

**MONDAY, OCTOBER 24, 2011
TOWN HALL**

At 7:04 P.M., the Town Meeting Members of Precinct 4 assembled to fill the vacancy created by the resignation of Christine Warren. Present and voting were: Betty Bullock, Mark Casey.

Nominations were taken, Diana Connolly was the only nomination. A secret ballot was taken and it unanimous for Diana Connolly to serve until the next Annual Town Election. Business was concluded and the meeting was adjourned at 7:08 PM by Phil Gallagher, Moderator.

Attested by:
Amy E. Warfield
Town Clerk.

**ADJOURNED TOWN MEETING
MONDAY, JANUARY 23, 2012
FOGELBERG PERFORMING ARTS CENTER – BHS**

A quorum being present, the meeting was called to order at 7:38 PM. Audio/Video staff for tonight's meeting included: Edward Chilliest, John Deluco, Rachel Meurello and Andrew Frost. Frank Monaco, was appointed by Phil Gallagher to be Moderator. Phil was out due to illness. Frank opened with the saying of the Pledge of Allegiance. The National Anthem and two Musical numbers were performed by members of the Kiss me Kate cast which is the featured upcoming High School spring musical.

Motion made and seconded to adjourn to Wednesday, January 25th at 7:30PM if business is not concluded on this evening.

Town Clerk, Amy Warfield mentioned about the status of Town Meeting members for the Town Election. The Moderator read that Articles that have been withdrawn are 3, 4, 22 and 26. An amendment was presented by Barbara L'Heaureux for Article #25, it was ruled out of order, due to it being significantly more restrictive than in the article and outside the scope. Legal council stated that these changes on a Zoning article would require a public hearing.

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.

Reports were given by:
Robert Mercier, mentioned that the financial articles will not effect tax rate. State Aid is being held. Discussed about Art 3 I-cube, will be back in May but received Grant 1.x M to assist with project – total 10-15 M.

Brad Bond, W&M Chair. FY 13 at Prop 2.5 level with no new tax levy 2015-2017 before turn around.

John Sanchez, Commented on that the funding is being cut by the state to the B-Line. This will cause fare increases, and decreases in routes. Bob Hogan suggested that residents could send letters to the MBTA stating their opinions about this action. He also requests that if letters are written in support of the B-Line to the MBTA, individuals should also cc the town so that the Town can collect them. Mildred Nash requests that a resolution be presented by TM in support of the BLine. Moderator requests that one be drafted and presented at the end of the meeting

Sally Willard, made a motion to take Zoning Articles 23-25 out of order. It was moved and seconded Unanimously and failed by a vote of 16 for / 60 against.

ARTICLE 2 RE: Acceptance of 44 South Bedford Street

To see if the Town will vote to amend the vote taken under Article 12 of the May 16, 2001 Special Town Meeting, which authorized the Board of Selectmen to acquire by gift the parcel of land located at 40 South Bedford Street, containing .498 acres, more or less, and identified on Town Assessors' Map 47 as Parcel 3, to authorize the Board of Selectmen to acquire by gift, in lieu of the foregoing property at 40 South Bedford Street and on such terms and conditions as the Selectmen deem appropriate, the parcel of land located at 44 South Bedford Street, identified on Town Assessors' Map 47 as Parcel 5, containing 0.574 acres, more or

less, and described in a deed recorded with the Middlesex South District Registry of Deeds in Book 14151, Page 36, for general municipal purposes and for the purpose of conveyance, and further to authorize the Board of Selectmen to convey the property at 44 South Bedford Street on such terms and conditions and for such consideration as the Board of Selectmen deems appropriate; or to act in any other manner in relation thereto.

(Article 2 continued)

MAIN MOTION: As printed in the Warrant

Recommendations: No Board took a position on this.

ACTION: MAJORITY APPROVED MAIN MOTION

ARTICLE 3 RE: Approval of I-Cubed Application

To see if the Town will vote to support the I-Cubed application (Infrastructure, Investment and Incentive program) by the Town of Burlington and the developer of the Northwest Park that will be submitted to the Secretary of Administration and Finance for approval to allow the sale of Mass Development bonds to support the private sector investment in Burlington's Certified Growth District; or to act in any manner in relation thereto.

MAIN MOTION: POSTPONED INDEFINITELY

ACTION: POSTPONED INDEFINITELY

ARTICLE 4 RE: Treasurer/Collector Special Act

To see if the Town will vote to petition the General Court to adopt special legislation as set forth below to change the position of Town Treasurer Collector from elected to appointed and to provide for a transition period for such purposes; provided, however, that the General Court may make grammatical or editorial changes of form only to such bill; or to act in any manner in relation thereto.

An Act relative to the Office of Treasurer Collector in the Town of Burlington

SECTION 1. Notwithstanding section 1 of chapter 41 of the General Laws or any other general or special law to the contrary, there shall be an appointed treasurer-collector for the town of Burlington. The treasurer-collector shall have all the powers, perform the duties and be subject to the liabilities and penalties now or hereafter conferred and imposed by law on town treasurers and town collectors of taxes. The treasurer-collector shall be appointed and removed by the town administrator in accordance with the provisions of section 4(C) of chapter 549 of the Acts of 1978, as it may from time to time be amended. The board of selectmen may establish an employment contract with the treasurer-collector for salary, fringe benefits and other conditions of employment, including, but not limited to: severance pay; reimbursement for expenses incurred in the performance of the duties of office; liability insurance; and conditions of discipline, termination, dismissal, reappointment, performance standards and leave.

SECTION 2. Upon the expiration of the term of office of the town treasurer-collector elected at the 2010 annual town election, or his sooner retirement or resignation, the elected position of treasurer-collector shall be abolished. Notwithstanding the authority of the town administrator to appoint and remove the treasurer-collector as set forth under section 1 of this act, in order to provide for an orderly transition from the elected to the appointed position, the town treasurer collector elected at the 2010 annual town election shall be the first appointee to the appointed treasurer-collector position and shall hold the office and perform the duties thereof for a period of three years, unless he is sooner removed for cause or otherwise vacates the office. Thereafter, the town administrator shall appoint a treasurer-collector under section 1 of this act. No contracts or liabilities in force on the effective date of this act shall be affected by the abolition of the elected office of town treasurer collector or the creation of the appointed office and the appointed treasurer-collector shall, in all respects, be the lawful successor of the office so abolished or consolidated.

SECTION 3. This act shall take effect upon its passage Or to act in any other manner in relation thereto.

MAIN MOTION: POSTPONED INDEFINITELY

ACTION: POSTPONED INDEFINITELY

FINANCIAL ARTICLES

ARTICLE 5 RE: Meals Tax Revenue (FY2011)

To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$1,100,000 or any other amount from Free Cash to place in Town's Stabilization Fund, 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 \$1,113,333 to place in the Town's Stabilization Fund.

Recommendations: W&Ms 11-0-0 in favor

ACTION: UNANIMOUSLY APPROVED MAIN MOTION

ARTICLE 6 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 from Free Cash to place in the Town's FY 2012 Reserve Fund, 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 place in the Town's FY 2012 Reserve Fund.

Recommendations: W&Ms 11-0-0 in favor

ACTION: UNANIMOUSLY APPROVED MAIN MOTION

ARTICLE 7 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 from Free Cash 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 place in the Town's Stabilization Account.

Recommendations: W&Ms 11-0-0 in favor

ACTION: UNANIMOUSLY APPROVED MAIN MOTION

ARTICLE 8 RE: Transfer of Free Cash to OPEB Trust Fund

To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$750,000 or any other amount from Free Cash to place in the Town's OPEB (Other Post Employment Benefits) Trust Fund, 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 \$750,000 to place in the Town's OPEB (Other Post Employment Benefits) Trust Fund.

Recommendations: W&Ms 11-0-0 in favor

ACTION: UNANIMOUSLY APPROVED MAIN MOTION

ARTICLE 9 RE: Transfer of Funds FY 2012 Various Accounts

To see if the Town will vote to transfer from available funds the sum of \$125,000 or any other amount for the purpose of paying for expenses incurred in Fiscal Year 2012 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 Free Cash the sum of \$110,000 for the purpose of paying for expenses incurred in Fiscal Year 2012 to various accounts, same to be expended under the direction of the appropriate authorities as follows:

<u>Line Item#</u>	<u>Use</u>	
56	Fire Dept. Over Time	\$90,000
77	Board of Health Expenses	\$20,000

Recommendations: W&Ms 10-0-0 in favor

ACTION: UNANIMOUSLY APPROVED MAIN MOTION

ARTICLE 10 RE: Fund the Burlington International Firefighters' 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 International Firefighters' Association for Fiscal Year 2013, 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 the FY2012 Negotiated Settlement Account, the sum of \$24,930 for the purpose of funding the Collective Bargaining Agreement between the Town of Burlington and the Burlington International Firefighters' Association for Fiscal Year 2012, same to be expended under the direction of the appropriate authority.

