

**ADJOURNED TOWN MEETING
MONDAY, JANUARY 25, 2010
FOGELBERG AUDITORIUM – BHS**

A quorum being present, the meeting was called to order at 7:40 P.M. with a salute to the flag. Mr. Middleton-Cox made his debut performance at Town Meeting in a solo role by performing the National Anthem. He also sang another tune and was accompanied by Eric Leva on piano.

ARTICLE 1 RE: Reports of Town Officers & Committees

To hear and act on the reports of the Town Officers and Committees, or to act in any other manner in relation thereto.

Chief Hart addressed the membership to thank them for their support over the years as he will be retiring in the spring.

The Ways and Means Committee gave a financial overview.

The Town Administrator introduced the newly appointed Police Chief, Michael Kent. He also gave a progress report on the Sign Bylaw Committee.

DPW Superintendent, John Sanchez, gave an update on the new water meter installation program and a review of the cemetery needs.

ARTICLE 2 RE: Cordials and Liqueurs License

To see if the Town will vote to accept these provisions of M.G.L. Chapter 138, Section 12 authorizing the Board of Selectmen to permit any common victualler who holds a M.G.L. 138, Section 12 Wine & Malt License to also sell cordials and liqueurs pursuant to such license, or to act in other manner in relation thereto.

MAIN MOTION: As printed in the Warrant

ACTION: MAJORITY APPROVED MAIN MOTION

ARTICLE 3 RE: Ice Palace Debt Service

To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$190,158 or any other amount to operate the Burlington Ice Palace, of which the \$190,158 will come from the FY10 Burlington Ice Palace Estimated Revenue Account, same to be expended under the direction of the Board of Selectmen, or to act in any other manner in relation thereto.

MAIN MOTION: To see if the Town will vote to raise and appropriate the sum of \$190,158 to operate the Burlington Ice Palace, of which \$190,158 will be transferred from the FY10 Ice Palace Estimated Revenue Account.

Recommendations: Ways & Means voted 10-0-0 in favor.

ACTION: MAJORITY APPROVED MAIN MOTION

ARTICLE 4 RE: Funding for the Burlington Police Patrolmen's Association Contract

To see if Town Meeting will vote to transfer from the Negotiated Settlement Account a sum of money for the purpose of funding the approved Collective Bargaining Agreement between the Town of Burlington and the Burlington Police Patrolmen's Association for *Fiscal Year 2008-2011*, same to be spent under the appropriate authority; or to act in any other manner in relation thereto.

MAIN MOTION: To Postpone Indefinitely

A substitute motion to move the article as follows was moved and seconded.

To see if the Town will vote to transfer from prior years' Negotiated Settlement Accounts, the sum of \$208,923 and to transfer from FY10 Negotiated Settlements the sum of \$182,207 for the sum total of \$391,130 for the purpose of funding the approved Collective Bargaining Agreement between the Town of Burlington and the Burlington Police Patrolmen's Association for

Fiscal Year 2008-2011, same to be spent under the appropriate authority.

A motion to strike the words "or any other sum" after the figure \$391,130 was moved, seconded and so voted.

Recommendations: Ways & Means voted in favor of the motion to postpone indefinitely.

ACTION: A motion to table until the end of the warrant or as the first order of business at the next meeting and further to meet Monday, February 1st instead of Wed. the 27th if necessary, was moved, seconded and so voted.

ARTICLE 5 RE: Acceptance of Real Estate Exemption Provisions/Chapter 73, Acts of 1986

To see if the Town will vote, pursuant to Chapter 73 of the Acts of 1986, as amended, to grant an additional exemption to taxpayers who otherwise qualify for an exemption under G.L. Chapter 59, Section 5, Clauses 17D, 22A, 22B, 22C, 22D, 22E, 37, 37A, 41C, 42 or 43, of 100% of said exemptions, provided however, that in no instance shall the taxable valuation of such property, after all applicable exemptions, be reduced below ten percent of its full and fair cash valuation or result in any taxpayer paying less than taxes paid in the preceding fiscal year, except through the application of G.L. Chapter 58, Section 8A, or G.L. Chapter 59, Section 5, Clause 18, or to act in any other manner in relation thereto.

