limited to 6 spaces.

This new language would permit flexibility in existing commercial spaces to seek new tenants without requiring a Variance for parking, which is much more difficult to grant than a Special Permit. This flexibility will encourage adaptive reuse of existing commercial spaces in the Town.

Mr. Levine added that there is concern that this would be two open ended. Recent discussions recommend a cap of up to 10 additional spaces or 50% increase, whichever is greater by special permit. This would allow greater relief than what currently exist.

A discussion on the property use and type ensued. The language is drafted to provide relief for increased requirements only because the prior requirements, even if they are not actually met, are credited to the building. What happens to a parking space credit if the space is divided up? The parking credit would have to be divided as well, by the Building Commissioner. It gets complicated if the occupants don't go in at the same time. If the space is vacant for two years, the credit may be extinguished, also as per the judgment of the Building Commissioner.

There was no vote on Article 19.

<u>NO.</u>	<u>TITLE</u>
20.	Zoning – Outdoor Seating and Parking (Planning)

Director of Planning & Community Development Jeff Levine reviewed the explanation:

The Building Commissioner has traditionally allowed restaurants and other eating and drinking establishments a great deal of leeway in providing outdoor seating without providing additional parking spaces. However, the current Building Commissioner has expressed concern that this flexibility is not necessarily supported by the existing language in the Zoning By-law. There is explicit language providing flexibility in cases where the outdoor seating is very small - 15% of the

**number of seats of the indoor seating area. In most cases the outdoor seating area is larger.**

**The Zoning By-law Committee discussed this issue and voted to submit this proposed zoning amendment. There was discussion at the Committee about placing a cap on the number of outdoor seats in proportion to the indoor seats. However, Committee members pointed out that the Board of Selectmen issue licenses for seasonal outdoor seating, which would not have to be renewed if there were issues related to parking. For this reason, the Committee recommends not having a zoning cap on the number of seasonal outdoor seats exempt from parking requirements.**

**Mr. Levine stated that in past practice if an establishment asked for ten seasonal outdoor seating, they took out ten indoor seats to comply with the parking regulations. This would exempt any seasonal outdoor seating from additional parking requirements.**

**Chairman Daly added that during the nice weather people tend to walk more and do not need a parking space.**

**Selectman Allen added that this Article was non-controversial at the Zoning By-Law Committee meeting.**

**On motion, it was unanimously,**

**VOTED: Favorable Action on Article 20.**

<u>NO.</u>	<u>TITLE</u>
21.	Legislation Exempting Non-Public Safety Employees From Civil Service. (Human Resources Board)

**Chair of the Human Resources Board Ken Kurnos and Board member Ed Deangelo reviewed the following explanation:**

**In November 2002, Town Meeting, with the support of the Board of Selectmen and Advisory Committee, charged the Human Resources Board with the task of “summarize[ing] the status of the civil service as it pertains to the employees of the Town of Brookline, and report and recommend any changes or modifications as deemed appropriate for Town Meeting action.” In response, the Human Resources Board undertook an investigation of civil service in Brookline. This was the second time in recent years that Town Meeting has commissioned a study of civil service, a law which dates from 1882.**

**Over the course of three years, the Board interviewed town managers and union leaders, personnel from the state's Human Resources Division, and others knowledgeable in the operation of civil service in Brookline and Massachusetts. We looked at the historic rationale for the 1882 law and how it operates today in Brookline as well as in other communities. We looked at civil service in other states and read available studies on the subject. Finally, we conducted a public hearing to which all employees, managers, Selectmen, Advisory Committee members, and Town Meeting Members were invited.**

**As our investigation unfolded, we found in both the Labor Service and Official Service sectors of civil service, a system that is dysfunctional in the extreme, with one exception – Public Safety (Police Officers and Firefighters).**

**The system for hiring Labor Service (blue collar) employees, unfortunately, is illogical, counterproductive and has nothing to recommend it. There is no testing for Labor Service jobs. To get on a civil service hiring list, a person only needs to be signed up on a list at Town Hall and present with minimum qualifications. When an opening eventually occurs, the Town must contact and interview the individuals at the top of this list, no matter how long ago they were signed up and even if there are more qualified applicants available. Most qualified job-seekers do not even know about the existence of this list, and, in any case, would not be willing to wait, often for years, for their names to come up for an interview and consideration for a job. This system does not rank people by their abilities or qualifications. Rather, this first come-first served system rewards people who know how the civil service "system" works - the opposite of what a merit-based approach to hiring should accomplish. In the case of Labor Service, the system is inefficient, encourages mediocrity by setting unnecessarily low standards for hiring and tends to narrow the applicant pool through its arcane method of determining who is eligible to be considered for jobs.**

**The centerpiece of the civil service system for hiring Official Service (white collar) employees has been standardized examinations given by the state. The exams were meant to set an unbiased standard for state and municipal hiring decisions. However, for the past 20 years, Massachusetts has not given examinations on a regular basis for any civil service job categories other than Police and Fire. As a result, the Town can fill other Official Service positions only with so-called "provisional" employees. A provisional employee does not have civil service tenure and, if a test is ever given for that job category, the provisional employee may compete but, if not the high scorer, must be replaced with the high scorer on the test - even if the "provisional" employee has been an excellent employee for many years. In addition, even though the town is hiring a "provisional" employee, the town must still go through all of the same paperwork it would go through had an examination been given for this position and the employee was within civil service. This costs the town significant time and effort while serving no purpose.**

**The one exception to this broken down, non-operational system with respect to Official Service is in the Public Safety sector. For prospective Police Officers and Firefighters, tests are still administered by the state on a regular basis. Both management and employees believe the current hiring protocol for Police Officers and Firefighters is workable. Both acknowledge the system may not be perfect, but an alternative, more efficient system is not available. The Board agrees with this assessment for this one sector of Official Service.**

**In addition to hiring protections, civil service was meant to protect workers from unjust firing and discipline. However, our investigation revealed that since the enactment of civil service, there has been enactment of a broad array of specific federal and state laws and the institution of collective bargaining rights which have, in our view, rendered the protections contained within civil service law redundant. While it was abundantly clear from the public hearing we conducted in January 2006 that those employees in attendance see it differently, we were not persuaded that any perceived incremental benefit warranted retaining this anachronistic, broken-down system.**

**In fact, a review of civil service complaints by Town employees with respect to discipline including terminations reveals that since 2000, very few complaints have been filed with the Civil Service Commission by town employees. Rather, employees and their union representatives have overwhelmingly selected to challenge discipline through the fair and efficient bargained-for grievance process (early on an election must be made between the grievance process and civil service). Of the few who selected civil service over the grievance process, most of these cases were either dismissed by the Commission or withdrawn by the employee. Importantly, of those that have gone to full hearing, years have passed without decision. In one case, the Commissioner who heard the appeal was not reappointed requiring another evidentiary hearing. Although a number of years have passed, no hearing has even been scheduled.**

**The system is completely broken down, taking years just to come to hearing and then years more for a decision, if one is ever reached. The grievance/arbitration process on the other hand produces results within a year even if taken to a full arbitration hearing. It is unfair to the employees and to the town to have uncertainty with respect to such important issues for years on end.**

**After careful review and consideration, the Board has concluded that: (1) Labor Service and Official Service hiring through the civil service system (except for Police Officers and Firefighters) are inefficient, uneconomic, obsolete and operate contrary to the intent of civil service law; (2) Protections offered under civil service have been supplanted by federal and state law and collective bargaining and are, therefore, redundant and anachronistic; and (3) Public Safety (Police Officers and Firefighters) hiring/firing still works as intended under civil service law.**



**Before making the recommendation we make in this warrant article on how best to address the ills of civil service in Brookline, we looked at possible “fixes” or alternative systems (including those already tried by other cities and towns).**

**Ultimately, we concluded that an alternative “system” is both unnecessary - as it has been supplanted by numerous federal and state laws and collective bargaining - and is uneconomic in the extreme in today’s world. Attempting to repair or supplant a system that is broken, but unnecessary, makes no sense.**

**Whatever perceptions Town Meeting Members may have about the concept of civil service, the reality with which we are confronted every day is a system which handcuffs both the town and its employees. Remember, for current civil service employees, they will remain covered by civil service. If passed by Town Meeting and subsequently, by the state legislature, this change will affect only new hires. In these very difficult economic times where our town’s departments are being asked to do more with less, it would be irresponsible stewardship for us to recommend that the town continue to follow a failed system which is unfair to the town and employees alike.**

**It is with a clear understanding of the political sensitivity of our judgment with respect to how best to address the problems created by this antiquated, dysfunctional but firmly entrenched system, that the Human Resources Board recommends that Town Meeting vote to petition the state legislature to release Brookline from the civil service system for all positions except those of Police Officers and Firefighters, regardless of rank.**

**Joe Geary, Union President local 1358 stated that for the last sixteen years, the civil service system has been not working as it should be. There have been no exams. Mr. Geary added that the Governor Patrick is committed to bring back civil service the way it was designed. Without civil service, Department Heads could hire who they want, friends, relatives and so forth. Civil service was designed to prevent this. The labor force is just what it is, a labor force. Job descriptions have helped; applicants still need to meet the minimal requirements. For disciplinary actions civil service requires \$20 while arbitration could cost thousands. He is opposed to Article 21.**

**Selectman DeWitt asked if the list is diversified. Mr. Deangelo replied that the list is first come first serve. Mr. Geary stated that the civil service has addressed minorities.**

**Selectman Benka asked how often civil service is used for disciplinary issues. Mr. Geary replied that an arbitrator is within their contract. Mr. Kurnos replied in the last 9-10 years maybe 10-11 cases filed, most have been dismissed or still pending. Arbitration is usually resolved within 6-8onths. Mr. Geary added that it depends on the case, if it is a civil service violation they go there. Director of Human Resources Sandra DeBow stated that the union uses it as a tool. The unions do a**

In Board of Selectmen

April 14, 2009

Page 37 of 38

**great job of representing its members. Civil service is an individual right, but the union has been providing the support. Civil service has been dismantled, it needs funding, and if that is done, the test would need to be revised, the job descriptions are not the same as they were years ago.**

**Selectman DeWitt asked about existing provisional employees. Could a provisional employee get bumped by someone who took the exam? Mr. Geary replied that existing provisional employees would become permanent. Going forward, depending on the exam score, they could get bumped.**

