

IN BOARD OF SELECTMEN

August 4, 2009

**Present: Chairman Nancy Daly, Selectmen Jesse Mermell
Richard Benka, and Kenneth Goldstein**

The Minutes of July 28th were approved as amended.

EXECUTIVE SESSION

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

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

- _____ (1) To discuss the reputation, character, physical condition or mental health rather than the professional competence of a particular individual¹.
- _____ (2) To consider the discipline or dismissal of, or to hear complaints or charges brought against, a public officer, employee, staff member, or individual¹.
- X (3) To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the governmental body, to conduct strategy sessions in preparation for negotiations with non-union personnel, and to conduct collective bargaining sessions or contract negotiations with non-union personnel.
- _____ (4) To discuss the deployment of security personnel or devices.
- _____ (5) To investigate charges of criminal misconduct or to discuss the filing of criminal complaints.
- _____ (6) To consider the purchase, exchange, lease or value of real property, if such discussion may have a detrimental effect on the negotiating position of the governmental body with a person, firm or corporation.
- _____ (7) To comply with the provisions of any general or special law or Federal grant-in-aid requirements.

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

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

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

VOTED: to go into Executive Session

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

Selectman DeWitt absent

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

PUBLIC COMMENT

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

Chairman Daly announced the Operation Stand Down clothing drive for at-risk and homeless veterans. Donation drop off will be at the Public Safety Buildings Community Room this Thursday and Friday.

TRANSFER

The Board considered the question of authorizing the transfer of \$7,200 from the BAA Trust Fund (6300TR02) to the Arts Council Matching Grants Account (1220SG27 to cover the FY10 projected expenditures for the Arts Commission.

Assistant Town Administrator Melissa Goff stated that this transfer would cover the Commission for the Arts projected expenditures for the remainder of FY10.

On motion, it was unanimously,

VOTED: To approve the transfer from the Ryder BAA Trust Account (633 TR02) to the Arts Council Matching Account (1220SG27).

GRANT

The Board considered the question of accepting a grant in the amount of \$7,500.00 from the Executive Office of Public Safety and Security's Highway Safety Division to be used to improve traffic, pedestrian and bicycle safety in the Coolidge Corner area.

Chief O'Leary stated that the grant will be used to improve traffic, pedestrian, and bicycle safety in the Coolidge Corner area. The Department will also be working on traffic flow improvements in the area.

On motion, it was unanimously,

VOTED: To accept a grant in the amount of \$7,500.00 from the Executive Office of Public Safety and Security's Highway Safety Division to be used to improve traffic, pedestrian and bicycle safety in the Coolidge Corner area.

GRANT

The Board considered the question of accepting a grant in the amount of \$2,500.00 from MEMA to be used to update the Town's Comprehensive Emergency Management Plan.

Chief O'Leary stated that these funds will be used to update the Town's Emergency Management Team. They will be useful for overtime, and printing costs.

On motion, it was unanimously,

VOTED: To accept a grant in the amount of \$2,500.00 from MEMA to be used to update the Town's Comprehensive Emergency Management Plan.

CDBG AGREEMENTS

The Board considered the question of approving and authorizing the Chairman to execute the following FY2010 CDBG Subrecipient Agreements:

Agency: Brookline Community Mental Health Center
Activity: Comprehensive Services for Children & Families
Project #: 1813 G010
Budget: \$27,000

Agency: Brookline Community Mental Health Center
Activity: Adolescent Outreach Program
Project #: 1843 G010
Budget: \$38,000

Agency: Brookline Housing Authority
Activity: Brookline Learning Project
Project #: 1830 G010
Budget: \$10,500

Agency: Brookline Recreation Dept
Activity: Youth Employment Project
Project #: 1803 G010
Budget: \$75,500

CDBG AGREEMENTS cont'd

Director of Planning & Community Development Jeff Levine stated that these grants had been previously outlined and discussed. This is for the execution of the public service grants.

On motion, it was unanimously,

VOTED: To approve and authorize the Chairman to execute the following FY2010 CDBG Subrecipient Agreements:

Agency: Brookline Community Mental Health Center
Activity: Comprehensive Services for Children & Families
Project #: 1813 G010
Budget: \$27,000

Agency: Brookline Community Mental Health Center
Activity: Adolescent Outreach Program
Project #: 1843 G010
Budget: \$38,000

Agency: Brookline Housing Authority
Activity: Brookline Learning Project
Project #: 1830 G010
Budget: \$10,500

Agency: Brookline Recreation Dept
Activity: Youth Employment Project
Project #: 1803 G010
Budget: \$75,500

GREEN COMMUNITIES PROGRAM GRANT

The Board considered the question of authorizing the Chair to sign an application for a Green Communities Program Grant for Planning Assistance from the Massachusetts Department of Energy Resources.

Director of Planning & Community Development Jeff Levine stated that the Massachusetts Department of Energy Resources established the Green Communities Grant Program, providing up to \$10,000,000 annually in grant

GREEN COMMUNITIES PROGRAM GRANT cont'd

funding to cities and towns that meet five specific criteria. The grant program will fund energy efficiency and renewable energy activities. However; the five criteria are very difficult, and complicated to accomplish. Acknowledging that, the Green Communities Division is offering planning assistance to eligible cities and towns to aid them in meeting the criteria.

Mr. Levine would like to continue with the process, and put a good faith effort into trying to achieve the criteria.

Selectman Mermell added that the criteria are ambitious, but the outcome is significant.

On motion, it was unanimously,

VOTED: To authorize the Chair to sign an application for a Green Communities Program Grant for Planning Assistance from the Massachusetts Department of Energy Resources.

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 the following events to be held at 15 Newton Street:

August 8th 4pm-12M	Wedding Reception (Siracuse/Daniel)
August 13th 10am-3pm	Summer Outing
August 29th 3pm-12M	Wedding Reception (Siegel/Wooten)
August 30th 3pm-7pm	Memorial (Veevers Associates)
September 5th 5pm-11:30 p.m.	Wedding Reception (Richard Suter)

Chief O'Leary took a moment to inform the Board on recent mishaps at events at the Larz Anderson Museum. On a couple of occasions, there were patrons drinking alcohol on the Park side of the Museum where alcohol is prohibited, a case

TEMPORARY WINE AND MALT BEVERAGE LICENSE cont'd

of over serving that lead to an altercation within guests and resulted in the bar being shut down, and a traffic problem on July 4th. The Chief presented liquor guidelines and conditions for the Museum's events that require a temporary liquor license.

- All outside events issued a temporary liquor license will require a police detail.
- No alcoholic beverages of any kind will be allowed beyond the designated lawn area. Signs indicating such will be posted in the lawn area and at the front entrance/exit to the auto museum. Auto museum staff will be responsible for placing these signs prior to the start of each outdoor event, which is assigned a temporary liquor license.
- Bar closing time *shall* be no later than 11:00 p.m., with no alcohol on tables or in possession of patrons after 11:30p.m.
- Amplified music (live band disc jockey, karaoke, etc...) *shall* terminate at 11:00
- Non-amplified music may play until 11:30 p.m. No entertainment whatsoever after 11:30 p.m.
- No motor vehicle will be allowed to remain in Larz Anderson Park property after the event terminates. Vehicles that remain will be subjected to parking ticket violations, and towed.
- All event guests *shall* leave Larz Anderson Park property by midnight. Clean-up staff may remain on the premises as required.
- The Auto Museum staff *shall* be responsible for fully advising those in control of distributing alcohol at events hosted at their site, about the above policy.