MAIN MOTION: As printed in the Warrant

Recommendations: Ways & Means voted 10-0-0 in favor.

ACTION: MAJORITY APPROVED MAIN MOTION

ARTICLE 6 RE: Adjustment of Real Estate Exemption Factors

To see if the Town will vote, pursuant to G.L. Chapter 59, Section 5, Clause 41C, as amended by Chapter 184, Section 51 of the Acts of 2002, to decrease from 70 to 65 the age at which seniors become eligible to be granted a tax exemption under said Clause 41C and to increase the amount of income allowed for said exemption from \$13,000 to \$20,000 annually for single and from \$15,000 to \$30,000 annually for married couple and to increase gross assets from \$28,000 to \$40,000 for a single applicant and from \$30,000 in gross assets to \$55,000 for a married couple.

MAIN MOTION: As printed in the Warrant

Recommendations: Ways & Means voted 10-0-0 in favor.

ACTION: MAJORITY APPROVED MAIN MOTION

ARTICLE 7 RE: Meals Excise Tax Increase

To see if Town Meeting will vote to accept the provisions of MGL Chapter 64L, Section 2(a) that allows local communities to impose a local meals excise tax at the rate of .75%; or to act in any other manner in relation thereto.

MAIN MOTION: As printed in the Warrant

Recommendations: Ways & Means voted 8-3-0 in favor.

There was a division of the house and tellers were appointed.

ACTION: BY A VOTE OF 51 IN FAVOR AND 29 OPPOSED, THE MAIN MOTION CARRIED

ARTICLE 8 RE: Senior Center Kitchen Renovations

To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$60,000 or any other amount for the purpose of renovating the Senior Center kitchen at the Human Services Building located at 61 Center Street; or to act in other manner in relation thereto.

MAIN MOTION: To Postpone Indefinitely

ACTION: MAJORITY APPROVED MAIN MOTION

ARTICLE 9 RE: MITRE Field Improvements

To see if the Town will vote to amend Article 7 adopted at the Town Meeting held on September 22, 2008 to read in its entirety as follows:

That the sum of \$5,100,000 be and hereby is appropriated, to be expended at the direction of the Board of Selectmen, to pay for the following Capital Projects, including any and all costs incidental or related thereto:

Road Construction and Paving, parking lot and sidewalk reconstruction	\$1,000,000
AMR (Install Town Wide Automated Meters)	1,500,000
High School/FWS Roof(s)	1,600,000
Grandview Farm Complex	1,000,000

and that to meet this appropriation, the Town Treasurer, with the approval of the Board of Selectmen, is hereby authorized to borrow said amount under and pursuant to Chapter 44, Section 7, clauses (1), (3A) and (5) and Section 8, clause (7A) of the General Laws, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefore.

MAIN MOTION: As printed in the warrant

Recommendations: Ways & Means voted 10-1-0 in favor. Capital Budget voted 4-2 in favor.

There was a division of the house and tellers were appointed.

ACTION: BY A VOTE OF 77 IN FAVOR AND 3 OPPOSED, THE MAIN MOTION CARRIED.

ARTICLE 10 RE: Cemetery Expansion – Soil Exploration

To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$30,000 or any other sum for the purpose of funding soil exploration and landscaping concept design for future expansion of the Pine Haven Cemetery, or to act in any other manner in relation thereto.

MAIN MOTION: To see if the Town will transfer from the Sale of Lots the sum of \$30,000 for the purpose of funding soil exploration and landscaping concept design for future expansion of the Pine Haven Cemetery.

Recommendations: Ways & Means voted 9-0-2 in favor. Capital Budget voted 6-0-0 in favor. Selectmen voted 5-0-0 in favor.

ACTION: MAJORITY APPROVED MAIN MOTION

ARTICLE 11 RE: Transfer of Free Cash to Reserve Fund

To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$100,000 or any other amount to place in the FY 2010 Reserve Fund budget, or to act in any other manner in relation thereto.

MAIN MOTION: To see if the Town will vote to transfer from Free Cash, the sum of \$100,000 to the Reserve Fund.

Recommendations: Ways & Means voted 11-0-0 in favor.