**Mr. Kurnos stated that the Town has its own testing. Many tests have been challenged and the outcome is that they trumped the civil service.**

**Mr. Geary added that no system is perfect but this one has a chance to become what it once was and intended for. Chairman Daly asked if there was a Bill for funding. No one knew the answer.**

**There was no vote on Article 21.**

**Reconsideration of the following Article included in the Warrant for the May 27, 2008 Annual Town Meeting:**

<u>NO.</u>	<u>TITLE</u>
5.	Unpaid Bills (Selectmen)

**On motion, it was unanimously,**

**VOTED: To reconsider Article 5.**

**Deputy Town Administrator Sean Cronin stated that the School Department has received a credit for the invoice in question. There are no outstanding invoices at this time.**

**On motion, it was unanimously,**

**VOTED: No Action on Article 5.**

### **BOARDS AND COMMISSIONS**

**The Board considered the question of making appointments to the following Boards and Commissions:**

**Arts Commission**

In Board of Selectmen

April 14, 2009

Page 38 of 38

**BOARDS AND COMMISSIONS cont'd**

**On motion, it was unanimously,**

**VOTED: To appoint Jennifer Green to the Arts Commission for a term ending August 31, 2012.**

**There being no further business, the Chair adjourned the meeting at 10:05 p.m.**

**ATTEST**

**In Board of Selectmen**

**April 21, 2009**

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

**The Minutes of April 7<sup>th</sup> and 14<sup>th</sup> were approved as  
amended.**

**PUBLIC COMMENT**

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

**Selectman Allen took a moment to congratulate Selectman Mermell and Town Librarian Chuck Flaherty for completing the Boston Marathon.**

**CONTRACT**

**The Board considered the question of executing Contract No. PW/09-18 “Olmsted Park – Stony Masonry Restoration” in the amount of \$60,150.00 with Roger A. Tremblay Contractors of Salem. Said contract was awarded on April 7, 2009 and is funded from account 1868G001 6C0007.**

**Chairman Daly stated that this contract had previously been discussed. It is now ready to execute.**

**On motion, it was unanimously,**

**VOTED: To execute Contract No. PW/09-18 “Olmsted Park – Stony Masonry Restoration” in the amount of \$60,150.00 with Roger A. Tremblay Contractors of Salem. Said contract was awarded on April 7, 2009 and is funded from account 1868G001 6C0007.**

**CONTRACT**

**The Board considered the question of executing Contract No. PW/09-19 “Walnut Street Cemetery - Stone Masonry Restoration” in the amount of \$29,996.00 with JJS Universal Construction of Dudley. Said contract was awarded on April 7, 2009 and is funded from account 4995SW01 6P0058.**

**Chairman Daly stated that this contract had previously been discussed. It is now ready to execute.**

**On motion, it was unanimously,**

**VOTED: To execute Contract No. PW/09-19 “Walnut Street Cemetery - Stone Masonry Restoration” in the amount of \$29,996.00 with JJS Universal Construction of Dudley. Said contract was awarded on April 7, 2009 and is funded from account 4995SW01 6P0058.**

The Board considered the question of executing Contract No. PW/09-20 “Landscape Improvements to Driscoll Park” in the amount of \$152,778.00 with JT Construction of Bridgewater. Said contract was awarded on April 7, 2009 and is funded from the following accounts:

4998WS08 6P0018	\$123,601.64
4998WS09 6P0018	\$ 29,176.36

On motion, it was unanimously,

**VOTED:** To execute Contract No. PW/09-20 “Landscape Improvements to Driscoll Park” in the amount of \$152,778.00 with JT Construction of Bridgewater. Said contract was awarded on April 7, 2009 and is funded from the following accounts:

4998WS08 6P0018	\$123,601.64
4998WS09 6P0018	\$ 29,176.36

**EXTRA WORK ORDER**

The Board considered the question of approving Extra Work Order #1 in the amount of \$25,000.00 for work to be completed by Hi-Way Safety Systems, Inc. in connection with Contract PW/09-01 “Pavement Markings”. Said work order to be funded from account 4995SW63 523596.

Director of Engineering Peter Ditto stated that the funding is from a developer due to a Zoning Board of Appeals decision. This is a one time appropriation.

On motion, it was unanimously,

**VOTED:** To approve Extra Work Order #1 in the amount of \$25,000.00 for work to be completed by Hi-Way Safety Systems, Inc. in connection with Contract PW/09-01 “Pavement Markings”. Said work order to be funded from account 4995SW63 523596.

In Board of Selectmen

April 21, 2009

Page 4 of 20

**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 a Luncheon to be held on May 10, 2009 from 12:30 p.m. – 2:30 p.m. at 400 Heath Street.

On motion, it was unanimously,

**VOTED: To grant a temporary Wine and Malt beverages license to Pine Manor College in connection with a Luncheon to be held on May 10, 2009 from 12:30 p.m. – 2:30 p.m. at 400 Heath Street.**

**EXTENSION OF HOURS**

The Board considered the question of approving the request of Grill on the Green, Inc. d/b/a Grill on the Green, Lisa Wisel, Manger, holder of a Wine and Malt beverages license as a Common Victualler at 1281 West Roxbury Parkway for an extension of closing hours on Friday June 5, 2009 from 11:00 p.m. to 12M.

Chairman Daly stated that the neighbors have expressed concerns on noise issues in the past. She urged that the function comply with the noise regulations.

On motion, it was,

**VOTED: 4-0-1 *Selectman Allen abstained* To approve the request of Grill on the Green, Inc. d/b/a Grill on the Green, Lisa Wisel, Manger, holder of a Wine and Malt beverages license as a Common Victualler at 1281 West Roxbury Parkway for an extension of closing hours on Friday June 5, 2009 from 11:00 p.m. to 12M.**

**ARBOR DAY PROCLAMATION**

The Board considered the question of adopting a Proclamation proclaiming May 1, 2009 as Arbor Day in the Town of Brookline.

Tree Warden Tom Brady stated that this is an annual proclamation. It is an important component of the requirement to maintain our designation as a Tree City USA. Mr. Brady took a moment to address the issue of the Asian Longhorn Beetle. This insect is destroying trees in the Worcester area. It is important to be aware of this; the insect travels with firewood, which is a great concern.

On motion, it was unanimously,

In Board of Selectmen

April 21, 2009

Page 5 of 20

**ARBOR DAY PROCLAMATION cont'd**

**VOTED: To adopt the following Proclamation proclaiming May 1, 2009 as Arbor Day in the Town of Brookline:**

**ARBOR DAY PROCLAMATION**

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

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

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

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

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

**BE IT THEREFORE RESOLVED, that the Town of Brookline, through its duly vested Tree Planting Committee, proclaims May 1, 2009 as Arbor Day in Brookline.**

**MASSACHUSETTS REHAB COMMISSION RECEPTION**

**Karen Beth Mael of the MRC described the Commission's recognition of the efforts of Chief Procurement Officer David Geanakakis and Tim Sullivan on behalf of the MRC.**

**Karen Beth Mael thanked the Town for participating in their work placement program. The Town has been working with the Massachusetts Rehab Commission over the years to the success of all involved. Chief Procurement Officer Dave Geanakakis, and Mailroom Supervisor Tim Sullivan placed Christopher Keeney in the mailroom. Ms. Mael added that they will receive special recognition for going above and beyond expectations in promoting diversity, volunteer opportunities and inclusionary hiring for qualified persons with disabilities.**



**MASSACHUSETTS REHAB COMMISSION RECEPTION cont'd**

**Mr. Geanakakis added that Chris has been a great fit and is an asset beyond the mailroom. He helps out where needed. Mr. Sullivan added Chris has a knack for machinery and is helping them out while helping himself learn more skills.**

**The Board acknowledged the great work that Tim does in the Town Hall. Tim is involved in Toys for Tots, and a number of other charity events. This is a great partnership and is needed for the busy environment.**

**LOCAL AID FUNDING**

**Town Administrator Richard Kelliher updated the Board on the Local Aid recommendations of the House Ways & Means Committee.**

**Mr. Kelliher stated that last week the House Ways and Means Committee (HWM) released its budget and it was thought initially that when the Governor released his budget in late January he would be coming back to revisit the budget in terms of restorations. Unfortunately it seems inevitable that they will be revisiting the budget in terms of reductions. There is a proposed reduction of \$370 million in local aid cuts, potentially offset by \$150 million in revenues earmarked for cities and towns through increases in meals and hotel excise taxes. The HWM budget has local aid cuts of \$425 million without any offsets. We are faced with the situation that unless there is some change, we see further reductions. He added that there is enough flux going on within the House with reports on potential restorations. The full House will take up the HWM budget next week. They will be discussing revenue. He will not be making any specific recommendations at this time. Should the HWM budget come to see the light of day, there will be a reduction of local aid of about \$850k with more than half of that in the Quinn Bill. Should the HWM budget pass right now would reflect on a \$1.1 million further budget cuts. After discussions with the School Department it was determined that there would be no offset to the CIP or one time monies. The reduction would possibly be allocated as 2/3 to the Town and 1/3 to the School. In conclusion the situation does not look good but he hopes that it would not require further staffing reductions or service reductions but would draw upon capacity that was there for potential collective bargaining settlements or other possibilities. Mr. Kelliher will update the Board once the budget is completed within the HWM Committee.**

**Chairman Daly added that she hopes the Quinn Bill is restored. This is monies paid to Police Officers that receive higher education. Part of the reduction would come out of the pockets of the Police Officers, and the Town's budget. Chairman Daly added that Brookline's school enrollment has been climbing; unfortunately this is not factored in to the formula for stimulus funding.**

In Board of Selectmen

April 21, 2009

Page 7 of 20

**FEDERAL STIMULUS FUNDING**

**Deputy Town Administrator Sean Cronin reviewed the status of Federal Stimulus funding potentially available to the Town.**

**Mr. Cronin stated that in January the Lt. Governor's Office asked cities and towns to submit a list of "shovel ready projects" that may qualify for funding under the stimulus bill. Brookline submitted their list of over \$30 million. These are heavy public works type projects. Unfortunately the Bill is different than originally anticipated, although Brookline's request has not been officially denied, he feels that there is slim chance to receive any funds. Mr. Cronin presented the following:**