Recommendations: W&Ms 10-0-0 in favor

ACTION: MAJORITY APPROVED MAIN MOTION

ARTICLE 11 RE: Fund New Website Improvements and Development

To see if the Town will vote to raise and appropriate, transfer from available funds, borrow, or otherwise provide the sum of \$15,000 or any other amount for the purpose of funding the migration of the Town Website to a new tool. This funding will include selection of a vendor to provide equipment for hosting, redesigning and implementation of the website. This Vendor will be working with a team of users in town to review needs, develop a design, and train the users., 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 \$15,000 for the purpose of funding the migration of the Town Website to a new tool. This funding will include selection of a vendor to provide equipment for hosting, redesigning and implementation of the website. This Vendor will be working with a team of users in town to review needs, develop a design, and train the users; same to be expended under the direction of the appropriate authority

Recommendations: W&Ms 11-0-0 in favor
Cap Budget 6-0-0 in favor

ACTION: MAJORITY APPROVED MAIN MOTION

ARTICLE 12 RE: Information Technology/RFP Town Government Needs

To see if the Town will vote to raise and appropriate, transfer from available funds, borrow, or otherwise provide the sum of \$75,000 or any other amount for the purpose of assessing the Town's inventory of current IT Systems and develop a strategic plan for short and long term modernization of our technology infrastructure, 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 \$75,000 for the purpose of assessing the Town's inventory of current IT Systems and develop a strategic plan for short and long term modernization of our technology infrastructure; same to be expended under the direction of the appropriate authority.

Recommendations: W&Ms 11-0-0 in favor
Cap Budget 5-0-0 in favor
Planning Board 6-0-0 in favor

ACTION: MAJORITY APPROVED MAIN MOTION

ARTICLE 13 RE: Architecture/Engineering Services Station 2

To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$10,000 or any other sum for the purpose of engaging the appropriate engineering firm to revise and update the study of the current site and building located at 114 Terrace Hall Avenue and provide a program to either update and add onto the existing building or to build a new facility on the existing site, or 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 \$10,000 for the purpose of engaging the appropriate engineering firm to revise and update the study of the current site and building located at 114 Terrace Hall Avenue and provide a program to either update and add onto the existing building or to build a new facility on the existing site; same to be expended under the direction of the appropriate authority.

Recommendations: W&Ms 10-0-0
CAP Budget 6-0-0

Discussion on "revise" study it was done in 2003. This is to look at that study and update it.

ACTION: UNANIMOUSLY APPROVED MAIN MOTION

ARTICLE 14 RE: DPW Operations Facility

To see if the Town will vote to raise and appropriate, transfer from available funds, or otherwise provide the sum of \$80,000 or any other sum for the purpose of funding the due diligence activities related to the purchase of property for the facility including but not limited to title research, appraisals, engineering and structural analysis, to determine the suitability of the property and plan the construction of the improvements, 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 \$80,000 for the purpose of funding the due diligence activities related to the purchase of property for the facility including but not limited to title research, appraisals, engineering and structural analysis, to determine the suitability of the property and plan the construction of the improvements; same to be expended under the direction of the appropriate authority.

Recommendations: W&Ms 11-0-0 in favor
CAP Budget 6-0-0 in favor
Land Use 7-0-0 in favor

ACTION: MAJORITY APPROVED MAIN MOTION

ARTICLE 15 RE: Inflow/Infiltration-Phase 6 Design

To see if the Town will vote to raise and appropriate, transfer from available funds, or otherwise provide the sum of \$481,430 or any other sum 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.

(Article 15 continued)

MAIN MOTION: To see if the Town will vote to transfer from the Sewer Enterprise Account the sum of \$250,000 and from the Inflow/Infiltration Account the sum of \$231,430 for a total of \$481,430 to pay for the removal and remediation of all sources of extraneous Inflow/Infiltration from the Burlington Sewer System; same to be expended under the direction of the appropriate authority.

Recommendations: W&MS 11-0-0 in favor
CAP Budget 5-0-0 in favor

ACTION: UNANIMOUSLY APPROVED MAIN MOTION

ARTICLE 16 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

Recommendations: W&Ms 11-0-0 in favor
CAP Budget 5-0-0 in favor

ACTION: UNANIMOUSLY APPROVED MAIN MOTION

ARTICLE 17 RE: Will of Marshall Simonds

To see if the Town will vote to accept from the trustees under the will of Marshall Simonds a sum of money for the improvement 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

Recommendations: W&Ms 11-0-0 in favor
CAP Budget 5-0-0 in favor

ACTION: UNANIMOUSLY APPROVED MAIN MOTION

ARTICLE 18 RE: Mary PC Cummings Estate Burlington Recreation Area

To see if the Town will vote to transfer from available funds, borrow or otherwise provide the sum of \$ 100,000 any other amount for the purpose of completing work on the Mary PC Cummings Estate, Burlington Recreation Area: 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 for the purpose of completing work on the Mary PC Cummings Estate, Burlington Recreation Area; same to be expended under the direction of the appropriate authority.

Recommendations: W&Ms 11-0-0 in favor
CAP Budget 6-0-0 in favor

ACTION: MAJORITY APPROVED MAIN MOTION

At 11:05 PM, a motion to adjourn was moved, seconded and so voted.

Attest:
Amy E. Warfield
Town Clerk

**ADJOURNED TOWN MEETING
WEDNESDAY, JANUARY 25, 2012
FOGELBERG AUDITORIUM – BHS**

A quorum being present, the meeting was called to order at 7:42 PM with a salute to the flag.

Three resolutions were presented to the Moderator to be taken up at the end of the session.

GENERAL BYLAW ARTICLES

ARTICLE 19 RE: Amend General Bylaws, Article I Sec; 7.1.1 Records Management Commission

This article is “housekeeping” in nature to reflect the changes:

To see if the Town will vote to amend the General Bylaws Article I Sec; 7.1.1, regarding the Records Management Commission, paragraph 4 as follows: (change is highlighted)

“The commission shall mandate departmental cooperation with municipal records Rules and Regulations as provided for in this bylaw and shall be the final arbiter regarding any matters that may arise regarding the Town’s Records Management Program.”

MAIN MOTION: As printed in the Warrant

Recommendations: Bylaw Review 5-0-0

ACTION: UNANIMOUSLY APPROVED MAIN MOTION

App. A.G. Posted.

ARTICLE 20 RE: Amend General Bylaws, Article I Sec; 4, Article IV Sec; 8.2 and Article XIII Sec; 2.2.1

To see if the Town will vote to amend the General Bylaws Article I Sec; 4 Article IV, Sec; 8.2 and Article XIII Sec; 2.2.1, which pertain to the procedure for licensing and control of dogs in the Town of Burlington, with strikethrough text to be deleted and underlined text to be inserted, as follows, or to act in any other manner in relation thereto:

4.0 Any Bylaw of the Town of Burlington, or rule or regulation of its boards and commissions, the violation of which is subject to a specific penalty, may, in the discretion of the Town Official who is the appropriate enforcing person, be enforced by the method provided in Section 21D of Chapter 40 of the General Laws. "Enforcing Person" as used in this section shall mean the Animal Control Officer, Conservation Administrator, Health Agent, Environmental Engineer, Building Inspector, Planning Director, Town Engineer, Director of Public Health, Plumbing and Gas Inspector, Wiring Inspector, any police officer, Fire Chief and/or Fire Inspector, Superintendent of Public Works, and such other officials as the Board of Selectmen may from time to time designate, each with respect to violation of Bylaws and rules and regulations within their respective jurisdictions. If more than one official has jurisdiction in a given case, any such official may be an enforcing person with respect thereto. A police officer may enforce any and all of these Bylaws and rules and regulations.

Without intending to limit the generality of the foregoing, it is the intention of this provision that the following Bylaws and sections of Bylaws or rules or regulations are to be included within the scope of this subsection and that the specific penalties as listed here shall apply in such cases. Each day on which any violation exists shall be deemed a separate offense:

Article XIII, Section 2.0; Control of Dogs:	
First offense, within preceding twelve-month period	\$15 <u>\$50.00</u>
Second offense, within preceding twelve-month period Second or subsequent offense within the preceding twelve months	\$ 25.00 <u>\$100.00</u>
Third offense, within preceding twelve-month period	\$ 35.00

Fourth or subsequent offense within the preceding twelve months	\$ 50.00
For an unlicensed dog as of July 1st of any year For any dog that is unlicensed for more than 60 days	<u>\$ 50.00</u>

And Article IV

8.0 Animal Control Officer and Pound

~~8.2 All dogs not licensed ten days after the first day of June of each year are to be caught and confined by the Animal Control Officer, who shall prosecute a complaint against the owners. All such dogs are to be kept in a sanitary place, a licensed kennel or by the SPCA, and may be sold or otherwise disposed of, if not claimed within ten days by the owner. The owner of any dog caught or confined by the Animal Control Officer shall be charged a \$10 pickup fee and a boarding fee of \$20 per day for each day the dog remains confined.~~

Note: Adopted Art. 2 Spec. TM 6/26/69; App. A.G. 1/21/70; Pub. BTU 2/12, 2/19, 2/26/70.