ACTION: MAJORITY APPROVED THE MAIN MOTION

ARTICLE 12 RE: Transfer of Free Cash to Stabilization Fund

To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$500,000 or any other amount to place in the Town’s Stabilization Account, or to act in any other manner in relation thereto.

MAIN MOTION: To see if the Town will vote to transfer from Free Cash, the sum of \$500,000 to the Stabilization Fund.

Recommendations: Ways & Means voted 11-0-0 in favor.

ACTION: UNANIMOUSLY APPROVED THE MAIN MOTION

ARTICLE 13 RE: Wildwood Transfer of Land

To see if the Town will vote pursuant to General Laws Chapter 40, Section 15A to transfer from the Board of Selectmen for general municipal purposes or for the purpose of lease, to the Recreation Commission for park and playground purposes, approximately 12 acres of land and improvements known as Wildwood Park located at Bedford Street and Greenwood Street, being the land acquired by deed recorded with the Middlesex South District Registry of Deeds in Book 8733, Page 118, and to authorize the Recreation Commission and/or the Board of Selection to enter into a Parkland Acquisitions and Renovations for Communities Program Project Agreement whereby a perpetual restriction subject to Article 97 of the Amendments to the Massachusetts Constitution is granted to the Commonwealth of Massachusetts requiring that the land be retained and used at all times and in perpetuity for park and playground purposes (Chapter 45, Section 14) and that the land shall revert to the Commonwealth if not so used, or take any action relative thereto.

MAIN MOTION: As printed in the Warrant

Recommendations: Ways & Means voted 10-1-1 in favor. Land Use voted 6-0-0. Capital Budget voted 6-0 in favor.

A motion to end debate was moved, seconded and so voted.

There was a division of the house and tellers were appointed.

ACTION: BY A VOTE OF 72 IN FAVOR AND 8 OPPOSED, THE MAIN MOTION CARRIED.

ARTICLE 14 RE: Will of Marshall Simonds

To see if the Town will vote to accept from the Trustees under the will of Marshall Simonds the sum of \$25,000 or any other amount for the maintenance and improvements of Simonds Park, same to be expended under the direction of the Recreation Commissioners; or to act in any other manner in relation thereto.

MAIN MOTION: As printed in the Warrant.

ACTION: MAJORITY APPROVED THE MAIN MOTION

ARTICLE 15 RE: Mount Hope Christian Center Meadowbrook Lease Extension

To see if the Town will vote to authorize the Board of Selectmen to lease for a term or terms not to exceed ten (10) years in total with an additional ten year option, or such other terms and conditions as the Selectmen may determine, the premises formerly known as the Meadowbrook School, comprising a school house, approximately 40,000 square feet in its entirety, and approximately eight acres of land, having entry from McGinnis Drive in said Burlington, Massachusetts, as shown on the plan recorded at the Middlesex South Registry of Deeds in Book 25721, Page 083, or to act in any other manner in relation thereto.

MAIN MOTION: As printed in the Warrant.

Recommendations: Ways & Means voted 7-2-2 in favor. Land Use voted 0-6 in opposition. Capital Budget voted 6-0 in favor.

ACTION: MAJORITY APPROVED MAIN MOTION

A motion to take up Article 4 as the first order of business at the next meeting was moved, seconded and so voted.

At 10:55 pm, a motion to adjourn until Monday, February 1st was moved, seconded and so voted.

Attest
Jane L. Chew
Town Clerk

**ADJOURNED TOWN MEETING
MONDAY, FEBRUARY 1, 2010
FOGELBERG AUDITORIUM – BHS**

A quorum being present, the meeting was called to order at 7:35 P.M. with a salute to the flag.

Dr. Conti introduced Anne Ford, English Teacher BHS, who runs the Poetry Out Loud program. Two students recited poems: David Murray recited "Epilogue" by Robert Browning and Kevin Parker recited "England in 1819" by Percy Bysshe Shelley.

The Facilities Study Committee presented their preliminary report.

ARTICLE 4 RE: Funding for the Burlington Police Patrolmen’s Association Contract

To see if Town Meeting will vote to transfer from the Negotiated Settlement Account a sum of money for the purpose of funding the approved Collective Bargaining Agreement between the Town of Burlington and the Burlington Police Patrolmen’s Association for *Fiscal Year 2008-2011*, same to be spent under the appropriate authority; or to act in any other manner in relation thereto.

