

**WEDNESDAY, SEPTEMBER 30, 2009  
FOGELBERG AUDITORIUM – BHS**

At 7:30 PM, the Town Meeting Members of Precinct 5 assembled to fill the vacancy created by the resignation of J. Morandi (appointed to BOA). Present and voting were: P. Angelo, M. DeCost, C. Hartling, A. Karwan, J. Kinchla, C. Murphy, P. Roussell, D. Squeri, N. Steeves

Nominations were as follows: Robert J. Gallagher Jr., 9 Evergreen Ave.

Unanimously appointed to fill the vacancy until the next Annual Town Election. The meeting adjourned at 7:35 PM

Attest:  
Jane L. Chew  
Town Clerk

**ADJOURNED TOWN MEETING  
WEDNESDAY, SEPTEMBER 30, 2009  
FOGELBERG AUDITORIUM – BHS**

A quorum being present, the meeting was called to order at 7:40 P.M. with a musical performance of the BHS Select Chorus under the direction of Mr. Middleton-Cox. A motion to adjourn to Monday, October 5, 2009 to complete the warrant, if necessary, was moved, seconded and so voted.

The Moderator asked for a moment of silence for the recent passing of James Marchese, Charles Chicarello, and Jack Miller.

**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.

The Town Administrator gave a brief financial overview. Dr. Conti and Robert Mercier gave an overview of the technology initiative. DPW Supt. Sanchez updated the members on the new trash collection system. The Ways & Means Committee updated the membership.

**ARTICLE 2 RE: 2010 Annual Town Election Date**

To see if Town Meeting will vote to set the date of the 2010 Annual Town Election as Saturday, April 10, 2010; or to act in any manner in relation thereto.

**MAIN MOTION:** as printed in the Warrant

**ACTION: MAJORITY APPROVED MAIN MOTION**

**ARTICLE 3 RE: Middlesex Turnpike/ Burlington Mall Road Drainage and Roadway Easement**

To see if Town Meeting will vote to authorize the Board of Selectmen to acquire by gift, purchase or eminent domain rights in roadway as listed below for the purpose of obtaining secure permanent drainage and roadway easements, for the construction and maintenance of roadways; or act in relation thereto.

Map-Lot	Address	Map-Lot	Address
38-8-0	31 North Ave	45-14-0	32 Third Ave
38-9-0	21 North Ave	45-15-0	22 Third Ave
39-1-0	154 Middlesex Tpk	45-16-0	144 Middlesex Tpk
39-2-0	164 Middlesex Tpk	45-17-0	13 Third Ave
39-5-0	168 Middlesex Tpk	45-18-0	21 Third Ave
39-6-0	23 Fourth Ave	45-20-0	31 Third Ave
39-7-0	52 Third Ave	45-21-0	62 Second Ave
39-8-0	1 North Ave	45-22-0	52 Second Ave
45-2-0	33 Second Ave	45-23-0	20 Second Ave
45-3-0	Second Ave	45-24-0	10 Second Ave
45-4-0	41 Second Ave	45-25-0	128 Middlesex Tpk
45-5-0	53 Second Ave	45-27-0	32 Second Ave
45-6-0	Second Ave	45-29-0	91 Middlesex Tpk
45-7-0	63 Second Ave	45-32-0	111 Middlesex Tpk
45-8-0	73 Second Ave	45-36-0	141 Middlesex Tpk
45-9-0	83 Second Ave	46-24-0	2 Burlington Mall
45c-26-1	60 South Ave	46-29-0	126 Lexington St
45c-26-2	60 South Ave	51-11-0	63 South Ave
33-71-0	171 Middlesex Tpk	32-3-2	Network Dr
38-10-0	40 North Ave	38-8-1	51 North Ave
39-10-0	2 Fourth Ave	39-8-1	71 Third Ave
39-11-0	174 Middlesex Tpk	39-9-1	11 North Ave
39-12-0	200 Middlesex Tpk	38-10-1	30 North Ave
39-17-0	10 North Ave	45-17-1	130 Middlesex Tpk
39-18-0	20 North Ave	45-25-1	Second Ave
45-10-0	87 Second Ave	45-28-1	101 Middlesex Tpk
45-11-0	53 Third Ave	45-34-1	131 Middlesex Tpk
45-13-0	42 Third Ave	46-25-1	Lexington St

**MAIN MOTION:** To see if Town Meeting will vote to authorize the Board of Selectmen to acquire by gift, domain rights in roadway as listed below for the purpose of obtaining secure permanent drainage and roadway easements, for the construction and maintenance of roadways.