And Article XIII

2.2.1 Enforcement Procedure and Schedule of Fines

~~The Dog Officer of the Town shall send a written notice to the owner or keeper stating that such person is in violation of Section 2.0 of this article. If it is the first offense within the preceding twelve (12) month period, the fine shall be \$15; if it is the second offense within the preceding twelve (12) month period, the fine shall be \$25; if it is the third offense within the preceding twelve (12) month period, the fine shall be \$35; and if it is the fourth or subsequent offense within the preceding twelve (12) month period, the fine shall be \$50.~~

The Animal Control Officer of the Town shall give a written notice to the owner or keeper stating that such person is in violation of Section 2.0 of this article. If it is the first offense within the preceding twelve (12) month period, the fine shall be \$50; if it is the second or subsequent offense within the preceding twelve (12) month period, the fine shall be \$100.

Note: Amended Art. 63 TM 5/26/76. App. A.G. 9/14/76. Pub. Burl. News 9/23, 9/30, 10/7/76.

2.2.2 ~~The fine for any dog unlicensed as of July 1st of any year shall be for a period of more than 60 days shall be subject to a fine of \$50.~~

Note: Adopted Art. 15, TM 9/18/89. App. A.G. 12/21/89. Pub. Burl. News 1/4. 1/11/90.

2.2.3 An owner or keeper of a dog kept in the Town of Burlington who has not licensed said dog ~~by the first day of June~~ within 60 days of becoming a resident or being notified by the Clerk’s office shall be required to pay a fine of Ten Dollars (\$10.00), a dollar of which shall be paid to the Animal Control Officer, and the remainder to be paid to the Town Treasury.

2.2.4 A notice shall be sent by the Clerk’s office to each owner/keeper of a dog in the Town of Burlington ~~no later than May 1st each year~~ one month prior to the rabies expiration date for the dog informing said resident of the deadline for licensing dogs and of the \$10.00 fine for late licensing.

Note: Section 2.2.3 amended and 2.2.4 adopted Art. 24 TM 9/30/85. App. A.G. 10/19/85. Pub. Burl. News 11/28, 12/5/85.

Or to act in any other manner in relation thereto.

MAIN MOTION: As printed in the Warrant

Recommendations: Bylaw Review 5-0-0

ACTION: MAJORITY APPROVED MAIN MOTION

App. A.G. Posted.

**ARTICLE 21 RE: Amend General Bylaws
Article VI sec: 3.0
Town Clerk Schedule of Fees**

To see if the Town will vote to amend the General Bylaws Article VI, Town Clerk by deleting the text of Section 3.0, Schedule of Fees, where the process for setting and approving fees is authorized by the provisions of General Laws c. 40, §22F, accepted by the Town at the May 21, 1997 Town Meeting, and inserting in place thereof the following:

The Town Clerk may from time to time, in accordance with MGL Chap. 40, Section 22F, accepted at the 5/21/97 Town Meeting, adopt and amend a schedule of fees for office transactions involving businesses, bylaws and maps, voter/resident databases and labels, dog and kennel licenses, poles and conduits, professional registration, vital records, miscellaneous matters, and other services and activities required or regulated by the Massachusetts General Laws, applicable regulations, or the Bylaws of the Town of Burlington.

Or to act in any other manner in relation thereto.

MAIN MOTION: With the following minor change to the wording in the first sentence. The added language is underlined:

The Town Clerk may from time to time but not more than once per year, in accordance with MGL, Chap. 40, Section 22F, accepted at the 5/21/97 Town Meeting, adopt and amend a schedule of fees for office transactions involving businesses, bylaws and maps, voter / resident databases and labels, dog and kennel licenses, poles and conduits, professional registration, vital records, miscellaneous matters, and other services and activities required or regulated by the Massachusetts General Laws, applicable regulations, or the Bylaws of the Town of Burlington.

Recommendations: Bylaw Review 5-0-0

ACTION: UNANIMOUSLY APPROVED MAIN MOTION

App. A.G. Posted.

**ARTICLE 22 RE: Solicitation and Canvassing
Door-to-Door and on Public Ways**

To see if the Town will vote to add a new Article, sequentially numbered, to the General Bylaws of the Town of Burlington as follows:

Solicitation and Canvassing Door-to-Door and on Public Ways

1.1 Purpose

This article, adopted pursuant to G.L. c. 43B, § 13 and Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts, establishes registration requirements and specific operation requirements for persons intending to engage in canvassing or solicitation door-to-door or on a public way in the Town of Burlington in order to protect its citizens from disruption of the peaceful enjoyment of their residences, from the perpetration of fraud or other crimes; to allow for reasonable access to residents in their homes by persons or organizations who wish to communicate either commercial or non-commercial messages, and to insure the free passage and safety of public ways.

1.2 Definitions

For the purpose of this By-law, the following definitions shall apply:

1.2.1 "Soliciting" shall mean and include any one or more of the following activities conducted door-to-door or on a public way:

- (a) selling, or seeking to obtain orders for the purchase of goods or services, including advertising in any type of publication, for any kind of consideration whatsoever;
- (b) selling, or seeking to obtain prospective customers for application for purchase of insurance of any kind;
- (c) selling, or seeking to sell subscriptions to books, magazines, periodicals, newspapers or any other type of publication;
- (d) seeking to obtain gifts or contributions of money, or any valuable thing for the support or benefit of any association, organization, corporation or project wholly or in part for

commercial purposes or by a professional solicitor or commercial co-venturer for a charitable or other non-commercial organization;

- (e) seeking to obtain information on the background, occupation, economic status, political affiliation, attitudes, viewpoints, or the like of the occupants of a residence for the purpose of selling or using such data, wholly, or in part, for commercial purposes.

1.2.2 "Canvassing" shall mean and include any one or more of the following activities door-to-door or on a public way:

- (a) person-to-person distribution of literature, periodicals, or other printed materials for commercial purposes, but shall not include placing or dropping off printed materials on the premises;
- (b) seeking to enlist membership in any organization for commercial purposes;
- (c) seeking to present, in person, organizational information for commercial purposes.

1.2.3 "Residence" shall mean and include every individual dwelling unit occupied for residential purposes by one or more persons.

1.2.4 "Registered solicitor" shall mean any person who has obtained a valid certificate of registration from the Town as required by this By-law.

1.2.5 "Charitable organization," "Professional solicitor" and "commercial co-venturer" shall be defined as set forth in G.L. c. 68, § 18.

1.3 Registration

Every person or organization intending to engage in soliciting or canvassing door-to-door or on a public way in the Town of Burlington must apply for a permit with the Chief of Police at least fourteen (14) business days in advance by filing a registration application form with the Chief of Police.

1.3.1 Organization application forms shall include the following information:

(a) The name and address of the organization applying for registration, and the names and addresses of the organizations' principal officers. If the organization is a charitable organization, a copy of the Annual Registration Statement filed with the Attorney General's Division of Public Charities must be provided with this application. Failure to include a copy of the Annual Registration Statement under such circumstances will render the application incomplete and no action will be taken thereon.

If the organization is a professional solicitor or a commercial co-venturer for a charitable organization, a copy of the contract with the charitable organization must be provided with this application. Failure to include a copy of the contract with the charitable organization under such circumstances will render the application incomplete and no action will be taken thereon.

(b) The name, title and phone number, IRS or Social Security (optional) number and photo identification of the persons filing the application form.

(c) The names and addresses of the person(s), if any, who will be directly supervising the solicitation or canvassing operation in the Town of Burlington.

(d) A list of the names, addresses, dates of birth of all individuals who will be employed in solicitation or canvassing by the applicant.

(e) Period of time for which certificate of registration is needed (note: no certificate may be granted for longer than a 90 day period).

(f) Names of the last three communities (if any) in which the organization has conducted a solicitation or canvassing operation, complete with the date issued and date expired.

(g) Insurance information and license, if applicable.

1.3.2 Individual registration forms shall be required for all individuals, including those who are affiliated with an organization registered under Section 1.3.1 hereof. Individual registration forms shall contain the following information:

(a) Name and address of the present place of residence and length of residence at that address; if less than three years residence at present address, the address of residence(s) during the past three years.

(b) Date of birth.