The Auto Museum staff, prior to the issuance of any temporary liquor license, must adhere to all of these requirements.

Karen Hasenfus, Events Manager for the Larz Anderson Auto Museum was present, and stated that she is aware of the new conditions. Selectman Goldstein would like the conditions incorporated into the application somehow.

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 the following events to be held at 15 Newton Street:

**August 8th
4pm-12M**

**Wedding Reception
(Siracuse/Daniel)**

**August 13th
10am-3pm**

Summer Outing

TEMPORARY WINE AND MALT BEVERAGE LICENSE cont'd

August 29th 3pm-12M	Wedding Reception (Siegel/Wooten)
August 30th 3pm-7pm	Memorial (Veevers Associates)
September 5th 5pm-11:30 p.m.	Wedding Reception (Richard Suter)

ROAD RACE FOR INITIATIVE TO ADVANCE HUMAN RIGHTS

Alicia Winn of the Boston Initiative to Advance Human Rights appeared to describe that organization's October 10, 2009 Road Race in Brookline.

Alicia Winn and Amanda Hark from the Boston Initiative to Advance Human Rights (BITAHR) informed the Board on an upcoming road race that will take place in Brookline. The organization supports young women who have been or are at risk of being exploited. The organization provides entrepreneurship training and mentorship, trafficking awareness training, and outreach to civil society sectors, such as, schools, shelters and law enforcement agencies. The race is a fundraiser that will take place on October 10, 2009.

The Board thanked them for the update and commended them for their service.

POLICE PERSONNEL

The Board considered the question of authorizing Chief O'Leary to petition the following lists from the Department of Human Resources:

**Police Captain
Police Lieutenant
Police Sergeant**

Chief O'Leary stated that Superintendent Mello has decided to retire on August 31, 2009. The Chief took a moment to review Superintendent Mello's impressive career with the Police Department. This opens up the above positions.

Chairman Daly acknowledged Superintendent Mello and added that he will be missed.

On motion, it was unanimously,

VOTED: To authorize Chief O'Leary to petition the following list from the Department of Human Resources:

**Police Captain
Police Lieutenant
Police Sergeant**

BOARDS AND COMMISSIONS

Gretchen Bostrom, candidate for appointment to Brookline Access Television Board appeared for interview.

Ms. Bostrom is an Emerson College graduate with a degree in Mass Communications, where she was involved in the student radio station. She is interested in the BAT organization for its public access and its involvement with students. Ms. Bostrom is currently employed at the Harvard Magazine.

The Board thanked her for her interest.

WINE & MALT PACKAGE STORE CHANGE IN MANAGER

The Board considered the question of approving the application of Battite Family, Inc. d/b/a The Brookline Spa, Clifford Battite, Owner holder of a Wine and Malt beverages license as a Retail Package Goods Store at 75 Harvard Street for a change in manager as follows:

**FROM: David Battite
TO: Clifford Battite**

Clifford Battite was present. He had been working at the establishment for many years, which is a family run business. Mr. Battite added that his employees just finished tip training. There will be a tip trained worker at each shift.

On motion, it was unanimously,

VOTED: To approve the application of Battite Family, Inc. d/b/a The Brookline Spa, Clifford Battite, Owner holder of a Wine and Malt beverages license as a Retail Package Goods Store at 75 Harvard Street for a change in manager as follows:

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WINE & MALT PACKAGE STORE CHANGE IN MANAGER cont'd

FROM: David Battite
TO: Clifford Battite

COMMON VICTUALLER LICENSE

The Board considered the question of approving the application of Berry Freeze, LLC d/b/a Berry Freeze, Paul Cheung, Owner for a Common Victualler License at 273 Harvard Street.

Owner Paul Cheung was present. Mr. Cheung outlined the business for the Board which will be a frozen yogurt shop that is environmentally friendly.

On motion, it was unanimously,

VOTED: To approve the application of Berry Freeze, LLC d/b/a Berry Freeze, Paul Cheung, Owner for a Common Victualler License at 273 Harvard Street.

The Board considered the question of approving the application of Berry Freeze, LLC d/b/a Berry Freeze, Paul Cheung, Owner, holder of a Common Victualler license at 273 Harvard Street for an Entertainment License to include taped music. Sun-Thurs 11:00 a.m - 10:00p.m. Fri-Sat 11:00 a.m.-12 midnight

On motion, it was unanimously,

VOTED: To approve the application of Berry Freeze, LLC d/b/a Berry Freeze, Paul Cheung, Owner, holder of a Common Victualler license at 273 Harvard Street for an Entertainment License to include taped music.

WINE & MALT COMMON VICTUALLER INCREASE IN HOURS

Continued discussion on the application of Genki, Inc., d/b/a Genki Ya, Jason J. Yu President, holder of a license to a Wine and Malt beverages license as a Common Victualler at 398 Harvard Street, for an increase in hours as follows:

FROM: Sun-Sat 11am – 11pm
TO: Sun-Sat 11am – 1:30am

Applicant did not show up.

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**GRANT AGREEMENT BETWEEN TOWN AND HUD FOR FFY2008
HOMELESSNESS PREVENTION AND RAPID RE-HOUSING FUNDING**

Dr. Laura Kanter, of Brookline Mental Health, Director of Health and Human Services Alan Balsam, Planning and Community Development Director Jeff Levine, and Housing Project Planner Virginia Bullock appeared to update the Board on the Homelessness Prevention Rapid Re-Housing Funding and request that the Chairman authorize and execute the Grant Agreement between the Town and the Department of Housing and Urban Development (HUD) for FFY2008 Homelessness Prevention and Rapid Re-housing Funding (HPRP).

Director of Planning & Community Development Jeff Levine stated that these are stimulus grants, and the agreement is to inform HUD that the Town is accepting the funds in the amount of \$667,436.00. There have been many calls looking for short term assistance with housing issues.

Director of Health and Human Services Alan Balsam added that the funds could help pay for security deposits and utility bills.

Virginia Bullock, Housing Coordinator stated that she has met with community groups, and the Town is partnering with the Brookline Community Mental Health Center as their lead to determine how to program the funding.

Dr. Laura Cantor of the Brookline Community Mental Health Center stated that they are working with the Town on how to manage the funds. The funding will be allocated to case management for eligible individuals or families and direct financial assistance for the homeless or those facing homelessness. The funds compliment the Brookline Safety Net Program.

Selectman Goldstein asked how the funds would be divided. Dr. Cantor replied that about 50% will be used for case management and follow up. In addition there will be funds for legal services, credit repair, and mediation services. The grant provides 5% for administration of the grant. There is a lot of data collection required which the center is familiar with managing. Selectman Benka added that the case management is an important part of the program. It provides long term benefits.

Brian Cloonan, Brookline Housing Authority added that the funds will help those before they are facing a housing crisis. Lloyd Gellineau, Human Services Coordinator stated that many residents are facing eviction and/or homelessness due to the economic climate. Many are trying to hold onto their homes or apartments. This grant will assist them in staying in their homes.