Map-Lot	Address	Map-Lot	Address
38-8-0	31 North Ave	45-14-0	32 Third Ave
38-9-0	21 North Ave	45-15-0	22 Third Ave
39-1-0	154 Middlesex Tpk	45-16-0	144 Middlesex Tpk
39-2-0	164 Middlesex Tpk	45-17-0	13 Third Ave
39-5-0	168 Middlesex Tpk	45-18-0	21 Third Ave
39-6-0	23 Fourth Ave	45-20-0	31 Third Ave
39-7-0	52 Third Ave	45-21-0	62 Second Ave
39-8-0	1 North Ave	45-22-0	52 Second Ave
45-2-0	33 Second Ave	45-23-0	20 Second Ave
45-3-0	Second Ave	45-24-0	10 Second Ave
45-4-0	41 Second Ave	45-25-0	128 Middlesex Tpk
45-5-0	53 Second Ave	45-27-0	32 Second Ave
45-6-0	Second Ave	45-29-0	91 Middlesex Tpk
45-7-0	63 Second Ave	45-32-0	111 Middlesex Tpk
45-8-0	73 Second Ave	45-36-0	141 Middlesex Tpk
45-9-0	83 Second Ave	46-24-0	2 Burlington Mall
45c-26-1	60 South Ave	46-29-0	126 Lexington St
45c-26-2	60 South Ave	51-11-0	63 South Ave
33-71-0	171 Middlesex Tpk	32-3-2	Network Dr
38-10-0	40 North Ave	38-8-1	51 North Ave
39-10-0	2 Fourth Ave	39-8-1	71 Third Ave
39-11-0	174 Middlesex Tpk	39-9-1	11 North Ave
39-12-0	200 Middlesex Tpk	38-10-1	30 North Ave
39-17-0	10 North Ave	45-17-1	130 Middlesex Tpk
39-18-0	20 North Ave	45-25-1	Second Ave
45-10-0	87 Second Ave	45-28-1	101 Middlesex Tpk
45-11-0	53 Third Ave	45-34-1	131 Middlesex Tpk
45-13-0	42 Third Ave	46-25-1	Lexington St

**ACTION: UNANIMOUSLY APPROVED MAIN MOTION****ARTICLE 4 RE: Chapter 137 of the Acts of 2003/Public Employees Serving in US Armed Forces**

To see if Town Meeting will vote to accept the provisions of Chapter 137 of the Acts of 2003; or to act in any other manner in relation thereto.

**MAIN MOTION:** as printed in the Warrant

**ACTION: MAJORITY APPROVED MAIN MOTION****ARTICLE 5 RE: Amend Article II/Representative Town Meeting, Section 1.0, Subsection 1.2/Warrants**

To see if Town Meeting will vote to amend General Bylaw Article II as follows:

1.0 In accordance with a vote on March 6, 1971, there is established in the Town of Burlington a Representative Town Meeting form of government, whereby 108 members shall be elected to meet, deliberate, act and vote in the exercise of the corporate powers of the Town. All powers of the Town shall be vested in the Town Meeting except as provided otherwise by law. The Town Meeting shall provide for the exercise of all the powers of the Town and for the performance of all duties and obligations imposed upon the Town by law.

1.1 The Town Meeting shall be a continuous body, but it may adjourn for periods not exceeding 150 days. It shall meet at such times and places as the meeting may determine by rule. Special meetings may be held on the call of the Moderator, or ten or more members, and upon written notices no less than seven days in advance delivered to the place of residence of each member and that of the Moderator. Copies of said notice shall also be posted seven or more days in advance on the Town bulletin board.

**1.2 Warrants**

Warrants for Town Meeting sessions shall be issued by the Board of Selectmen to the Town Meeting Members, Moderator and Town Clerk, and a copy shall be posted on the Town Bulletin Board at least fourteen (14) days before the meeting is to convene. The Selectmen shall include in the warrant all subjects which are requested of them in writing by any elected Town Meeting Member, the Moderator, the School Committee, or any other person authorized by State Statute or Town Bylaw.

**The date by which the Board of Selectmen shall receive Zoning articles, by petition or otherwise, for inclusion in the warrant for Town Meeting shall be no later than ninety (90) ~~forty-five~~ days before the meeting notwithstanding the provisions of Chapter 686 of the Acts of 1970, Section 12(a) relating to Special Town Meetings. Pursuant to MGL Chapter 40A, Section 5, The Board of Selectmen shall within fourteen days of receipt of such zoning ordinance or by-law submit it to the Planning Board for review. No zoning ordinance or by-law or amendment thereto shall be adopted until after the Planning Board has held a public hearing, at which interested persons shall be given an opportunity to be heard. Said public hearing shall be held within sixty-five days after the proposed**

**zoning ordinance or by-law is submitted to the Planning Board. No vote to adopt any such proposed ordinance or by-law or amendment thereto shall be taken until a report with recommendations by the Planning Board. The Board of Selectmen is not prohibited from inserting in the warrant, after that date, articles which, in the Board's opinion, are of such importance to the welfare of the Town as to make their consideration at such meeting necessary or desirable.**