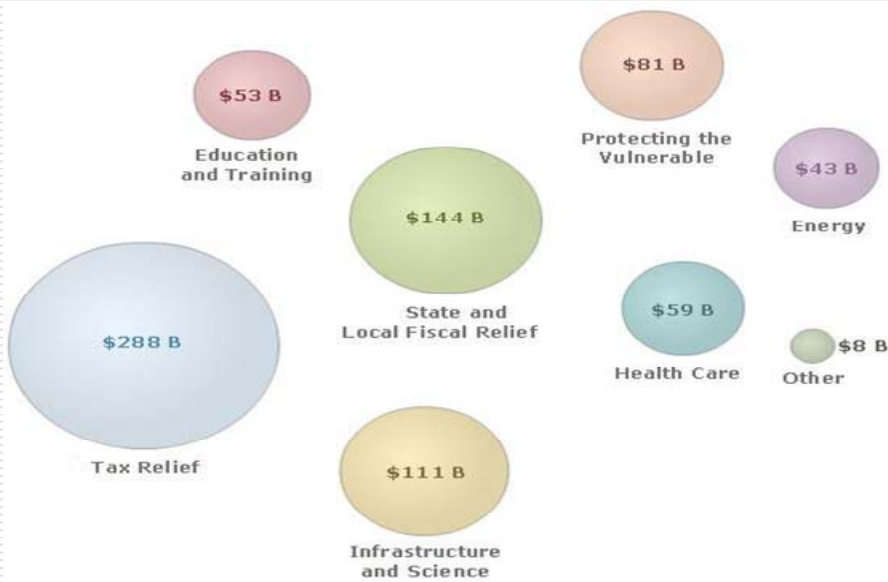
**AMERICAN RECOVERY AND  
REINVESTMENT ACT (ARRA)**

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**IMPACT ON BROOKLINE**

April 21, 2009

## FUNDING COMPOSITION



## U.S. TOTAL & STATE SHARE

Category	US Total	MA Share*
Clean Energy & Environment	67,552,892,000	482,093,000
Education	109,194,000,000	1,955,453,000
Housing	27,256,000,000	430,324,000
Labor & Workforce Development	15,954,081,000	90,170,000
Public Safety & Security	12,213,091,000	71,790,000
Safety Net	187,682,000,000	3,572,968,000
Technology & Research	55,078,000,000	1,295,048,000
Transportation	53,448,000,000	809,079,000
Other (Accountability)	1,252,500,000	-
<b>TOTAL</b>	<b>529,630,564,000</b>	<b>8,706,925,000</b>
Tax Benefits	257,369,435,000	5,294,994,000

**\*All MA Share amounts are currently being evaluated and are subject to change based upon further analysis by Secretariats and upon additional Federal guidance.**

Source: Executive Office for Administration and Finance

## KEY AREAS OF INTEREST

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- FMAP
  - State using it to balance FY10 + FY11 budgets.
- State Stabilization Fund
  - MA will receive \$994M.
  - 81.8% (\$812M) of Education Fiscal Stabilization Funds must be used to:
    - Restore state aid to school districts to the greater of the FY 2008 or 2009 level in FY 2009, 2010, and 2011.
    - Restore state support to public institutions of higher education to the greater of the FY 2008 or 2009 level to the extent feasible.
  - 18.2% (\$182M) of the funds may be used for public safety and other government services which may include education services.
- Education
  - Will be provided in many forms including Title I, IDEA, Head Start, and State Stab Fund (see above).
- Energy
  - \$42.2M for MA in EECBG (cmty's with pop >35K get formula grant).
- Public Safety
  - Numerous competitive grant opportunities. In addition, the Governor could use State Stab funds (see above) for public safety.

## AREAS OF FUNDING POSSIBILITIES

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- Education
    - Title I = \$265,046
    - IDEA = \$2,020,592
    - IDEA - Pre-School = \$43,593
    - Chapter 70 = ???? (Gov used \$168M to bring all cmty's to Foundation. Brookline received \$0.)
    - National competitive grants (Race to the Top, Innovation Fund)
  - Energy
    - Brookline stands to receive \$494,400 from EECBG based on formula
    - Grants for energy efficient vehicles
    - Competitive grants for energy efficiency
    - NStar's Stimulus Program for energy efficiency rebates
-

## AREAS OF FUNDING POSSIBILITIES

- ❑ Public Safety
  - Byrne Jag = \$96,338
  - COPS Universal Hiring Program (application filed)
  - Others include VAWA, competitive Byrne JAG, Fire Station upgrades
- ❑ Infrastructure
  - Qualified School Construction Bonds
  - Roads etc. under State TIP
- ❑ Community Development / Housing
  - CDBG = \$436,204
  - Homeless Prevention = \$667,436
  - Public Housing Capital (BHA) = \$778,716

Category	Program	Town Dept	Awarding Gov't (State/Fed)	Competitive/Formula	Total Amount
Community Development / Housing	CDBG	P&CD	Federal	Formula	\$436,204
	Homeless Prevention	P&CD	Federal	Formula	\$667,436
	Public Housing Capital	BHA	Federal	Formula	\$778,716
	Public Housing Capital	BHA	Federal	Competitive	\$0
	Assisted Housing Stability and Energy/Green Retrofit	BHA	Federal	Competitive	\$0
Category Sub-Total					\$1,882,356
Infrastructure	Qualified School Construction Bond				\$0
	Category Sub-Total				
Public Safety	COPS Hiring Recovery Program	Pol	Federal	Competitive	\$1,039,685
	Byrne JAG	Pol	Federal	Formula	\$96,388
	Byrne JAG	Pol	State	Competitive	\$0
	VAWA	Pol	Federal	Competitive	\$0
Category Sub-Total					\$1,136,073
Energy	Energy Efficiency and Conservation Block Grant	P&CD	Federal	Formula	\$494,400
	Energy Efficiency and Conservation Block Grant	P&CD	Federal	Competitive	\$0
	Alternative Fueled Vehicle Pilot Program	DPW	State	Competitive	\$0
Category Sub-Total					\$494,400
Education	Title I	Sch	Federal	Formula	\$265,046
	IDEA	Sch	State	Formula	\$2,020,592
	IDEA - Pre-School	Sch	State	Formula	\$43,593
	State Fiscal Stabilization Fund	Sch	State	Formula	\$0
	Enhancing Education through Technology	Sch	State	Formula	\$0
Category Sub-Total					\$2,329,231
<b>GRAND TOTAL</b>					<b>\$5,842,060</b>

**FEDERAL STIMULUS FUNDING cont'd**

Selectman DeWitt asked if the different programs all have the same timeline. Mr. Cronin replied not all across the board. This is one time monies and we should not be building a budget on their funding. Selectman DeWitt added that there are more restrictions than what appears on the surface.

Selectman Mermell stated that the Climate Action Committee will be discussing how to spend their funds. There are many important placements for this funding.

**POLICE CITIZEN COMPLAINT PROCEDURE**

Associate Town Counsel Patty Correa appeared to present the draft revised Police Citizen Complaint Procedures.

Ms. Correa reviewed the updated draft for the Process for Police Department Discipline and Selectmen's Review. Ms. Correa stated that some language has been tightened up and some expanded on. Some of the focus has been on the process of witnesses which has been expanded on and providing clearer guidelines, and the required vote from the Selectmen on deciding whether a case should go to a disciplinary hearing. Ms. Correa noted civil service requirements, open meeting law practices and public records law which all have been taken into consideration.

The Board discussed the vote requirements and asked how it is interpreted through the Civil Service Law.

Ms. Correa stated that as she understands it, the question is to what extent the steps that might precede a disciplinary hearing, in connection with an appeal from the disposition of a citizen complaint, must be the action of the corporal body, according to the Civil Service law. It is her opinion that this pertains to the corporal body as a whole, not just one or two Selectmen that is required to take action.

Selectman Allen added that there have not been a lot of problems in the past with this issue. He feels that an officer facing the potential of losing their job should have the majority vote behind them.

Selectman Benka added that the Civil Service law reasonably read requires the majority vote for a disciplinary hearing.

Selectman Mermell requested a briefing on the arguments behind the Civil Service laws. This is a complex law that requires interpretation. Ms. Correa will get that to the Board.

**POLICE CITIZEN COMPLAINT PROCEDURE cont'd**

**There was no vote on the document. Chairman Daly stated that there will be a public hearing on it. This was an informal update on what the changes were.**

**WARRANT ARTICLES**

**Further review and vote of the following Warrant Articles for the May 26, 2009 Town Meeting:**

<b><u>NO.</u></b>	<b><u>TITLE</u></b>
<b>9.</b>	<b>FY10 Budget Amendment – 7 Fire Companies (Inchierca)</b>

**Selectman Allen would like to hold this vote pending additional information.**

**Article 9 was held.**

<b><u>NO.</u></b>	<b><u>TITLE</u></b>
<b>10.</b>	<b>FY10 Budget Amendment – NFPA Standard 1710 (Inchierca)</b>

**Selectman Allen would like to hold this vote pending additional information.**

**Article 10 was held.**

*Selectman Allen left the room*

<b><u>NO.</u></b>	<b><u>TITLE</u></b>
<b>16.</b>	<b>Posting of Caloric Information (Ghobrial)</b>

**Petitioner Andrew Ghobrial stated that the Advisory Committee revised the language of the resolution. The new language is less restrictive, and does not mandate caloric and nutritional information be posted in food establishments. Director of Health and Human Services Alan Balsam stated that the changes softened the language. He is comfortable with the changes.**

In Board of Selectmen

April 21, 2009

Page 13 of 20

**WARRANT ARTICLES cont'd**

On motion, it was unanimously,

**VOTED: 4-0 Favorable Action on the Advisory Committee's  
recommendation: *Selectman Allen absent***

**That Town Meeting adopt the following resolution:**

**WHEREAS obesity is a growing epidemic in America affecting both our youth and adult populations; and that**

**WHEREAS obesity increases the risk of heart disease, type two diabetes, and some cancers, reduces life expectancy, increases disability, increases social stigma, decreases work productivity and school achievement, and increases health care costs; and**

**WHEREAS it is the mission of the Town of Brookline Department of Public Health to preserve, promote and improve the health of Brookline citizens and to control and prevent dangerous, contagious and infectious diseases; and**