On motion, it was unanimously,

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**GRANT AGREEMENT BETWEEN TOWN AND HUD FOR FFY2008
HOMELESSNESS PREVENTION AND RAPID RE-HOUSING FUNDING cont'd**

VOTED: To approve and authorize the Chairman to execute the Grant Agreement between the Town and the Department of Housing and Urban Development (HUD) for FFY2008 Homelessness Prevention and Rapid Re-housing Funding (HPRP).

**GRANT AGREEMENT BETWEEN TOWN AND HUD FOR FY2008
COMMUNITY DEVELOPMENT BLOCK GRANT RECOVERY (CDBG-R)
FUNDING**

The Board considered the question of authorizing the Chairman to execute the Grant Agreement between the Town and the Department of Housing and Urban Development (HUD) for FFY2008 Community Development Block Grant Recovery (CDBG-R) funding.

Director of Planning & Community Development Jeff Levin stated that this program has previously been approved; this is a formal agreement to acknowledge that the Town accepts the funds. The grant is in the amount of \$436,204.00.

On motion, it was unanimously,

VOTED: To approve and authorize the Chairman to execute the Grant Agreement between the Town and the Department of Housing and Urban Development (HUD) for FY2008 Community Development Block Grant Recovery (CDBG-R) funding.

RUNKLE SCHOOL PROJECT

Project Administrator Tony Guigli and members of the Runkle School Project Committee appeared to update the Board.

Chairman Daly stated that they have met with the Massachusetts School Building Authority (MSBA) on the funding of the project. The Runkle School Committee and the architects have been working very hard on the project.

Project Administrator Tony Guigli stated that the design team has been very active, and has done an outstanding job. The existing school is now approximately 64,000 s.f., and the plan is to build it out to 105,000 s.f. The building currently houses 480 students which is resulting in overcrowding, and the new building will serve 560 students. The schematic design has been completed, as well as cost estimations. The cost is based on the previous estimate and will get clearer as the

RUNKLE SCHOOL PROJECT cont'd

design progresses. There have been many public meetings on the project, and he feels they have been transparent and open, and he is trying to address all concerns. They will be before the Board of Appeals for a relief on parking this month. The project is projected to be around \$29 million, which is still over what they need to be. They are looking at items to cut, unfortunately there is not a lot left to cut. There will be a lot of information coming in the upcoming weeks, including the financial aspect. The design development will start right after Town Meeting, if possible, it would be put out to bid early fall next year, with the hopes that construction will start in 2010 and end completion in 2012, and open for the school year September 2012.

Currently the building offers 17 off site parking spaces, which is inadequate. They are looking at a permit program for staff that would be spread out into the neighborhood to relieve congestion around the school, and to not put a burden on the direct neighborhood. There have been two Transportation Board meetings and the Transportation Board has approved the permit program in principal, the details need to be worked out.

Greg Schroeder of Design Partnership of Cambridge, and David Warner of Warner Larson, presented photos of the current site and the proposed site. They outlined the preliminary site plan. There have been two teams assigned to the project, one working with school faculty and leadership, and another technical group looking at the building's deterioration. The basic structure is in good condition, they have looked at many options. They designers presented a schedule, and as of now the project is still on schedule.

Deputy Town Administrator Sean Cronin stated that he had met with the MSBA to discuss funding. It was originally assumed at 40% reimbursement which has since been changed. The base reimbursement rate is now 34.5%. Brookline has a chance of the 40% because the project was already in process when the MSBA changed its reimbursement percentage. The question now is what the reimbursement percentage is based on. Most likely it would not be on the full \$29 million, some expenses would not be reimbursable such as hazmat, demolition, and abatements. The Town is putting together the paperwork to submit to the State on what the reimbursement rate will be.

School Superintendent Bill Lupini stated that he is happy for the relationship between the School and Town. He thanked Tony Guigli for this. He added that this is only part of the equation. As of today there are 570 kindergarten students enrolled for the coming school year. Out of the last five years, this is the largest. If there were only 500 enrolled in the coming years there would be a need for a significant increases in classrooms. If this growth continues, there would be a need of 20 additional classrooms throughout the Town. There has been discussion about portable classrooms, or looking at more permanent structures within existing

RUNKLE SCHOOL PROJECT cont'd

buildings. There is a definite need for extra classrooms. He asked to keep in mind that the Runkle School is overcrowded right now, and there are students that reside

in the core attendance area that are not able to attend the Runkle School. They have been invited to attend other schools because with these students the school would be significantly overcrowded. He feels that this project will mean that the School Committee will need to redraw the attendance area and look at the buffer zones.

Selectman Benka asked about portable classrooms. Mr. Lupini replied that the average class size in K-3 is around 20-23 per classrooms. The eighth grade that left last year had 394 students and is being replaced by a group of 550 students. An average of 23 students will include groups of 25. Selectman Benka asked if the MSBA treats portable classrooms the same as new construction. Would they be reimbursed? Mr. Lupini replied that he does not think they are reimbursable.

Selectman Goldstein asked about the Old Lincoln School, and if it is suitable for students during the Runkle School construction. Mr. Lupini replied that some work will need to be done, but the plans are well on the way. Most of the work will be cosmetic with the exception of the cafeteria that needs to be functional again. Selectman Mermell added that there are plans to continue the open dialog with the neighbors. Mr. Guigli replied that they will develop a plan with the architect to put safeguards in place. There will also be a full time contact person at the site.

Dr. Harvey Finkle, abutter applauded the efforts being made but has some concerns about the project. His concerns include the height mass, the fact that there have been some discussions and decisions made during the summer, and a controversy over the FAR (floor area ratio), if it meets the requirements. He is also concerned about the density of the project on a small site, in a highly populated neighborhood. Dr. Finkle feels there are ways to tailor the project a little bit better.

Selectman Benka asked if there was a shadow study done of the school. Mr. Schoeder replied yes.

Chairman Daly thanked everyone for the update.

SPECIAL TOWN MEETING

Discussion and vote on the following Warrant Articles for the August 26, 2009 Special Town Meeting:

- | <u>No.</u> | <u>Article</u> |
|-------------------|---|
| 1. | To see if the Town will accept G.L.c. 64L, Section 2 (a) to impose a local meals excise; or act on anything relative thereto. |
| 2. | To see if the Town will amend its local room occupancy excise under G.L.c. 64G, Section 3A to the rate of 6 percent; or act on anything relative thereto. |

Chairman Daly stated that this has been a concern for some time. The Board is very grateful for last year's override which certainly helped. The legislature has acted to increase the State meals tax 1.25% which they will appropriate the revenue from. They hope to use it to restore Local Aid. This Article will allow Brookline to add an additional .75% which will generate revenue for the Town. This results in a total meals tax of 2%. By having an August Town Meeting, Brookline can start collecting the revenues on October 1, 2009. This is an estimated amount of \$391,000 in revenue. Chairman Daly added that there is a long standing policy for treating one-time money for non-operating budget capital projects, such as the Runkle School, unfounded liabilities, the pension fund, there is no shortage of where these funds could go.

Town Administrator Richard Kelliher stated that the dollars to be raised this year to the extent that they are committed to one-time purposes, in that capacity is reserved in the entirety for future budgets going forward. We do have a game plan to finish off balancing the current fiscal year, budget FY10. It can not be determined at this time where the funds would go. Selectman Benka added that the August Town Meeting will be deciding only on the tax increases. The issues of what would be done with the revenue would be discussed as part of the general budget discussion at the November Town Meeting.