MAIN MOTION: To see if the Town will vote to transfer from prior years’ Negotiated Settlement Accounts, the sum of \$208,923 and to transfer from FY10 Negotiated Settlements the sum of \$182,207 for the sum total of \$391,130 for the purpose of funding the approved Collective Bargaining Agreement between the Town of Burlington and the Burlington Police Patrolmen’s Association for Fiscal Year 2008-2011, same to be spent under the appropriate authority.

Recommendations: Ways & Means voted 11-1-0 in favor. Selectmen voted 5-0 in favor.

ACTION: MAJORITY APPROVED MAIN MOTION

ARTICLE 16 RE: CISCO Five-Year Lease

To see if the Town will vote to authorize the Board of Selectmen and the School Committee to enter into a lease/purchase agreement for a term or terms not to exceed five (5) years in total, or such other terms and conditions as the Board of Selectmen and the School Committee may determine, for purposes of purchasing equipment and services to complete a network infrastructure upgrade for all School and Town properties, or to act in any manner in relation thereto.

MAIN MOTION: As printed in the Warrant.

Recommendations: Capital Budget voted 6-0-0 in favor. Ways & Means voted 10-0-2 in favor.

ACTION: UNANIMOUSLY APPROVED MAIN MOTION

ARTICLE 17 RE: Transfer of Funds FY 2010 Various Accounts

To see if the Town will vote to transfer from available funds the sum of \$_____ or any other amount for the purpose of paying for expenses incurred in Fiscal Year 2010 to various accounts same to be expended under the direction of the appropriate authorities; or to act in any other manner in relation thereto.

MAIN MOTION: To see if the Town will vote to transfer from available funds the sum of \$105,000 for the purpose of paying for expenses incurred in Fiscal Year 2010 to various accounts, same to be expended under the direction of the appropriate authorities as follows:

FROM:

LINE ITEM #	SOURCES	
24	Central Adm/Tn Ins	\$50,000
52	Tn Facilities/Occupancy	\$ 5,000
101	FY10 Neg. Settlements	<u>\$50,000</u>
		\$105,000

TO:

22	Central Adm/Unemployment	\$50,000
52	Tn Facilities/Capital	\$ 5,000
30	Legal/Collective Bargaining	<u>\$50,000</u>
		\$105,000

Recommendations: Ways & Means voted 12-0-0 in favor.

ACTION: MAJORITY APPROVED MAIN MOTION

ARTICLE 18 RE: Amend Zoning Map/Rezone Property From RO One-Family Dwelling to Garden Apartment (RG) District

To see if the Town will vote to amend the Zoning Map of the Town of Burlington, as most recently amended, to rezone a certain parcel of land from a One-Family Dwelling (RO) District to a Garden Apartment (RG) District. Said parcel of land is generally identified as 22 Beacon Street and is more specifically identified on the Town of Burlington Assessors Map as follows: Map 37, Parcel 51-0; or to act in any other manner in relation thereto.

MAIN MOTION: As printed in the Warrant

Recommendations: Land Use voted 6-0-0 in favor. Planning Board voted in 7-0-0 favor.

ACTION: UNANIMOUSLY APPROVED MAIN MOTION

App’d. A.G. . Posted .

ARTICLE 19 RE: Amend Zoning Bylaw Articles II and IV Massage Therapy

To see if the Town will vote to amend Article II DEFINITIONS of the Zoning Bylaw, by amending section 2.50.1 Massage Therapy, by striking the words “Burlington Board of Health” and substituting therefore the words “Commonwealth of Massachusetts”, as follows:

The act of moving or manipulating superficial or deep tissues, muscles, joints, or bones by rubbing, kneading, guiding, or the like by manual or mechanical means, or as directed by the practitioner, for the purpose of invigorating, relaxing, or increasing physical and/or emotional well-being. Massage Therapy shall be accessory to an athletic club, health club, school, gymnasium, reducing salon, spa, medical office, or similar establishment, and may only be administered by a medical practitioner, chiropractor, massage therapist, acupuncturist, physical therapist, or similar professional person licensed, certified, or exempted by the ~~Burlington Board of Health~~ **Commonwealth of Massachusetts**.

