

**MONDAY, SEPTEMBER 24, 2007
FOGELBERG AUDITORIUM – BHS**

At 7:30 P.M., the members of Precinct 1 assembled to fill the vacancy created by the recent resignation of J. Lamb

Present and voting: B. Bond, B. Cullinan, N. Glantz, D. Gregorio, B. Morey, J O'Keefe, C. Phillips, M. Ryan, M. Saia, D. Woodilla

Nominations were: Michael Hardy, 7 Thornton Dr.

Unanimously voted to fill the position until the next town election.

**ADJOURNED TOWN MEETING
MONDAY, SEPTEMBER 24, 2007
FOGELBERG AUDITORIUM – BHS**

A quorum being present, the meeting was called to order at 7:40 P.M. with a musical performance of the Burlington Chorus under the direction of Mr. Middleton. A motion to adjourn to Monday, October 1, 2007 to complete the warrant, if necessary, was moved, seconded and so voted. The reading of the Warrant and Constable's Report was waived upon unanimous consent.

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 Ways & Means and Board of Selectmen gave a brief financial overview. The Board of Health presented a video of their Emergency Preparation Flu Clinic and Medial Reserve Corp efforts inviting all to participate in the December 1st drill. Mr. Freemont Smith gave an update to the Northwest Park redevelopment.

The Moderator announced that further committee reports would be heard when respective articles were discussed.

ARTICLE 2 RE: Set 2008 Annual Town Election Date

To see if the Town will vote to set the 2008 Annual Town Election for Saturday, April 5th 2008, or to act in any manner in relation thereto.

MAIN MOTION: As printed in the Warrant

ACTION: MAJORITY APPROVED MAIN MOTION

ARTICLE 3 RE: Acceptance of Real Estate Exemption Provisions/Chapter 73, Acts of 1986

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

MAIN MOTION: As printed in the Warrant

ACTION: MAJORITY APPROVED MAIN MOTION

ARTICLE 4 RE: Adjustment of Real Estate Exemption Factors

To see if the Town will vote, pursuant to G.L. Chapter 59, Section 5, Clause 41C, as amended by Chapter 184, Section 51 of the Acts of 2002, to decrease from 70 to 65 the age at which seniors become eligible to be granted a tax exemption under said Clause 41C, 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: Petition Legislature to Amend Certain Provisions of Chapter 3 of the Acts of 2004

To see if the Town will vote to authorize the Board of Selectmen to petition the State Legislature to amend certain sections of Chapter 3 of the Acts of 2004 pertaining to the interpretation of the "Minimum residential factor" for Fiscal Year 2008 and 2009, or to act in any other manner in relation thereto.

MAIN MOTION: To see if the Town will authorize the Board of Selectmen to seek special legislation to authorize the Town to set a minimum residential tax share for Fiscal Year 2008 and thereafter which is lower than that which the Town set in Fiscal Year 2004; and further, that the Board of Selectmen and the Legislature be authorized to devise language appropriate to achieving that result.

ACTION: MAJORITY APPROVED MAIN MOTION

ARTICLE 6 RE: Discontinuance of a Portion of Old Lexington Street

To see if the Town will vote pursuant to MGL Chapter 82, Section 21, to discontinue as a public town way a portion of the way known as Old Lexington Street, said portion being shown on the plan entitled "Plan showing a discontinuance of Lexington Street" prepared by Harry R. Feldman, Inc. dated June 13, 2007, filed with the Town Clerk, and pursuant to MGL Chapter 40, Section 15 to transfer from the Board of Selectmen for public way purposes to the Board of Selectmen for the purpose of conveyance all of the Town of Burlington's right, title and interest in said portion of Old Lexington Street, and authorize the Board of Selectmen to release to Yu 66 Corporation of [P.O. Box 471006, Brookline, Massachusetts 02447], for such consideration and on such terms as the Selectmen may determine, which may be nominal consideration of \$1.00, all of the Town of Burlington's right, title and interest in said portion of Old Lexington Street; or take any action relative thereto.