Roger Lipson, Chairman of the Chamber of Commerce, stated that it is tough for a restaurant owner to make ends meet in this financial climate. He added that there's an option under the statute to apply the tax increase on January. A member of the Commerce is a CPA, and he indicated that there has been a 10-15% drop in business income to many of his clients operating small businesses. Business is off in Coolidge Corner and other areas of town, many have let there leases run out in order to look for a smaller space. It is more difficult today than it

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was 2 years ago to run a business in Brookline. The Chamber reluctantly endorses the increases. He acknowledged that the more people dine in Brookline the better for everyone.

Chairman Daly added that the property tax has gone from 50% to 80% of the total revenue, where there has been a sense that the Town relies too much on the residential property tax.

Stanley Spiegel, TMM#2, and Advisory Committee member is happy to see the Special Town Meeting being called. The revenue that the Town can receive by adopting the policy is substantial. As for the funds, we already have a budget that is sensibly in balance. These funds in future years would be part of the operating budget. The outcome of the meals tax comes out to 75 cents on a \$100 meal and 22 cents on a \$30 meal; he feels it would not deter patrons from dining out. Surrounding towns have adopted it, lessening the competition.

Harvey Bravman, Coolidge Corner Merchants Association, (CCMA) and Board member of the Chamber of Commerce, stated that the CCMA supports the increase of the local meals tax. They urge the Board to plant a seed to Town Meeting members that is it imperative to invest revenue in its business district. All tax payers and voters are stake holders. For every \$100 in meals served 75 cents goes to the town. In 2007, approximately \$188 million in meals were served in Brookline during that year. Any trends upwards or downwards in meals served would greatly affect the revenues that Brookline can collect. Some restaurant owners have had to move out of Brookline because they could not survive the rent and loss in business. Revenues are trending downwards for almost all local businesses; the Town of Brookline will lose a significant amount of tax income if they do not invest in the commercial areas. Empty store fronts affect the entire community in a domino effect. Mr. Bravman proposed the creation of an oversight committee made up of dedicated residents and business leaders who will make recommendations to the Town in the most effective group setting. He hopes that the Town will give back some of these revenues to the business community.

ARTICLE 1

FIRST ARTICLE

To see if the Town will accept G.L. c. 64L, § 2(a) to impose a local meals excise; or act on anything relative thereto.

SELECTMEN'S RECOMMENDATION

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Over the past decade, successive Boards of Selectmen consistently advocated for local option taxes with the Brookline legislative delegation. Selectmen advocacy efforts were part of a statewide demand by local officials for greater diversity in municipal revenue sources. Persistent over-reliance on the property tax capped by Proposition 2 ½, accompanied by wild swings in State Aid, have limited the ability of Massachusetts local government to sustain essential services. Here, property taxes were 64% of Town revenue in FY1990 and now stand, two overrides and two debt exclusions later, at close to 80%.

The goal of municipal advocates had been for the Commonwealth to enable localities to raise and retain increases of at least 2% in both the meals tax and hotel excise tax. While the authority for municipalities to raise and retain 2% hotel tax increase was granted (see Recommendation for Article 2), equivalent authority was not granted for meals taxes. Instead the Legislature increased the meals tax statewide 1.25% subject to its own appropriation authority and provided localities with the local option to increase meals taxes by another 0.75%. Thankfully the Legislature allocated the full 1.25% increase in FY10 to reduce proposed Local Aid cuts by \$71 million statewide, or \$391 thousand for Brookline. However, because that Local Aid reduction was based on a formula rather than value of estimated meals taxes from the community of origin, the net effect for localities like Brookline with a relatively sizable concentration of restaurants was less favorable than the pure local option approach.

As laid out in both the legislation that created it and guidance from the Department of Revenue (DOR), the mechanics of the meals excise tax are as follows:

1. it becomes operative only if accepted by a majority vote of the legislative body (Town Meeting in Brookline).
2. acceptance must occur at least 30 days in advance of the first day of a calendar quarter in order to become operative for that quarter. As a result, October 1, 2009 is the earliest an acceptance can become operative for FY10. A community must accept on or before August 31, 2009 in order for the DOR to begin collecting the excise on that date.
3. the DOR will collect the local meals excise at the time it collects the state tax on the sale. Therefore, the local excise applies to all meals subject to the state sales tax. (A community may not vary the rate or the meals subject to the excise.)
4. the DOR will distribute the collections to the municipality on the same quarterly schedule that applies to the local room occupancy excise, which is shown below:

FY QUARTER	QUARTER START DATE	DISTRIBUTION DATE	REVENUE COLLECTED DURING
Q1	1-Jul	30-Sep	June, July, August
Q2	1-Oct	31-Dec	September, October, November
Q3	1-Jan	31-Mar	December, January, February
Q4	1-Apr	30-Jun	March, April, May

This means that if Town Meeting adopts the meals excise tax prior to August 31, the Town stands to collect eight months (October – May) of revenue over three quarters (Q2-Q4).

5. the Town Clerk must notify the Division of Local Services (DLS) of the DOR whenever the statute is accepted or rescinded.
6. after the Town Clerk notifies the DLS of the community’s acceptance, the local licensing board (in Brookline, the Board of Selectmen) will be asked to verify the restaurants or other establishments that serve meals in the community. The verified information will be used by the DOR to notify vendors of their obligations to collect and pay over the local excise and to ensure that sales are properly sourced to the community.

The DOR has provided estimates of the amount of new revenue each city and town could realize during FY10 from imposing the local meals excise beginning on October 1, 2009. For Brookline, the 8-month estimate is \$564,581. On an annualized basis, it is \$846,872. As stated in a DOR Bulletin, the amount shown reflects the maximum estimated receipts a city or town adopting these options may use. Estimates using any other method will not be accepted. Since restaurant operators do not currently report meals tax collections to DOR by municipality, in order to develop the revenue estimate, DOR reviewed United States Census information about restaurant sales and number of establishments. Until FY11, when actual excise collection data by municipality will be available, the amounts shown in the spreadsheet reflect the most reasonable estimate of new revenue Brookline can realize from imposing the excise. Therefore, any anticipated new revenues used by a community in FY10 cannot exceed the estimate provided.

Appropriation of these new local option revenues, if adopted, will be left to the Fall Town Meeting in November when budget amendments are customarily considered. At that time, the Town will be in a more informed position concerning needs and resources than in this very early stage of the budget cycle. However, it is not too early to be acutely mindful that these new revenues fall far short of providing a permanent solution for long-term Town financial sustainability. Not only are these new resources less than what had been sought and based on likely inflated numbers, but also the Town’s fiscal stress is caused by factors that dwarf this added revenue capacity. The Retirement Board’s actuaries have indicated that Town appropriations for pensions might have to

In Board of Selectmen

August 4, 2009

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increase by as much as \$5 million in FY12 to begin to make up for the 28% (\$62 million) loss in 2008 retirement funds. Unfunded retiree group health obligations could require millions in additional funding annually over the next 30 years to satisfy that obligation. The needs for capital improvements are unrelenting. The estimate for the Runkle School renovation has grown while at the same time expected School Building Authority reimbursements could decline due to changes in guidelines.