**The date by which the Selectmen shall receive all other articles, by petition or otherwise, for inclusion in the warrant for Town Meeting shall be no later than forty-five days before the meeting notwithstanding the provisions of Chapter 686 of the Acts of 1970, Section 12(a) relating to Special Town Meetings. The Board of Selectmen are not prohibited from inserting in the warrant, after that date, articles which, in the Board's opinion, are of such importance to the welfare of the Town as to make their consideration at such meeting necessary or desirable; or to act in any other manner in relation thereto.**

**MAIN MOTION:** as printed in the Warrant

**Amendment was moved and seconded as follows:**

It is hereby requested that Article#5 be amended and moved as follows:

1.0 In accordance with a vote on March 6, 1971, there is established in the Town of Burlington a Representative Town Meeting form of government, whereby 108 members shall be elected to meet, deliberate, act and vote in the exercise of the corporate powers of the Town. All powers of the Town shall be vested in the Town Meeting except as provided otherwise by law. The Town Meeting shall provide for the exercise of all the powers of the Town and for the performance of all duties and obligations imposed upon the Town by law.

1.1 The Town Meeting shall be a continuous body, but it may adjourn for periods not exceeding 150 days; provided, however, that all petitions regarding proposed amendments to the Town's Zoning Bylaws shall be received by the Board of Selectmen and a copy of the petition sent to the Planning Board, no later than ninety days before the meeting for which the amendment is proposed. It shall meet at such times and places as the meeting may determine by rule. Special meetings may be held on the call of the Moderator, or ten or more members, and upon written notices no less than seven days in advance delivered to the place of residence of each member and that of the Moderator. Copies of said notice shall also be posted seven or more days in advance on the Town bulletin board.

**1.2 Warrants**

Warrants for Town Meeting sessions shall be issued by the Board of Selectmen to the Town Meeting Members, Moderator and Town Clerk, and a copy shall be posted on the Town Bulletin Board at least fourteen (14) days before the meeting is to convene. The Selectmen shall include in the warrant all subjects which are requested of them in writing by any elected Town Meeting Member, the Moderator, the School Committee, or any other person authorized by State Statute or Town Bylaw.

The date by which the Board of Selectmen shall receive Zoning articles, by petition or otherwise, for inclusion in the warrant for Town Meeting shall be no later than ninety (90) days before the

meeting notwithstanding the provisions of Chapter 686 of the Acts of 1970, Section 12(a) relating to Special Town Meetings. Pursuant to MGL Chapter 40A, Section 5, The Board of Selectmen shall within fourteen days of receipt of such zoning ordinance or by-law submit it to the Planning Board for review. No zoning ordinance or by-law or amendment thereto shall be adopted until after the Planning Board has held a public hearing, at which interested persons shall be given an opportunity to be heard. Said public hearing shall be held within sixty-five days after the proposed zoning ordinance or by-law is submitted to the Planning Board. No vote to adopt any such proposed ordinance or by-law or amendment thereto shall be taken until a report with recommendations by the Planning Board. The Board of Selectmen is not prohibited from inserting in the warrant, after that date, articles which, in the Board's opinion, are of such importance to the welfare of the Town as to make their consideration at such meeting necessary or desirable.

The date by which the Selectmen shall receive all other articles, by petition or otherwise, for inclusion in the warrant for Town Meeting shall be no later than forty-five days before the meeting notwithstanding the provisions of Chapter 686 of the Acts of 1970, Section 12(a) relating to Special Town Meetings. The Board of Selectmen are not prohibited from inserting in the warrant, after that date, articles which, in the Board's opinion, are of such importance to the welfare of the Town as to make their consideration at such meeting necessary or desirable; or to act in any other manner in relation thereto.

Amendment carried.

Recommendations: Bylaw Review Committee voted 3-0-0 in favor. Land Use Committee voted in 6-0 favor.

**ACTION: MAJORITY APPROVED MAIN MOTION AS AMENDED**

App'd A.G. 1/20/10. Posted 1/27/10-2/10/10.

**ARTICLE 6 RE: Amend Article IV/Selectmen, Section 3.0/ Board of Public Works, Subsection 3.1.1 of Subsection 3.1**

To see if Town Meeting will vote to amend the General Bylaw Article IV/Selectmen, Section 3.0 **by adding a new paragraph** to the end of Subsection 3.1.1 of Subsection 3.1, as follows:

The Board of Public Works is hereby authorized to promulgate regulations relative to the use of water in the Town's water distribution system. Violation of any regulations promulgated under authority of this bylaw may be enforced through any lawful means in law or in equity by the Board of Public Works or the Superintendent of Public Works, or their designees, including but not limited to enforcement by non-criminal disposition in accordance with Article I, Section 4.0 of the General Bylaws. Each day a violation exists shall constitute a separate violation. The regulations authorized by this section shall establish specific penalties for violation thereof in amounts not to exceed \$300 per violation; or to act in any other manner in relation thereto.

**MAIN MOTION:** as printed in the Warrant

Recommendations: Bylaw Review voted 3-0-0 in favor.

**ACTION: MAJORITY APPROVED MAIN MOTION**

App'd A.G. 1/20/10. Posted 1/27/10-2/10/10.