AND further to amend Article IV USE REGULATIONS, Section 4.2.0 Principal Use Regulation Schedule, Section 4.2.6.20.1 “Massage Therapy, subject to the regulations of the Board of Health”, by striking the words “subject to the regulations of the Board of Health”, as follows:

Massage Therapy, ~~subject to the regulations of the Board of Health;~~

or to act in any other manner in relation thereto.

MAIN MOTION: As printed in the Warrant

Recommendations: Planning Board voted 7-0-0 in favor. Land Use voted 6-0-0 in favor.

ACTION: UNANIMOUSLY APPROVED MAIN MOTION

App’d. A.G. . Posted .

ARTICLE 20 RE: Amend Zoning Bylaw Article VII, Section 7.4.0/Landscaping Requirements

To see if the Town of Burlington will vote to amend Article VII “General Regulations”, Section 7.4.0 “General Landscaping Requirements”, of the Zoning Bylaws by adding the following new sections, highlighted in bold print, as follows:

7.4.1 Purpose. This section is designed to accomplish the following objectives:

- 1. Provide a suitable boundary or buffer between residential uses and nearby nonresidential uses;**
- 2. Separate different and otherwise incompatible land uses from each other in order to partially or completely reduce potential nuisances such as dirt, dust, litter, noise, glare from motor vehicle headlights, intrusion from artificial light**

(including ambient glare), or view of signs, unsightly buildings or parking lots;

3. Provide visual relief and a source of shade in parking lots and other areas, and protection from wind in open areas; and

4. Offer property owners protection against diminution of property values, if any, due to adjacent nonresidential use.

7.4.2 Applicability. The requirements of this section shall apply to any nonresidential use and to multifamily dwellings.

7.4.4 Landscaping Requirements.

1. Screening, in accordance with an approved site plan, shall be provided, erected and maintained to shield RO and RG districts and municipal properties from adjoining business and industrial uses of land, and to shield RO districts from adjoining apartment uses. Screening shall be erected or planted before the premises are first occupied. Alternatively, the Planning Board may accept a financial guarantee in the amount of the cost of installing the screening and an agreement to complete the screening within a specified time and permit occupancy before the screening is installed.

2. Landscaping, in accordance with an approved site plan, shall be provided, erected and maintained on any part of any BN, BL, BG, BT, IH, IR, IG, or RG lot which is not occupied by a structure or by required parking areas, service areas, and driveways; except that all or part of the required landscaping may be in its clean original wooded state. Landscaping features shall be erected or planted before the premises are first occupied. Alternatively, the Planning Board may accept a financial guarantee in the amount of the cost of installing the landscaping and an agreement to complete the landscaping within a specified time and permit occupancy before the landscaping is installed.

3. Property line(s) which also bound residential districts shall be screened from nonresidential uses by means of plantings or maintenance of trees of a species common to the area and appropriate for screening, spaced to minimize visual intrusion, and providing an opaque year-round visual buffer between uses. Such plantings shall be provided and maintained by the owner of the property used for nonresidential use and multifamily dwellings. No part of any building or structure or any paved or unpaved surface intended for or used as a parking area may be located within the buffer area required by Section 5.2.0 of this Bylaw.

4. Dumpsters and similar accessory receptacles over one cubic yard capacity shall be screened from all adjacent premises and streets from which such features would otherwise be visible in accordance with this Section.

5. Any loading area or HVAC equipment or other electrical equipment placed on the ground level shall be screened from all adjacent premises and streets from which it would otherwise be visible in accordance with this Section.

6. Planted areas shall contain an appropriate mix of plant species that are appropriate to the proposed use, site layout, soils, and other environmental conditions. Vegetation is preferable to mulch where practical.

7. Existing trees with a diameter at breast height (DBH) of twelve inches (12") or more, shall be preserved wherever feasible-not be removed except by prior approval of the Planning Board, and if removed, shall be replaced with a minimum 3" caliper tree, unless waived by the Planning Board.