In this daunting context it is most advisable to anticipate restricting the use of any new local option proceeds in FY10 for one-time purposes and/or toward unfunded obligations only. Using this new capacity in the current fiscal year for anything other than one-time purposes and/or toward unfunded obligations will only exacerbate FY11 budgetary constraints. While far from total solution in and of itself, a full year's worth of revenue from these new local option taxes will be an important component in balancing next year's budget without further worsening the outlook for service reductions.

The Board recommends FAVORABLE ACTION, by a vote of 4-0 taken on August 14, 2009, on the following:

VOTED: That the Town of Brookline accept G.L. c. 64L, § 2(a) to impose a local meals excise.

ROLL CALL VOTE:

Favorable Action

Daly

Mermell

Benka

Goldstein

The second Article is a 2% increase on the lodging excise tax. If Town Meeting agrees, to it we would keep the entire 2% and the 8 months estimate is \$132,277. This would be treated as one-time money until we have a better idea of how much the revenue would be.

Kathy O'Brien General Manager of the Brookline Court Yard stated that her business has been deeply affected as has many others by the economic downturn the country is facing. Times have changed in the hotel business in the past 6 years. Approximately 3,000 additional rooms have been added within Cambridge and Boston since 2003. Conventions have gone from 15 in 2003 to 28 in 2008, all this happened in great economic times, and there all positive numbers for many businesses. However, as a hotelier we have had to work harder to provide better service and a better value. Patrons now have more choices on where to stay. One reason they were able to overcome these obstacles was Coolidge Corner. Many guests have commented on the location, they love the shops, restaurants and the convenience of public transportation. We need to preserve this environment. There are now fewer conventions and hotel revenues are projected to decline for 2009 and

In Board of Selectmen

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another 5-8% in 2010. We have the opportunity to provide visitors a unique experience; this can be done with the government giving back to the business community as times get better. We hope to have a commitment that a portion of these taxes will be put back into helping business thrive. We are aware that once taxes are put in place it is hard to roll them back. She does support the increase and hopes that everyone can benefit from them. Her business will continue to be at a lesser cost to the consumer than Boston because they have an additional tax on lodging.

Harry Robinson, Executive Director of the Brookline Chamber of Commerce, stated that he and the Chamber favors the tax increase. This could be a way to take a negative and turn it into a positive. If more people attend local establishments, there will be more revenue for Brookline. He hopes that how these additional revenues are used will be taken into consideration.

Marge Amster, Commercial Coordinator stated that many business owners have expressed tough times out there, but is it remarkable to see their commitment to Brookline.

Selectman Mermell stated that she appreciates the business communities willingness to look at this favorably. She recognizes that it could be a hardship for them, and is glad to see their dedication to Brookline. Selectmen Mermell thinks that a task force could help in exploring options stated tonight.

Selectman Benka is happy to see the support of the Chamber and the CCMA. He is also glad to see surrounding communities adopting these taxes relieving the competitive position of businesses in Brookline.

Selectmen Goldstein noted the reluctant support of the Chamber of Commerce. Unfortunately it is the only option the State has given us to try to regain revenue. He is glad to see the support from the business community. The best way to support Brookline restaurants and hotels is to continue to maintain the community with safety and cleanliness.

Chairman Daly added that everyone is grateful for their support. It is unfortunate that this could not have been done when things were a little better. This will help make up for the significant cuts in local aid this year. That along with increasing health care cost is a great concern.

ARTICLE 2

SECOND ARTICLE

To see if the Town will amend its local room occupancy excise under G.L. c. 64G, § 3A to the rate of 6 percent; or act on anything relative thereto.

SELECTMEN'S RECOMMENDATION

Legislation enacted in 1985 enabled communities to impose a local option hotel–motel excise of up to 4% in addition to the state excise of 5.7%. Brookline adopted the local option excise tax, at 4%, by a vote of Town Meeting in November, 1985. The FY2010 State budget authorized cities and towns to increase the current local option excise tax on room occupancies from the 4% maximum to a maximum of 6%.

The mechanics of increasing the current 4% lodging excise tax are as follows:

7. a majority vote of the legislative body (Town Meeting in Brookline) is required.
8. the vote must occur at least 30 days in advance of the first day of a calendar quarter in order to become operative for that quarter. As a result, October 1, 2009 is the earliest an increase can become operative for FY10. A community must take action on or before August 31, 2009 in order for the DOR to begin collecting the increased excise on that date.
9. the DOR will continue to distribute the collections to the municipality on the quarterly schedule shown below:

FY QUARTER	QUARTER START DATE	DISTRIBUTION DATE	REVENUE COLLECTED DURING
Q1	1-Jul	30-Sep	June, July, August
Q2	1-Oct	31-Dec	September, October, November
Q3	1-Jan	31-Mar	December, January, February
Q4	1-Apr	30-Jun	March, April, May

This means that if Town Meeting increases the excise tax prior to August 31, the Town stands to collect eight months (October – May) of revenue over three quarters (Q2-Q4).

The DOR has provided estimates of the amount of new revenue each city and town could realize during FY10 from increasing the lodging excise beginning on October 1, 2009. For Brookline, the 8-month estimate is \$132,277 per percentage point. So, at the maximum of an additional 2%, the estimated yield is \$264,554. On an annualized basis, that translates into \$352,739. As was stated under Article 1, Town Meeting is keenly aware that the Town is in the middle of what stands to be a multi-year financial quagmire, and using any proceeds in the current fiscal year for anything other than one-time purposes and toward unfunded obligations will only exacerbate the problem. This Board looks forward to this discussion in the Fall.

In Board of Selectmen

August 4, 2009

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The Board recommends FAVORABLE ACTION, by a vote of 4-0 taken on August 14, 2009, on the following:

VOTED: That the Town of Brookline amend its local room occupancy excise under G.L. c. 64G, § 3A to the rate of 6 percent.

ROLL CALL VOTE:

Favorable Action

Daly

Mermell

Benka

Goldstein

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

ATTEST

IN BOARD OF SELECTMEN

August 26, 2009

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

The Minutes of August 4th were approved as amended

EXECUTIVE SESSION

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

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

- _____ (1) To discuss the reputation, character, physical condition or mental health rather than the professional competence of a particular individual¹.
- _____ (2) To consider the discipline or dismissal of, or to hear complaints or charges brought against, a public officer, employee, staff member, or individual¹.
- X (3) To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the governmental body, to conduct strategy sessions in preparation for negotiations with non-union personnel, and to conduct collective bargaining sessions or contract negotiations with non-union personnel.
- _____ (4) To discuss the deployment of security personnel or devices.
- _____ (5) To investigate charges of criminal misconduct or to discuss the filing of criminal complaints.
- _____ (6) To consider the purchase, exchange, lease or value of real property, if such discussion may have a detrimental effect on the negotiating position of the governmental body with a person, firm or corporation.
- _____ (7) To comply with the provisions of any general or special law or Federal grant-in-aid requirements.

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

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

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

VOTED: to go into Executive Session

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

Selectman Mermell absent for roll call

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

In Board of Selectmen

August 26, 2009

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PUBLIC COMMENT

Ruthann Sneider TMM#6 stated that she is withdrawing a petition that she started to remove Robert Allen TMM#16 from the Zoning By-law Committee due to a potential conflict of interest. She has received information that there is no conflict of interest there.

