

**IN BOARD OF SELECTMEN**

**November 3, 2009**

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

**The Minutes of October 27, 2009 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 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 Benka absent for roll call*

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

**Public Comment period for citizens who request to address the Board regarding Town issues.**

**Edith Brickman TMM#4 publicly thanked the Manger of the Brook House, Bill Kenny for endorsing local restaurants when the local meal tax went up. Mr. Kenney stated that the Brook House is a large community in itself and likes to do their part to support the Town. Ms. Brickman hopes that there will be more support for local businesses.**

**CHANGE ORDERS**

**The Board considered the question of approving the following Change Orders and Contract Amendment as recommended by the Building Commission:**

**Putterham Library –Change Orders #9 & #10**

**Falite Bros.**

**Electrical Work                   \$ 2,602.96**

**HVAC Equipment                 \$ 1,144.08**

**Acct. No. 2509K040 6B0080**

**Putterham Library – Change Order #12**

**NSTAR**

**Backcharge Adjustment       \$ 1,078.00**

**Acct. No. 2509K040 6B0080**

**John D. Runkle School – Contract Amendment**

**Design Partnership of Cambridge**

**Design Work                       \$39,375.00**

**Acct. No. 2500SP22 6B0108**

**Program Administrator Tony Guigli stated that Change Orders 9 and 10 consists of added electrical work, and steel frames for the HVAC equipment. Change Order #12 is for new electrical service with NSTAR, which was estimated when the bids came in. The Runkle School amendment consists of design work for energy modeling, acoustic assessment and daylight modeling in accordance with the Massachusetts Technology Collaborative grant.**

**On motion, it was unanimously,**

**VOTED: To approve the following Change Orders and Contract Amendment as recommended by the Building Commission:**

**CHANGE ORDERS cont'd**

**Putterham Library –Change Orders #9 & #10**

**Falite Bros.**

**Electrical Work                   \$ 2,602.96**

**HVAC Equipment                 \$ 1,144.08**

**Acct. No. 2509K040 6B0080**

**Putterham Library – Change Order #12**

**NSTAR**

**Backcharge Adjustment       \$ 1,078.00**

**Acct. No. 2509K040 6B0080**

**John D. Runkle School – Contract Amendment**

**Design Partnership of Cambridge**

**Design Work                     \$39,375.00**

**Acct. No. 2500SP22 6B0108**

**CONTRACT**

The Board considered the question of awarding and executing Contract No. PW/10-11“Construction of Material Storage Bins” to McLaughlin Bros. of Brockton in the amount of \$59,100. Said contract to be funded from account 4997C163 6L000.

Director of Water and Sewer Andy Pappastergion stated that these bins will be used to hold construction materials. They are made out of concrete and are strong enough to withhold the force received from heavy trucks.

Selectman DeWitt took a moment to ask how the hazardous materials drop off is going at the Municipal Center. Mr. Pappastergion replied that it is going well.

On motion, it was unanimously,

**VOTED: To award and execute Contract No. PW/10-11“Construction of Material Storage Bins” to McLaughlin Bros. of Brockton in the amount of \$59,100. Said contract to be funded from account 4997C163 6L000.**

**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, holder of a Wine and Malt beverages license as a Common Victualler at 1281 West Roxbury Parkway for an extension of hours on Saturday, November 21, 2009 from an 11 p.m. closing to 12M closing.

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**EXTENSION OF HOURS cont'd**

Chairman Daly stated that the request is for a birthday party. She noted that there have been some noise issues in the past, but none since the new owner took over a few years back. Selectman Benka added conditions outlined in the Police Department's report.

On motion, it was unanimously,

**VOTED:** To approve the request of Grill on the Green, Inc. d/b/a Grill on the Green, holder of a Wine and Malt beverages license as a Common Victualler at 1281 West Roxbury Parkway for an extension of hours on Saturday, November 21, 2009 from an 11 p.m. closing to 12M closing with the following conditions:

- All amplified music is limited to the indoors-the main room of the clubhouse, and small adjacent function room.
- The bar will close promptly at 11:30 p.m.

**TEMPORARY WINE AND MALT BEVERAGE LICENSE**

The Board considered the question of granting a temporary Wine and Malt beverages license to Rathamanthus Ide in connection with an Annual Dinner Dance to be held on November 28, 2009 at the Greek Cathedral Center, 162 Goddard Avenue.

On motion, it was unanimously,

**VOTED:** To grant a temporary Wine and Malt beverages license to Rathamanthus Ide in connection with an Annual Dinner Dance to be held on November 28, 2009 at the Greek Cathedral Center, 162 Goddard Avenue.

*7:00 Selectman Benka stepped out*

**TEMPORARY WINE AND MALT BEVERAGE LICENSE**

The Board considered the question of granting a temporary One Day Wine and Malt beverages license to the Museum of Transportation in connection with a Dinner Meeting to be held by Mercedes Benz on November 5, 2009 from 5:00 p.m. – 8:00 p.m. at 15 Newton Street.

On motion, it was unanimously,

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**TEMPORARY WINE AND MALT BEVERAGE LICENSE cont'd**

**VOTED: To grant a temporary One Day Wine and Malt beverages license to the Museum of Transportation in connection with a Dinner Meeting to be held by Mercedes Benz on November 5, 2009 from 5:00 p.m. – 8:00 p.m. at 15 Newton Street.**

**CONTRACT**

**The Board considered the question of awarding and executing Contract PW/10-5 “Winthrop Path Repair” in the amount of \$38,276.00 to Cer-Trom Construction of Plymouth. Said contract to be funded from account: 4906K067 6P0021.**

**Director of Water and Sewer Andy Pappastergion stated that this project will start immediately in hopes to finish before the winter weather comes in. Chairman Daly added that she is pleased to see these repairs; the pathways are used by a lot of people. They are very convenient.**

**On motion, it was unanimously,**

**VOTED: To award and execute Contract PW/10-5 “Winthrop Path Repair” in the amount of \$38,276.00 to Cer-Trom Construction of Plymouth. Said contract to be funded from account: 4906K067 6P0021.**

**GRANT**

**The Board considered the question of authorizing the Chairman to sign a \$1 million grant award from the Department of Environmental Protection in connection with the Environmental Bond Bill to assist with environmental corrective actions for residential properties on streets adjacent to the former Newton St. Landfill.**

**Town Administrator Richard Kelliher stated that it is good news that the grant for the property restoration project came in. He thanked Governor Patrick’s Administration, the Selectmen, DPW, the legislative delegation, and former Selectman Bob Allen for their tireless efforts to receive this grant. He added that the creditable program offered by the DPW proved to be a factor in receiving it. What was once a scary scenario turned out good all around. Chairman Daly added that material needed to be removed from properties that were placed there many years ago up at the old landfill.**

**On motion, it was unanimously,**

**VOTED: To authorize the Chairman to sign a \$1 million grant award from the Department of Environmental Protection in connection with the Environmental Bond Bill to assist with environmental corrective actions for residential properties on streets adjacent to the former Newton St. Landfill.**

### **HISTORICAL SOCIETY**

**John Dempsey and Ken Liss of the Brookline Historical Society appeared to update the Board on the Society's upcoming Fall program "In the Line of Fire".**

**Mr. Liss and Mr. Dempsey invited the Board to the Brookline Historical Society Fall Program. The program will feature a talk on two Brookline Police Officers who were killed in the line of fire. The event will also include a tour of the Public Safety Building, and a demonstration of the Historical Society web site.**

**The Board thanked them for the invitation.**

### **BOARDS AND COMMISSIONS**

**The following candidates for appointment to Boards and Commissions 1 appeared for interview:**

**Conservation Commission**  
**Matthew Garvey**

**Transportation Board**  
**William Schwartz**  
**Blair Hines**  
**Ernest Weglein**

**Conservation Commission - Matthew Garvey is an attorney at Ropes & Gray LLP. He has previously done some work regarding wetlands, land use, and the Department of Environmental Protection, where he defended a municipality's position. Mr. Garvey is an avid bird watcher and enjoys having wildlife observation opportunities nearby. He hopes to apply his skills and understanding to the complex challenges of conservation in an urban environment.**

**Transportation Board - William Schwartz is a transportation planner consultant, with expertise in traffic, bicycle, pedestrian, and public transportation planning and operations. He was a former Transportation Board member and currently sits on**



**BOARDS AND COMMISSIONS cont'd**

the Parking Committee. Mr. Schwartz holds a Masters Degree in Transportation from MIT.

**Transportation Board** -Blair Hines is a landscape architect and has worked on numerous projects that involve access and parking and vehicular transportation issues. He is interested in traffic management and hopes to work finding solutions to neighborhood concerns. He added that there needs to be a balance between residents and the commuter. He likes the recent changes in Coolidge Corner in its traffic calming efforts.

**Transportation Board** -Ernest Weglein is an independent counsel. Prior to being employed, he worked for Malden Mills Industries as General Counsel. Mr. Weglin also holds a degree in Engineering where he worked for Malden Mills in manufacturing and engineering management. He feels he can bring his knowledge of both to improve parking and traffic control. Mr. Weglien is on the Board of Directors at Maimonides School and a member of the Salisbury Corey Neighborhood Association.

*Selectman Benka returned*

**WARRANT ARTICLES**

The Board considered the question of voting on the following Warrant Articles for the November 17, 2009 Fall Town Meeting:

<b><u>No.</u></b>	<b><u>Article</u></b>
12.	Zoning – Car Sharing Organizations and Commercial Motor Vehicle Definitions (Planning and Community Development)
13.	Zoning – Car Sharing Organization use of Accessory Parking Spaces (Planning and Community Development)

Selectman Mermell thanked Economic Development Director Kara Brewton for taking this Article back to the drawing board and revising it. Ms. Brewton stated that a car sharing organization has been here for 10 years, but did not comply with the Town's zoning regulations which prompted the Warrant Articles. The Article's were centered on the zoning policy. This article treats all zones equally relying on the open air parking license process. If you can't get an open air parking license it would require a special permit. Ms. Brewton added that nothing changes the existing CSO vehicles; there are some provisions on the number of spaces that can

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**WARRANT ARTICLES cont'd**

be used for CSO's. Ms. Brewton went over the open air parking license process which is now in use.