**WHEREAS obesity may be prevented through the combined efforts of the whole community. Many factors over the years are responsible for the current obesity epidemic.**

**THEREFORE BE IT RESOLVED that Brookline Town Meeting firmly believes that individual knowledge, motivation, and skills may be insufficient to fully address and curb the problem of obesity. Individual behavior is greatly influenced by the policies and practices of organizations including food service establishments throughout the community that either promote or thwart individual efforts to engage in healthy eating and physical activity.**

**TOWN MEETING, THEREFORE, URGES that food service establishments provide, when feasible, calorie and other general nutritional information to consumers at point of sale; and  
Food service establishments are encouraged to provide and promote an increased number of healthy food and beverage options.**



**WARRANT ARTICLES cont'd**

**NO.                      TITLE**

**17.                      Zoning – Day Care Facilities  
(Planning)**

**On motion, it was unanimously,**

**VOTED: 4-0 Selectman Allen absent**

**To refer Article 17 to the Zoning By-Law Committee.**

**NO.                      TITLE**

**18.                      Zoning – Accessory Dwelling Units  
(HAB)**

**Director of Planning & Community Development Jeff Levine stated that the Planning Board had some language revisions.**

**Article 18 was held pending review of the revisions.**

**NO.                      TITLE**

**19.                      Zoning – Off-Street Parking  
(Planning)**

**Director of Planning & Community Development Jeff Levine stated that the Planning Board had some language revisions.**

**Article 19 was held pending review of the revisions.**

**NO.                      TITLE**

**21.                      Civil Service (Human Resource  
Board)**

**Chairman Daly would like to hold this vote for more discussion. Selectman Benka added that at the Article's discussion, Union Representative Joe Geary stated that there is legislation pending to re-organize Civil Service. Selectman Benka**

**WARRANT ARTICLES cont'd**

stated that one possibility would be to give it six months to see if anything comes of that legislation.

Article 21 was held.

<u>NO.</u>	<u>TITLE</u>
24.	Resolution in Support of Surveillance Cameras (Selectmen)

*Selectman Allen returned*

Advisory Committee member Carla Benka stated that the Ad-hoc Subcommittee had some added language. The full Advisory Committee has not reviewed the Article yet. The Board would like to review the new language.

Article 24 was held.

<u>NO.</u>	<u>TITLE</u>
25.	Resolution Opposing Surveillance Cameras (Wunsch/Farlow)

Selectman DeWitt made the motion of No Action on Article 25.

On motion, it was,

**VOTED: 3-1-1 No Action on Article 25.**

Daly	abstained
Allen	aye
DeWitt	aye
Mermell	no
Benka	aye

<u>NO.</u>	<u>TITLE</u>
26.	Resolution on PAYT (Selectmen)

Selectman Mermell stated that the Advisory Committee has not taken up this Article yet. She feels it may be in the best interest to hold this Article.

In Board of Selectmen

April 21, 2009

Page 16 of 20

**WARRANT ARTICLES cont'd**

Article 26 was held.

<b><u>NO.</u></b>	<b><u>TITLE</u></b>
27.	Resolution on Single Payer Health Care (Berger)

Selectman DeWitt made the motion of Favorable Action, there was no second, motion failed. Selectman Benka stated that the Board did not hear from any opponents on the Article. He would like to hear more debate at Town Meeting. Selectman Allen added that he does not know enough about the subject to commit a vote at this time.

Article 27 was held.

**WINE/MALT PACKAGE CHANGE IN D/B/A**

The Board considered the question of approving the application of Glendale Package Store of Waltham, Inc., d/b/a GPS Liquors, Jason Williams, President, holder of an All Kinds of Alcoholic beverages license as a Retail Package Store at 256 Harvard Street for a change in d/b/a as follows:

From: GPS Liquors  
To: GPS Wine & Spirits

Applicant Jason Williams stated that he feels the new name would blend better in the community.

On motion, it was unanimously,

**VOTED:** To approve the application of Glendale Package Store of Waltham, Inc., d/b/a GPS Liquors, Jason Williams, President, holder of an All Kinds of Alcoholic beverages license as a Retail Package Store at 256 Harvard Street for a change in d/b/a as follows:

From: GPS Liquors  
To: GPS Wine & Spirits

In Board of Selectmen

April 21, 2009

Page 17 of 20

**COMMON VICTUALLER LICENSE**

**The Board considered the question of approving the application of Fakhri Family, Inc., d/b/a Sicilia's Pizzeria, Jean Paul Fakhri, Manager for a Common Victualler license at 840 Commonwealth Avenue.**

**The Board considered the question of approving the application of Fakhri Family, Inc., d/b/a Sicilia's Pizzeria, Jean Paul Fakhri, Manager holder of a Common Victualler license at 840 Commonwealth Avenue for an Entertainment license to include: Radio, TV, and Taped Music.**

**Jean Paul Fakhri stated that he plans to keep the operation the same as the previous owner.**

**Selectman Allen stated that the area has had problems with keeping to the closing times. He urged that they comply with the hours on the license. Mr. Fakhri replied that he is aware of the past issue and will adhere to the closing times.**

**On motion, it was unanimously,**

**VOTED: To approve the application of Fakhri Family, Inc., d/b/a Sicilia's Pizzeria, Jean Paul Fakhri, Manager for a Common Victualler license at 840 Commonwealth Avenue with 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**

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

**On motion, it was unanimously,**

**VOTED: To approve the application of Fakhri Family, Inc., d/b/a Sicilia's Pizzeria, Jean Paul Fakhri, Manager holder of a Common Victualler license at 840 Commonwealth Avenue for an Entertainment license to include: Radio, TV, and Taped Music.**

In Board of Selectmen

April 21, 2009

Page 18 of 20

**COMMON VICTUALLER LICENSE**

**The Board considered the question of approving the application of Dorado Tacos I, LLC, d/b/a Dorado, John D. Organ, Owner for a Common Victualler license at 401 Harvard Street.**

**The Board considered the question of approving the application of Dorado Tacos I, LLC, d/b/a Dorado, John D. Organ, Owner holder of a Common Victualler license at 401 Harvard Street for an Entertainment license to include: Radio, TV and Muzak.**

**Applicant John Organ reviewed the menu with the Board. Selectman Allen noted that the deliveries can be a problem with the neighbors, and to be aware of any driveway blockings etc. Mr. Organ replied that he will address this.**

**On motion, it was unanimously,**

**VOTED: To approve the application of Dorado Tacos I, LLC, d/b/a Dorado, John D. Organ, Owner for a Common Victualler license at 401 Harvard Street, with 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**

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

**VOTED: To approve the application of Dorado Tacos I, LLC, d/b/a Dorado, John D. Organ, Owner holder of a Common Victualler license at 401 Harvard Street for an Entertainment license to include: Radio, TV and Muzak.**

**COMMON VICTUALLER LICENSE**

**The Board considered the question of approving the application of Pizzeria Dante, David M. Dragani, Owner for a Common Victualler license at 1398 Beacon Street.**

**The Board considered the question of approving the application of Pizzeria Dante, David M. Dragani, Owner holder of a Common Victualler license at 1398 Beacon Street for an Entertainment license to include (Radio, Muzak and Taped Music)**

**COMMON VICTUALLER LICENSE cont'd**

**David Dragani stated that he plans to keep the operation the same as the previous owner with the addition of earlier hours to provide coffee.**

**Resident Eric Grody appeared in favor of the applicant. He owns a unit in the building and there have been no problems with the previous establishment.**

**On motion, it was unanimously,**

**VOTED: To approve the application of Pizzeria Dante, David M. Dragani, Owner for a Common Victualler license at 1398 Beacon Street with 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**

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

**On motion, it was unanimously,**

**VOTED: To approve the application of Pizzeria Dante, David M. Dragani, Owner holder of a Common Victualler license at 1398 Beacon Street for an Entertainment license to include (Radio, Muzak and Taped Music)**

**COMMON VICTUALLER – INCREASE IN HOURS**

**The Board considered the question of approving the application of Fare Share, Inc., d/b/a Village Fare Pizza, Tariq Sher Kahn, Abdul Rashid & Fazal Karim, Owners, holder of a Common Victualler license at 387 for a change in hours as follows:**

<b>FROM:</b>	<b>Sunday</b>	<b>12N– 10pm</b>
	<b>Mon-Thurs</b>	<b>11am–10pm</b>
	<b>Fri-Sat</b>	<b>11am–11pm</b>
<b>TO:</b>	<b>Sun-Thurs</b>	<b>7am–10pm</b>
	<b>Fri-Sat</b>	<b>7am -11pm</b>

**COMMON VICTUALLER – INCREASE IN HOURS cont'd**

Applicant Tariq Sher Khan stated that he would like to open earlier to promote breakfast business.

On motion, it was unanimously,

**VOTED: To approve the application of Fare Share, Inc., d/b/a Village Fare Pizza, Tariq Sher Khan, Abdul Rashid & Fazal Karim, Owners, holder of a Common Victualler license at 387 for a change in hours as follows:**

<b>FROM:</b>	<b>Sunday</b>	<b>12N– 10pm</b>
	<b>Mon-Thurs</b>	<b>11am–10pm</b>
	<b>Fri-Sat</b>	<b>11am–11pm</b>
<b>TO:</b>	<b>Sun-Thurs</b>	<b>7am–10pm</b>
	<b>Fri-Sat</b>	<b>7am -11pm</b>

**OPEN AIR PARKING**

Public Hearing on the application of Boylston Donuts, LLC, d/b/a Dunkin Donuts, Michele Lawlor, Owner for a license to conduct and maintain an open-air parking lot at 265 Boylston Street for sixteen (16) automobiles .

Applicant Michele Lawlor stated that this is just a transfer of the license. The parking will stay the same as existing.

Cypress Street resident Randolph Meiklejohn expressed concerns about lighting in the area. He had addressed his concerns with Ms. Lawlor, and she will look into it. She will provide the proper lighting.