FIRE DEPARTMENT PERSONNEL

The Board considered the question of approving the following Fire Department promotions:

**Lt. Owen F. Thompson to Captain
FF David A. Randolph to Lieutenant**

Chief Skerry was pleased to recommend Lt. Owen Thompson and David Randolph for promotions.

Lt. Owen Thompson was appointed in 2002. He is a certified EMT and is currently serving as a Temporary Captain at Fire Station 5. The Chief added that he is an up and coming member of the Brookline Fire Department.

FF David Randolph was appointed in 2001. He is a certified EMT and is currently serving as a Temporary Lieutenant at Fire Station 5. The Chief added that he has a positive attitude which he has proven in emergencies.

The Board thanked them for their service and wished them a long healthy career.

On motion, it was unanimously,

VOTED: To approve the following Fire Department promotions:

Lt. Owen F. Thompson to Captain

On motion, it was unanimously,

VOTED: To approve the following Fire Department promotions:

FF David A. Randolph to Lieutenant

CONTRACT

The Board considered the question of awarding and executing Contract IFB# P-10-12 with Pierce Manufacturing, Inc. of Appleton, WI in the amount of \$349,999.00 for refurbishment of Ladder Engine #4 2000 Pierce Dash 75 Foot Quint Heavy Duty Aerial Fire Truck. Said contract to be funded from account 2210K009.

Chief Skerry stated that this is a great piece of equipment and has served the Town well, but is in need of refurbishment. Because of its versatility the truck is normally used as a pumper, and is dispatched frequently as a ladder truck for responses to a large area of south Brookline. Because the truck has been well maintained over the years it will be in sound service to the Town for many years to come.

Selectman Benka noted that the price is almost exact to the CIP allocation. He asked if this was intentional on the manufacturer's part. Chief Skerry replied that there was only 1 bid and it was higher than allocated in the CIP. Working with the Chief Procurement Officer Dave Geanakakis, they were able to negotiate a lower price to accommodate the CIP. This is allowed under Mass General Laws when there is only one bidder. Selectman Benka noted this accomplishment.

Selectman Goldstein asked if there would be any challenges with the piece out for repairs. The Chief replied no, there is back up apparatus.

On motion, it was unanimously,

VOTED: To award and execute Contract IFB# P-10-12 with Pierce Manufacturing, Inc. of Appleton, WI in the amount of \$349,999.00 for refurbishment of Ladder Engine #4 2000 Pierce Dash 75 Foot Quint Heavy Duty Aerial Fire Truck. Said contract to be funded from account 2210K009.

CONTRACT

The Board considered the question of awarding and executing Contract IFB# P-10-13 with Pierce Manufacturing, Inc. of Appleton, WI in the amount of \$989,724.00 for the purchase of 105 Foot Heavy Duty Aerial Ladder Truck. Said contract to be funded from account 22106E0030.

Chief Skerry stated that there was only 1 bidder and they are the number 1 builder of fire trucks. There is a prepayment option that would reduce the cost to \$975,571. Chairman Daly expressed concern on the pre-payments. What if the company has financial trouble? The Chief replied that there will be a performance bond issued. Selectman DeWitt asked if there would be inspections done before the final delivery. The Chief replied yes, on three occasions.

Selectman Goldstein noted an email circulating from a Fire Union representative questioning the need of this new vehicle. Chief Skerry stated that there are several inconsistencies in the email, and he is confident this will allow 5 stations to be fully covered should there be cuts to the department, regardless of the budget. The apparatus would protect citizens for years to come.

On motion, it was unanimously,

VOTED: To award and execute Contract IFB# P-10-13 with Pierce Manufacturing, Inc. of Appleton, WI in the amount of \$989,724.00 for the purchase of 105 Foot Heavy Duty Aerial Ladder Truck. Said contract to be funded from account 22106E0030.

CONTRACT

The Board considered the question of approving and authorizing the Chairman to execute a contract between the Brookline Community Mental Health Center and the Town of Brookline in the amount of \$635,936.00 for services related to the Homelessness Prevention and Rapid Re-Housing Program under the American Recovery and Reinvestment Act of 2009.

This was discussed at the last Board meeting, it is ready to execute.

On motion, it was unanimously,

VOTED: To approve and authorize the Chairman to execute a contract between the Brookline Community Mental Health Center and the Town of Brookline in the amount of \$635,936.00 for services related to the Homelessness Prevention and Rapid Re-Housing Program under the American Recovery and Reinvestment Act of 2009.

CDBG AGREEMENT

The Board considered the question of approving and authorizing the Chairman to execute the following FY2010 CDBG Sub-recipient Agreements:

Department of Planning and Community
Development – Affordable Housing
1899 G010 558084 \$311,847

BHA – Col. Floyd Façade Improvements
1897G010 6C0036 \$213,159

In Board of Selectmen

August 26, 2009

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CDBG AGREEMENT cont'd

**BHA – Roof Replacement
1057 Beacon Street
1897 G010 557085 \$ 52,000**

Housing Manager Fran Price stated that the funds are for the continuation of the affordable housing program. Chris DeMaio from the Housing Authority stated that The Authority is working on streamlining the process and their projects are getting up to date. Chairman Daly added she is glad to see the Housing Authority and the Planning Department working closely together. Planning & Community Development Director Jeff Levine added that there has been progress with the process.

On motion, it was unanimously,

VOTED: To approve and authorize the Chairman to execute the following FY2010 CDBG Sub-recipient Agreements:

**Department of Planning and Community
Development – Affordable Housing
1899 G010 558084 \$311,847**

**BHA – Col. Floyd Façade Improvements
1897G010 6C0036 \$213,159**

**BHA – Roof Replacement
1057 Beacon Street
1897 G010 557085 \$ 52,000**

CONTRACT

The Board considered the question of approving and executing a contract with Johnson Controls, Inc., in the amount of \$79,260.00 in connection with the replacement of Energy Management Systems at Fire Station #5 - Old Lincoln School - Putterham Golf Course and Larz Anderson Skating Rink. Said contract to be funded from account 2510K010 6E0052.

Director of Public Buildings Charlie Simmons stated that by replacing the Energy Management System's equipment with new hardware and software allows for better control and more reliability. It was getting costly to replace the outdated parts.

On motion, it was unanimously,

VOTED: To approve and execute a contract with Johnson Controls, Inc., in the amount of \$79,260.00 in connection with the replacement of Energy Management Systems at Fire Station #5 - Old Lincoln School - Putterham Golf Course and Larz Anderson Skating Rink. Said contract to be funded from account 2510K010 6E0052.

GRANT

The Board considered the question of accepting a grant in the amount of \$1,200 from the Massachusetts Renewable Energy Trust's Clean Energy Choice Program.

Assistant Town Administrator Melissa Goff stated that this program is coming to its conclusion. This grant will be used for membership fees so that Brookline can join ICLEI-Local Governments for Sustainability. This program helps municipalities track their carbon footprint.

On motion, it was unanimously,

VOTED: To accept a grant in the amount of \$1,200 from the Massachusetts Renewable Energy Trust's Clean Energy Choice Program.

CONTRACT

The Board considered the question of executing Contract PW/10-02 "Repair of Bituminous Concrete Patches" in the amount of \$129,825.00 with Allied Paving Corporation of Chelmsford, MA. Said contract was awarded on July 28, 2009 and will be funded as follows:

4909K058 6H0026 \$109,825.00
4910K073 6P0044 \$ 20,000.00

Director of Engineering Peter Ditto stated that this has previously been awarded and now ready to execute.