Jane Pfisher, Linden Street is a Zip Car user and is in favor of keeping the Zip Car in Brookline. She likes the choice of having multiple transportation options that the Town offers.

Bret Barros, stated that due to the cost of the CSO, it promotes residents to walk and take public transportation, which is helpful for the community.

Sibyl Senters, Fuller Street is a Zip Car user. She no longer has a family car and relies on other ways of transportation including Zip Car. Ms. Senters asked about the cap of 10%. South Brookline may have a different need for a CSO than Coolidge Corner or Brookline Village.

Ms. Brewton stated that the cap would allow the vehicles to spread out to other locations rather than having the vehicles in one area.

Bill Schwartz, Parking Committee member stated that the committee looked at the whole parking system and found that CSO is a successful program.

Chris Carpenter, a Coolidge Corner resident supports Zip Cars. The Article is a reasonable approach and a good place to start.

Linda Phelke TMM#2 asked about the open air parking license. Chairman Daly replied that if someone rents out a parking space for use other than to a resident of the premises they require an open air parking license. The CSO fell through the cracks on this. The licenses are processed through the Selectmen's Office.

Selectman DeWitt added that the Articles do not displace any vehicles that are now in Town.

Ms. Brewton added that Article 12 as written before referred to the RMV for many definitions which were found confusing. The language now is clearer. The intent of the definition by the RMV was put into Article 12. It now defines what is considered a commercial vehicle. Zip Cars cannot sell advertising to other companies to be displayed on their vehicles.

Chairman Daly asked about trucks with plows on them. Many residential trucks add plows onto them in the winter. Building Commissioner Mike Shepard stated that if the plow is taken off the vehicle and stored away, it would not be considered commercial. He added that most people do not want commercial vehicles in residential neighborhoods.

**WARRANT ARTICLES cont'd**

On motion, it was unanimously,

**VOTED 5-0 Favorable Action on Article 12**

Daly	Aye
DeWitt	Aye
Mermell	Aye
Benka	Aye
Goldstein	Aye

that the Town will amend the Zoning Bylaw as follows:

1. Amend Section under 2.03 by inserting two new definitions ("C" Definitions):

**"2) CAR SHARING ORGANIZATION** - A Car Sharing Organization (CSO) is a membership-based entity with a distributed fleet of private motor vehicles that are made available to its members primarily for hourly or other short term use through a self-service fully automated reservation system. A CSO does not include any arrangement where a separate written agreement is entered into each time a vehicle is transferred from a rental company to its customer.

**3) COMMERCIAL MOTOR VEHICLE** - Any motor vehicle that is not otherwise defined as a Non-Commercial Motor Vehicle.

**4) ~~2~~ COURT"**

2. Amend Section under 2.14 by inserting one new definition ("N" Definitions):

**"1) NON-COMMERCIAL MOTOR VEHICLE** - Any motor vehicle, regardless of what kind of license plates ~~it has they have~~, which is an Antique Motor Car, Low Speed Vehicle, Limited Use Vehicle, Moped, or Motorcycle as defined by the Massachusetts Registry of Motor Vehicles; any Private Passenger Motor Vehicle that is a sport utility vehicle or passenger van; any Private Passenger Motor Vehicle that is a pickup truck or cargo van and of the 1 TON class or less, registered or leased to an individual and is used exclusively for personal, recreational, or commuter purposes; any other Private Passenger Motor Vehicle that has a Gross Vehicle Weight Rating (GVWR) of 6,000 pounds or less, School Bus, School Pupil Transport Vehicle, or Vanpool Vehicle as defined by the Massachusetts Registry of Motor Vehicles, and any vehicle owned by a Car Sharing Organization with a Gross Vehicle Weight Rating (GVWR) of no more than 6,000 pounds and which

**(a) unless owned by a corporation whose personal property is exempt from taxation under M.G.L. c.59, § 5, Clause Third or Tenth, has no**

**more than three signs displayed on each vehicle, identifying the name and/or logo and contact information of the company, two of which may be no larger than two (2) square feet in area and one of which may be no larger than one (1) square foot in area, measured by multiplying the greatest dimension from top to bottom times the greatest dimension side to side;**

**(b) has no more than four wheels on the ground;**

**(c) does not store tools, supplies, materials or equipment on the roof, sides, or bed of a vehicle for use at a job site where compensation is received;**

**(d) is not used for hire to plow; and**

**(e) if used for transporting or storing goods, wares or merchandise for business purposes, is used for such purposes not more than 40% of the total usage of the vehicle, is owned by an individual and has a maximum load carrying capacity of 1,000 pounds or less;**

2) ↯ NONCONFORMING BUILDING OR LOT

3) ↯ NONCONFORMING USE”

3. Amend Section under 2.16 (“P” Definitions):

**“1) PARKING GARAGE OR PARKING AREA, NON-RESIDENTIAL – A building, structure, lot or part of a lot designed or used for the shelter or storage of commercial or non-commercial motor vehicles used by the occupants or users of a lot or lots devoted to a use or uses not permitted in a residential district. ~~in which space is available either to long-term or to transient or casual parkers.~~**

**2) PARKING GARAGE OR PARKING AREA, RESIDENTIAL – A building, structure, part of a building or structure, lot or part of a lot designed or used for the shelter or storage of non-commercial motor vehicles, or any vehicle owned or leased by a Car Sharing Organization with a Gross Vehicle Weight Rating (GVWR) of 6,000 pounds or less and which satisfies paragraphs (a) to (e) of the definition of non-commercial motor vehicles, used by the occupants or users of a lot or lots devoted to a use or uses permitted in a residence district. ~~and in which no space is rented for casual or transient parkers.~~**

or act on anything relative thereto.



Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
<del>parking spaces may be permitted by special permit per §6.01.5.</del>									

- Amend Section under 6.01.4 under *General Regulations Applying to Required Off-Street Parking Facilities* as follows:

“4. All required parking facilities shall be provided and maintained so long as the use exists which the facilities were designed to serve. Off-street parking facilities shall not be reduced in total extent after their provision, except when such reduction is in conformity with the requirements of this Article. Reasonable precautions shall be taken by the owner or sponsor of particular uses to assure the availability of required facilities to the employees or other persons whom the facilities are designed to serve. Required parking spaces shall not be assigned to specific persons or tenants nor rented or leased so as to render them in effect unavailable to the persons whom the facilities are designed to serve, except as described below in §6.01.5. Such facilities shall be designed and used in such a manner as at no time to constitute a nuisance, or a hazard, or unreasonable impediment to traffic.”

- Add a new Section 6.01.5 under *General Regulations Applying to Required Off-Street Parking Facilities*:

~~“5. Surplus parking spaces beyond any required parking spaces, but no more than 25 spaces, may be rented or leased to a Car Sharing Organization (CSO) as of right. Additionally, up to 20% of the total on-site parking spaces, or 25 spaces, whichever is less, Parking spaces that do not require the moving of any other motor vehicle to access such spaces may be rented or leased to a CSO per Use 22A of §4.07. Where the computation of allowed CSO parking spaces results in a fractional number, only the fraction of one-half or more shall be counted as one. Additional CSO parking spaces may be permitted by special permit. The Building Commissioner, in reviewing any open air parking lot license for zoning purposes, shall forthwith transmit a copy to the Planning and Community Development Director. Comments from these departments to the Selectmen shall include, but are not limited to, issues such as screening, nuisance issues, hours of cleaning or other operations, circulation of vehicles, traffic concerns, or other site-specific concerns, and may include recommended conditions to the Board of Selectmen.~~ In the case of a Special Permit, in addition to the conditions for approval described in §9.05, a demonstration must be made, through utilization surveys and other techniques where appropriate, that previous on-site parking demand will not be shifted to parking spaces on adjacent public streets to the detriment of the

neighborhood as a whole. All parking facilities renting or leasing spaces to a Car Sharing Organization (CSO) shall have non-illuminated signage not to exceed three square feet per parking facility that includes the name and phone number of the property owner or lessor to be contacted for any nuisance issues that may arise. Such signage is not subject to the design review process as described in §7.03, paragraph 2.”

7. Amend Section 7.00.1.e under *Signs in All Districts*, as follows:

“e. Signs or advertising devices not attached to the building shall not exceed 20 square feet in area of each face exclusive of posts or other structural supports and shall not exceed 12 feet in height, except gasoline service station signs as regulated by §7.03, paragraph 1., subparagraph h. Except for signs regulated by paragraphs 3 and 4 below, all permitted signs in excess of one square foot in area shall be set back one-half the depth of the required front yard setback from all street lot lines. Except for signs regulated by paragraph 2 below, any freestanding sign of nonconforming use, or a freestanding sign of any size for a gasoline service station shall be subject to the requirements of §7.03, paragraph 2. Except for signs regulated by paragraph 3 below, there shall be not more than one freestanding sign, except that the Board of Appeals by special permit may allow additional freestanding signs on a property with more than one building or more than one street frontage but not more than one sign per building per street frontage. Whenever possible, signs shall be combined or clustered to minimize their number.

8. Add two new Sections under 7.00, *Signs in All Districts*:

“3. Non-illuminated signage that does not exceed 1.5 square feet in area and that identifies allowed users of individual parking spaces is allowed in all zoning districts.

4. Required signage for parking facilities renting or leasing spaces to a Car Sharing Organization (CSO) as described in §6.01, paragraph 5 is allowed in all zoning districts.”