On motion, it was unanimously,

**VOTED: To grant the application of Boylston Donuts, LLC, d/b/a Dunkin Donuts, Michele Lawlor, Owner for a license to conduct and maintain an open-air parking lot at 265 Boylston Street for sixteen (16) automobiles .**

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

ATTEST

**IN BOARD OF SELECTMEN**

**April 28, 2009**

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

**The Minutes of April 21, 2009 were approved as amended.**



In Board of Selectmen

April 28, 2009

Page 2 of 26

**PUBLIC COMMENT**

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

**Rob Daves from High Street Hill Association presented the Board with a resolution on the Muddy River Project. He questioned why the Memo of Understanding was not signed by the Board yet. Chairman Daly replied that there were some language concerns that could put a burden on the Town. The contract drafts have been up at the State level. The Board is committed to going forward with the project.**

**Susan Allen expressed concerns on the Swine Flu. She hopes that Brookline will not mandate vaccination should it get to that level. Citizens have the right to reject the vaccinations.**

**FLU STATUS UPDATE**

**Director of Health and Human Services Alan Balsam appeared to apprise the Board of local actions taken in response to the national reports of Swine Flu contagion.**

**Dr. Balsam stated that there have been no confirmed cases in New England or Massachusetts of the swine flu. The State has a system in place that picks up on cases of concerns, and providers are required to report any concerns to the state and local health officials. He urged residents to take precaution by practicing frequent hand washing, or alcohol based sanitizers, and to cover sneezes, and coughs. The Health Department will continue to monitor the status of the flu.**

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

**HANCOCK VILLAGE PLANNING COMMITTEE**

**The Board considered the question of amending the vote of February 3, 2009 appointing the members of the Hancock Village Planning Committee to designate Robert Allen as Co-Chair.**

**Chairman Daly held this agenda item.**

**POLICE LEAVE OF ABSENCE**

The Board considered the question of approving a three month unpaid leave of absence to Officer Holly Jordan.

Chief O’Leary stated that Officer Jordan has requested an unpaid leave of absence to allow time to prepare for childcare of her newborn son. The request will not negatively impact the police operations because of its short duration. This has been granted in the past to other officers. Chief O’Leary supports the request.

On motion, it was unanimously,

VOTED: To approve a three month unpaid leave of absence to Officer Holly Jordan.

**CONTRACT**

The Board considered the question of awarding Contract No. PW/09-22 “Reconstruction of Five Streets” in the amount of \$833,261.17 to D&R General Contracting of Stoneham, MA. Said contract to be funded from the following accounts:

4998WS06 6H0026 40W06	\$ 4,682.99
4998WS07 6H0026 40W07	\$ 5,266.60
4998WS09 6H0026 40W09	\$823,311.58

Director of Engineering Peter Ditto stated that this is an annual program. The project will reconstruct Heath Street from Hammond Street to Holly Lane, Pine Road, Reservoir Road from Heath Street to Boylston Street, Clark Road from Boylston Street to Sumner Road, and Somerset Road from Welland Road to Blake Road. He hopes to start the project in three to four weeks. Selectman Mermell asked how long the work will take. Mr. Ditto replied about two to three months. The neighbors will be notified as usual before proceeding.

On motion, it was unanimously,

VOTED: To award Contract No. PW/09-22 “Reconstruction of Five Streets” in the amount of \$833,261.17 to D&R General Contracting of Stoneham, MA. Said contract to be funded from the following accounts:

4998WS06 6H0026 40W06	\$ 4,682.99
4998WS07 6H0026 40W07	\$ 5,266.60
4998WS09 6H0026 40W09	\$823,311.58

**ACCEPTANCE OF MWRA FUNDS**

The Board considered the question of accepting \$1,282,792.98 from the MWRA to be used in the design of the sewer separation project in the lower Beacon Street area as well as funding the construction of Phase 1 of the project as follows:

**\$300,000.00** Extra Work Order #3  
Contract PW/07-03 "Sewer  
Separation Design"  
BETA Group – Lincoln RI  
4995SW54 524003

**\$827,792.98** Construction of Phase I

**\$155,000.00** Police Details Associated with  
Final design and construction

Director of Engineering Peter Ditto stated that this is for completion of the final design which includes constructing a separate sewer system in Beacon Street, St. Mary's Street and Monmouth Street as well as completing a traffic management plan. Mr. Ditto is planning on meeting with the merchants in the area to determine the best season to start this project.

On motion, it was unanimously,

**VOTED:** To accept \$1,282,792.98 from the MWRA to be used in the design of the sewer separation project in the lower Beacon Street area as well as funding the construction of Phase 1 of the project as follows:

**\$300,000.00** Extra Work Order #3  
Contract PW/07-03 "Sewer  
Separation Design"  
BETA Group – Lincoln RI  
4995SW54 524003

**\$827,792.98** Construction of Phase I

**\$155,000.00** Police Details Associated with  
Final design and construction

**APPROPRIATION TRANSFER**

The Board considered the question of approving the following appropriation transfer within the Water and Sewer Division:

FROM: 4991EW40 543052 \$42,000.00  
MWRA Sewer  
TO: 4999EW40 534212 \$42,000.00  
Diesel Fuel

FROM: 4991EW40 543052 \$15,000.00  
MWRA Sewer  
TO: 4999EW40 534230 \$15,000.00  
Motor Vehicle Supplies

Director of Water and Sewer Andy Pappastergion stated that this transfer will cover deficits in the diesel fuel account and the supplies account which will cover the cost of tires and other vehicle supplies.

On motion, it was unanimously,

VOTED: To approve the following appropriation transfer within the Water and Sewer Division:

FROM: 4991EW40 543052 \$42,000.00  
MWRA Sewer  
TO: 4999EW40 534212 \$42,000.00  
Diesel Fuel

FROM: 4991EW40 543052 \$15,000.00  
MWRA Sewer  
TO: 4999EW40 534230 \$15,000.00  
Motor Vehicle Supplies

**AGREEMENT**

The Board considered the question of executing an Agreement in the amount of \$24,000.00 with Weston & Sampson Engineers, Inc. of Peabody in connection with Contract #PW/09-24 "Singletree Hill Water Storage Tank". Said agreement to be funded from account 4997C152 6C0009 - Storm Drain Improvements.

Director of Water and Sewer Andy Pappastergion stated that the Department of Environmental Protection did an audit on the Singletree Water Storage Tank, and found a deficiency in the tank's water flow. The project is to

In Board of Selectmen

April 28, 2009

Page 6 of 26

**AGREEMENT cont'd**

**make the modifications to the drain systems and eliminate potential cross connections with the portable water supply system as mandated.**

**On motion, it was unanimously,**

**VOTED: To execute an Agreement in the amount of \$24,000.00 with Weston & Sampson Engineers, Inc. of Peabody in connection with Contract #PW/09-24 "Singletree Hill Water Storage Tank". Said agreement to be funded from account 4997C152 6C0009 - Storm Drain Improvements.**

**TEMPORARY WINE AND MALT BEVERAGE LICENSE**

**The Board considered the question of granting a temporary one day Wine and Malt beverages license to Puppet Showplace, Inc., Kris Higgins, Executive Director, in connection with a theatrical performance/reception to be held on June 13, 2009 from 7:30 p.m. – 11:00 p.m. at 32 Station Street.**

**On motion, it was unanimously,**

**VOTED: To grant a temporary one day Wine and Malt beverages license to Puppet Showplace, Inc., Kris Higgins, Executive Director, in connection with a theatrical performance/reception to be held on June 13, 2009 from 7:30 p.m. – 11:00 p.m. at 32 Station Street.**

**TEMPORARY WINE AND MALT BEVERAGE LICENSE**

**The Board considered the question of granting a temporary All Kinds of Alcoholic beverages license to the Larz Anderson Auto Museum in connection with an Exhibit Opening to be held on May 7, 2009 from 7:00 p.m. – 10:00 p.m. at 15 Newton Street.**

**On motion, it was unanimously,**

**VOTED: To grant a temporary All Kinds of Alcoholic beverages license to the Larz Anderson Auto Museum in connection with an Exhibit Opening to be held on May 7, 2009 from 7:00 p.m. – 10:00 p.m. at 15 Newton Street.**

**POLICE PERSONNEL**

The Board considered the question of appointing Timothy R. Callinan, as a full-time Police Officer.

Chief O'Leary stated that Mr. Callinan was formerly employed as a full-time officer in Winthrop. Due to budget issues he was laid off. His name was placed on the re-employment certification issued by the State. Mr. Callinan successfully passed all the exams and pre-employment requirements. He had good recommendations. The Chief is pleased to recommend him for employment in the Brookline Police Department.

The Board welcomed him, and stated that they are glad to find qualified candidates from the re-employment list.

On motion, it was unanimously,

**VOTED:** To appoint Timothy R. Callinan, as a full time Police Officer.

Town Clerk Pat Ward sworn in Officer Callinan.

**NATIONAL PARK SERVICE**

Superintendent Myra Harrison and Site Manager Lee Farrow Cook of the John Fitzgerald Kennedy National Historic Site appeared to invite the Board to upcoming public events associated with a strategic planning process underway at the Kennedy site.

Site Manager Lee Farrow Cook invited the Board, Brookline town officials, and the Brookline community to attend two public events associated with a strategic planning process underway at the Kennedy site. At both events, the National Park Service will be seeking community input on the strategic planning process that will determine the site's priorities over the next fifteen to twenty years. The first event on Sunday afternoon, May 3<sup>rd</sup> will be an open house at 83 Beals Street from 2:00 to 4:00 pm at which National Park Service staff will be on hand to answer questions about the site, its archeology, the historic neighborhood, and the Kennedys in Brookline. On Wednesday, May 6<sup>th</sup> at the Devotion School auditorium from 6:30 to 9:00 pm, the National Park Service will hold a community dialogue that will include a brief formal presentation about the planning process, followed by opportunities to discuss particular issues and ideas in small groups.

The Board thanked Ms. Cook for the update and noted that Brookline is fortunate to have 2 national historic sites, the other being the Olmstead Park.