(c) Name, address and telephone number of the person or organization whom the applicant represents and the length of time the applicant has been associated with or employed by that person or organization. If the individual is a professional solicitor or a commercial co-venturer for a charitable organization, a copy of the contract, if any, with the charitable organization must be provided with this application. Failure to include a copy of the contract with the charitable organization under such circumstances will render the application incomplete and no action will be taken thereon.

(d) Name and address of employer during the past three years if other than listed in Section 1.3.1 hereof.

(e) Period of time for which certificate of registration is needed (note: no certificate may be granted for longer than a 90 day period).

(f) Name of the last three communities (if any) in which the applicant has solicited or canvassed door-to-door, complete with the date of issue and expiration date.

(g) Social Security number. (Optional).

(h) Photo identification and recent passport-sized photograph of the applicant to be affixed to registration card.

(i) Make, model and registration number of any vehicle to be used by the applicant while soliciting or canvassing.

1.4 Registration Fee

Each applicant for registration or re-registration shall pay to the Town an application fee of \$25.00 and a fee of \$5.00 for the cost of a registration card.

1.5 Registration Cards

1.5.1 The Police Chief, after a review, but in no event more than fourteen (14) business days after receipt of a fully-completed application, shall furnish each person with a registration card which shall contain the following information:

(a) The name of the person.

(b) A recent photograph of the person.

(c) The name of the organization (if any) which the person represents.

(d) A statement that the individual has been registered with the Town of Burlington Police Department but that registration is not an endorsement of any individual or organization.

(e) Specific dates or period of time covered by the registration.

1.5.2 Persons engaged in solicitation or canvassing as defined in this by-law must carry the registration card at all times and present the card to any person solicited or upon the request of any police officer.

1.5.3 Registration cards are valid only for the specific dates or time period specified thereon and in no case for longer than 90 days.

1.5.4 The Police Chief shall refuse to register an organization or individual whose registration has been revoked for violation of this by-law within the previous two year period, or who has been convicted of murder/manslaughter, rape, robbery, arson, burglary/breaking and entering, assault, larceny, as such persons pose a substantial degree of dangerousness to minors and other persons vulnerable to becoming victims of the violent crimes so listed. The Police Chief shall also refuse to register a person who is a sex offender required to register with the Sex Offenders Registry Board and who is finally classified as Level 2 or Level 3 Sex Offender, as such persons have been found to have a moderate to high risk of re-offense and pose a substantial degree of dangerousness to minors and other persons vulnerable to becoming victims of sex crimes.

1.6 Exceptions

1.6.1 Registration shall not be required for officers or employees of the Town, County, State or Federal governments when on official business.

1.6.2 Individual registration shall not be required for minors under the age of 18 except in connection with canvassing or soliciting on behalf of a profit organization, newspaper carriers excepted.

1.7 Duties of Persons Going Door-to-Door

1.7.1 Upon going into any residential premises in the Town of Burlington, every solicitor, canvasser or other person must first examine any notice that may be posted prohibiting solicitation or other activities. If such a notice is posted, the solicitor, canvasser or other person shall immediately and peacefully depart from the premises.

1.7.2 Any solicitor, canvasser or other person who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

1.7.3 Immediately upon gaining entrance to any residence, each solicitor or canvasser as defined in this by-law must do the following:

(a) Present his registration card for inspection by the occupant.

(b) Request that the occupant read the registration card.

(c) Inform the occupant in clear language of the nature and purpose of his business and, if he is representing an organization, the name and nature of that organization.

(d) It shall be the duty of every organization employing solicitors or canvassers within the definition of this by-law to notify the Police Department daily as to what area(s) of the Town they will be operating in.

1.8 Duties of Persons Soliciting or Canvassing on Public Ways

1.8.1 Due to the high volume of traffic during designated hours, and the need for the safe flow of heavy commuter traffic, as well as the safety of drivers and pedestrians, solicitation and canvassing is prohibited between the hours of 7:00am-9:00am and 4:00pm-7:00pm on the following public ways: Burlington Mall Road, Middlesex Turnpike, Town-owned portions of Cambridge Street, Winn Street, Wayside Road and Bedford Street.

1.8.2 In order to insure the safe flow of traffic and the safety of drivers and pedestrians, during permissible hours of solicitation or canvassing on public ways, no solicitor or canvasser shall leave the curbed area adjacent to a public way, nor shall any solicitor or canvasser act in any manner as to prevent any driver from proceeding on any public way.

1.9 Restrictions on Methods of Solicitation or Canvassing Activities

It shall be unlawful for a solicitor, canvasser or other person to do any of the following:

(a) Falsely represent, directly or by implication, that the solicitation, canvassing or other activity is being done on behalf of a governmental organization, or on behalf of any municipal employee or elected official.

(b) Solicit, canvass or conduct any other activity at any residence where there is a posted sign prohibiting the same, without express prior permission of an occupant

(c) Solicit, canvass or conduct any other activity at any residence without express prior permission of an occupant, before 9:00 a.m. or after 9:00 p.m. where there is no sign posted otherwise limiting solicitation or the hours of solicitation or such other activities.

(d) To utilize any form of endorsement from any department head currently employed or serving the Town of Burlington.

(e) Solicit, canvass or conduct any other activity at any residence or on any public way in a threatening, abusive, or illegal fashion.

1.10 Penalty

1.10.1 Any person or organization who shall violate any of the provisions of this by-law or any applicable state or federal laws governing soliciting or canvassing, including, but not limited to, Mass. G.L. c. 68, shall be subject to a fine not to exceed \$300.00 for each offense.

1.10.2 Any person or organization who for himself, itself, or through its agents, servants or employees shall violate any provision of sections 1.7, 1.8 or 1.9 of this by law, or any applicable state or federal laws governing soliciting or canvassing, including but not limited to M.G.L. c. 68, or who knowingly provides false information on the registration application, or who is found, after investigation by a police officer, to have conducted himself or itself in a threatening, abusive or illegal fashion, shall have his, her, or its registration revoked by the Chief of Police by written notice delivered to the holder of the registration in person, or sent to the holder by certified mail at the address set forth in the application.

1.11 Appeals

Any person or organization who is denied registration or whose registration has been revoked may appeal by filing a written notice of appeal with the Board of Selectmen. Such appeal must be filed within 5 days after receipt of the notice of denial or revocation. The Board of Selectmen shall hear the appeal at its next scheduled meeting after the filing of the written notice of appeal, provided, however, that if the Board of Selectmen fails to make a determination within 30 days after the filing of the appeal, the registration shall be deemed granted or reinstated as the case may be.

1.12 Severability

Invalidity of any individual provision of this section shall not affect the validity of the by-law as a whole.

Or to act in any other manner in relation thereto.

MAIN MOTION: POSTPONED INDEFINITELY

ACTION: POSTPONED INDEFINITELY

ZONING BYLAW ARTICLES

ARTICLE 23 RE: Amend Zoning Bylaw Article XII: Planned Development District

To see if the Town will vote to amend Zoning Bylaw Article XII: Planned Development District, by deleting the Article in its entirety and replacing it with the text as written below.

SECTION 12.1.0 PLANNED DEVELOPMENT DISTRICT

12.1.1 Purpose and Intent

The Planned Development District (PDD) is intended to:

Permit an entity to propose, and for Town Meeting to vote on, a development proposal that specifies a mixture of commercial, industrial, residential, open space or other uses and the site development requirements to be used for a specific site.

Permit some flexibility in the development of individual tracts of land by required and predetermined standards.

Permit the use of development standards tailored to a specific site and more detailed than those for the standard zoning districts.

Permit the Town to evaluate the potential impacts of a proposed development and to authorize the Planning Board, as the Special Permit Granting Authority, to require that the development of the site substantially conforms to site development standards approved as part of the rezoning to a PDD, including mitigation of a project's impacts.

12.1.2 Permissible Uses and Requirements

A Planned Development District may be composed of commercial, industrial, residential, open space, or other uses,

alone or in combination. A Planned Development District requires a rezoning amendment to the Burlington Zoning Bylaw. The minimum lot size for a PDD is 10 acres, pursuant to the lot area calculation of Article V, Section 5.1.2. of the Zoning Bylaw.

12.1.3 Procedures

Proponents for a PDD Rezoning Amendment shall follow the following procedures in order to promote review of the proposed amendment and to facilitate public-private cooperation in the establishment of the PDD.