MAIN MOTION: As printed in the Warrant

Recommendations: Land Use Committee voted 0-6-1 in opposition.

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

ACTION: MAJORITY DEFEATED MAIN MOTION

ARTICLE 7 RE: Abandonment of Construction Easement/Harvard Avenue

To see if the Town will vote, pursuant to MGL Chapter 40 Section 15, to transfer the care, custody and control of a construction easement held by the Board of Selectmen, acting as the Board of Public Works, in its capacity as the Water and Sewer Commissioners, and described below, to the Board of Selectmen for the purpose of releasing and abandoning said easement, which has been determined to be unnecessary for common convenience, and further to authorize the Board of Selectmen to release and abandon the easement to the owners of 9 Harvard Avenue for consideration in the amount of no less than \$1.00, said easement being described as follows:

A construction easement, being one of the easements taken by the Town of Burlington pursuant to an Order of Taking recorded with the Middlesex South District Registry of Deeds in Book 11384, Page 68, and described as follows:

The construction easement on land located on Stephanie Street and Harvard Avenue and shown as "20' Construction Easement" on a plan of land entitled "Easement Plan of Land, Burlington, Mass.," dated June 24, 1967, prepared by Whitman & Howard, Inc., said plan being attached to the aforementioned Order of Taking; or to do anything in relation thereto.

MAIN MOTION: As printed in the Warrant

ACTION: UNANIMOUSLY APPROVED MAIN MOTION

ARTICLE 8 RE: Amend General Bylaw Article XIII/Public Safety, to Add Section 5.0 Private Hydrant Systems

To see if the Town will vote to amend General Bylaw Article XIII, Public Safety to add Section 5.0 Private Hydrant Systems as follows:

5.0 Private Hydrant Systems

5.1 Purpose

The purpose of the bylaw is to ensure the availability of water from privately owned fire hydrants for fire suppression or other emergency uses within private residential and commercial developments. The Town of Burlington Department of Public Works ("DPW") Superintendent and the Fire Chief shall promulgate such regulations as may be necessary to implement this bylaw.

5.2 Definitions

Private hydrant system: A system of fire hydrants within a private residential or commercial development, whose water is provided by the Town, but the underground piping in which the water moves and the hydrants are maintained by the property owner.

Hydrant: The above ground appliance (as defined by the NFPA) used to provide a water supply to fire apparatus in the event of a fire or other emergency.

Hydrant owner: The person or entity (or their designee) according to Town records, that is responsible for tax payments (or other payments to the Town) for the property on which the hydrant is installed.

Hydrant maintenance: The process of regular maintenance of a fire hydrant to determine its capability to provide the desired water supply for which it was designed; and to exercise all valves, caps, etc.; and to lubricate and paint as needed.

5.3 Responsibilities of Private Hydrant Owners

5.3.1 The owner of a Private Hydrant System or Hydrant (collectively, "hydrant") located on non-Town owned property shall maintain such hydrant by a qualified water supply contractor chosen from a list provided by the DPW or contract with the DPW upon such fees as the DPW may establish to conduct the maintenance annually between April 1 and June 30. The DPW shall, by regulation, issue a list of maintenance procedures for bylaw compliance. The results of such maintenance shall be forwarded to the Burlington Water and Sewer Division ("W&S") of the DPW. W & S shall be notified, in writing, at least 24 hours prior to the conduct of such annual maintenance.

5.3.2 The purpose of maintenance is to determine the hydrant's capability to furnish the volume of water available from the Town's water supply to that hydrant to be used in the event of fire. Such maintenance may be in addition to any maintenance or tests, including water flow tests, that may be required by the owner's insurer or other entities.