In Board of Selectmen

April 28, 2009

Page 8 of 26

**CONTRACT – PARKING ENFORCEMENT TECHNOLOGY**

**The Board considered the question of awarding and executing a Contract in the amount of \$37,000 with Velosum, Inc., of Sandy, Utah for Handheld Parking Enforcement Technology. Said contract to be funded from account 21002050 5A0005.**

**Deputy Town Administrator Sean Cronin stated that on the recommendation of the Efficiency Committee to look into hand held ticketing devices, it was determined to keep the ticket administration in-house and to look at contracting out of state ticket collection.**

**Brendan Kenny and Sean A'Hern of Velosum Inc. provided the Board with a demonstration of the technology. Mr. Kenny added that one community exceeded their revenue expectations by \$163k by using the system. The process also eliminates the data entry of the tickets providing cost savings there.**

**Selectman DeWitt stated that the Town is perusing a no meter system where there would be a central meter location for a designated area. Would this be compatible with that?**

**Transportation Administrator Todd Kirrane replied that this system is up and running in Cambridge and Boston. The technology will work on the pay and display areas.**

**Selectman Benka stated that the Town has a two hour parking regulation. He asked whether this technology would work with that? Mr. Kenny replied it would, it is referred to as electronic chalking, and the system is capable of recording these tickets.**

**Chief O'Leary added that he is looking forward to getting this technology up and running.**

**Chief Information Officer Kevin Stokes added that his department will be watching the pilot and will be involved along the way.**

**On motion, it was unanimously,**

**VOTED: That the Town award and execute a contract in the amount of \$37,600 with Velosum, Inc of Sandy, Utah, of which \$9,860 is due upon invoice following execution of the Agreement and \$27,740 upon acceptance of the hardware and software after the 60 day pilot program. Said contract to be funded from 21002050 5A0005.**

**MBTA BUDGET**

**Richard T. Leary, Board Designee for the MBTA Advisory Board appeared to update the Board of the MBTA Budget.**

**Mr. Leary stated that there a few factors contributing the MBTA's financial problems. One factor is the lagging sales tax receipts. Sales tax is the principal financing source for the MBTA. The sales tax receipts have decreased in recent years. Another factor is debt. The MBTA owes over \$8 billion in debt principal and interest to its bondholders. Service cuts are still on the table. There have been discussions on Green Line service which runs through Brookline.**

**Chairman Daly noted that the service for the Green Line is already unsatisfactory; she hopes to have an opportunity to speak with MBTA officials about Brookline's concerns. Selectman DeWitt also expressed concerns on the proposed re-organization of the MBTA and the impact it could have on the service to Brookline users. Selectman Benka added that there has been talk about eliminating stops on Beacon Street. He asked how doing this would save them money. Mr. Leary replied that the MBTA has formulas that include lead times, transit times and other factors to determine the cost savings of eliminating stops. He added that this would be a long process, and it is still undecided at this time.**

**The Board thanked Mr. Leary for the update and is looking forward to future discussions with the MBTA.**

**FAREWELL**

**Members of the Board of Selectmen, Department Heads and others thanked Bob Allen for his 9 years of service on the Board.**

**Chairman Daly stated that they are somewhat sad tonight to see the last meeting with Selectman Allen. She noted the former Selectmen Tom Hennessey, Michael Merrill, and Donna Kalikow in attendance.**

**Former Selectmen Michael Merrill spoke on Bob Allen's dedication, loyalty to the Town and the countless hours of service he has put in. He added that the issues have not always been easy, but Bob always stuck to what he thought was best for the Town, and his ability to step across the aisle.**

**Deputy Town Administrator Sean Cronin stated that he has learned a lot from Bob over the last nine years. Although they may not have always agreed, Bob was always straight up, consistent, and it was clear of his support for the**



department heads. He thanked Selectman Allen for his support over the years.

Director of Water and Sewer Andy Pappastergion stated that it is easy to champion public safety, but sometimes difficult to champion public works. Bobby has been a champion for the public works department. These are the folks that pick up your trash, clean the streets, plant the flowers, and fix your water mains. Bobby has always been there for the DPW and it does not go unnoticed. The employees thank you for your support over the years. Mr. Pappastergion presented Bob with a golden broom from the DPW.

Town Administrator Richard Kelliher presented a humorous PowerPoint presentation dedicated to Selectman Allen. He added that he will remember Bob's optimism and how he always looked at the potential positive outcome of any situation. He has always shown confidence in the administration.

Selectman Mermell added that Bobby cares about the Town and the Board. He has helped provide her with the tools needed to succeed, and has a great working relationship and respect for the Board. She is grateful for his candor.

Selectman DeWitt stated that Selectman Allen represents the best of Brookline. You are able to disagree with him and be sure that it would not alter their relationship, working or personal.

Chairman Daly added that no one knows the town better than Bobby does. He expresses his love for the town, and encourages everyone to make the town the best it can be. She appreciates the good humor and good spirits that Bobby puts into every issue even when opposed to it.

Selectman Benka stated that he has been impressed with Selectman Allen's knowledge and intimacy with the residents and employees of the Town; and that will be missed. He added that although they disagree on the long term financial plan, it never became personal.

Selectman Allen thanked everyone for their support. He stated that he would like to spend more time with his family and law practice. He has no doubt that Brookline will remain one of the elite communities in the commonwealth. Selectman Allen thanked the employees and stated that Selectman come and go, but the employees continue on working to make the Town the best place to live. It is important to remember the role they play. He believes in investing in the community and not to forget the non-vocal residents which are the majority. Selectman Allen added that he has always done what he thought was the best for the

**town. He thanked the department heads, the senior administration, the Selectmen, and the many volunteers, for the hard work they do, and their commitment to the Town. He pointed out Sean Cronin for his dedication and the important role he has in the administration.**

### **CONTRACT – LIBRARY RFID**

**The Board considered the question of awarding and executing a contract in an amount not to exceed \$465,000 with Bibliotheca, Inc., for the purposes of implementing the RFID System for the Brookline Library and other libraries in the Minuteman Network.**

**Town Librarian Chuck Flaherty stated that he has worked with representatives from the Cambridge, and Wellesley libraries as well as other members of the Minuteman Library Network to finalize the Request for Proposal (RFP) for the RFID. She stated that there was some concern if the vendor went into financial trouble. Director of Finance Steve Cirillo looked into the company's financials and received a letter from their audit company. He found them to be a viable company, though he did put some protection in place. Should the company go out of business, the company has accepted that the software source code be placed in escrow, plus payments will be scheduled in three payments.**

**Selectman Mermell commented on Mr. Flaherty's due diligence on the project, and thanked him and everyone involved in it.**

**Director of Information Technology Kevin Stokes added that he is happy with the process of how it was laid out and the results.**

**Carol Caro, Elba Street, and a member of the Minuteman Network spoke in favor of the software.**

**On motion, it was unanimously,**

**VOTED: To award and execute a contract in an amount not to exceed \$465,000 with Bibliotheca, Inc., for the purposes of implementing the RFID System for the Brookline Library and other libraries in the Minuteman Network.**

**WARRANT ARTICLES**

**Further review and vote of the following Warrant Articles for the May 26, 2009 Town Meeting:**

<b><u>NO.</u></b>	<b><u>TITLE</u></b>
<b>2.</b>	<b>Collective Bargaining Agreements (HR)</b>

**On motion, it was unanimously,**

**VOTED: 4-0 *Allen absent* No Action on Article 2.**

<b><u>NO.</u></b>	<b><u>TITLE</u></b>
<b>9.</b>	<b>FY10 Budget Amendment – 7 Fire Companies (Inchierca)</b>

**Chairman Daly stated that although she appreciates the desire to maintain the fire service at an optimal level, she thinks it's a bad idea to tie this up with the budget. Selectman DeWitt added that we just don't have the funding to go with this, she wished that they did. Unfortunately there are many other services that are being cut. Town Administrator Richard Kelliher added that there is a budget that still can result in full deployment of seven pieces of apparatus. Hopefully working together this can be achieved.**

**On motion, it was unanimously,**

**VOTED: 4-0 *Allen absent* No Action on Article 9.**

<b><u>NO.</u></b>	<b><u>TITLE</u></b>
<b>10.</b>	<b>FY10 Budget Amendment – NFPA Standard 1710 (Inchierca)</b>

**Chief Skerry stated that these standards are not laws but a recommendation. He feels that the Fire Department currently meets or exceeds these standards.**

**On motion, it was unanimously,**

**VOTED: 5-0 No Action on Article 10.**

**CDBG STIMULUS FUNDS**

**Public Hearing on a Substantial Amendment to FY09 (FFY08) HUD Action Plan Accepting \$667,436 in Homeless Prevention and Rapid Re-Housing Program Funds Under the American Recovery and Reinvestment Act of 2009.**

**a. Recommendation on the Proposed  
FY2010 Community Development Block  
Grant (CDBG) Entitlement**

**Director of Planning and Community Development Jeff Levine stated that this is one of the steps required to accept \$667,436 in housing funds from HUD, the Town is eligible for.**

**Housing Planner Virginia Bullock stated that these funds will be used for financial assistance, housing relocation and stabilization services, data collection and evaluation, and administrative cost. Resources will be targeted and prioritized to serve households that are most in need of this temporary assistance and most likely to achieve stable housing outside of the HPRP after the program concludes. Funds will be used to serve households earning less than 50% of the area median income, and can include case management, rent assistance of up to 18 months per household, utility assistance for up to 6 months, legal assistance, and credit counseling. The program is designed to assist those in need of temporary housing, who are homeless or would be homeless without assistance. The program does have requirements and guidelines that have to be adhered to. The funds will be committed by HUD to the Town between July 2 and September 1, 2009. They have been meeting with key local agencies to discuss the opportunities before them. Some agencies that will be included are the Brookline Mental Health Foundation, Pine Street Inn, Council on Aging, and the Brookline Community Foundation. The Brookline Community Foundation has seen a substantial increase in the amount of families seeking assistance. Selectman DeWitt disclosed that she was involved in programs at the Brookline Community Foundation. She is happy to see funds available for their programs. Selectman Benka added that he is happy to see credit counseling and other avenues addressed. Lloyd Gellineau, Human Service Coordinator stated that he will be working closely with the Brookline Housing Authority and the Council on Aging to assist with those at risk for homelessness. Director of Council on Aging Ruthann added that she will also be involved with identifying those at risk.**

**On motion, it was unanimously,**

**VOTED: To accept the Substantial Amendment to FY09 (FFY08) HUD Action Plan Accepting \$667,436 in Homeless Prevention and Rapid Re-Housing Program Funds Under the American Recovery and Reinvestment Act of 2009.**

**CDBG STIMULUS FUNDS**

Director of Planning & Community Development Jeff Levine reviewed the CDBG recommendations for FY2010. The funding is broken up by committing 15% to Public Services, 20% to Program Management/Planning, and 65% Housing and Community Facilities.