12.1.3.1 Pre-Application Review

a. Proponents are strongly encouraged to schedule a pre-application review with The Pre-Application Review Committee. This Committee shall be appointed by the Planning Board Chair and the Land Use Committee Chair and shall consist of at least (2) members from the Planning Board and (2) Members from the Land Use Committee. A meeting shall be scheduled at least 180 days before the anticipated Town Meeting date at which the PD rezoning proposal will be considered. Pre-application review meetings shall be coordinated through the Planning Department.

b. The Pre-Application Review should precede the preparation of detailed plans or specifications. Documents recommended for the Pre-Application review include, but are not limited to: An existing conditions plan of subject property(ies), a project description (either in narrative or sketch form), a listing of proposed uses to be permitted or allowed by special permit, which may be a narrative describing the type and character of uses and/or a listing, by cross reference, of uses to be permitted as they appear in Section 4.2.0, 4.3.0 and 4.4.0 "Use Regulations Schedules". An explanation of why existing zoning districts do not meet the needs of the proposal shall also be submitted.

12.1.3.2 Planning Board Rezoning Application Submission

a. Proponents must submit an Application for Rezoning to a Planned Development District ("the Application") to the Planning Department at least 120 days prior to the anticipated Town Meeting date at which the Rezoning Warrant Article will be considered. The application shall contain the requirements set forth in Section 12.1.4. Incomplete applications will not be accepted. Refer to Section 12.1.5 for Administrative Requirements.

b. Review: When reviewing an application for Planned Development District Rezoning, the Planning Board may determine that the assistance of outside consultants, including attorneys, is warranted. This review shall include but is not limited to the size, scale and/or complexity of a proposed project and a project's potential impacts. The Planning Board shall request that Proponent enter into a Memorandum of Agreement with the Board of Selectmen to set up an account, under MGL Chapter 44, Section 53A consisting of the reasonable costs incurred by the Town for the employment of outside consultants to conduct a review engaged by the Town to assist in the review of a proposed project.

12.1.3.3 Rezoning Warrant Article Submission Schedule

At least 90 days before the Town Meeting at which it is anticipated to be considered, the Proponent shall submit a proposed warrant article to the Board of Selectman, in hard copy and electronic format for the PDD rezoning as developed in consultation with the Planning Board and the Land Use Committee.

12.1.3.4 Statutory Requirements

The zoning amendment shall thereafter be processed in accordance with G.L. c. 40A, s. 5.

12.1.4 Submission Requirements for a PDD Rezoning

The application for a PDD Rezoning shall include a Development Proposal which consists of the following 5 (five) requirements and detailed in the PD Rules and Regulations. All materials shall be submitted in both hard copy and electronic format.

1. Completed Application to the Planning Board
2. Submission Fee
3. Development Plan (Site Plan)
4. Zoning and Special Conditions
5. Impact Analysis

12.1.4.1 Completed PDD Rezoning Application

PDD rezoning Applications can be obtained from the Planning Department.

12.1.4.2 Submission Fee

The Planning Board shall specify submission fees for a PDD rezoning in the PD District Rules and Regulations. The required fee shall be submitted with the PD rezoning Application to the Planning Board.

12.1.4.3 Development Plan (Site Plan)

a. A Development Plan shall include the following, at a scale of no smaller than 1:40 unless otherwise noted, containing all of the following proposed site construction information:

1. Location of buildings; number of stories, approximate floor area and maximum height of each building; the distance in feet between buildings.
2. Existing and proposed contours.
3. Proposed lot lines.
4. Grading and landscaping.
5. Location and dimensions of drives and parking areas.
6. Location and characteristics of any common open space or usable open space.
7. Proposed drainage system.
8. Proposed landscaping.
9. Building elevations.
10. Building Envelope.

b. A table within the plan set containing all of the following information:

1. Total land area (square feet).
2. Building envelope (square feet and percentage of the total land area).
3. Common and open space, if any (square feet and percentage of the total land area).
4. Site coverage of buildings (square feet and percentage of the total land area).
5. Impervious surface area (square feet and percentage of the total land area).
6. Pervious surface area (square feet and percentage of the total land area).
7. Gross floor area of all nonresidential buildings.
8. Floor area ratio if applicable.
9. Density of dwelling units, or their equivalent, if applicable.
10. Number of off-street parking spaces and, if applicable, loading bays.

c. A locus-context map of all land within 500 feet of any part of the proposed PDD containing all of the following information (the scale on this map may be no smaller than 1:600):

1. All dwellings and principal buildings.
2. Land use of each lot.
3. Lot and right-of-way lines.
4. Existing contours at two-foot intervals.
5. Principal natural features in general, including but not limited to: Significant rock outcroppings, Water systems (including standing surface water, brooks or streams, the direction of drainage, wetlands, and the 100-year flood elevation.)
6. Significant vegetation, including, but not limited to: mature trees, unique specimens of vegetation, and vegetation that indicates wetlands.
7. Zoning district boundaries.
9. Recorded easements on the proposed PDD and within the 500-foot limit.
10. Public facilities, including, but not limited to: conservation or recreation land, footpaths, bicycle paths, and streets.
11. Significant noise/visual impact, including, but not limited to: views from the site and sources of noise affecting the site.
12. Historically or architecturally significant structures and sites on or adjacent to the proposed PDD.
13. Areas of known contamination and a delineation of the disposal site area within 500 feet.

d. A property rights and dimensional standards plan containing the following information:

1. The location of existing easements or other property rights affecting the proposed development.
2. The approximate locations of any sections of the land to which the Town would be granted property rights, either easements or transfer of ownership for street, utility, conservation or other purposes.

3. The anticipated division of the property into parcels in private ownership, if any, if it affects zoning provisions.

4. The yard setback in feet for buildings and parking lots from lot lines and, where applicable, a zoning district boundary, a brook or a pond.

5. The boundaries of any common open space or usable open space.

e. A utilities analysis showing:

1. The location and size of the Town's existing water mains, fire hydrants, sanitary sewers, and storm drains.

2. The proposed locations and the approximate size of utilities to be constructed on the site and their proposed connections to the Town's utilities, and any special features, such as culverts or pumping stations, that might affect the ability of the Town to service the development.

1. An existing conditions plan.

12.1.4.4 Zoning and Special Conditions

a. Completed Templates (Templates can be found in the Planned Development Rules and Regulations)

1. Template A: "Use Table" - Uses to be permitted by right or allowed by special permit in the buildings by cross reference, of uses to be permitted as they appear in Section 4.2.0, 4.3.0 and 4.4.0 "Use Regulations Schedules".

2. Template B: "Zoning Provisions" - Describing special regulations unique to the development and/or a cross reference to provisions of this Bylaw that will apply to the PD District.

3. Template C: "Special Conditions" - Applicable to the proposed development which may include but are not limited to, grants of benefits to the Town such as land for public purposes, traffic mitigation, drainage mitigation, construction of improvements or financial contributions on behalf of the Town, or other development limitations such as but are not limited to aesthetic features.

12.1.4.5 Impact Analysis

The Proponent shall submit an impact statement, the purpose of which is to enable the officials of the Town to determine what methods are used by the Proponent to promote the environmental health of the community and to minimize adverse effects on the natural resources and the Town's roads and utilities. The analysis must include the following components: Traffic, Drainage, Utility, Environmental, and Community Impact as set forth below.

In reviewing the statement, the Planning Board shall consider the degree to which impact on Town roads and utilities is mitigated, to which stormwater is recycled back into the ground, the maintenance and improvement of the flow and quality of surface water, the preservation or promotion of wildlife refuges, historic sites, unique geological, botanical and archaeological features, existing or potential trails, access to open space areas, and the health and safety of the inhabitants of the area.

a. Traffic Analysis

To address traffic flow and safety, including parking and loading. To be conducted by a traffic engineer certified as qualified as a member of the Institute of Transportation Engineers (ITE). The analysis shall include:

1. Traffic counts on arterial streets that provide access to the proposed PDD showing data on Average Daily Traffic (ADT) and a.m. and p.m. peak periods (conducted for two hours divided into fifteen-minute segments).

2. Intersection turning movement counts at intersections likely to be affected by the proposed development.

3. An inventory of roadway characteristics showing the width of the principal approach streets and the presence or absence of sidewalks and their conditions.

4. Estimated trip generation showing the projected inbound and outbound vehicular trips for the a.m. and p.m. peak periods and a typical one hour off-peak trip generation.

5. The estimated distribution of new trips by approach streets.
 6. The effect of additional traffic generated by the development on traffic "levels of service" on each approach street.
 7. Estimated off-street parking and loading requirements and time of peak accumulation.
- b. Stormwater and Drainage Analysis
1. Infiltration, including soils analysis and contamination if applicable.
 2. Watershed analysis.
 3. Pre and Post Development Drainage Calculations, including Peak Flow analysis (2, 10, 25 and 100 year storm events).
 4. Narrative of how the proposed project meets the State Stormwater Standards (including how LID features have been incorporated)
 5. Proposed land grading and permanent vegetative cover.
- c. Utility Analysis
1. Describe the effect of the project on the public sewer system.
 2. Describe the effect of the project on the Town water supply and distribution system.
 3. Describe the effect of the project on the natural gas and electrical power distribution system.
- d. Environmental Impact report
1. Neighborhood character: Describe how the proposed development proposal fits in with the neighborhood, surrounding properties and land uses.
 2. Impacts on the natural environment: Describe any impacts on archaeological or historical resources, rare or irreplaceable natural areas, including the habitat of endangered species. Describe how the proposal will affect these features.
- e. Community Impact Report
1. Social, economic, or community needs which are served by the proposed development.
 2. Preliminary fiscal impact, including impact on town services, tax base, and employment.
 3. The special impact, if any, on municipal and governmental services.
 4. If the proposed project includes a residential component, an estimate of the number of additional children who will attend school and the number of total new persons added to the Town's population.