**ARTICLE 7 RE: Term Limits/Breaks for Elected Officials**

To see if Town Meeting will vote to authorize the Board of Selectmen to file a home rule petition in the following form, provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court, and provided further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition:

**AN ACT AUTHORIZING THE TOWN OF BURLINGTON TO ESTABLISH TERM LIMITS FOR CERTAIN ELECTED OFFICIALS.**

**Section 1.** No elected official in the Town of Burlington, with the exception of elected Town Meeting Representatives and the Town Moderator, shall serve for more than three consecutive terms or for more than ten (10) consecutive years in the same office. For the purposes of this section, service to complete the term of another elected official shall constitute service for one term if the balance of said term being completed is more than fifty percent of the original term. A person who has been prohibited from serving in an elected office by this section may be reelected or reappointed to that office after two years have elapsed from the ending date of his or her previous service.

**Section 2.** This Act shall apply to individuals holding an elected position in the Town as of the effective date of the act. Any individual who has served in a continuous capacity for three or more consecutive terms as of the effective date of this shall not be eligible to run for re-election to the same office for a two year period upon expiration of their then current term. This Act shall take effect upon passage; or to act in any other manner in relation thereto.

**MAIN MOTION:** as printed in the Warrant

Amendment moved and seconded:

It is hereby requested that Article#7 be **amended** and moved as follows:

To see if Town Meeting will vote to authorize the Board of Selectmen to file a home rule petition in the following form, provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court, and provided further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition:

**AN ACT AUTHORIZING THE TOWN OF BURLINGTON TO ESTABLISH TERM LIMITS FOR CERTAIN ELECTED OFFICIALS.**

**Section 1.** No elected official in the Town of Burlington, with the exception of elected Town Meeting Representatives, the Town Clerk, the Treasurer/Collector and the Town Moderator, shall serve for more than three consecutive terms or for more than ten

(10) consecutive years in the same office. For the purposes of this section, service to complete the term of another elected official shall constitute service for one term if the balance of said term being completed is more than fifty percent of the original term. A person who has been prohibited from serving in an elected office by this section may be reelected or reappointed to that office after two years have elapsed from the ending date of his or her previous service.

**Section 2.** This Act shall apply to individuals holding an elected position in the Town as of the effective date of the act. Any individual who has served in a continuous capacity for three or more consecutive terms as of the effective date of this shall not be eligible to run for re-election to the same office for a two year period upon expiration of their then current term. This Act shall take effect upon passage.

Amendment carried.

Recommendations: Bylaw Review voted 0-3 in opposition.  
Board of Selectmen voted in opposition.

**ACTION: MAJORITY DEFEATED MAIN MOTION AS AMENDED**

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**ARTICLE 8 RE: Amend Article XIII/Public Safety, Section 1.0/Use of Streets and Public Places, Subsection 1.16**

To see if Town Meeting will vote to amend the General Bylaw Article XIII, Section 1.0, by changing Subsection 1.16 -- No person shall solicit, or display, sell, or distribute articles or merchandise upon a street or public place unless licensed by the Selectmen as follows:

**No person unless otherwise authorized shall go from place to place within the Town selling or bartering or carrying for sale or barter or exposing therefore or taking orders therefore any goods, wares, or merchandise, not shall any person go from place to place within the Town begging or soliciting alms or contributions for any person, cause or organization; either on foot or from any animal or vehicle without having first recorded his name and address with the Chief of Police and furnished such other information as may be requested of him.**

The Chief of Police shall thereupon if satisfied with the honesty of the applicant, issue a permit for a period not exceeding twelve months, which must be shown on request, and shall state that said person has duly registered and is entitled to go from place to place within the Town for the purpose specified.

The Chief of Police may, however, authorize the director of any religious organization within the Town to solicit such contributions, etc., without having each solicitor under his direction registered; or to act in any other manner in relation thereto.

**MAIN MOTION:** to Postpone Indefinitely

**ACTION: MAJORITY APPROVED MAIN MOTION**

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**ARTICLE 9 RE: Elected Officials Stipends**

To see if Town Meeting will vote to consolidate the salaries and/or other compensation of part time elected officials into one warrant article to be voted on annually beginning with the budget for the fiscal year 2011.

**MAIN MOTION:** as printed in the Warrant

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

Recommendations: Ways and Means voted 4-5 in opposition.

**ACTION: MAJORITY DEFEATED MAIN MOTION**

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**ARTICLE 10 RE: FY10 Budget Adjustments**

To see if the Town will vote to amend the approved Fiscal Year 2010 budget; or to act in any other manner in relation thereto.

**MAIN MOTION:** to Postpone Indefinitely

**ACTION: MAJORITY APPROVED MAIN MOTION**

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**ARTICLE 11 RE: Funding for the Burlington International Association of Firefighters 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 International Association of Firefighters for Fiscal Year 2010 and 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 FY2010 Negotiated Salary Account the sum of \$75,775 to pay for salary adjustments to the Town's IAFF Contract. Said sum shall include \$67,900 for Full Time Salaries and \$7,875 for Overtime Salaries.