Janet Selczer, Director of Steps to Success stated that there is hard decision making involved. The youth employment program is important to low income teens, and with the current economy, it is hard for them to find employment. They plan to use the funds to employ 28 applicants over the summer.

A discussion on the living wage ensued. The current living wage is \$9.00 per hour. Many employers are finding it difficult to employ youth at this wage. Selectman Benka added that Summer Connections which is a program that employs younger youths are having a particular hard time finding employers willing to pay that rate. Selectman Benka would like to see the regulations behind the living wage.

There will be a public hearing on the recommended allocation of the funds on May 12, 2009.

**WARRANT ARTICLES**

Further review and vote of the following Warrant Articles for the May 26, 2009 Town Meeting:

<b><u>NO.</u></b>	<b><u>TITLE</u></b>
15.	Planning Board Membership (Mattison)

Petitioner Hugh Mattison stated that he has amended the Article from 7 full members to 5 full members with 2 alternates. The alternates would have the right to vote in place of a full member in their absence.

Director of Planning & Community Development Jeff Levine stated that under State law, there could be an alternate. This would change the local By-law. The Planning Board believes that limiting the Board to five members allows them to work more efficiently and effectively than if a larger Board. The Planning Board recommends a No Action vote on Article 15. Mr. Mattison replied that this is modeled after the Zoning Board of Appeals, where their members have a right to participate.

**WARRANT ARTICLES cont'd**

The Board addressed the issue of tie votes. They wondered how many decisions was 2-2 because one member was absent. Mr. Levine replied that he has not seen many tie votes. Selectman Dewitt added that the Planning Board members sit on many committees as well. Maybe adding members could assist with their workload. Mr. Mattison replied that maybe this is not for the Selectman to decide, if there are more people on the Board there are more representation of the public. Selectman Allen added that perhaps the appointments could be staggered over a period of time so there will not be 3 openings at the same time. There may be a better pool of candidates this way. Mr. Mattison added that the terms may be looked at as well, five years may be a harder commitment.

On motion, it was unanimously,

**VOTED: 5-0 To refer Article 15 to the Committee of Town Organization and Structure.**

<b><u>NO.</u></b>	<b><u>TITLE</u></b>
18.	Zoning – Accessory Dwelling Units (HAB)

Chair of the Housing Advisory Board Roger Blood stated that there were minor changes by the Planning Board concerning restrictions. Chairman Daly stated that she favors the idea of the elderly staying in their homes or with family members. Selectman DeWitt has concerns about owners using this to generate income, and not as the Article is intended. Though they may not be eligible it could open doors at Town Meeting down the road. She does feel that it is well intentioned, but has mixed feelings on it. Mr. Blood replied that if the neighborhood does not want this it should not happen. Selectman DeWitt added that you're either in the zone or not, you don't get to choose.

On motion, it was,

**VOTED: 4-0-1 (Selectman DeWitt abstained) Favorable Action on Article 18. That the Town amend the Zoning By-Law as follows (new language appears in bold and italics):**

Add a new paragraph c, to the end of §2.01.1 - "A" DEFINITIONS

- c. Accessory dwelling unit: A dwelling unit situated entirely within a detached, owner-occupied dwelling that is self-contained or segregated from*

*the principal dwelling unit and subject to size, design, ownership and use restrictions, as further enumerated in §4.0, paragraph 2.*

Add a new paragraph 4 to the end of §2.15 - "O" DEFINITIONS

- 4. OWNER-OCCUPIED – Serving as the principal or year-round residence of the property owner of record, as defined by the Town Assessor.**

Add to the end of the first paragraph of §4.04.1 - LIMITATION OF AREA OF ACCESSORY USES

*, except that an accessory dwelling unit may occupy up to 30 percent of the floor area of the principal building.*

Change the title of §4.05 to

**ACCESSORY USES IN RESIDENCE DISTRICTS**

Add the following new paragraph 2 to §4.05

- 2. Accessory dwelling units in single family owner-occupied buildings shall conform to all of the following provisions:**
  - a. An accessory dwelling unit shall occupy up to (a) 30 percent of the floor area of the principal building or (b) 700 square feet of habitable space, whichever is less.**
  - b. A building containing an accessory dwelling unit may only be situated in an S-10, S-15, S-25, or S-40 zone;**
  - c. A building containing an accessory dwelling unit may only be situated on a lot having at least 10,000 square feet;**
  - d. A building containing an accessory dwelling unit shall be owner-occupied, which status may apply to either the principal or the accessory dwelling unit; qualifying owner-occupancy must be certified in accordance with §4.05, paragraph 2.j.1 below, and documented annually thereafter by inclusion in the listing of residential property tax exemptions as maintained by the Town Assessor;**
  - e. A building containing an accessory dwelling unit shall not exhibit any exterior evidence of occupancy by more than one family, including but not limited to the following:**
    - 1) having no more than one mailing address;**

- 2) *having no electric, gas, or water meters other than those serving the principal dwelling unit of the building in which it is situated;*
- f. *An accessory dwelling unit shall contain no more than one bedroom and may be occupied by no more than two persons;*
  - g. *An accessory dwelling unit must have means of egress that conform to the applicable requirements of the Building Code. A second means of egress may be via the principal dwelling unit, providing a continuous and unobstructed path that leads to exit doors. Such egress may not be through a space subject to locking, and the property owner must certify in writing that such passage will remain unobstructed for the full term of the special permit. Certification will be part of the documentation required in §4.05, paragraph 2.j.1, below. If any means of egress required to permit the creation of an accessory dwelling unit is an exterior stairway, any such stairway shall not extend more than one and a quarter stories in height nor be visible from a public way.*
  - h. *No residential building shall contain more than one accessory dwelling unit. In addition, an accessory dwelling unit shall not be permitted in the following situations:*
    1. *On any lot which contains two or more permanent dwelling units, whether in one or more than one building;*
    2. *In any building in which there are one or more lodgers in accordance with §4.07(51);*
    3. *In any existing garage space, unless all required parking spaces are already accommodated in another existing on-site structure;*
    4. *On any lot upon which is accessed from any public or private street by more than one curb cut, except for lots having a circular driveway designed to serve the original principal dwelling;*
  - i. *A property with an accessory dwelling unit shall conform to the following parking provisions:*
    - 1) *The property must have three parking spaces as specified in §6.02 Table of Off-Street Parking Requirements, except as this requirement may be waived by the Zoning Board of Appeals according to the following criteria:*
      - (a) *the property has two parking spaces, and is located within one half*



*mile of an MBTA light rail stop; or*

- (b) the property has two parking spaces, and the applicant is able to demonstrate that the applicant's household requires no more than one parking space.*
- 2) No exceptions to setback or yard regulations may be granted for the purpose of constructing any parking space that may be required as a condition of securing regulatory approval for an accessory dwelling unit. No part of any parking space added to meet the parking requirement shall lie between the street and the principal plane of the front facade of the house as extended to the side yard setback lines*
- 3) In the event that a parking space waiver is granted, the special permit shall stipulate that no additional parking spaces requiring any setback relief shall be constructed on the subject lot during the term of the special permit.*
- j. An accessory dwelling unit may be authorized only by means of a special permit, as per §9.04, which shall include all applicable restrictions, including a condition which requires recertification of compliance every five years and upon the sale of the property.*
- 1) The property owner shall record with the special permit, at the Norfolk County Registry of Deeds, an affidavit of principal residence in a form to be prescribed by the Building Commissioner. Such affidavit form may include owner's certification of other conditions relating to maximum number of occupants and maintenance of unobstructed egress through the principal dwelling unit.*
- 2) As a condition of the special permit, every five years and upon sale of the property, the owner shall submit to the Building Commissioner a recertification of compliance with all conditions of the special permit, including a new affidavit of principal residence. The property owner shall record such recertification at the Norfolk County Registry of Deeds upon approval of the Building Commissioner. Prior to approval, the Building Commissioner may re-inspect the property for compliance.*
- 3) A property owner who fails to recertify or dismantle an accessory dwelling unit, as required, shall be subject to regulatory enforcement by the Building Commissioner.*
- 4) A property owner who chooses to discontinue the accessory dwelling unit shall notify the Building Commissioner in writing.*

5) *Modifications to properties not otherwise subject to Local Historic District Review as per the Preservation Commission and Historic Districts By-law (Article 5.6 of the Town's bylaws), that are listed on the National Register of Historic Places or deemed eligible for such listing by the Preservation Commission, shall, as part of the special permitting procedure, be subject to Advisory Design Review by the Preservation Commission using Local Historic District guidelines.*

k. *A listing of all accessory dwelling units which currently have a special permit shall be maintained by the Town in such a manner as to be accessible on the Town of Brookline website.*

Add the following #51.B to use categories in §4.07 – TABLE OF USE REGULATIONS

Accessory Uses	Residence				Business			Industr y
	S	SC	T	M	L	G	0	I
<i>51B. Within a detached owner-occupied dwelling in zones S-10, S-15, S-25 and S-40, an Accessory Dwelling Unit as further defined and limited in Section 4.05, paragraph 2.</i>	<i>SP</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>No</i>

In §5.22- EXCEPTIONS TO MAXIMUM FLOOR AREA RATIO (FAR) REGULATIONS FOR RESIDENTIAL UNITS,

Add at the end of paragraph 1.a:

*, except for accessory dwelling units as per §4.05(2)*

Add after but separate from 2.b, a new paragraph:

*For purposes of this subsection only, an accessory dwelling unit, as per §4.05, paragraph 2, shall not be considered a separate unit.*

In §6.02 - OFF-STREET PARKING SPACE REGULATIONS

Add a footnote symbol to TABLE OF OFF-STREET PARKING SPACE REQUIREMENTS after “2.0” in first box under Residence (Number of Spaces per Dwelling Unit), and the following footnote below:

*An additional parking space is required for accessory dwelling units in eligible single family zones.*

Add in the title of paragraph §6.02.2

**51B**

Add to Paragraph §6.02.2.e, after words “For a dwelling unit”

*(excepting a single family home which includes an accessory dwelling unit as defined in §4.05 paragraph 2),*

<u>NO.</u>	<u>TITLE</u>
21.	Civil Service (Human Resource Board)

Chairman Daly stated that she understands that the Human Resources Board would not like this referred back to them. Selectman Benka understands that Civil Service for non-public safety employees is broken, but the Union reps stated that the Governor is trying to fund and fix the system. Selectman Benka thought that this could be referred back to the HR Board not for further study but to await any legislative change. Human Resources Board member Ken Kurnos replied that they have determined that not only is the system broken down, it never worked. It was never intended to work in today’s society, it excluded minorities and women. Even if the system were resurrected, it would be subject to the same imperfections seen now. Mr. Kurnos added before presenting their study they asked all the Union, Department Heads, and everyone that came before them whether or not there was anything new, nothing was brought to their attention including the legislation. He feels it is a bad idea for the State and for the Town of Brookline because it never worked properly.