9. Amend Section 7.03.2 under *Signs in L, G, I and O Districts* as follows:

“2. All signs permitted in §§7.02 and 7.03, except temporary signs or advertising devices permitted in §7.03, paragraph 2, subparagraphs f. and g. or signs permitted in §7.00, paragraphs 2, 3, and 4, shall be subject to the following design review process:

**WARRANT ARTICLES**

**The Board considered the question of voting on the following Warrant Articles for the November 17, 2009 Fall Town Meeting:**

<b><u>No.</u></b>	<b><u>Article</u></b>
<b>4.</b>	<b>FY10 Budget Amendments (C) Carlton Street Footbridge</b>
<b>5.</b>	<b>Carlton Street Footbridge Appropriation (Schram &amp; Davis)</b>

<b><u>No.</u></b>	<b><u>Article</u></b>
<b>4.</b>	<b>FY10 Budget Amendments (C) Carlton Street Footbridge</b>

**On motion, it was unanimously,**

**VOTED 5-0 No Action on Article 4 (C).**

<b>Daly</b>	<b>Aye</b>
<b>DeWitt</b>	<b>Aye</b>
<b>Mermell</b>	<b>Aye</b>
<b>Benka</b>	<b>Aye</b>
<b>Goldstein</b>	<b>Aye</b>

<b><u>No.</u></b>	<b><u>Article</u></b>
<b>5.</b>	<b>Carlton Street Footbridge Appropriation (Schram &amp; Davis)</b>

**Town Counsel Jennifer Gilbert stated that there has been some concern on the substitute language in Article 5; whether it was outside the scope and if the Moderator would accept it. The Board discussed if Article 5 is not accepted, would 4(C) take its place? Selectman Benka stated that he has taken the position of ensuring that the Town is protected in the Muddy River Project. He feels that the Town should not accept a lower standard for a public project. The State has treated this in the same way as a contract involving a private client, and the State's language is not perfect, but he will support the Article at Town Meeting. Selectman Benka thanked the Town Administrator, Town Counsel, and Tree Warden Tom Brady for their work on this Article.**



**WARRANT ARTICLES cont'd**

**Selectman Mermell added that this project has been in the works for years, and is close to getting accomplished. She is relieved that the entire Muddy River Project, including flood control is slated to be done.**

**Selectman Goldstein stated that he feels that the bridge is not critical but it is the price to pay to get the whole project done.**

**Chairman Daly reiterated that this is a bond vote, and not out of the operating budget. Ms. Gilbert replied yes.**

**Petitioner Rob Daves added that this is what they want and what the State wants. The State has committed to the project.**

**High Mattison TMM#5 hopes that the public can be involved in each phase along the way. This has been a long time coming and he has followed it from the beginning.**

**Town Counsel stated that she had objected to some previous language which has been removed. The City of Boston and the State now approve the language. She will have the final draft of the project Partnership Agreement with the Army Corps of Engineer for the Board's review.**

**On motion, it was unanimously,**

**VOTED: 5-0 Favorable Action on Article 5.**

<b>Daly</b>	<b>Aye</b>
<b>DeWitt</b>	<b>Aye</b>
<b>Mermell</b>	<b>Aye</b>
<b>Benka</b>	<b>Aye</b>
<b>Goldstein</b>	<b>Aye</b>

That the Town appropriate \$1,400,000, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, to pay the costs of restoration and reconstruction of the Carlton Street Footbridge (CSF), with necessary ADA compliance, including the payment of any and all other costs incidental and related thereto; that to meet this appropriation, the Treasurer, with the approval of the Selectmen, is authorized to borrow said amount under and pursuant to Chapter 44, Sections 7(4) and 7(22) of the General Laws, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefore; that the Selectmen are authorized to apply for, accept and expend any grants or gifts from any source whatsoever that may be available to pay any portion of this project, provided, however, that the total amount authorized to be borrowed pursuant to this vote shall be reduced or credited by the reimbursement to the extent of any grants or

gifts received by the Town on account of this project; provided that if grants and/or gifts are received to pay for at least sixty percent of the costs of restoration and reconstruction of the CSF, that such restoration and reconstruction is to be completed in accordance with the schedule submitted with the Memorandum of Understanding signed by a majority of the Board of Selectmen on July 14, 2009, and with any amendments to that schedule approved by the Commonwealth, and, if such grants and/or gifts are not received, in accordance with an alternate schedule as specified below and submitted to the Commonwealth; provided further that no funds beyond the Town's match for such grant, except insofar as such funds are required for design work in connection with any grant application, to accept or implement such grant and/or gift, or to comply with the schedule below, shall be expended until the execution of contracts for completion of those portions of the so-called Muddy River Project (the "Project") (EOEA No. 11865) by the Army Corps of Engineers under the Project Participation Agreement that include dredging, removal and disposal of sediment and invasive species from, and preservation, restoration and planting of historic park shoreline at, the Riverway, Leverett Pond and Willow Pond, with all such work to be performed as part of such Project, and all as further set forth in the Draft, Final and Supplemental Final Environmental Impact Reports as accepted by the certificates of the Secretary of Environmental Affairs dated April 16, 2002, May 1, 2003, and April 1, 2005 or other certificates, environmental approvals or permits as may be lawfully issued, granted or modified; provided further that upon the execution and funding of such contracts the request(s) for proposals(s) for bids for the restoration and reconstruction of the CSF shall be issued within thirty days and contract(s) for such CSF restoration and reconstruction shall be executed within thirty days after the receipt of qualified bid(s), with such CSF restoration and reconstruction to be substantially completed on or before the substantial completion of the Project work described above, and the Town shall at all times after this vote inform the Commonwealth of its progress with regard to this schedule.

**WARRANT ARTICLES**

**Reconsideration of the Board's vote on the following Warrant Articles for the November 17, 2009 Fall Town Meeting:**

<b><u>No.</u></b>	<b><u>Article</u></b>
<b><i>POSTPONED 4.</i></b>	<b>FY10 Budget Amendments (B) Runkle School</b>
<b>17.</b>	<b>Resolution Concerning a Treaty to Eliminate Nuclear Weapons. Petition of Susan Gracey)</b>

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**WARRANT ARTICLES cont'd**

**On motion, it was unanimously,**

**VOTED: 5-0 to reconsider Article 17.**

**Deputy Town Administrator Sean Cronin stated that the Advisory Committee added some language to Article 17. Selectman Benka recommended some language changes as well.**

**On motion, it was unanimously,**

**VOTED: 5-0 Favorable on Article 17 as amended**

<b>Daly</b>	<b>Aye</b>
<b>DeWitt</b>	<b>Aye</b>
<b>Mermell</b>	<b>Aye</b>
<b>Benka</b>	<b>Aye</b>
<b>Goldstein</b>	<b>Aye</b>

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

**Whereas** the U. S. Conference of Mayors in 2008 voted unanimously to urge the President to negotiate for a verifiable treaty to abolish nuclear weapons because there is no adequate municipal response to a nuclear attack, and

**Whereas** the U.S. Conference of Mayors at its annual meeting in June, 2009 urged “the International Commission on Nuclear Non-proliferation and Disarmament to adopt 2020 as the target date for the achievement of a nuclear-weapon-free world”

AND

**Whereas** President Obama in Prague in April 2009 declared “America’s commitment to seek the peace and security of a world without nuclear weapons”, and further stated that “the United States will take concrete steps towards a world without nuclear weapons.”

**Be it resolved that** the Town of Brookline, Massachusetts supports the unanimous, urgent call of the U.S. Conference of Mayors to the President of the United States to commence negotiations for a verifiable treaty to eliminate nuclear weapons, and calls on the Board of Selectmen of the Town, to send a message of support for these negotiations to the President of the United States, and to our members of Congress.

**BOARDS AND COMMISSIONS**

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

**BOARDS AND COMMISSIONS cont'd**

**Advisory Council on Public Health  
Board of Appeals  
Economic Development Advisory Board  
Housing Advisory Board  
Human Resources  
Planning Board  
Trustees of Walnut Hills**

**Advisory Council on Public Health**

**On motion, it was unanimously,**

**VOTED: To re-appoint Milly Krakow to the Advisory Council on Public Health for a term ending 2012 or until a successor can be appointed.**

**VOTED: To re-appoint Roberta Gianfortoni to the Advisory Council on Public Health for a term ending 2012 or until a successor can be appointed.**

**Board of Appeals**

**On motion, it was,**

**VOTED: To re-appoint Jess Geller to the Board of Appeals for a term ending 2012 or until a successor can be appointed.**

**VOTED: To appoint Christopher Hussey to the Board of Appeals as an Associate Member for a term ending 2012 or until a successor can be appointed.**

**VOTED: To appoint Lisa Serafin to the Board of Appeals as an Associate Member for a term ending 2012 or until a successor can be appointed.**

**Economic Development Advisory Board**

**On motion, it was,**

**VOTED: To re-appoint Susan Houston to the Economic Development Advisory Board for a term ending 2012 or until a successor can be appointed.**

**VOTED: To re-appoint Anne Meyers to the Economic Development Advisory Board for a term ending 2012 or until a successor can be appointed.**

**BOARDS AND COMMISSIONS cont'd**

**VOTED: To re-appoint Alden Raine to the Economic Development Advisory Board for a term ending 2012 or until a successor can be appointed.**

**VOTED: To re-appoint Harold Simansky to the Economic Development Advisory Board for a term ending 2012 or until a successor can be appointed.**

**VOTED: To appoint Hema Narayanan to the Economic Development Advisory Board for a term ending 2011 or until a successor can be appointed.**

**VOTED: To appoint David Noe to the Economic Development Advisory Board for a term ending 2011 or until a successor can be appointed.**

**Human Resources**

**On motion, it was unanimously,**

**VOTED: To re-appoint Jacqueline Young to the Human Resources Board for a term ending 2012 or until a successor can be appointed.**

**Planning Board**

**On motion, it was,**

**VOTED: To appoint Steve Kanes to the Planning Board for a term ending 2013 or until a successor can be appointed.**

**VOTED: To appoint Jonathan Simpson to Planning Board for a term ending 2011 or until a successor can be appointed.**

**Trustees of Walnut Hills**

**On motion, it was unanimously,**

**VOTED: To re-appoint Mary Harris to the Trustees of Walnut Hills for a term ending 2012 or until a successor can be appointed.**