12.1.4.6 Additional Requirements

In addition to the submission requirements outlined in this section, the Planning Board may impose additional submission requirements through the adoption of Rules and Regulations for a PD District rezoning.

12.1.5 Administrative Requirements

The Proponent of a PD Rezoning shall submit an application and all supporting documentation to the Planning Department, together with the required filing fee as specified in this Section 12 and in the Planning Board's PD Rules and Regulations:

12.1.5.1 Distribution:

The Proponent shall submit (14) hard copies of all of the items required under Section 12.1.4 and (2) compact disc copies of the electronic data to be distributed as follows:

Land Use Committee - The Planning Board shall deliver (1) hard copy and (1) compact disc electronic copy of the full application and supporting materials to the Land Use Committee.

Interdepartmental review: The Planning Board shall distribute one (1) copy each of the application and all supporting documentation to the Inspector of Buildings, the Board of Selectmen, the Town Engineer, the Board of Health, the Conservation Commission, the Fire Chief, and the Police Chief, all of whom shall consider the application and submit a report thereon with recommendations to the Planning Board. The Planning Board shall not make a finding and determination upon the application until it has received the reports from the Building Commissioner, the Board of Selectmen,

the Board of Health, the Fire Chief or designated representative, the Police Chief or designated representative, the Town Engineer, and the Conservation Commission or until thirty-five (35) days shall have elapsed without such reports being submitted and until a public hearing has been held.

Town Clerk: The Planning Board shall distribute one (1) copy each of the application and all supporting documentation to the Town Clerk

The Planning Board: shall retain the remaining (4) hard copies and (1) compact disc for review

The Planning Board may require and if that is the case, the proponent shall provide additional copies as deemed necessary for review.

12.1.5.2 Hearing: A hearing shall be held pursuant to MGL 40A, §5 with the following additional criteria and requirements.

a. The Planning Board shall prepare the legal notice for the rezoning.

b. The legal notice of the public hearing shall be mailed, by the Proponent, post prepaid, to all current Town Meeting Members, based on the active list of Town Meeting Members as maintained by the Town Clerk at the time of submission of the application.

c. The Planning Board shall open the public hearings within 30 days of receipt of a completed application submission. If within 30 days there is not a regularly scheduled Planning Board, then the hearing for the rezoning must be scheduled for the next regularly scheduled Planning Board Meeting and noticed pursuant to MGL 40A, §5.

d. Any supplemental and/or revised documents from the Proponent must be submitted to the Planning Department no later than the Friday prior to Planning Board meetings at which the rezoning will be considered.

12.1.5.3 Warrant Preparation and distribution

a. After the original warrant submission to the Board of Selectman by the Proponent, the Planning Department staff shall be responsible for preparation and editing of all zoning requirements and special conditions.

b. All zoning documents and special conditions submitted to Town Meeting Members shall be sent by the Planning Department staff. All postage shall be paid by the Proponent.

c. The Planning Board Chair shall review and confirm that the draft motion submitted to the Town Clerk that is to be voted on at Town Meeting is the same as the version recommended and voted by the Planning Board. This is not meant to preclude further amendments at Town Meeting.

12.1.5.4 Covenant Agreement

after any Special Conditions have been approved by the Planning Board in consultation with the Land Use Committee, the Land Use Committee may request the Board of Selectmen to include any special conditions in the PDD rezoning article in a Covenant Agreement with the Proponent. The Proponent shall prepare the Covenant Agreement in consultation with the Planning Department and Land Use Committee. If agreed to, the Board of Selectmen shall execute the Covenant Agreement on behalf of the Town.

12.1.5.5 Covenant Administration

The Covenant shall be held in escrow until such time as Town Meeting votes on the article to rezone the PDD. If Town Meeting votes to approve the PDD rezoning, the Covenant shall be recorded, at the Middlesex South Registry of Deeds. Within fifteen (15) days of recording the Proponent must promptly inform the Board of Selectman and the Planning Board of the book and page reference as proof of the recording.

12.1.6 Lapse

The development and uses approved in a rezoning to a PDD may not be commenced unless the Planning Board issues a PD Special Permit, as required in Section 12.2.0, for substantial development or reuse within the PD, within two (2) years from the date of approval by Town Meeting. Until such time as a PD Special

Permit is granted by the Planning Board pursuant to Section 12.2.0 and recorded by the property owner the development of the property shall be governed by the zoning provisions in effect for the zoning district for which the land was zoned immediately prior to its inclusion in a PDD.

If a PD Special permit is not obtained within two (2) years, the PDD zoning shall lapse and the development of the property shall be governed by the zoning provisions in effect for the zoning district which the land was zoned immediately prior to its inclusion in a PDD.

The foregoing two (2) year time period shall not be applicable to any Planned Development District which involves land owned by the Town. For any such Planned Development District involving such Town owned land as part of the original PD rezoning proposal, the zoning established by the Planned Development District shall be effective upon the date of approval by Town Meeting.

12.2.0 PD Special Permit Requirements

Development pursuant to a PDD rezoning is subject to the approval of a PDD Special Permit as set forth in this section.

An application for a PDD Special Permit will be made to the Town Clerk by submitting (12) copies of all submission materials. The materials shall include a Final Site Development and Use Plan, as described in this section, together with the required submission fee. The PDD Special Permit application to Town Departments shall be distributed as outlined in Article IX Section 9.2.2.1. The Planning Board shall specify a submission fee for a PDD Special Permit in its PDD Rules and Regulations. The required submission fee shall be submitted with the Final Development and Use Plan and following accompanying materials:

12.2.1 Final Site Development and Use Plan Requirements:

The Final Site Development and Use Plan shall include the following information.

- a. Information typically required on a site plan in accordance with Planning Board Site Plan Rules and Regulations.
- b. A Utilities Plan showing the location, size, materials and connections to the Town's utilities
- c. A Property Rights Plan based on an instrument survey identifying parcels, if any, to be conveyed to the Town by deed or easement
- d. A Site Grading Plan showing changes in contours and identifying landscaping materials, species of plants and sizes and specific plans for any open space
- e. A Traffic Analysis including proposed mitigating measures, if any, to maintain an acceptable traffic level of service
- f. A Storm water and Drainage Analysis
- g. A Utility Analysis
- h. An Environmental Impact report
- i. A Fiscal Impact Report
- j. Preliminary drafts of any deed, easement, offer or agreement to carry out any special condition, and
- k. Such information as the Planning Board may specify in its Rules and Regulations or in response to matters which may arise in the course of public hearings.
- l. A PD Zoning Block table

12.2.2 Additional Requirements

Application for a special permit for a particular use within a PD District shall be made concurrent with a PDD Special Permit or at any time following approval of a PDD Special Permit. The approval criteria for the special permit for a particular use shall be those set forth in Article IX Section 9.2.0.

In addition to the submission requirements set forth in this section, the Planning Board may adopt Rules and Regulations for a PD District rezoning that establish additional submission requirements.

12.2.3 Public Hearing

The Public Hearing shall be held in accordance with the provisions of Article IX Section 9.6.0. Additionally, notice of the public hearing shall be mailed, by the Proponent, post prepaid, to all current Town Meeting Members, based on the active list of Town Meeting Members as maintained by the Town Clerk at the time of submission of the Application.