Selectman Benka questioned if giving the process a chance to work would it have a better chance at the State House. Mr. Kurnos reiterated that the system would not work for Brookline, the practice is not reasonable.

Director of Human Resources Sandra DeBow added that should it be resurrected the tests would need to be re-done; job descriptions would need to be re-

**WARRANT ARTICLES cont'd**

written. The Civil Service law was initially drafted in the 1800's. There are a wide range of laws that need to be adhered to that offer protection to the employee today that is working quite well. The system is broken to the point that it would be extremely difficult to fix particularly in these economic times. Chairman Daly added that some members prefer Civil Service to resolve grievances. Mr. Kurnos added that most employees are choosing arbitration for faster resolution.

Selectman Benka stated that he is concerned that provisional employees could be displaced according to Civil Service laws. Mr. Kurnos shared that concern.

Selectman Allen stated that there are times when an appeal decision at Civil Service can resolve disputes. He has received many calls about the Article in opposition, however; dealing with the Civil Service himself, he agrees that it is not working; even if it can be fixed it could take years. He feels that the right thing to do is support the Warrant Article. Selectman DeWitt added that she supports the Article because of the applicant pool, and lack of diversity it provides. The system worked well and effectively years ago, but is not designed for today's issues.

Selectman Mermell added that she agrees the system needs reform. The only place this will happen is at the State House. She feels that their energies are better used working with the legislature. For this reason she opposes the Article. Chairman Daly added that she feels that it is not a fair way to hire people. She is also concerned about the potential displacement of provisional employees that have been here a long time, and are doing a good job.

On motion, it was,

**VOTED: 4-1 (Selectman Mermell opposed) Favorable Action on Article 21.**

*Selectman Mermell stepped out of the meeting*

**NO.**

**TITLE**

**19.**

**Zoning – Off-Street Parking  
(Planning)**

Director of Planning & Community Development Jeff Levine stated that the Planning Board and the Advisory sub-committee had some recommended language. Their recommendation puts a cap on the amount of relief you can get, 10 spaces or up to 50%, whichever is greater.

On motion, it was unanimously,

**WARRANT ARTICLES cont'd**

**VOTED: 4-0 (Selectman Mermell absent) Favorable Action That the Town amend Section 6.02, subparagraph 1.b. of the Zoning By-law as follows: [bold is new language, strike-out is deletion]**

§6.02 - OFF-STREET PARKING SPACE REGULATIONS

1. Off-street parking facilities shall be provided for each type of land use, in accordance with the following table, which is part of this Article, except as otherwise permitted in this section, and subject to the further provisions of Article VI. Parking spaces for the physically handicapped shall meet the number and dimensional requirements set forth in the Rules and Regulations of the Architectural Access Board and any other applicable provisions of law.
  - a. Where the computation of required parking space results in a fractional number, only the fraction of one-half or more shall be counted as one.
  - b. **When a change or expansion of a non-residential use in a business district is proposed primarily within an existing building,** ~~Where the computed requirement for non-residential use in a business district is six spaces or less,~~ the Board of Appeals by special permit may waive ~~all or part~~ **up to 10 spaces, or up to 50%, of any increased such computed requirement, whichever is greater.** In determining whether a waiver of parking is appropriate, the Board of Appeals shall consider evidence which shall be provided by the applicant regarding the following items:
    1. the operating characteristics of the proposed use including but not limited to a description of the type of business, hours of operation, number of employees, and delivery service requirements;
    2. the peak parking demand for the proposed use in relation to the peak parking demand generated by other uses in the area;
    3. the need for and provision of employee parking; and
    4. the availability and/or shortage of existing public parking and transit facilities in the area.

**WARRANT ARTICLES cont'd**

<b><u>NO.</u></b>	<b><u>TITLE</u></b>
<b>23.</b>	<b>Resolution on Citizen Complaint Policy (Farlow)</b>

Associate Town Counsel Patty Correa stated that there was the question, could Civil Service govern the Board's decision making in regards to proceeding with disciplinary action. The answer was that section 41 of chapter 31 has certain requirements for the appointing authority, which is the Board of Selectmen. It requires a majority vote by the appointing authority to proceed with a disciplinary hearing.

Chief O'Leary stated that there is a detailed policy to go about citizen complaints. The Police Department has well established procedures for handling a wide variety of cases, especially those that either result in an arrest or result in charges being brought against a subject without an arrest. In each of these instances, supervisory review and approval is necessary before the case is permitted to reach the court. This type of review goes on constantly and begins at the Sergeant's level. Once it leaves the Police department it is checked again at the Court House level.

Bryan Decker, Counsel for the Police Union wanted to reiterate that regarding the issue of when a hearing is a hearing, this does implicate the Civil Service law, when a police officer is to be disciplined for more than five days there are procedures. The decision to have that hearing can only be made by the Board of Selectman acting as a Board which is by a majority vote. The Union fully participated in the Citizen Complaint Review Committee (CCRC's) process. He was impressed with the Committee's commitment and effort that was commendable. He disagrees with the Article that this is a step backwards; he feels that this is a step forward in bringing the policy in line with the law. The fact that it has not been challenged does not mean that that it is not problematic.

Chairman Daly stated that the Board received a memo from the Director of Human Resources, addressing citizen complaints in general, and not only in regards to the Police Department. The Town has in place many policies, concerning employees and officials of the Town. A one size-fits-all complaint procedure as recommended by Article 23 may result in a negative effect. Complaint procedures should continue to fall under existing policies and the Town Administrator should address each complaint with the relevant Department Head. Town Administrator Richard Kelliher agreed that he does field the calls when they do come in on occasion. There is a process that exists when a complaint is received.

**WARRANT ARTICLES cont'd**

Susan Allen, precinct 13 stated that one of the goals of the Article was to allow a single Selectman to investigate incidents and complaints. Massachusetts General Law has wording to the effect that Selectman have the right to investigate any issue that comes before the Town. The word Selectman is not plural. Ms. Allen did not have the exact wording of the law.

Mariela Ames TMM#15 stated that it is not clear to her what the purpose of the informal presentation being recommended by the CCRC is.

Chairman Daly replied that the system worked by having the Police investigating a report. The Board would hear from the Police, but not the complainant. The Board would then have to decide whether to move ahead with a disciplined hearing. Now the procedure includes the opportunity to hear from the complainant prior to making that decision. The complainant would have a right to speak in front of the Board.

Ms. Ames asked if there were other legal opinions that reached the same conclusion as Town Counsel. Selectman Benka replied that he has concluded that in order to initiate a disciplinary hearing against a police officer, a vote of majority by the Board of Selectmen is required. He attended an Advisory Committee sub-committee and there was discussion on this. Where these are more serious issues with discipline of more than 5 days, the civil service implication comes into play. To initiate charges against an officer, he believes a majority vote is required. He has not heard any persuasive argument that a majority vote is not required.

Selectman DeWitt added that the new draft policy and the Warrant Article are two different things. The draft policy is not final. What is already there is an entitlement to come before the Board of Selectman. There is a lot of confusion because previously there was a vote required to do so. Now no vote is required, anyone who wishes to come in before the Board is entitled to do so; the details need to be filled in. As the appointing authority we are now moving the next stage in the review process to a higher burden of evidence. For fairness reasons and legal requirement it would be inappropriate when serious charges are being faced to move forward with just one vote. The first stage is not a judicial hearing, it is informational to inform the Selectmen so they can make an informed decision as to go forward with a disciplinary hearing or not.

On motion, it was unanimously,

VOTED: 5-0 No Action on Article 23.

**WARRANT ARTICLES cont'd**

<b><u>NO.</u></b>	<b><u>TITLE</u></b>
<b>24.</b>	<b>Resolution in Support of Surveillance Cameras (Selectmen)</b>

Selectman DeWitt asked to hold this vote. The Advisory Committee had proposed amended language. She would like to review their language.

Susan Allen, Precinct 13 has a concern of public monies funding the cameras. She feels that there is a question of unreasonable search and seizure, under the fourth amendment.

Selectman Benka replied that the concern is a reasonable expectation of privacy in the area. If it is public streets and sidewalks, there is no expectation of privacy.

Article 24 was held.

<b><u>NO.</u></b>	<b><u>TITLE</u></b>
<b>26.</b>	<b>Resolution on PAYT (Selectmen)</b>

Selectman Mermell stated that the Advisory Committee has not taken this Article up yet.

John Dempsey, Co-Chair of the PAYT Committee stated that he has not seen any proposed language amendments.

There has been some correspondence with residents on the Article concerning yard waste and the disposal of it. There has also been question on the methodology, and the disposal of bulky waste. Selectman Mermell stated that PAYT is the single most effective way to reduce solid waste and increase recycling. She added that the Climate Action Committee voted in favor of the Article.

Selectman DeWitt expressed concern on who is responsible for the cost of bulky waste. Mr. Dempsey replied that it is the responsibility of the landlord.

Article 26 was held.



In Board of Selectmen

April 28, 2009

Page 26 of 26

**WARRANT ARTICLES cont'd**

<b><u>NO.</u></b>	<b><u>TITLE</u></b>
<b>27.</b>	<b>Resolution on Single Payer Health Care (Berger)</b>

**Chairman Daly stated that the issue of not hearing from any opponents on this Article had come up. Director of Health and Human Services Alan Balsam made the suggestion that the Board may want to refer Article 27 to the Advisory Council on Public Health.**

**On motion, it was unanimously,**

**VOTED: 5-0 To refer Article 27 to the Advisory Council on Public Health.**

**There being no further business, the Chair adjourned the meeting at 10:55 p.m.**

**ATTEST**