**VOTED: To re-appoint Patricia Olander to the Trustees of Walnut Hills for a term ending 2012 or until a successor can be appointed.**

In Board of Selectman

November 3, 2009

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**There being no further business, the Chair adjourned the meeting at 9:05 p.m.**

**ATTEST**

**IN BOARD OF SELECTMEN**

**November 10, 2009**

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

**There were no minutes for approval.**

**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: 5  
   Voting in the Negative: 0**

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

**Building Commissioner Mike Shepard updated the Board on the recent demolition of the Walnut Street Pump House. There were some complications when a telephone cable was inadvertently cut. The cable lines were very old and not adequately marked, although the contractor had contacted DigSafe. Also, there was an oil spill from the transformer that flowed to Leveret Pond. The DPW quickly responded and were able to control the leak before it reached the pond waters. Mr. Shepard apologized, and took full responsibility for the oversight that the transformer had not been emptied of its oil previously, and thanked the DPW for their quick response. The Board thanked him for being upfront and was glad that it was resolved.**

**Jonathan Stearns, President of the Brookline Chamber of Commerce asked the Board to re-consider the free parking meters over the holiday season. There has been no indication that the free meters add shoppers and revenue to the business community. It does seem that the meters are taken for large amounts of time, making it more difficult for shoppers to get a space. Keeping the meters in effect will allow a greater turnover in the parking spots.**

**Brian Kane, Transportation Board member updated the Board on recent construction work on Welland Road. The neighbors have been patiently waiting for speed bumps, and a crew was there putting in road chokers, which upset many residents of the area. Apparently there was a misunderstanding at a June Transportation Board meeting as to what traffic calming actions would be taken, which caused some confusion.**

**Chairman Daly indicated that she has requested that Town Counsel give training in public records compliance to the Transportation Board and staff.**

**Peter Nolan, a Welland Road resident stated that the residents will wait for the data on the chokers before appealing to the Board. He thanked Chairman Daly for showing up and helping the residents in the early morning hours.**

**Jodi Curran, Co-Chair of the PEC stated that there have been recent discussions on health insurance, and the deadline is approaching on making a decision. She added that the Committee would like to answer any questions and hopes to get a resolution soon. Chairman Daly replied that due to current coalition bargaining, the Board cannot publicly discuss any questions.**

### **WARRANT FOR THE SPECIAL STATE PRIMARY**

**The Board considered the question of executing the Warrant for the Special State Primary scheduled for Tuesday, December 8, 2009.**

**WARRANT FOR THE SPECIAL STATE PRIMARY cont'd**

Town Clerk Pat Ward stated that this Warrant is required for the Selectmen's signatures and must be posted no later than seven days prior to the December 8<sup>th</sup> election. Chairman Daly asked if he was informed that the Board did not approve the permanent changes that were requested for two polling locations. Mr. Ward replied that he did know that and it is not a problem to request it at a later date. Selectman Benka asked about proper notification on the two temporary polling changes. Mr. Ward replied that the Town takes it a step further than required by the State and there will be proper notification, including a mailing to voters.

On motion, it was unanimously,

**VOTED: To execute the Warrant for the Special State Primary scheduled for Tuesday, December 8, 2009.**

**STATEMENT OF INTEREST**

The Board considered the question of authorizing the Chairman to execute a Statement of Interest to the School Building Authority in connection with the Heath School addition.

School Superintendent Bill Lupini stated that there is a change in priority for funding by the Massachusetts School Board Authority putting Heath School in top position. Reasons for this include severe overcrowding and increased enrollments. This project has become a greater priority to the School Department.

Selectman DeWitt stated that the intention is to make the Heath School a 3 section K-8, and asked if the common areas would be able to accommodate the increase. Mr. Lupini replied yes.

Selectman Goldstein asked about Heath School being positioned before Devotion. He hopes that the Devotion community is well informed on the reasoning of not being first in line for renovations. Mr. Lupini replied that they have met with the PTO and have committed to continue allocating maintenance funds to the Devotion and Pierce Schools. There is a plan in place that has been shared with the parents. He added that Devotion and Pierce are the biggest schools and they do not want to make them larger. Making them a 5 section school would change the dynamics. Mr. Lupini stated that both Devotion and Pierce schools will and do need renovations.

Selectman Benka asked if the statement is broad enough as drafted for their intentions which could include locations other than Heath. Mr. Lupini replied that

**STATEMENT OF INTEREST cont'd**

**he does not believe there are any restraints within the document under MSBA regulations. .**

**On motion, it was unanimously,**

**VOTED:** Resolved: Having convened in an open meeting on November 10, 2009, the Board of Selectmen of The Town of Brookline, in accordance with its charter, by-laws, and ordinances, has voted to authorize the Superintendent to submit to the Massachusetts School Building Authority the Statement of Interest dated November 13, 2009 for the Heath School located at 100 Eliot Street which describes and explains the following deficiencies and the priority category(s) for which The Town of Brookline may be invited to apply to the Massachusetts School Building Authority in the future. The following priorities have been included in the Statement of Interest:

- Elimination of severe overcrowding;
- Prevention of severe overcrowding expected to result from increased enrollments;

and hereby further specifically acknowledges that by submitting this Statement of Interest, the Massachusetts School Building Authority in no way guarantees the acceptance or the approval of an application, the awarding of a grant or any other funding commitment from the Massachusetts School Building Authority, or commits the Town of Brookline to filing an application for funding with the Massachusetts School Building Authority.

**FEASIBILITY STUDY**

**The Board considered the question of executing a contract for a Feasibility Study for Fire Station Suitability to House Modern Firefighting Apparatus in the amount of \$50,000 with Donham & Sweeney Architects. Said contract to be funded from account 2209K035 6B0065.**

**Program Administrator Tony Guigli stated that some of the fire stations were built when the apparatus was pulled by horses. The Stations need to be updated to accommodate new equipment. Selectman Benka added that firefighting equipment is changing and regulations will make them heavier, taller and larger. It needs to be determined whether the floors are strong enough, and the doorways are large enough among others areas to go forward with mandated changes in fire fighting equipment.**

**On motion, it was unanimously,**

In Board of Selectmen

November 10, 2009

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**FEASIBILITY STUDY cont'd**

**VOTED: To execute a contract for a Feasibility Study for Fire Station Suitability to House Modern Firefighting Apparatus in the amount of \$50,000 with Donham & Sweeney Architects. Said contract to be funded from account 2209K035 6B0065.**

**TEMPORARY WINE AND MALT BEVERAGE LICENSE**

**The Board considered the question of granting a temporary Wine and Malt liquor license to Lincoln School PTO, Ashling Fingleton, Treasurer in connection with a silent auction to be held on November 14, 2009 from 6pm -11pm at the Lincoln School Gym 19 Kennard Road.**

**On motion, it was unanimously,**

**VOTED: To grant a temporary Wine and Malt liquor license to Lincoln School PTO, Ashling Fingleton, Treasurer in connection with a silent auction to be held on November 14, 2009 from 6pm -11pm at the Lincoln School Gym 19 Kennard Road.**

**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 reception to be held on November 18<sup>th</sup> from 7pm-9pm 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 reception to be held on November 18<sup>th</sup> from 7pm-9pm at 400 Heath Street.**

**TEMPORARY WINE AND MALT BEVERAGE LICENSE**

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

**Reception/Dinner**

**November 20<sup>th</sup>  
5pm - 9pm**

**TEMPORARY WINE AND MALT BEVERAGE LICENSE cont'd**

Reception November 18<sup>th</sup>  
5:30 p.m.-7:30 p.m.

Banquet/Reception December 5<sup>th</sup>  
4:00 p.m. – 7:30 p.m.

On motion, it was unanimously,

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

Reception/Dinner November 20<sup>th</sup>  
5pm - 9pm

Reception November 18<sup>th</sup>  
5:30 p.m.-7:30 p.m.

Banquet/Reception December 5<sup>th</sup>  
4:00 p.m. – 7:30 p.m.

**PLANNING BOARD APPOINTEES**

The Board considered the question of setting the terms of the Planning Board appointees for five years per the provisions of the Special Act adopted earlier this year.

Town Administrator Richard Kelliher stated that at last week's meeting the Planning Board terms were voted incorrectly. The Planning Board terms are for five years rather than the customary three year terms. Town Counsel advised that the Board re-vote the appointments for a term ending August 31, 2014 or until a successor can be appointed.

On motion, it was unanimously,

**VOTED: To appoint Steve Kanes to the Planning Board for a term ending 2014 or until a successor can be appointed.**

**VOTED: To appoint Jonathan Simpson to Planning Board for a term ending 2014 or until a successor can be appointed.**

In Board of Selectmen

November 10, 2009

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**COMMERCIAL AREAS VACANCY SURVEY**

**Commercial Areas Coordinator Marge Amster and Economic Development Officer Kara Brewton appeared to present the 2009 Commercial Areas Storefront Vacancy Survey.**

**Commercial Areas Coordinator Marge Amster stated that overall there is a vacancy rate of 6.9% which is 1% higher than last year, but still lower than the regional average. The percentage of chain stores has decreased. She added that it has been a difficult year due to the economy, and the business community has shown great resilience and commitment to Brookline. Coolidge Corner and Brookline Village, mainly the Cypress and Route 9 block have shown an increase in vacancy. Ms. Amster added that this block is difficult, the storefronts are small, there is limited parking and it is on a busy street.**

**The Board pointed out the high rate in Cleveland Circle. Ms. Brewton replied that this is mostly due to a small portion of the vacant Circle Cinema. The glass façade was actually in Brookline, which was calculated in the square footage.**

**Selectman Goldstein asked about the restaurant population and if the areas are getting too saturated causing some to fail. Ms. Amster replied that the percentage of restaurants in Brookline have remained constant.**

**Chairman Daly asked about the Beacon Street business owners. There was a major concern during the Beacon Street Project; a lot of businesses were affected by the project. Ms. Amster replied that when the Beacon Street Project ended, the economy took a downward turn making it difficult to pinpoint if the businesses are still hurting from the Project.**