On motion, it was unanimously,

VOTED: To execute Contract PW/10-02 "Repair of Bituminous Concrete Patches" in the amount of \$129,825.00 with Allied Paving Corporation of

Chelmsford, MA. Said contract was awarded on July 28, 2009 and will be funded as follows:

**4909K058 6H0026 \$109,825.00
4910K073 6P0044 \$ 20,000.00**

CONTRACT

The Board considered the question of executing Contract PW/10-01 “Repair of Cement Concrete Sidewalks” in the amount of \$192,010.00 with G.R. Construction Corp. of Fitchburg, MA. Said contract was awarded on July 28, 2009 and will be funded as follows:

**4909K056 6H0022 \$ 40,769.97
4910K056 6H0022 \$131,240.03
4910K073 6P0044 \$ 20,000.00**

Director of Engineering Peter Ditto stated that this has previously been awarded and now ready to execute.

On motion, it was unanimously,

VOTED: To execute Contract PW/10-01 “Repair of Cement Concrete Sidewalks” in the amount of \$192,010.00 with G.R. Construction Corp. of Fitchburg, MA. Said contract was awarded on July 28, 2009 and will be funded as follows:

**4909K056 6H0022 \$ 40,769.97
4910K056 6H0022 \$131,240.03
4910K073 6P0044 \$ 20,000.00**

CONTRACT

The Board considered the question of renewing Contract No. PW/05-23 “Curbside Collection of Recyclable Materials” with Whitney Trucking, Inc. of Northfield, MA in the amount of \$603,689.46. Said contract to be funded from account 4004300 523593.

Director of Engineering Peter Ditto stated that this is a renewal for the final year of the contract. Selectman Goldstein asked if the price is different from last years. Public Works Commissioner Tom DeMaio replied that it went up 2%. He added that they will be looking at a number of issues before any new contract is

agreed on. There will be a presentation to the Board before any contract is considered.

On motion, it was unanimously,

VOTED: To renew Contract No. PW/05-23 “Curbside Collection of Recyclable Materials” with Whitney Trucking, Inc. of Northfield, MA in the amount of \$603,689.46. Said contract to be funded from account 4004300 523593.

EXTRA WORK ORDER

The Board considered the question of approving Extra Work Order No. 1 in the amount of \$2,505.55 for work to be completed by Roger A. Trembly Contractors, Inc. in connection with Contract No, PW/09-18 “Olmsted Park Stone Masonry”. Said work order to be funded from account 1868G001 6C0007.

Director of Parks and Open Spaces Erin Gallentine stated that this is for re-pointing the bridge at Olmstead Park. Ms. Gallentine added that the price was favorable allowing for structure repair there as well.

On motion, it was unanimously,

VOTED: To approve Extra Work Order No. 1 in the amount of \$2,505.55 for work to be completed by Roger A. Trembly Contractors, Inc. in connection with Contract No, PW/09-18 “Olmsted Park Stone Masonry”. Said work order to be funded from account 1868G001 6C0007.

EXTRA WORK ORDER

The Board considered the question of approving Extra Work Order #1 in the amount of \$8,180.00 for work to be completed by JJS Universal Construction, Inc. in connection with Contract No. PW/09-19 “Walnut Street Cemetery – Stone Masonry”. Said work order to be funded from account 4995SW01 6P0058.

Director of Parks and Open Spaces Erin Gallentine stated that this is for re-pointing a portion of the stone wall at the Walnut Street Cemetery. The price allowed additional areas of the wall to be re-pointed as well.

On motion, it was unanimously,

VOTED: To approve Extra Work Order #1 in the amount of \$8,180.00 for work to be completed by JJS Universal Construction, Inc. in connection with

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EXTRA WORK ORDER cont'd

Contract No. PW/09-19 “Walnut Street Cemetery – Stone Masonry”. Said work order to be funded from account 4995SW01 6P0058.

EXTRA WORK ORDER

The Board considered the question of approving Extra Work Order No. 1 in the amount of \$6,560.00 for work to be completed by JT Construction in connection with Contract No. PW/09-20 “Landscape Improvements to Driscoll Playground”. Said work order to be funded from account 4909K066 6P0018.

Director of Parks and Open Spaces Erin Gallentine stated that this will close out the contract. During the demolition, it was found that the sub-grade was not up to specifications. It is now improved and will provide proper drainage.

On motion, it was unanimously,

VOTED: To approve Extra Work Order No. 1 in the amount of \$6,560.00 for work to be completed by JT Construction in connection with Contract No. PW/09-20 “Landscape Improvements to Driscoll Playground”. Said work order to be funded from account 4909K066 6P0018.

BEACON STREET IMPROVEMENTS

The Board considered the question of approving Non-Participating Amendment #1 in the amount of \$56,227.00 for work to be completed by Barletta Heavy Division of Canton, MA in connection with Contract PW/06-17 Beacon Street Improvements (MHD Agreement No. 42514).

Director of Engineering Peter Ditto stated that this is the final project accounting in connection with this Non-Participating Agreement. MassHighway indicates a cost overrun attributed almost wholly to an expanded program of landscape plantings during construction. This included drainage, gravel materials, soil, and more sidewalk work than anticipated.

Selectman Benka asked about the handicapped ramps. Mr. Ditto replied that there are some issues there. There are a lot of ramps that need to be re-done. He added that the Town is not responsible; however, it needs to be determined who is the contractor, consultant, or the State. Public Works Commissioner Tom DeMaio added that there have been several meetings with the contractor and the State. There is a large punch sheet that is 75% complete. The traffic lights are

In Board of Selectmen

August 26, 2009

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almost completed, addressing the timing and ADA compliance. Mr. DeMaio hopes the project will be completed by the winter.

On motion, it was unanimously,

VOTED: To approve Non-Participating Amendment #1 in the amount of \$56,227.00 for work to be completed by Barletta Heavy Division of Canton, MA in connection with Contract PW/06-17 Beacon Street Improvements (MHD Agreement No. 42514).

DONATION

The Board considered the question of accepting a Donation in the amount of \$100 from Kenneth Jaffe with Wainwright Bank to be used for the Police Youth Summer Academy.

Chief O'Leary stated that this is the first year of the Police Youth Summer Academy. It has been well received by the participants, and he hopes to repeat the program next year. The program consists mainly of 6th graders.

On motion, it was unanimously,

VOTED: To accept a Donation in the amount of \$100 from Kenneth Jaffe with Wainwright Bank to be used for the Police Youth Summer Academy.

TEMPORARY WINE AND MALT BEVERAGE LICENSE

The Board considered the question of granting a temporary Wine and Malt beverages license to Brookline High Class of 1969, James Popkin, Chairman in connection with a 40th Reunion to be held on October 3, 2009 from 6:00 p.m. -11:30 p.m. at Brookline High Atrium/Gym 115 Greenough Street.

VOTED: To grant a temporary Wine and Malt beverages license to Brookline High Class of 1969, James Popkin, Chairman in connection with a 40th Reunion to be held on October 3, 2009 from 6:00 p.m. -11:30 p.m. at Brookline High Atrium/Gym 115 Greenough Street.