7.4.5 Coordination with Site Plan Approval. The Planning Board shall require a landscaping plan as part of an overall site plan for any premises subject to site plan review pursuant to Section 9.3.0 of this Bylaw. Such landscaping plan shall be at a scale sufficient to determine compliance with the specifications set forth in this Section.

Maintenance of Landscaped Areas. The owner of the property used for nonresidential purposes shall be responsible for the maintenance, repair and replacement of all landscaping materials installed in accordance with this section and shall have a continuing obligation to comply with the provisions set forth herein. All plant materials required by this Section shall be maintained in a healthful condition, or replaced as necessary, in perpetuity.

or to act in any other manner in relation thereto.

MAIN MOTION: As printed in the Warrant

A motion to amend by striking the words "be preserved wherever feasible" under section 7 and substituting therefore the words "not be removed except by prior approval of the Planning Board, and if removed, shall be replaced with a minimum 3" caliper tree, unless waived by the Planning Board" was moved, seconded and so voted.

Recommendations: Planning Board voted 5-2 in favor as amended. Land Use voted 6-0-0 in favor as amended.

ACTION: UNANIMOUSLY APPROVED MAIN MOTION AS AMENDED

App'd. A.G. . Posted .

ARTICLE 21 RE: Amend Zoning Bylaw Article VII, Section 7.3.0/Loading Requirements

To see if the Town will vote to amend Article VII "General Regulations", Section 7.3.0 "General Loading Requirements and Purpose" of the Zoning Bylaws, by adding the following new sections highlighted in bold print, as follows:

7.3.0 LOADING REQUIREMENTS

Loading space dimensions and locations shall be approved by the Planning Board, and loading spaces shall be so placed as not to require maneuvering within a public way or way used by the public.

7.3.1 General. Adequate off-street loading spaces or loading areas shall be provided and maintained by the owner of the property for each nonresidential building or use which is erected, enlarged or altered after the effective date of this Bylaw.

7.3.2 Same Lot. All loading spaces or loading areas required by this Bylaw shall be on the same lot as the building or use which they are intended to serve, and in no case shall any required loading area be part of an area used to satisfy the off-street parking requirements of this Bylaw.

7.3.3 No Queues or Backing onto Street. No loading facility shall be designed to require trucks to queue on a public way while awaiting off-loading. No loading facility shall be designed to require vehicles to back onto a public way; all turning maneuvers shall be accommodated on the premises.

7.3.4 Shared Loading. No part of an off-street loading area required by this Bylaw for any nonresidential building or use shall be included as part of an off-street loading area similarly required for another building or use, unless the type of buildings or uses indicates that the usage of such loading area would not occur simultaneously, as determined by the Planning Board.

7.3.5 Screening. Loading areas shall be screened in accordance with Section 7.4.0 of this Bylaw.

Location. No loading dock or bay shall be located within a required buffer area to an adjoining residential zoning district in accordance with Section 5.2.0 of this Bylaw. The Planning Board shall have final say on the siting of any loading dock.

or to act in any other manner in relation thereto.

MAIN MOTION: As printed in the Warrant

Recommendations: Planning Board voted 7-0-0 in favor. Land Use voted 6-0-0 in favor.

ACTION: UNANIMOUSLY APPROVED MAIN MOTION

App'd. A.G. . Posted .

ARTICLE 22 RE: Amend Zoning Bylaw Article V, Section 5.1.2.6/Lot Shape Requirement

To see if the Town will vote to amend the Zoning Bylaw by amending Article V "Dimensional Requirements", Section 5.1.2 "Lot Interpretation and Restrictions", by adding a new Subsection 5.1.2.6 "Lot shape requirements in One Family Dwelling (RO) Districts", as follows:

5.1.2.6 Lot shape requirements in One Family Dwelling (RO)
Districts

Lot lines that do not intersect shall maintain a minimum of twenty
(20) feet of separation;

or to act in any other manner in relation thereto.

MAIN MOTION: Postpone Indefinitely

ACTION: MAJORITY APPROVED MAIN MOTION

At 9:00 p.m., a motion to adjourn was moved, seconded and so
voted.

Attest:
Jane L. Chew
Town Clerk