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

**ACTION: MAJORITY APPROVED MAIN MOTION**

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**ARTICLE 12 RE: Funding for the Burlington International Brotherhood of Police Officers (Command Officers)**

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 International Brotherhood of Police Officers (Command Officers) 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

**ACTION: MAJORITY APPROVED MAIN MOTION**

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**ARTICLE 13 RE: Wildwood School Athletic Fields**

To see if Town Meeting will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$904,318 or any other amount of money for the purpose of building athletic fields and to make site improvements to the Wildwood School parcel, including the payment of all costs incidental and related thereto, same to be spent under the direction of the Recreation Commission; or to act in any other manner in relation thereto.

**MAIN MOTION:** It is hereby requested that Article#13 be amended and moved as follows:

To see if Town Meeting will move to transfer from the Stabilization Fund the sum of \$904,318, for the purpose of building athletic fields and to make improvements to the Wildwood parcel, including the payments of costs incidental and related thereto, same to be spent under the direction of the Recreation Commission; provided however that no funds may be expended under this appropriation unless and until the Town has received a PARC grant from the state for at least 56% of the project cost; and to authorize the Board of Selectmen to apply for and accept grants from the Executive Office of Energy and Environmental Affairs; and to further authorize the Board of Selectmen to take such other actions as are necessary to carry out the terms, purposes, and conditions of this grant to be administered by the Parks and Recreation Department.

Recommendations: Ways and Means voted 11-1 in favor. Land Use Committee voted in 2-3 in opposition. Capital Budget voted 6-0 in favor. Board of Selectmen voted 3-2 in favor.

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

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

**BY A VOTE OF 77 IN FAVOR AND 8 OPPOSED, THE MAIN MOTION CARRIED.**

**ARTICLE 14 RE: Inflow/Infiltration/MWRA Grant Program**

To see if Town Meeting will vote to raise and appropriate, transfer from available funds, or otherwise provide the sum of \$456,000 or any other amount of money for the purpose of compliance with the Amended Administrative Consent Order issued by the Department of Environmental Protection to aggressively remove and remediate all sources of extraneous infiltration and inflow from the Burlington sewer system; or to act in any other manner in relation thereto.

**MAIN MOTION:** To see if the Town will vote that the sum of \$456,000 be and is hereby appropriated to pay costs of removing sources of infiltration and inflow into the Town's sewer system, as required under an Amended Administrative Consent Order issued by the Department of Environmental Protection, including the payment of all costs incidental and related thereto, and that to meet this appropriation, the Town Treasurer, with the approval of the Selectmen, is hereby authorized to borrow said amount under and pursuant to Chapter 44, Section 7(1) of the General Laws, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefore, provided, however, that the amount authorized to be borrowed hereunder shall be reduced to the extent of any grants or gifts received by the Town from the Massachusetts Water Resources Authority, or from any other source, on account of this project.

Recommendations: Ways & Means voted 11-0-0 in favor. Capital Budget voted 6-0 in favor.

**ACTION: UNANIMOUSLY APPROVED MAIN MOTION**

**ARTICLE 15 RE: Winn Street/Center Street Intersection Design**

To see if Town Meeting will vote to raise and appropriate, transfer from available funds, or otherwise provide the sum of \$250,000 or any amount of money for the purpose of designing and widening the intersection and safety improvements at Winn Street from Center Street to Peach Orchard Road; or to; act in any other manner in relation thereto.

**MAIN MOTION:** to Postpone Indefinitely

**ACTION: MAJORITY APPROVED MAIN MOTION**

**ARTICLE 16 RE: Hotel Tax Increase**

To see if Town Meeting will vote to accept the provisions of MGL Chapter 64G, Section 3A that allows local communities to impose a local room occupancy excise at the rate of 6%; or to act in any other manner in relation thereto.

**MAIN MOTION:** As printed in the Warrant

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

**ACTION: MAJORITY APPROVED MAIN MOTION**

At 10:45 P.M., a motion to adjourn was moved, seconded and so voted.

Attest:

Jane L. Chew  
Town Clerk

**ADJOURNED TOWN MEETING  
MONDAY, OCTOBER 5, 2009  
FOGELBERG AUDITORIUM – BHS**

A quorum being present, the meeting was called to order at 7:40 P.M. with a salute to the flag.

**ARTICLE 17 RE: Amend Zoning Map/Rezone Property to Planned Development (PD) District (90 Middlesex Turnpike)**

To see if the Town Meeting will vote to amend the Zoning Map of the Town of Burlington, as most recently amended, by rezoning a certain parcel of land from a General Industrial (IG) District to a Planned Development (PD) District. Said parcel of land is generally identified as the Burlington Dodge and located at 90

Middlesex Turnpike. The property is more specifically identified on the Town of Burlington Assessors Map as follows: Map 52, Parcel 8-0; or to act in any other manner in relation thereto.