**Selectman Mermell asked what the Town can do to help the commercial areas. Ms. Amster replied that one way would be to translate tax dollars into marketing dollars. Leases have tripled and marketing is a costly expense for small businesses.**

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

**BOARDS AND COMMISSIONS**

**The following candidates for appointments/reappointments to Boards and Commissions will appear for interview:**

**Human Relations/Youth Resources  
Karen Fischer**

In Board of Selectmen

November 10, 2009

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**BOARDS AND COMMISSIONS cont'd**

**Preservation Commission**

**Ashling Fingleton**

**Arts Commission**

**Joanne Lukitsh**

**Joe McGonegal**

**Jack Curtis**

**Human Relations/Youth Resources -Karen Fischer is applying for re-appointment. Ms. Fischer hopes to make the Commission more visible to the community. The Commission does a lot of work, but does it quietly. She hopes to make it a valuable resource for the community. Ms. Fischer has worked on Hidden Brookline, the Youth Awards, among other programs.**

**Preservation Commission -Ashling Fingleton is applying for re-appointment. She is a General Contractor and lives in a historic home. She feels that her experience can put a dollar value on all proposals. Ms. Fingleton stated that the Commission is moving in a positive direction and thinks it would be beneficial to have an attorney sit on the Commission. There are many complicated questions that involve both the regulations of the Commission and law.**

**Arts Commission -Joanne Lukitsh is applying for re-appointment. She has worked on the public art space policy, and updating the website. Ms. Lukitsh is serving her second year as co-chair and enjoys the work that the Commission is doing.**

**Arts Commission - Joe McGonegal is a local teacher, journalist and writer. He hopes to bring the literary arts into the Brookline Arts Commission. Mr. McGonegal would like to see public arts displays involving arts education. He holds a Master of Arts in English.**

**Arts Commission - Jack Curtis works in publications, communications, and public relations and marketing. He hopes to add his marketing skills to the Commission. He works with many cultural and educational institutions. Mr. Curtis holds a master of Arts in Modern European History.**





Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
<p><u>non-commercial motor vehicles</u>, owned by a Car Sharing Organization (CSO), <u>allowed</u> whether as the sole use of a lot or as a secondary use, for up to <del>25 parking spaces or 20%</del> <u>10%</u> of the total on-site parking spaces, <u>unless otherwise noted, whichever is less.</u></p> <p><del>Additional CSO parking spaces may be permitted by special permit per</del></p> <p><u>All open air parking lots with CSO vehicles require an Open Air Parking Lot License to be valid for zoning purposes. A special permit is required for any CSO spaces that are not in an open air parking lot. See §6.01.5.</u></p> <p><u>* Where the use of a lot is a single, two, or three-family dwelling, one CSO parking space may be allowed by special permit only. For other uses, up to 10% of parking spaces on a lot are allowed by right for CSO vehicles, and an additional 2 CSO spaces are allowed by special permit beyond the 10% cap, but in no case shall there be a total of more than 4 CSO vehicles allowed.</u></p>									

2. Amend Section under 6.01.4 under *General Regulations Applying to Required Off-Street Parking Facilities* as follows:

“4. All required parking facilities shall be provided and maintained so long as the use exists which the facilities were designed to serve. Off-street parking facilities shall not be reduced in total extent after their provision, except when such reduction is in conformity with the requirements of this Article. Reasonable precautions shall be taken by the owner or sponsor of particular uses to assure the availability of required facilities to the employees or other persons whom the facilities are designed to serve. Required parking spaces shall not be assigned to specific persons or tenants nor rented or leased so as to render them in effect unavailable to the persons whom the facilities are designed to serve, **except as described below in §6.01.5.** Such facilities shall be designed and used in such a manner as at no time to constitute a nuisance, or a hazard, or unreasonable impediment to traffic.”

3. Add a new Section 6.01.5 under *General Regulations Applying to Required Off-Street Parking Facilities*:

~~“5. Surplus parking spaces beyond any required parking spaces, but no more than 25 spaces, may be rented or leased to a Car Sharing Organization (CSO) as of right. Additionally, up to 20% of the total~~

~~on-site parking spaces, or 25 spaces, whichever is less, Parking spaces that do not require the moving of any other motor vehicle to access such spaces~~ may be rented or leased to a CSO per Use 22A of §4.07. Where the computation of allowed CSO parking spaces results in a fractional number, only the fraction of one-half or more shall be counted as one. as of right. Additional CSO parking spaces may be permitted by special permit. The Building Commissioner, in reviewing any open air parking lot license for zoning purposes, shall forthwith transmit a copy to the Planning and Community Development Director. Comments from these departments to the Selectmen shall include, but are not limited to, issues such as screening, nuisance issues, hours of cleaning or other operations, circulation of vehicles, traffic concerns, or other site-specific concerns, and may include recommended conditions to the Board of Selectmen.

In the case of a Special Permit, in addition to the conditions for approval described in §9.05, a demonstration must be made, through utilization surveys and other techniques where appropriate, that previous on-site parking demand will not be shifted to parking spaces on adjacent public streets to the detriment of the neighborhood as a whole. All parking facilities renting or leasing spaces to a Car Sharing Organization (CSO) shall have non-illuminated signage not to exceed three square feet per parking facility that includes the name and phone number of the property owner or lessor to be contacted for any nuisance issues that may arise. Such signage is not subject to the design review process as described in §7.03, paragraph 2.”

4. Amend Section 7.00.1.e under *Signs in All Districts*, as follows:

“e. Signs or advertising devices not attached to the building shall not exceed 20 square feet in area of each face exclusive of posts or other structural supports and shall not exceed 12 feet in height, except gasoline service station signs as regulated by §7.03, paragraph 1., subparagraph h. **Except for signs regulated by paragraphs 3 and 4 below**, all permitted signs in excess of one square foot in area shall be set back one-half the depth of the required front yard setback from all street lot lines. Except for signs regulated by paragraph 2 below, any freestanding sign of nonconforming use, or a freestanding sign of any size for a gasoline service station shall be subject to the requirements of §7.03, paragraph 2. **Except for signs regulated by paragraph 3 below**, there shall be not more than one freestanding sign, except that the Board of Appeals by special permit may allow additional freestanding signs on a property with more than one building or more than one street frontage but not more than one sign per building per street frontage. Whenever possible, signs shall be combined or clustered to minimize their number.
  
5. Add two new Sections under 7.00, *Signs in All Districts*:

In Board of Selectmen

November 10, 2009

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“3. Non-illuminated signage that does not exceed 1.5 square feet in area and that identifies allowed users of individual parking spaces is allowed in all zoning districts.

4. Required signage for parking facilities renting or leasing spaces to a Car Sharing Organization (CSO) as described in §6.01, paragraph 5 is allowed in all zoning districts.”

6. Amend Section 7.03.2 under *Signs in L, G, I and O Districts* as follows:

“2. All signs permitted in §§7.02 and 7.03, except temporary signs or advertising devices permitted in §7.03, paragraph 2, subparagraphs f. and g. **or signs permitted in §7.00, paragraphs 2, 3, and 4**, shall be subject to the following design review process:

or act on anything relative thereto.

**There being no further business the Chair adjourned the meeting at 9:00 p.m.**

**ATTEST**

**IN BOARD OF SELECTMEN**

**November 17, 2009**

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

**The Minutes of November 3<sup>rd</sup> and 10<sup>th</sup> were held.**

**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 Goldstein absent for roll call*

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

**Public Comment period for citizens who request to address the Board regarding Town issues.**

**There was no Public Comment.**

**CDBG AGREEMENTS**

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

**Dept. of Planning. & Community Dev. \$50,000.00  
Microenterprise Assistance  
1720SG49 558050**

**Brookline Housing Authority  
Next Steps  
1720SG49 558040 \$25,000.00**

**Assistant Director of Planning & Community Development Joe Viola stated that these grants will provide assistance to small business owners and additional funds for the Next Steps Program.**

**On motion, it was unanimously,**

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

**Dept. of Planning. & Community Dev. \$50,000.00  
Microenterprise Assistance  
1720SG49 558050**

**Brookline Housing Authority  
Next Steps  
1720SG49 558040 \$25,000.00**

**CONTRACT AMENDMENT**

**The Board considered the question of approving Amendment #2 in the amount of \$250,000.00 in connection with work to be completed by Barletta Heavy Division in connection with Contract PW/06-17 "Beacon Street Improvements". Said amendment to be funded from the following account:**



**CONTRACT AMENDMENT cont'd**

4995SW03 6H0009 40S03	\$ 19,825.30
4995SW03 6H0009 40S06	\$ 68,368.28
4995SW03 6H0009 40S07	\$161,806.42

Public Works Commissioner Tom DeMaio stated that he has met with MassHighway to negotiate the cost overruns that had reached over \$400k. They agreed not to exceed \$250k. This will be funded out of Chapter 90 funds. Most of the overages stem from police details.

Selectman Benka stated that there are still some unresolved issues relating to handicapped ramps, and the buttons on the poles used for the visually impaired. Mr. DeMaio replied that the contractor is responsible to fix the ramps. Guidance will be sought on the questions of the ramps and buttons. They are aware of it and it is being addressed. Selectman DeWitt added that the timing on the crosswalks needs to be addressed as well. Peter Ditto, Director of Engineering replied that a survey was done to determine the timing on the crosswalks and they will be updated. Commissioner DeMaio added that the project is not being closed out at this time, the close out is a lengthy process do to the amount of items on the punch list. The list is getting smaller as they continue to work on it. He added that due to the size and cost of this project, the overruns are well within reason.

Selectman Goldstein asked about the Chapter 90 funds, and hopes that this would not put another project in jeopardy. Mr. Ditto replied that the State provides the Town with Chapter 90 funds each year to provide roadwork. There have been two roads identified for next year. There should be no problems with the funding.