CHANGE ORDERS

The Board considered the question of approving the following Change Orders as recommended by the Building Commission.

CHANGE ORDERS cont'd

Putterham Library HVAC/Renovations

**Falite Bros. (#2) \$ 995.31
2501K040 6B0088 \$ 2.00
2599K040 6B0080 \$ 993.31**

**Falite Bros. (#3) \$1,176.13
2599K040 6B0088**

Program Administrator Tony Guigli stated that this change order is for temporary air conditioning to the community room which is being used to maintain library service, and relocation of the basement water pipes to provide clearance to the new electrical panel boards.

On motion, it was unanimously,

VOTED: To approve the following Change Orders as recommended by the Building Commission.

Putterham Library HVAC/Renovations

**Falite Bros. (#2) \$ 995.31
2501K040 6B0088 \$ 2.00
2599K040 6B0080 \$ 993.31**

**Falite Bros. (#3) \$1,176.13
2599K040 6B0088**

GRANT

The Board considered the question of accepting a grant in the amount of \$40,375 from the Massachusetts Renewable Energy Trust to support activities related to a high-performance green school design in connection with the Renovations and Additions to the John D. Runkle School.

Program Administrator Tony Guigli stated that this will consists of Energy Modeling/Life Cycle Costing, Acoustic Modeling, and Daylight Design/Modeling. These activities will be used to assist the school design team to apply for MA-CHPS Verification and as a Massachusetts High Performance Green School. Selectman Goldstein asked if the funds could be used to provide plantings on low roofs of the

school. Mr. Guigli replied that they are quite specific on what these funds can be used for.

On motion, it was unanimously,

VOTED: To accept a grant in the amount of \$40,375 from the Massachusetts Renewable Energy Trust to support activities related to a high-performance green school design in connection with the Renovations and Additions to the John D. Runkle School.

COOLIDGE CORNER INCIDENT

Chief Daniel O'Leary appeared to update the Board on the incident that occurred last week in Coolidge Corner.

Chief O'Leary updated the Board on a recent assault on a woman in Coolidge Corner. The truck used in the incident was caught on surveillance video, and assisted in the arrest of two men in the Brighton area. The Chief noted that the suspects were traveling throughout the area for an hour before the assault, indicating that they were looking for a victim, which is a rare occurrence in this community. The Board appreciated the work of the Police Department and the quick arrest. The Board expressed concern for the victim.

FISHER HILL

The Board considered the question of approving and executing a Letter of Intent in connection with the Fisher Hill Project.

Selectman DeWitt stated that she provided the Board with background information. One is the Letter of Intent (LOI) with New Atlantic Development Corporation and the Town. New Atlantic is the designated developer for the Fisher Hill Project, and is being represented tonight by attorney Jonathon Klein. Other items included the draft Warrant Article regarding the sale of public land, and a zoning by-law amendment, the sale of the State owned property. The State had declared a surplus in property and the Town expressed an interest in purchasing it. Selectman DeWitt added that HAB voted to support this proposal in regard to the affordable housing section and the zoning by-law committee has voted to recommend the zoning overlay to be presented as a warrant article.

Town Counsel Jennifer Dopazo stated that the LOI will be signed by the developer, and after that, \$25k will be put into an escrow account. If Town Meeting approves the zoning article they will move forward to draft a very detailed land

disposition of agreement. The LOI details the legal structure. There will be two special entities, one develop and subdivide and the other development of affordable housing. The land disposition will be executed after Town Meeting.

Chairman Daly expressed concern about lots designated for single family homes being used for other purposes if sold separately, like multi-family housing. She is concerned that these lots be conveyed so they cannot be developed later down the road into anything other than a single family home. Ms. Dopazo replied there will be reference to this in the process. It will part of the special permit. Chairman Daly indicated that she would also like to see the deeds restricted.

Director of Planning & Community Development Jeff Levine added that it does restrict uses. Chairman Daly added that there were certain promises for the neighbors, regarding the use of the lots. Ten years down the road when they want to sell their homes, they could potentially sell to someone that wants to develop on the parcel. She would like to make sure that this does not happen. Mr. Levine added that deed restrictions are a little more concrete and lasting than zoning. Selectman Benka stated that we don't want to be in the position that if there is a problem, it could not be changed. Selectman DeWitt added that the committee that drafted the RFP negotiated for 40 affordable housing units, the actual proposal is fewer than 40 units.

Town Counsel Jennifer Dopazo went over the two Warrant Articles for Town Meeting, one was for the purchase of the State owned site, which includes language that provides for a large piece of the land to contain both conservation and preservation restrictions.

Mr. Levine went over the zoning Warrant Article. The overlay allows for an applicant to seek relief under the overlay provided it meets certain requirements pertaining to affordable housing. A special permit may allow for flexibility of the 40 units because of the style of the homes. Multi- family lots allow more flexibility, they can be higher and have more than one building on a lot. Any special permit sought will be in lots that are more than 100 feet from Fisher Ave.

On motion, it was unanimously,

VOTED: To approve and execute a Letter of Intent in connection with the Fisher Hill Project.

BOARDS AND COMMISSIONS

The Board considered the question of appointing the following candidates to the Zoning By-Law Committee:

**Robert Allen
Linda Olson Pehlke**

BOARDS AND COMMISSIONS cont'd

Selectman Goldstein stated that there is a high level of discussion on the Zoning By-law Committee and he considers Robert Allen a valuable resource. Not only is he a local attorney, he is a life long resident and is knowledgeable with the history of the Town, plus, he is familiar with the zoning laws. Selectman Goldstein added that Linda Olson Pehlke has attended many ZBC meetings where she has asked important questions and has added a valuable input to the meetings. He feels these two individuals are well qualified.

Selectman Benka added that these two candidates provide a valuable viewpoint and it is a good outcome for both the committee and the community.

Selectman Mermell stated that Mr. Allen brings knowledge and familiarity to the committee and Ms. Olson Pehlke is a hard worker, having worked together on another committee.

Selectman DeWitt addressed the conflict of interest. She stated that it is the individual's responsibility to reveal any conflict, and the committee chair to make this known to the members. Town Counsel also trains new members and makes this known.

Chairman Daly added that these two candidates are a great addition to the committee, offering different opinions. She added that Bob Allen has showed unwavering devotion to the Town.

On motion, it was unanimously,

VOTED: To appoint the following candidates to the to the Zoning By-Law Committee:

**Robert Allen
Linda Olson Pehlke**

BOARD AND COMMISSIONS

The Board considered the question of making appointments to the Brookline Access Television Board

On motion, it was unanimously,

VOTED: To re-appoint Andrew Fisher to Brookline Access Television a term ending August 31, 2011, or until a successor can be appointed.

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BOARD AND COMMISSIONS cont'd

VOTED: To re-appoint Albert Davis to Brookline Access Television a term ending August 31, 2011, or until a successor can be appointed.

VOTED: To re-appoint William Slotnick to Brookline Access Television a term ending August 31, 2011, or until a successor can be appointed.

VOTED: To appoint Peter Miller to Brookline Access Television a term ending August 31, 2011, or until a successor can be appointed.

VOTED: To appoint Gretchen Bostrom to Brookline Access Television a term ending August 31, 2010, or until a successor can be appointed.

There being no further business, the Chair adjourned the meeting at 7:00 p.m.

ATTEST