12.2.4 Criteria for Approval

The Planning Board may approve the PD Special Permit if the Board finds that all the following conditions are met:

1. The Final Site Development and Use Plan is substantially in conformance with the PDD Rezoning Amendment approved by Town Meeting. The Planning Board may permit insubstantial changes in view of the more detailed survey and engineering design, provided that such changes do not conflict with the intent of the PDD Rezoning Amendment. The following changes are not "insubstantial" and thus may not be approved by the Planning Board as part of a PD Special Permit:
 - a. Any change in the composition or number of uses that result in any increase over the maximum limitations specified in the PDD Zoning Provisions and/or Special Conditions.
 - b. A use(s) which results in an increase in traffic generation above the vehicle trips predicted in the traffic study submitted as part of the PDD Rezoning Application.
 - c. A proposal that is inconsistent with the PDD Rezoning Amendment as approved by Town Meeting.
 - d. A use(s) which results in an increase in Town services or infrastructure needs above the predicted impacts identified within the impact analyses submitted as part of the PDD Rezoning Application and that cannot or will not be mitigated by the Applicant.
2. The PDD Rezoning Amendment approved by Town Meeting and the Site Development and Use Plan are incorporated into the PD Special Permit by reference.
3. Methods satisfactory to the Planning Board of ensuring the performance of any Special Conditions and/or applicable Covenant Agreement included in the PDD Rezoning Amendment have been submitted by the developer.
4. Any land designated as common or open space on the PDD Rezoning Amendment shall, at the Town's discretion, be either conveyed to the Town or protected by an easement granted to the Town.
5. The Planning Board reserves the right to require that up to 30% of all new housing units be made affordable to persons of low and moderate income, according to the standards of the State and/or Town of Burlington, as determined by the Planning Board.
6. The project meets the criteria specified in the Planning Board's Planned Development District Rules and Regulations.

The Planning may impose additional mitigation conditions if it finds that the proposed development results in impacts that differ from those identified during the PDD rezoning process.

The Planning Board in granting a PDD Special Permit may impose such additional conditions as the Planning Board finds will serve the public interest and are consistent with the intent of the PDD Rezoning Amendment approved by Town Meeting.

The Planning Board may deny an application for PDD Special Permit and base its denial on the finding that the development proposed in the Final Site Development and Use Plan did not meet one or more of the above listed criteria for approval.

In the event the Planning Board determines that the Final Site Development and Use Plan is not in substantial conformance with the PDD Rezoning Amendment approved by Town Meeting, the application for a PDD Special Permit shall be denied. A new PDD Rezoning would be required in order to proceed.

No changes to the obligations contained in the special conditions or to the specifications contained in the PD Zoning Table, or changes in uses as shown on the Development Proposal, may be permitted except by a vote of Town Meeting.

12.2.5 Changes in a Final Site Development and Use Plan

All improvements shall be constructed in accordance with the Approved Site Development and Use Plan. No deviations from the Site Development and Use Plan may be permitted without prior approval from the Planning Board. If the Proponent and property owner seek to make minor modification to the Approved Site Development and Use Plan, prior to undertaking any such modification they must consult with the Planning Staff, who shall determine if the proposed modification is minor and may be undertaken without further approval, or if an application must be filed for further review and determination by the Planning Board.

12.3.0 Changes in a Proposed PD District While a PD Rezoning is pending

12.3.1 Alterations to existing buildings prior to the adoption of the PD District shall be governed by the zoning district provisions for which the land was zoned immediately prior to its inclusion in a PD District.

12.3.2 Minor changes to existing structures after the commencement of the PD premises but prior to the submission of a Site Development and Use Plan for the affected area shall be governed by the PDD Zoning Provisions but may be submitted under the Site Plan Waiver, Minor Engineering Change or Insignificant Change requirements specified in the Planning Board Site Plan Rules and Regulations as may be applicable.

12.3.4 In addition to the requirements outlined in this section, the Planning Board may impose additional submission requirements through the adoption of Rules and Regulations for a PD District rezoning.

12.4.0 Amendment

Amendments to this Bylaw and any Planned Development District shall be made pursuant to Article IX, Section 9.4.0 Amendment. Amendments to the PDD Rules and Regulations shall require mailing of the legal notice by the Planning Board to all Town Meeting Members.

Or to act in any other manner in relation thereto.

MAIN MOTION: As printed in the Warrant

Recommendations: Planning Board 7-0-0
Land Use 7-0-0

ACTION: APPROVED BY A 2/3s VOTE
67 in favor 2 against

App. A.G. **Posted.**

ARTICLE 24 RE: Amendment to Grandview Farm Planned Development District Zoning Regulations

To see if Town Meeting will vote to amend the Grandview Farm Planned Development District Zoning Regulations of the Town of Burlington by amending Section III. A: Development Area 1 ("DA1") to increase the available parking on site as follows:

III. Use Regulations

A. Development Area I("DAI")

The DA1 is intended for limited municipal uses, including only municipal offices, municipal museums, municipal art galleries, and/or a municipal community center, together with accessory parking for no more than thirty-two (32) vehicles.

And further to amend "Table 1: Grandview Farm PDD Schedule of Uses" Section B.8. "Off-street outdoor parking of vehicles", to replace "up to 15" with "up to 32" under column "DA1" and to eliminate the asterisk and "Up to 70" under column "DA4".

And further to amend Section VI. Parking regulations to replace "shall be fifteen" with shall be thirty-two (32)" and eliminate the maximum within DA4 as follows:

The Planning Board shall approve the number and type of parking spaces when approving the special permit for the PDD under Article XII of the Town of Burlington Zoning Bylaws, as amended through January 2001, subject to the following: The maximum number of parking spaces which may be located in DA1 shall be

thirty-two (32). The maximum number of parking spaces which may be located in DA3 shall be sixty (60). Parking is prohibited in DA2. Or to act in any other manner in relation thereto.

MAIN MOTION: As printed in the Warrant

Recommendations: Planning Board 7-0-0
Land Use 7-0-0

ACTION: APPROVED BY A 2/3s VOTE
57 in favor 7 against

App. A.G. **Posted.**

ARTICLE 25 RE: Amend Zoning Bylaw Article II: Definitions, Article IV: Use Regulations and Article X: Miscellaneous and Special Regulations (Biotechnology)

To see if the Town of Burlington will vote to amend the Zoning By-Laws of the Town of Burlington by adding a new section within both the Definitions and Principal Use Regulation Schedule sections, as follows:

By amending Article II "Definitions" to include the following new definitions:

2.2.14 Biotechnology

Research, development and manufacturing utilizing microorganisms or biological substances in the fields of biotechnology, medical, pharmaceutical, environmental science, immunology, microbiology, virology, toxicology, rDNA, comparative medicine, genome research, cell biology and apparatus, machines and devices for research, development, manufacturing and advance and practical application in any such field or areas. Biotechnology uses are subject to all federal, state and local regulations and best management practices including but not limited to the Burlington Board of Health regulations from the Use of recombinant DNA Technology, the National Institute of Health Guidelines for Research Involving recombinant DNA Molecules, and the Biosafety in Microbial and Biomedical Laboratories (BMBL). and Burlington Board of Health. Biosafety Level 4 (BL-4) laboratories, as defined by the Centers for Disease Control and Prevention, are prohibited in Burlington.

And further to Amend Article IV "Use Regulations", by adding the following subsection:

4.2.7.4.1 "Biotechnology (Bio Safety Level 1&2)" to be permitted by "SP" in the IG, IH, A, WR, CC and CBD Districts and prohibited in all other districts (RO, RG, RC, BN, BL, BG, BT, IR, and OS Districts), and further to add Section 4.2.7.4.2 "Biotechnology (Bio Safety Level 3)" to be permitted to be permitted by "SP" in the IG, IH, A, WR, CC and CBD Districts and prohibited in all other districts (RO, RG, RC, BN, BL, BG, BT, IR, and OS Districts) as follows:

(Table on next page)

4.2.0 PRINCIPAL USE REGULATION SCHEDULE

	USE DESIGNATION	RESIDENTIAL DISTRICTS			BUSINESS DISTRICTS				INDUSTRIAL DISTRICTS			OTHER	OVERLAY DISTRICTS				
		RO	RG	RC	BN	BL	BG	BT	IG	IH	IR		OS	A	WR	CC	CBD
4.2.7	INDUSTRIAL USES																
4.2.7.4.1	Biotechnology (Bio Safety Level 1&2), see additional regulations in Article X, Section 10.5.0	NO	NO	NO	NO	NO	NO	NO	NO	SP	SP	NO	NO	SP	SP	SP	SP
4.2.7.4.2	Biotechnology (Bio Safety Level 3), see additional regulations in Article X, Section 10.5.0	NO	NO	NO	NO	NO	NO	NO	NO	SP	SP	NO	NO	SP	SP	SP	SP

(continue of ARTICLE 25)

And further to Amend Article X: Miscellaneous and Special Regulations by adding a new Section 10.5.0 as follows:

SECTION 10.5.0 ADDITIONAL REGULATIONS FOR BIOTECHNOLOGY

The Planning Board may grant a Special Permit for a Biotechnology use, subject to the following restrictions:

10.5.1 Purpose and Intent

Applications for Biotechnology uses shall be subject to the following additional criteria.

10.5.2 Procedures

All requests for consideration by the Planning Board for a Special Permit pursuant to this section shall be consistent with Section 9.2.0 “Special Permit” of this bylaw, except that the Board of Health shall have 65 days under Section 9.2.2.1 to complete its review rather than 35 days.