**MAIN MOTION:** as printed in the Warrant

Amendment: to Postpone Indefinitely Articles 17, 18 and 19 was moved and seconded. Amendment failed.

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

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

**ACTION: BY A VOTE OF 54 IN FAVOR AND 16 OPPOSED, THE MAIN MOTION CARRIED.**

Seven members stood for a Roll Call vote.

**BY A ROLL CALL VOTE OF 54 IN FAVOR AND 17 OPPOSED. THE MAIN MOTION CARRIED.**

App'd A.G. 1/20/10. Posted 1/27/10-2/10/10.

**ARTICLE 18 RE: Amend Zoning Map/Rezone 201 Middlesex Turnpike/IG to BG**

To see if Town Meeting will vote to amend the Zoning Map of the Town of Burlington, as most recently amended, by rezoning a certain parcel of land from a General Industrial (IG) District to a General Business (BG) District. Said parcel is generally identified as 201 Middlesex and is further identified on the Town of Burlington Assessors Map as Map 33, Parcel 72-0; 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 5-1-0 in favor.

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

**ACTION: BY A VOTE OF 73 IN FAVOR AND 0 OPPOSED, THE MAIN MOTION CARRIED.**

App'd A.G. 1/20/10. Posted 1/27/10-2/10/10.

**ARTICLE 19 RE: Amend Zoning Map/Rezone Property to Planned Development (PD) District (New England Executive Park)**

To see if Town Meeting will vote to amend the Zoning Map of the Town of Burlington, as most recently amended, by rezoning certain parcels of land from a General Industrial (IG) District and High Rise Industrial (IH) District to a Planned Development (PD) District. Said parcels of land are generally identified as being located within New England Executive Park and as further identified on the Town of Burlington Assessors Map as follows: Map 46, Parcels 43, 44, 45, 47, 48, 50, 51, 52, 53 and Map 52, Parcels 13, 14 and 15 together with any fee interest in any adjacent private ways or passageways possessed by all of these parcels more commonly referred to as New England Executive

Park Drive and Park Place; or to act in any other manner in relation thereto.

**MAIN MOTION:** as printed in the Warrant

Recommendations: Planning Board voted 6-0-0. Land Use voted 8-0-0 in favor.

A motion to amend the concept plan use table was ruled out of order by the Moderator. 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 54 IN FAVOR AND 17 OPPOSED, THE MAIN MOTION CARRIED.**

App'd A.G. 1/20/10. Posted 1/27/10-2/10/10.

**ARTICLE 20 RE: Amend Zoning Bylaw Article XI/Special Residential Regulations and Add Section 11.8.0/Inclusionary Zoning Requirements for Multifamily Housing**

To see if Town Meeting will vote to amend the Zoning Bylaw by amending Article XI "Special Residential Regulations" by adding as new Section 11.8.0 "Inclusionary Zoning Requirements for Multifamily Housing", as follows:

**11.8.0 Inclusionary Zoning Requirements for Multifamily Housing**

**11.8.1 Purpose and Intent**

The purpose of this Bylaw is to outline and implement a coherent set of policies and objectives for the development of affordable housing in compliance with the 2004 Burlington Community Development Plan, G.L. c. 40B sec. 20-23 and ongoing initiatives of the Burlington Housing Partnership to promote a reasonable percentage of housing that is affordable to moderate income buyers. It is intended that the affordable housing units that result from this Bylaw be considered as Local Initiative Program (LIP) dwelling units in compliance with the requirements for the same as specified by the Department of Housing and Community Development and that said units count toward the Town's requirements under G. L. c. 40B sec. 20-23.

**11.8.2 Definitions**

**Affordable Housing Unit:** A dwelling unit that qualifies as a local initiative unit under the Commonwealth's Local Initiative Program and meets the requirements of a subsidized housing unit for purposes of listing in the subsidized housing inventory under G. L. c. 40B Sec. 20-23.

**Qualified affordable housing unit purchaser:** An individual or family with household incomes that do not exceed 80% of the median income, with adjustments for household size, as reported by the most recent information from the United States Department of Housing and Urban Development (HUD) and/or the Massachusetts Department of Housing and Community Development (DHCD).

**11.8.3 Applicability**

This Bylaw shall apply to the construction of ten (10) or more multifamily dwelling units in accordance with any section of the Zoning Bylaw, whether on one or more contiguous parcels, owned or controlled by the applicant or a related entity and shall require a special permit from the Planning Board.

**11.8.4 Mandatory Provision of Affordable Units**

The Planning Board shall, as a condition of approval of any development referred to in Section 11.8.3, require that the applicant for special permit approval comply with the obligation to provide affordable housing pursuant to this Bylaw and more fully described in Section 11.8.5.