On motion, it was unanimously,

**VOTED:** To approve Amendment #2 in the amount of \$250,000.00 in connection with work to be completed by Barletta Heavy Division in connection with Contract PW/06-17 "Beacon Street Improvements". Said amendment to be funded from the following account:

4995SW03 6H0009 40S03	\$ 19,825.30
4995SW03 6H0009 40S06	\$ 68,368.28
4995SW03 6H0009 40S07	\$161,806.42

**PARKING ISSUE**

The Board considered the question of reviewing the placement of No Parking signs 8:00 a.m. – 10 a.m. on Lawton Street.

**PARKING ISSUE cont'd**

**Abe Faber, owner of Clear Flour Bread stated that recently a no parking between 8-10 a.m. sign appeared in front of his store. He was under the impression that these restrictions were lifted 15 years ago. With this restriction there is virtually no legal place for his customers, or other patrons to park. He added that this came all of a sudden without notice.**

**Chairman Daly was not happy to hear that the signs went up without notice. The Chair also stated that she was at a Transportation Board meeting a few years back when this was discussed.**

**Transportation Administrator Todd Kirrane replied that if there is new action on new regulations, the abutters receive notice. This was not considered a new regulation. A resident complained about parking during those hours and the police submitted tickets. At a parking ticket hearing the hearing officer heard complaints about being ticketed for parking between 8-10 a.m. The police still have this as a violation but were avoiding giving out citations for it. The residents noted that the signs were missing, and it is unfair to receive citations without proper signage. The police emailed Mr. Kirrane with pictures of the missing signs, and procedure requires that the signs be posted back up. When the Transportation Department looked up the regulations in that area it did indicate a no parking 8-10 a.m. restriction, meaning that this was not a new regulation.**

**Selectman DeWitt added that this does impact the businesses in the area and would like to request that the reasoning behind the No Parking 8AM-10AM signs and their placement be reviewed by the Transportation Department and Board, given the implementation of both resident and commercial permit parking, additional enforcement staffing, and parking Committee's recent recommendations for parking management.**

**Selectman Benka indicated that commuter parking could probably be dealt with better and with less impact on business by enforcing two hour parking rather than prohibiting 8AM-10AM parking.**

**Mr. Faber added that there has been a huge increase in the monitoring of the two hour parking regulations. This has helped the small commercial area there allowing the parking to be freed up during the day. There have been vehicles from Boston auto dealer Herb Chambers parking in the area as well as students, making it difficult to find adequate parking. The aggressive 2 hour monitoring has helped; he feels that this should be the only citations in the area.**

**The Board hopes that this will be resolved and mentioned some issues with the Transportation Board's minutes not being posted in a timely manner.**

**There was no vote on this agenda item.**

**PARK AND RECREATION PERSONNEL**

The Board considered the question of filling the following vacancies within the Park and Recreation Department:

Teacher/Head	GN-4
Afterschool Director	Ungraded

Recreation Director Lisa Paradis stated that the classroom teacher at the pre-school has become available due to the incumbent's decision to go back to school. The incumbent for the Director of the Afterschool program left to attend the Police Academy. These are both important positions within the Recreation Department that provide assistance to the Afterschool Program.

On motion, it was unanimously,

**VOTED:** To authorize filling the following vacancies within the Park and Recreation Department:

Teacher/Head	GN-4
Afterschool Director	Ungraded

**FIRE DEPARTMENT PERSONNEL**

The Board considered the question of authorizing conditional employment to the following firefighter candidates:

Scott J. Almeida  
Jolene M. Menard

This agenda item was postponed.

**RESERVE FUND TRANSFER**

The Board considered the question of approving and transmitting to the Advisory Committee the request of Human Resources Director Sandra DeBow for a Reserve Fund Transfer in the amount of \$240,000.00 for the unemployment compensation trust fund.

Assistant Human Resource Director Leslea Noble stated that due to School Department layoffs there has been a dramatic increase in the unemployment compensation trust fund. She added that the Town does utilize all available means

**RESERVE FUND TRANSFER cont'd**

**to prevent and protest inappropriate claims, however; due to the current status of the economy the increase is unavoidable.**

**On motion, it was unanimously,**

**VOTED: To approve and transmit to the Advisory Committee the request of Human Resources Director Sandra DeBow for a Reserve Fund Transfer in the amount of \$240,000.00 for the unemployment compensation trust fund.**

**WARRANT ARTICLES**

**Reconsideration of the Board's vote on the following Warrant Articles for the November 17, 2009 Fall Town Meeting:**

<b><u>No.</u></b>	<b><u>Article</u></b>
<b>5.</b>	<b>Carlton Street Footbridge Appropriation (Schram &amp; Davis)</b>
<b>9.</b>	<b>Purchase of State-owned Fisher Hill Reservoir (Selectmen)</b>
<b>12.</b>	<b>Zoning – Car Sharing Organizations and Commercial Motor Vehicle Definitions (Planning and Community Development)</b>

<b><u>No.</u></b>	<b><u>Article</u></b>
<b>5.</b>	<b>Carlton Street Footbridge Appropriation (Schram &amp; Davis)</b>

**There was no move for reconsideration on Article 5.**

**Advisory Committee Member Stanley Spiegel asked the Board to consider a resolution on the accessibility to the Carlton Street Footbridge. He stated the State would not accept language in the MOU on this, but it is important to let the State know that Brookline wishes that the bridge be assessable to all who wish to enjoy it. Brookline would make its best efforts to see that the reconstruction is suitable for the disabled.**

**WARRANT ARTICLES cont'd**

**Rob Daves TMM#5 stated that there has been no time for public input, but he feels that this should pertain to all public structures, not just a single one. He hopes that it does not weaken the motion that comes before it.**

**Selectman Benka replied that the resolution is designed to indicate internal direction; it would not change the vote of Article 5.**

**Selectman DeWitt added that the final determination will come from the State Access Board and the Commission for the Disabled will be making a recommendation as well.**

**On motion, it was unanimously,**

**VOTED: Favorable action that the Town adopt the following resolution:**

<b>DeWitt</b>	<b>Aye</b>
<b>Mermell</b>	<b>Aye</b>
<b>Benka</b>	<b>Aye</b>
<b>Goldstein</b>	<b>Aye</b>
<b>Daly</b>	<b>Aye</b>

**WHEREAS accessibility to public facilities for everyone, regardless of whether able-bodied or physically challenged, has come to be understood as a basic human right that the town of Brookline supports, and**

**WHEREAS reconstruction of the Carlton Street Footbridge will restore an important entry point to Riverway Park and offer a superb Olmsted-designed view of the park at this entry point,**

**THEREFORE BE IT RESOLVED THAT the Brookline Town Meeting requests that the Board of Selectmen and other relevant Town officials work diligently with appropriate State officials in order that the reconstruction of the Carlton Street Footbridge includes suitable handicap-accessible features so that all may benefit from access to Riverway Park and the vista thereof that the reconstructed footbridge will provide.**

**No.**

**Article**

**9.**

**Purchase of State-owned Fisher Hill Reservoir (Selectmen)**

**On motion, it was unanimously,**

**VOTED: To reconsider Article 9.**

**WARRANT ARTICLES cont'd**

Selectmen DeWitt stated that the new language adds specific dollar amounts from the recent appraisal. The amounts range from \$500k to \$800k. Director of Parks and Open Spaces Erin Gallentine stated that a 3<sup>rd</sup> party appraisal from DCAM appraised the land at \$800k, the Inspector General reviewed it. Town Counsel Jennifer Gilbert added that she is still trying to settle on a lower amount.

On motion, it was unanimously,

DeWitt	Aye
Mermell	Aye
Benka	Aye
Goldstein	Aye
Daly	Aye

**VOTED:** Favorable Action on Article 9 as follows:

That the Town authorize and empower the Board of Selectmen to purchase and take title on behalf of the Town, for a minimum amount of \$500,000, or a greater amount not to exceed \$800,000, the land and building thereon owned by the Commonwealth of Massachusetts and known as the State-owned Fisher Hill Reservoir, containing approximately 432,512 square feet and shown as Lot 1 in Block 256 of the Assessors' Atlas; and to accept as part of such conveyance a conservation restriction of approximately 420,512 square feet and preservation restriction of approximately 1296 square feet on the portion(s) of said land as generally shown in a plan attached hereto and incorporated herein as Exhibit A; and to use said land exclusively for active and passive recreation and/or to further conservation and open space uses consistent with Chapter 218 of the Acts of 2000; and upon such other terms and conditions as the Board of Selectmen shall consider proper and in the best interests of the town.

<u>No.</u>	<u>Article</u>
12.	Zoning – Car Sharing Organizations and Commercial Motor Vehicle Definitions (Planning and Community Development)

On motion, it was unanimously,

**VOTED:** To reconsider Article 12.

**WARRANT ARTICLES cont'd**

**Director of Economic Development Kara Brewton stated that the Moderator has some concerns with the language specifically where the DMV definitions are applied. Selectman Benka noted that he had worked out language with the Moderator that would be acceptable to the Moderator. Also, a Town Meeting Member submitted additional language concerning advertising on the top of motor vehicles.**

**On motion, it was unanimously,**

**VOTED: Favorable Action on an amendment to Article 12 as follows:**

<b>DeWitt</b>	<b>Aye</b>
<b>Mermell</b>	<b>Aye</b>
<b>Benka</b>	<b>Aye</b>
<b>Goldstein</b>	<b>Aye</b>
<b>Daly</b>	<b>Aye</b>

**to amend subparagraph 1)(a), in paragraph 2 of the main motion, by changing the word "and" in the fifth line of subparagraph (a) to a comma and by adding the following after the words "side to side" at the end of such subparagraph: ", and none of which is mounted on the roof of such vehicle"**

**On motion, it was unanimously,**

**VOTED: Favorable Action on Article 12 amended as follows:**

<b>DeWitt</b>	<b>Aye</b>
<b>Mermell</b>	<b>Aye</b>
<b>Benka</b>	<b>Aye</b>
<b>Goldstein</b>	<b>Aye</b>
<b>Daly</b>	<b>Aye</b>

**That the Town amend the Zoning By-Law as follows:**

- 1. Amend Section under 2.03 by inserting two new definitions ("C" Definitions):**