10.5.3 Approval Criteria

The Planning Board shall not make a finding and determination upon the application until it has received the recommendation of the Board of Health, or 65 days have passed without such recommendation, and until a public hearing has been held, pursuant to MGL 40A, §11.

In addition to the approval criteria for Special Permits pursuant to Section 9.2.4 of this bylaw, the Planning Board shall incorporate the recommendations of the Board of Health as conditions of approval for any Biotechnology Special Permit.

An unfavorable recommendation from the Board of Health shall be treated as grounds for denial of any biotechnology special permit application.

Or to act in any other manner in relation thereto.

MAIN MOTION: TO see if Town Meeting will vote to amend the Zoning Bylaw as set forth in the Warrant with the following changes **Article IV: Use Regulations**

4.2.7.4.1 “Biotechnology (Bio Safety Level 1&2)” to be permitted by “SP” in the IG, IH, A, WR, ~~CC and CBD~~ Districts and prohibited in all other districts (RO, RG, RC, BN, BL, BG, BT, IR, and OS Districts **and CC and CBD Overlay Districts**), and further to add Section 4.2.7.4.2 “Biotechnology (Bio Safety Level 3)” to be permitted by “SP” in the IG, IH, A, WR, ~~CC and CBD~~ Districts and prohibited in all other districts (RO, RG, RC, BN, BL, BG, BT, IR, and OS Districts **and CC and CBD Overlay Districts**) as follows:

(Table on next page)

4.2.0 PRINCIPAL USE REGULATION SCHEDULE

4.2.7	INDUSTRIAL USES	RESIDENTIAL DISTRICTS			BUSINESS DISTRICTS				INDUSTRIAL DISTRICTS			OTHER	OVERLAY DISTRICTS			
		RO	RG	RC	BN	BL	BG	BT	IG	IH	IR		OS	A	WR	CC
4.2.7.4.1	Biotechnology (Bio Safety Level 1&2), see additional regulations in Article X, Section 10.5.0	NO	NO	NO	NO	NO	NO	NO	SP	SP	NO	NO	SP	SP	SP NO	SP NO
4.2.7.4.2	Biotechnology (Bio Safety Level 3), see additional regulations in Article X, Section 10.5.0	NO	NO	NO	NO	NO	NO	NO	SP	SP	NO	NO	SP	SP	SP NO	SP NO

(continue of ARTICLE 25)

and Article X: Miscellaneous and Special Regulations (Biotechnology) to replace the words “be treated as grounds for” with the words “result in a” under section 10.5.3

Approval Criteria, as follows:

An unfavorable recommendation from the Board of Health shall be treated as grounds for result in a denial of any biotechnology special permit application.

Recommendations: Planning Board 6-0-0
Land Use 7-0-0
Board of Health 5-0-0 (on Definitions)

ACTION: UNANIMOUSLY APPROVED MAIN MOTION

App. A.G. Posted.

ARTICLE 26 RE: Amend Zoning Map and Rezone Property to General Business (BG) District

To see if the Town of Burlington will vote to amend the Zoning Map of the Town of Burlington, as most recently amended, by rezoning a certain parcel of land to a General Business (BG) District. Said parcel of land is generally identified as being located off of Wheeler Road and is further identified as follows:

A certain tract or parcel of land being shown as “Parcel 15-LS-1” of State Highway Layout of 2010 – Layout #8178 with the buildings thereon, situate in the Town of Burlington, County of Middlesex and Commonwealth of Massachusetts, more particularly bounded and described as follows:

Beginning at a point on the northerly sideline of Wheeler Road a public street in the Town of Burlington, Massachusetts, thence;

S19°12’17”W a distance of fifty seven and no hundredths feet (57.00’) by said Wheeler Road, thence;

S19°12’17”W a distance of three hundred twenty one and sixty four hundredths feet (321.64’) by land now or formerly of One Wheeler Road Association, thence;

S32°38’42”W a distance of three hundred sixty nine and ninety five hundredths feet (369.95’) by land of said One Wheeler Road Association, thence;

S13°16’27”E a distance of seven hundred ninety seven and forty two hundredths feet (797.42’) by said land of One Wheeler Road Association and land now or formerly of Gutierrez A&J Cataldo Trust, thence;

S75°17’47”W a distance of four hundred twenty three and seventy two hundredths feet (423.72’) by land now or formerly of Town of Burlington Housing Authority, thence;

Northerly along a non-tangent curve to the right having a radius of six thousand one hundred fifty and no hundredths feet (6,150.00’) and an arc length of three hundred eight and forty nine hundredths feet (308.49’). Said curve having a chord bearing of N13°15’59”W and chord distance of three hundred eight and forty six hundredths feet (308.46’) by land now or formerly of Joseph W. Desmond, now or formerly of Matthew Abbate and land now or formerly of Michael K. Flaherty, thence;

N11°49’46”W a distance of two hundred two and sixty hundredths feet (202.60’) by land of said Flaherty and now or formerly of Gerald, thence;

(continue of ARTICLE 26)

Northerly along a tangent curve to the left having a radius of six hundred and no hundredths feet (600.00’) and an arc length of three hundred seventy nine and ninety eight hundredths feet (379.98’) by land of said Zecher and now or formerly of Jerry Slack, thence;

N48°06’53”W a distance of fifty eight and forty two hundredths feet (58.42’) by land of said Slack and now or formerly of Town of Burlington, thence;

S43°26’58”W a distance of one thousand one hundred eighteen and eight hundredths feet (1,118.08’) by Interchange Route 3 and I-95, thence;

Southerly on a non-tangent curve to the right having a radius of two hundred eighty five and no hundredths feet (285.00’) and an arc length of one hundred thirty one and ninety hundredths feet (131.90’). Said curve having a chord bearing of S12°34’50”E and chord distance of one hundred thirty and seventy three hundredths feet (130.73’) by land now or formerly of Daniel G. Kamin Burlington LLC, thence;

N87°16’58”E a distance of thirty nine and ninety one hundredths feet (39.91’) by said land of Daniel G. Kamin Burlington LLC, thence;

Easterly on a non-tangent curve to the left having a radius of five hundred fifty eight and eighty nine hundredths feet (558.89’) and an arc length of fifty six and thirty nine hundredths feet (56.39’). Said curve having a chord bearing of S84°23’52”W and chord distance of fifty six and thirty seven hundredths feet (56.37’) by said land of Daniel G. Kamin Burlington LLC, to the point of beginning.

Said “Parcel 15-LS-1” contains 665,302 S.F.± or 15.27 Acres±.

Or to act in any other manner in relation thereto.

MAIN MOTION: POSTPONED INDEFINITELY

ACTION: POSTPONED INDEFINITELY

Resolution 1: Posted into the record.

We, Mildred J. Nash and Mary Ellen Osowsky do hereby move the following resolution:

In bad economic times the need for services such as the MBTA and the Burlington Public Transit system is more important than ever. Additionally, the cutting of public transportation ends up shifting costs to other Commonwealth budgets: to pay for the added wear and tear on roadways, the increased pollution, and the loss of employment when people have no other means of getting to work.

The Burlington Town Meeting, therefore, goes on record as opposed to the elimination of bus routes 350, 351 and 352 and Burlington Transit in particular.

Submitted by:
Mildred J. Nash, PCT 3
Joanne Horgan, PCT 4

ACTION: VOTED UNANIMOUSLY SUPPORTED

Resolution 2: Posted into the record

Resolution

Be it resolved that the Planning Board and the Land Use Committee amend the zoning Bylaws to reflect the project evaluation and permitting procedures adopted in Article XII of the Burlington Zoning Bylaw as amended on January 25, 2012, for all major projects regardless of Zoning designation.

Submitted by:

Ernest Zabolotny, PCT 5

Paul A. Valleli, PCT 3

Shari Lynn Ellis, PCT 3

Barbara L'Heureux, PCT 3

Timothy D. Brown, PCT 3

ACTION: VOTED NOT SUPPORTED

Resolution 3 Posted into the record

Resolution

Be it resolved that Burlington Town Meeting supports the Planning Board initiative to secure State and other funding to perform a detailed study of traffic issues and potential mediation along the entire Middlesex Turnpike corridor including an assessment of completion of the interchange at Rt. 95, and the requirements of existing and planned commercial operations along the artery. It is understood that the study would be performed under the direction of the metropolitan Area Planning Council for the benefit of Burlington residents and all commercial entities dependent on this transportation corridor.

Submitted by:

Ernest Zabolotny, PCT 5

Paul A. Valleli, PCT 3

Shari Lynn Ellis, PCT 3

Barbara L'Heureux, PCT 3

Timothy D. Brown, PCT 3

ACTION: WITHDRAWN

At 11:05 PM, a motion to adjourn was moved, seconded and so voted.

Attest:

Amy E. Warfield
Town Clerk