**11.8.5 Provision of Affordable Units**

The Planning Board shall deny any application for a special permit for multifamily development unless at least ten (10%) percent of the units in a multifamily development subject to this Bylaw shall be established as affordable housing units in one or any combination of methods provided for below. When the calculation of 10% yields a fraction of .5 dwelling units or greater, the number of affordable housing units to be provided shall be rounded up to the nearest whole number. Affordable housing units may be:

1. Constructed or rehabilitated on the locus subject to the special permit;
2. Constructed or rehabilitated on a locus different than the one subject to the special permit;
3. Alternatively achieved when the applicant may offer, and the Planning Board, in concert with the Board of Selectmen, may recommend acceptance of donations of land in fee simple, on or off-site, that the Planning Board determines are suitable for the construction of affordable housing units. The Planning Board may require, prior to recommending acceptance of land as satisfaction of the requirements of this Bylaw, that the applicant submit appraisals of the land in question, as well as other data relevant to the determination of equivalent value;
4. Alternatively achieved when the applicant may offer a cash payment to an Affordable Housing Trust Fund, pursuant to Section 11.8.9 of this Bylaw. The applicant may offer, and the Planning Board may accept, any combination of the requirements (a) through (d) herein, provided that in no event shall the total number of units or land area provided be less than the equivalent number or value of affordable units required by this Bylaw.

**11.8.6 Provisions Applicable to Affordable Housing Units On- and Off-Site**

1. Siting of affordable units – All affordable units constructed or rehabilitated under this Bylaw shall be situated within the development so as not to be in less desirable locations than market-rate units in the development and shall, on average, be no less accessible to public amenities, such as open space, as the market-rate units.
2. Minimum design and construction standards for affordable units – Affordable housing units within market rate developments shall be integrated with the rest of the development and shall be compatible in design, appearance, construction and quality of materials with other units.

3. Timing of construction or provision of affordable units or lots – Where feasible, affordable housing units shall be provided coincident to the development of market rate units, but in no event shall the development of affordable units be delayed beyond the schedule noted below:

MARKET RATE UNIT %	AFFORDABLE HOUSING UNIT %
Up to 30%	None required
30% plus 1 unit	At least 10%
Up to 50%	At least 30%
Up to 75%	At least 50%
Up to 90%	100%
Fractions of units shall not be counted.	

**11.8.7 Marketing Plan for Affordable Units**

Applicants under this Bylaw shall submit a marketing plan or other method approved by the Planning Board, which describes how the affordable units will be marketed to potential homebuyers. This plan shall comply with the regulations established by the Massachusetts Department of Housing and Community Development, or its successor agencies, under the Local Initiative Program provisions of G.L. c. 40B

**11.8.8 Provision of Affordable Housing Units Off-Site**

As an alternative to the requirement of Section 11.8.5 (1), an application subject to the Bylaw may develop, construct or otherwise provide affordable units equivalent to those required by this section off-site. All requirements of this Bylaw that apply to on-site provision of affordable units shall apply to provision of off-site affordable units. If the off-site units are proposed as single family dwelling units in an RO District, such units shall not require a separate special permit.

**11.8.9 Fees in Lieu of Affordable Housing Units**

As an alternative to Section 11.8.5 (1) through (3), an applicant may contribute a cash payment to an Affordable Housing Trust Fund, to be used for the development of affordable housing by the Town or its designees, in lieu of constructing and offering affordable units within the locus of the proposed development or off-site.

**11.8.10 Maximum Incomes and Selling Prices: Initial Sale**

The Planning Board shall adopt Rules and Regulations governing the creation of affordable housing units through this Inclusionary Zoning provision. Such regulations may include criteria of maximum incomes, sales or rental prices, resale price, reservation of affordability, and calculation of fees in lieu of affordable housing units; or to act in any other manner in relation thereto.

**MAIN MOTION:** Withdrawn

**ARTICLE 21 RE: Amend Zoning Bylaw Article IV, Section 4.2.0 Use Table, Article VIII/Overlay Districts, Section 8.5.0/Town Center Overlay Districts, Subsection 8.5.4.2/Housing Productions and Residential Uses in the Town Center and Add Subsection 8.5.4.2.3/Affordable Housing Component**

To see if Town Meeting will vote to amend the Zoning Bylaw by amending, Article IV, Section 4.2.0 “Use Table, Article VIII

“Overlay Districts”, Section 8.5.0 “Town Center Overlay Districts”, Subsection 8.5.4.2 “Housing Production and Residential Uses in the Town Center”, by adding a new subsection 8.5.4.2.3 “Affordable Housing Component”, as follows:

**To amend Article IV, Section 4.2.0 “Use Table to amend section 4.2.1.17 “Multi-Family other than 4.2.1.2” from YES<sub>1</sub> to SP<sub>1</sub> in the Civic Center (CC) and Central Business District (CBD) Overlay Districts as follows: (see Addendum A)**

**AND further to Amend Article VIII/Overlay Districts, Section 8.5.0/Town Center Overlay Districts, Subsection 8.5.4.2/Housing Productions and Residential Uses in the Town Center and by creating a new Subsection 8.5.4.2.3/Affordable Housing Component as follows:**

#### 8.5.4.2.3 Affordable Housing Component

Applications for approval of multifamily housing development of 10 or more units shall include an affordable housing component of 10% of the dwelling units proposed. The affordable housing units to be provided shall remain affordable in perpetuity, be equivalent in size, quality and characteristics to the other units within the development. This provision shall apply whether the proposal is for rental or ownership units.