**"2) CAR SHARING ORGANIZATION - A Car Sharing Organization (CSO) is a membership-based entity with a distributed fleet of private motor vehicles that are made available to its members primarily for hourly or other short term use through a self-service fully automated reservation system. A CSO does not include any arrangement where a separate written agreement is entered into each time a vehicle is transferred from a rental company to its customer.**

- 3) **COMMERCIAL MOTOR VEHICLE** - Any motor vehicle that is not otherwise defined as a Non-Commercial Motor Vehicle.
- 4) **COURT**”

2. Amend Section under 2.14 by inserting one new definition (“N” Definitions):

“1) **NON-COMMERCIAL MOTOR VEHICLE** - Any motor vehicle, regardless of what kind of license plates it has, which is **either** an Antique Motor Car, Low Speed Vehicle, Limited Use Vehicle, Moped, **or** Motorcycle, **all** as defined by the Massachusetts Registry of Motor Vehicles **(RMV), or a Private Passenger Motor Vehicle as defined by the RMV** that is a sport utility vehicle or passenger van, **or a Private Passenger Motor Vehicle as defined by the RMV** that is a pickup truck or cargo van and of the 1 TON class or less, registered or leased to an individual and is used exclusively for personal, recreational, or commuter purposes, **or any other Private Passenger Motor Vehicle as defined by the RMV** that has a Gross Vehicle Weight Rating (GVWR) of 6,000 pounds or less, and which **also**:

Deleted: ;  
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- (a) unless owned by a corporation whose personal property is exempt from taxation under M.G.L. c.59, § 5, Clause Third or Tenth, has no more than three signs displayed on each vehicle, identifying the name and/or logo and contact information of the company, two of which may be no larger than two (2) square feet in area, one of which may be no larger than one (1) square foot in area, measured by multiplying the greatest dimension from top to bottom times the greatest dimension side to side; and none of which is mounted on the roof of such vehicle;
- (b) has no more than four wheels on the ground;
- (c) does not store tools, supplies, materials or equipment on the roof, sides, or bed of a vehicle for use at a job site where compensation is received;
- (d) is not used for hire to plow; and
- (e) if used for transporting or storing goods, wares or merchandise for business purposes, is used for such purposes not more than 40% of the total usage of the vehicle, is owned by an individual and has a maximum load carrying capacity of 1,000 pounds or less.

- 2) **NONCONFORMING BUILDING OR LOT**
- 3) **NONCONFORMING USE**”

3. Amend Section under 2.16 (“P” Definitions):

“1) **PARKING GARAGE OR PARKING AREA, NON-RESIDENTIAL** – A building, structure, lot or part of a lot designed or used for the shelter or storage of commercial or non-commercial



**motor vehicles used by the users of a lot or lots devoted to a use or uses not permitted in a residential district.**

**2) PARKING GARAGE OR PARKING AREA, RESIDENTIAL – A building, structure, part of a building or structure, lot or part of a lot designed or used for the shelter or storage of non-commercial motor vehicles, or any vehicle owned or leased by a Car Sharing Organization with a Gross Vehicle Weight Rating (GVWR) of 6,000 pounds or less and which satisfies paragraphs (a) to (e) of the definition of non-commercial motor vehicles, used by the users of a lot or lots devoted to a use or uses permitted in a residence district.**

**There being no further business, the Chair adjourned the meeting at 6:55 p.m.**

**ATTEST**

**IN BOARD OF SELECTMEN**

**November 24, 2009**

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

**The Minutes of November 3<sup>rd</sup>, 10<sup>th</sup> and 17<sup>th</sup> 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 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 Benka absent for roll call*

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

**Public Comment period for citizens who request to address the Board regarding Town issues.**

**There was no Public Comment.**

**CHANGE ORDERS**

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

**Putterham Library HVAC Renovations**

**Falite Bros.  
Change Order #13               \$1,869.09  
Change Order #15               \$1,546.68  
Change Order #16               \$ 685.52  
Acct. No. 2509K040 6B0088**

**Program Administrator Tony Guigli stated that the Change Orders include electrical lighting, wiring, and a carbon monoxide detector. Mr. Guigli added that the project is days away from completion; and the re-opening of the Main Putterham Library is due at the end of January. He added the project did go over schedule, but he is happy with the quality of work.**

**On motion, it was unanimously,**

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

**Putterham Library HVAC Renovations**

**Falite Bros.  
Change Order #13               \$1,869.09  
Change Order #15               \$1,546.68  
Change Order #16               \$ 685.52  
Acct. No. 2509K040 6B0088**

**TEMPORARY WINE AND MALT BEVERAGE LICENSE**

The Board considered the question of granting a temporary Wine and Malt beverages license to the Brookline Senior Center in connection with an Open House to be held on December 31, 2009 from 1:00 p.m. to 3:00 p.m. at 93 Winchester Street.

On motion, it was unanimously,

**VOTED:** To grant a temporary Wine and Malt beverages license to the Brookline Senior Center in connection with an Open House to be held on December 31, 2009 from 1:00 p.m. to 3:00 p.m. at 93 Winchester Street.

**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 holiday party to be held on December 12, 2009 from 4pm-8pm 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 holiday party to be held on December 12, 2009 from 4pm-8pm at 400 Heath Street.

**ALL KINDS ALCOHOLIC BEVERAGES LICENSE**

The Board considered the question of granting a temporary All Kinds Alcoholic beverages license to Larz Anderson Auto Museum in connection with a holiday party to be held on Wednesday, December 9, 2009 from 6pm-11pm at 15 Newton Street.

On motion, it was unanimously,

**VOTED:** To grant a temporary All Kinds Alcoholic beverages license to Larz Anderson Auto Museum in connection with a holiday party to be held on Wednesday, December 9, 2009 from 6pm-11pm at 15 Newton Street.

**The Board considered the question of approving and authorizing the Chairman to execute a contract with GZA GeoEnvironmental, Inc. in connection with the Immediate Response Actions Transformer Spill at Warren and Boylston Streets.**

**Building Commissioner Mike Shepard stated that the DEP required the Town to hire a licensed site professional in the wake of the recent oil spill. The Town has retained one, the site has been stabilized, and the building is down. Mr. Shepard added that Clean Harbors will be performing work at the site as well and that dollar amount is unknown at this time. Town Meeting appropriated funds for the demolition of the pump house and the cost was much lower than anticipated. The funds for this contract will come from the unexpended funds.**

**On motion, it was unanimously,**

**VOTED: To approve and authorize the Chairman to execute a contract with GZA GeoEnvironmental, Inc. in connection with the Immediate Response Actions Transformer Spill at Warren and Boylston Streets.**

### **COMMITTEE OF SEVEN**

**The Board considered the question of appointing the following Committees of Seven and designating a Selectman to Chair the Committees:**

**Putterham Library Roof and Photovoltaic Installation Design  
Town Hall Garages Repairs/Design**

**On motion, it was unanimously,**

**VOTED: To appoint Selectman DeWitt to Chair the Putterham Library Roof and Photovoltaic Installation Design**

**VOTED: To appoint Selectman Benka to Chair the Town Hall Garages Repairs/Design Committee.**

### **FIRST LIGHT**

**Commercial Areas Director Marge Amster appeared to update the Board on plans for First Light events scheduled for December 3, 2009.**

**Commercial Areas Coordinator Marge Amster, updated the Board on events planned for 1<sup>st</sup> Light. Merchants from Magic Bean, TD Bank and the Brookline Arts Center were present to invite everyone to enjoy the festivities and visit the local merchants.**

**Ms. Amster took a minute to acknowledge Barbara Soifer the founder of 1<sup>st</sup> Light and an active member of the Washington Square Merchant Association. Her presence is missed.**

**Selectman Goldstein asked about the cupola that she had wished to be replaced in Washington Square. Commissioner of Public Works Tom DeMaio replied that it has deteriorated and is being repaired by funds that the merchants collected.**

**The Board thanked everyone for the update and looks forward to a successful evening.**

#### **PUBLIC WORKS COMMISSIONER**

**Town Administrator Richard Kelliher appeared to recommend the promotion of Deputy DPW Commissioner Andrew Pappastergion to Commissioner of Public Works.**

**Town Administrator Richard Kelliher stated that it is his pleasure to recommend Deputy DPW Commissioner Andy Pappastergion to the position of DPW Commissioner for the remainder of the term of outgoing Commissioner DeMaio. Mr. Pappastergion has worked for the Town for 35 years and with that brings not only his administration skills but this hands-on experience. Mr. Kelliher added that Mr. Pappastergion has proven to be a key person in the Town's administration. He is held in high regard with the Massachusetts Water Resources Authority where he sits as a Board of Director. Mr. Kelliher is confident that Andy will be very successful in his new role, and re-appointed by the Board after a successful performance evaluation.**

**Mr. Pappastergion thanked Mr. Kelliher and stated that it is a rare opportunity to have started his career with the Town as a co-op student and continued his entire professional career here. He added that it is an honor to carry out the vision of Commissioner DeMaio for the DPW with whom he has worked with for 30 years, and has developed a friendship and a successful working partnership. Mr. Pappastergion spoke about his ideas and goals he would like to accomplish as well as recognizing the employees of the DPW which he called second to none.**



**PUBLIC WORKS COMMISSIONER cont'd**

**The Board congratulated Mr. Pappastergion and acknowledged his commitment and hard work in proving to be an important leader within the Town's Administration.**

**On motion, it was unanimously,**

**VOTED: To approve the recommended promotion of Deputy DPW Commissioner Andrew Pappastergion to Commissioner of Public Works.**

**MUDDY RIVER PROJECT PARTNERSHIP AGREEMENT**

**Town Counsel appeared to review provisions of the PPA for the Muddy River Restorations Project and to request Board approval of the language therein.**

**Town Counsel Jennifer Gilbert stated that this is the next step in the Muddy River Project. This is not for execution, it will be sent to the Army Corps of Engineers for review. The Army Corps will design the bid documents, which the Town will be able to review.**