The monitoring of affordability for rental units shall be the responsibility of the applicant and all subsequent ownership and management entities and shall be supervised by the Burlington Housing Partnership (BHP) pursuant to a Memorandum of Agreement between the applicant and the BHP. Such MOA shall provide for monitoring fees for the administration of such affordable units by the BHP and shall be subject to approval by the Board of Selectmen.

The monitoring of home ownership units shall be supervised by the BHP. Affordability of these units shall be established by deed rider, subject to review and approval of the Town Board of Selectmen. Funding for oversight of conducting a lottery and other administrative actions shall be provided by the applicant for first sale.

The affordable units required above shall be affordable to persons and households of low and moderate income as defined by MGL 40B, Section 20. The applicant shall be responsible for preparing a Massachusetts Local Initiative Program Units Only Application, as administered by the Department of Housing and Community Development, or any successor program, or an application for any other program that provides for inclusion of such affordable units as part of the Town’s affordable housing inventory under MGL Chapter 40B Section 20.

Affordable units may be proposed either: 1) on-site; or 2) off-site; or 3) the applicant may request that the Planning Board approve the substitution of a cash payment for the provision of some or all of the affordable housing units required above. Factors which the Planning Board may consider when evaluating a cash payment include: proximity to amenities such as shopping, employment, schools; proximity to public transit; other circumstances that may render the site inappropriate for on-site affordable housing. Such payment shall be equivalent to the present value of the difference between the affordable rent or purchase price as required above, and the projected market rent or purchase price of the units as of the date the application is submitted.

In the event that the requirements of this section impose a severe economic hardship on the applicant, the applicant may request the

Planning Board to modify the requirements of this section. Such hardship must be caused by the need to address unusual site conditions which will substantially increase the cost of development and provide other ancillary benefits to the Town, such as: the need to remediate conditions of environmental contamination; the need to preserve an existing structure of significant historical value or an area of significant archeological value; the need to preserve a critical area of open space; or any other unusual site condition which substantially increases the cost of development while achieving some other Town goal. Such modification shall be limited to a reduction in the number of affordable housing units to be provided under this section, or acceptance of a cash payment less than the full amount specified above.

In determining the number of affordable units to be provided in accordance with this section, a fractional unit of .5 or greater shall be regarded as a whole unit. When less than one unit is required, the applicant may satisfy the requirements of this section by making a cash payment as specified above; or to act in any other manner in relation thereto.

**ACTION: The Moderator ruled Article 21 out of order.**

**A motion to appeal the ruling of the Moderator was moved, seconded and defeated.**

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**ARTICLE 22 RE: Amend Article V/Dimensional Requirements, Section 5.1.2/Lot Interpretation and Restrictions by Adding Subsection 5.1.2.6 Lot Shape Requirements in One Family Dwelling (RO) Districts**

To see if Town Meeting will vote to amend 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

No new principal structure shall be erected on any part of a lot created after September 30, 2009, which does not have an area in which a circle, the diameter of which is not less than 80% of the minimum lot frontage, tangent to the lot frontage and within all other lot lines, may be located. A circle with a diameter of not less than 20 feet shall fit within all other lot lines throughout the lot; or to act in any other manner in relation thereto

**MAIN MOTION: Withdrawn**

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At 10:30 P.M., a motion to adjourn was moved, seconded and so voted.

Attest:

Jane L. Chew  
Town Clerk

Article 21 – Addendum A

4.2.0 PRINCIPAL USE REGULATION SCHEUDLE																
USE DESIGNATION		DISTRICT										OVERLAY DISTRICTS				
RESIDENCE USES		RO	RG	RC	BN	BL	BG	BT	IG	IH	IR	OS	A	WR	CC	CBD
4.2.1.17	Multi-Family other than 4.2.1.2	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	YES	YES	<del>YES</del> SP <sub>1</sub>	<del>YES</del> SP <sub>1</sub>

November 3, 2004  
Town Hall

The TMM’s of Precinct 4 assembled to fill the vacancy created by the resignation of A. Groh.

Present and voting were: B. Bullock, T. Conley, J. Hastings, J. Horgan, R. Mills, F. Monaco, V. Mooney, J. Patterson, M. Proulx, M. Sweeney.

Nominations: Christine Herter Warren  
29 Greenwood Rd.

Unanimously appointed to fill the position until the next annual town election.

Attest:  
Eleanor M. Gelinas, Asst. Town Clerk