**Selectman Goldstein asked about contaminated clean up in reference to the CERCLA (Comprehensive Environmental Response, Compensation, and Liability Act), who would be responsible for it. Ms. Gilbert replied that the Army Corp would be responsible for the contamination currently identified. Nothing triggers a CERCLA level of contamination at this point, all the testing has shown that. If it does a non-federal sponsor would be responsible, which would be the contractor who would be insured.**

**Selectman Goldstein also asked about the indemnification provisions in the agreement. He questioned whether the non-federal sponsors should indemnify the Army Corp for liability arising out of functions which were in the exclusive control or supervision of the Army Corp (regardless of fault). Ms. Gilbert felt that the Army Corp would not entertain such a change.**

**Selectman Benka added that he would like to commend the work of Town Counsel and Conservation Administrator Tom Brady for their hard work on getting to this point. There were some past issues on language where the commitment of funds was in question. He is glad that there have been some safeguards put in place.**

**On motion, it was unanimously,**

**VOTED: To approve the provisions of the PPA for the Muddy River Restorations Project and to request Board approval of the language therein, with the understanding that Article 21, paragraph C will have additional language.**

**MUDDY RIVER PROJECT PARTNERSHIP AGREEMENT cont'd**

**VOTED: To authorize the Town Administrator to sign the certificate regarding lobbying.**

**COALITION BARGAINING AGREEMENTS**

**The Board considered the question of approving Agreements with the Public Employee Committee under G.L.c. 32B s.19, to enter the Group Insurance Commission.**

**Chairman Daly stated that this is a good result for everybody, where everyone will save money. The Town has been able to avoid layoffs, which has been difficult, health insurance takes a large portion of the Town's overall budget, and has continuously grown.**

**Town Administrator Richard Kelliher stated that a tremendous amount of work went into this. They started looking at entering the GIC in 2006. He thanked the PEC for sticking with it, and everyone involved in this long difficult process.**

**The Board thanked the PEC and everyone involved for their continuous efforts and hard work. Selectman Benka pointed out Town Administrator Richard Kelliher by stating that he received an email from him that was sent at 11:50 p.m., and a following email sent at 6:57 a.m. That pretty much summed up how hard and long Mr., Kelliher worked on this effort. The Board was happy to follow out the wishes of the Override Study Committee, the Efficiency Committee, and the OPEB Committee in realizing the savings to the Town by joining the GIC. The Board also noted that the employees will see a savings as well in their paychecks, and thanked the employees for taking this difficult step into an unfamiliar territory, and for realizing that this will benefit both the Town and the employees with savings.**

**On motion, it was unanimously,**

**VOTED: To approve Agreements with the Public Employee Committee under G.L.c. 32B s.19.**

**BOARDS AND COMMISSIONS**

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

**Transportation Board**  
**Michael Sandman**

**Conservation Commission**  
**Kate Bowditch**  
**Steven Schwartz**  
**Roberta Schnoor - postponed**

**BOARDS AND COMMISSIONS cont'd**

**Transportation Board** -Michael Sandman is applying for re-appointment. He has worked on the merchant employee parking program, Devotion School teachers parking, and resident permit parking programs. The Board has also worked on traffic signals, taxi regulations, meter rates, and signage. The Transportation Board is very active and is continually looking at ways for better traffic and parking procedures.

The Board stated that there were some issues, particularly in connection with Welland Rad, and Lawton Street, that upset several residents. Mr. Sandman replied that the Board looks at the situation and what the best way to improve it would be.

Chairman Daly mentioned the Transportation Board's minutes, and lack of them. Mr. Sandman replied that there is a back log of them, which are now being processed. The Board will work on improving the minutes process.

**Conservation Commission** - Kate Bowditch is applying for re-appointment. She is a hydrologist and is employed with the Charles River Watershed Association where she is involved in storm water management involving national, State and local issues. Ms. Bowditch has worked on the wetlands by-law and regulations as well as storm water by-law. She hopes to continue working on the Open Space Plan, Storm-water Demonstration Project, and the Muddy River Project. Selectman Benka mentioned FEMA in regards to property insurance, and if it would it affect Brookline property owners. He asked her to look into it.

**Conservation Commission** -Steven Schwartz is an aquatic biologist and educator with expertise in aquatic, conservation and environmental biology. He would like to volunteer in the community in helping Brookline continue to be environmentally sustainable, and addressing further development and our remaining natural assets that they be handled in as reasonable manner as possible.

In Board of Selectmen

November 24, 2009

Page 11 of 13

**COMMON VICTUALLER LICENSE**

**The Board considered the question of approving the application of Temptations Café, Inc., d/b/a Temptations Café, Melhem Lutfi, Owner, for a Common Victualler license at 1350 Beacon Street.**

**The Board considered the question of approving the application of Temptations Café, Inc., d/b/a Temptations Café, Melhem Lutfi, Owner, holder of a Common Victualler license at 1350 Beacon Street for an Entertainment license to include Radio and Taped Music.**

**Applicant Melhem Lutfi was present. The applicant has a successful restaurant in Lower Beacon Street and has been encouraged by his patrons to open in Coolidge Corner. All papers were in order.**

**On motion, it was unanimously,**

**VOTED: To approve the application of Temptations Café, Inc., d/b/a Temptations Café, Melhem Lutfi, Owner, for a Common Victualler license at 1350 Beacon Street.**

**VOTED: To approve the application of Temptations Café, Inc., d/b/a Temptations Café, Melhem Lutfi, Owner, holder of a Common Victualler license at 1350 Beacon Street for an Entertainment license to include Radio and Taped Music.**

**COMMON VICTUALLER LICENSE**

**The Board considered the question of approving the application of Khayam, Inc., Alireze Zarifiannazarlo, Owner for a Common Victualler license at 404 Harvard Street.**

**The Board considered the question of approving the application of Khayam, Inc., Alireze Zarifiannazarlo, Owner holder of a Common Victualler license at 404 Harvard Street for an Entertainment license to include Radio and Taped Music and Television.**

**Alireze Zarifiannazarlo was present. Mr. Zarifiannazarlo owns a successful restaurant in Watertown that serves many Brookline residents. Property owner Howard Wernick spoke in favor of the application. He looks forward to this business bringing new patrons to the area.**

**On motion, it was unanimously,**

In Board of Selectmen

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**VOTED: To approve the application of Khayam, Inc., Alireze Zarifiannazarlo, Owner for a Common Victualler license at 404 Harvard Street.**

**VOTED: To approve the application of Khayam, Inc., Alireze Zarifiannazarlo, Owner holder of a Common Victualler license at 404 Harvard Street for an Entertainment license to include Radio and Taped Music and Television.**

**POSTPONED**

**FOOD VENDOR LICENSE**

**Question of approving the application of Papa Gino's, Inc. d/b/a Papa Gino's Pronto, Yanina Telequine, Manager for a Food Vendor License at 6 Harvard Street.**

**ALL KINDS LIQUOR LICENSE**

**Public Hearing on the application of Dalias, d/b/a Dalias Bistro & Wine Bar, Gina Medaglia, Owner, holder of a Wine and Malt beverages license as a Common Victualler at 1657 Beacon Street for an All Kinds of Alcoholic beverages license as a Common Victualler to be held at the same location.**

**Gina Medaglia was present. Ms. Medaglia stated that she would like to offer her patrons a cocktail or an after dinner drink. Property owner Howard Wernick spoke in favor of the application. Ms. Medaglia has been an outstanding and responsible tenant.**

**On motion, it was unanimously,**

**VOTED: To approve the application of Dalias, d/b/a Dalias Bistro & Wine Bar, Gina Medaglia, Owner, holder of a Wine and Malt beverages license as a Common Victualler at 1657 Beacon Street for an All Kinds of Alcoholic beverages license as a Common Victualler to be held at the same location.**

**ALL KINDS PACKAGE GOODS STORE**

**Public Hearing on the application of Anastasi Brookline, Inc., d/b/a Brookline Fine Wine & Spirits, Anastasios Giannopoulos, President for an All Kinds of Alcoholic Beverages license as a Package Goods Store at 27 Harvard Street.**

**Anastasios Giannopoulos, and Douglas Gordon were present. Chairman Daly stated that the office received a letter from some neighbors that expressed concern about the wine tasting events. She asked what time this is usually held.**

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**ALL KINDS PACKAGE GOODS STORE cont'd**

**Mr. Gordon replied usually about 5:30 to attract the after work crowd. Chairman Daly asked if it could be no earlier than 6:00 p.m. He replied that would be fine.**

**Grant Godfrey, 37A Harvard St spoke neither in favor nor against the license but wanted it known that a delivery truck had hit his building causing damage. He hopes that the applicants will not be using large delivery trucks. He also hopes that they will be sensitive to delivery and trash pick up hours.**

**Melinda Mann, 13 Linden Street had the same concerns.**

**Mr. Giannopoulos, and Mr. Gordon replied that would not be a problem, they could set up the accounts to prohibit morning deliveries.**

**Chairman Daly made the motion of granting the license with the following conditions:**

**No wine tasting events before 6:00 p.m.**

**No deliveries before 9:00 a.m.**

**Selectmen Goldstein made a motion to amend by adding the following condition:**

**No trash pick up before 9:00 a.m.**

**Chairman Daly asked if they wanted to think about the conditions that would be put on their license. She was uncomfortable that this license will hold conditions while most are granted without.**

**Mr. Giannopoulos, and Mr. Gordon replied that they wish to be good neighbors and will adhere to any conditions.**

**On motion, it was unanimously,**

**VOTED: To grant the application of Anastasi Brookline, Inc., d/b/a Brookline Fine Wine & Spirits, Anastasios Giannopoulos, President for an All Kinds of Alcoholic Beverages license as a Package Goods Store at 27 Harvard Street. With the following conditions:**

**No wine tasting events before 6:00 p.m.**

**No deliveries before 9:00 a.m.**

**No trash pick up before 9:00 a.m.**

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

**ATTEST**