5.3.3 If any hydrant does not successfully pass the maintenance procedures required by this bylaw and any regulations promulgated hereunder, the hydrant owner must immediately in writing notify the Burlington Fire Department ("BFD") and W&S of such failure. The BFD shall then immediately mark the hydrant as being "out of service" ("OOS"), using a system of marking the "Out of Service" hydrant in a way that is acceptable to W&S. The hydrant owner shall furnish W & S with a written plan for repair of any hydrant marked OOS; including the reason the hydrant is OOS and a timetable for needed repairs to be made. All repairs and/or replacements shall be made within a 30 day period of such notification unless W & S extends that period due to cold weather considerations or for other good cause. Upon completion of repairs, the hydrant owner shall notify the W&S and BFD in writing of such repair. The BFD shall then inspect the hydrant and if the repairs are completed, shall remove the OOS marking.

5.3.4 All hydrants shall have marking systems attached (flag-style similar to those used on Town maintained hydrants) in order to identify the hydrant at night and in the event of snow blowing or otherwise covering the hydrant. Such marking system shall not interfere with the expedient use of the hydrant during an emergency. In no case shall snow be piled against or otherwise be allowed to accumulate on any hydrant. After a snowstorm, all hydrants shall be cleared of snow within 12 hours of the end of the snowfall.

5.3.5 All hydrants shall be free from plantings and other landscape features in order to ensure full access and use of the hydrant. The BFD shall have final authority to determine if the hydrant owner has complied with this provision.

5.3.6 All hydrants shall be kept accessible for emergency use at all times. BFD and W & S shall immediately be notified of any hydrants that are un-accessible or unusable for any reason.

5.4 Penalties and Fines

The penalty/fines for violation of this bylaw shall be as follows:

Failure to have hydrants maintained annually	\$300
Failure to notify W & S and BFD of failed hydrants and furnish repair plan	\$300
Failure to mark and/or clear snow from hydrants	\$100
Failure to remove landscape material from hydrant	\$300
Failure to notify W & S 24 hours prior to maintenance procedure	\$100

Prior to commencing enforcement action for a violation of this bylaw, the enforcing person shall give the property owner a 10 day written notice to comply with the bylaw. Each day and each hydrant found to be in violation of this bylaw shall be considered a separate offense. All penalties and fines shall be payable to the Town's General Fund. Enforcement of this bylaw may be made pursuant to the General Laws, c. 40, sec. 21D and the Town's General Bylaws, Article I, Section 4.0, and any other applicable enforcement authority. This bylaw shall be enforceable by the enforcing person, who shall be either the Superintendent of Public Works or the Fire Chief, or to act in any other manner in relation thereto.

MAIN MOTION: As printed in the Warrant

Recommendations: Bylaw Review Committee voted 4-0-0 in favor.

ACTION: MAJORITY APPROVED MAIN MOTION

App'd. A.G.	Posted
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ARTICLE 9 RE: Bond Authorization/Various Drainage Structure Improvements and Design/Engineering Services for the Terrace Hall By-Pass Sewer Project

To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$1,000,000 or any other sum, for the purpose of paying for the cost of various town-wide drainage structural repairs as well as the cost of planning, engineering and design services for the Terrace Hall Main sewer pumping station by-pass project, or to act in any other manner in relation thereto.

MAIN MOTION: That the sum of \$1,000,000 be and is hereby appropriated, to be expended at the direction of the Selectmen, to pay for the following costs 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 7, Sections 1 and 22 of the General Laws, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefore: the various drainage structure improvements and design/engineering services of the Terrace Hall By-Pass Sewer Project.

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

ACTION: UNANIMOUSLY APPROVED MAIN MOTION

ARTICLE 10 RE: Inflow/Infiltration Removal

To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$440,000 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.

MAIN MOTION: To see if the Town will vote that the sum of \$440,000 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 and Means voted 11-0-0 in favor.
Capital Budget voted 6-0 in favor.

ACTION: UNANIMOUSLY APPROVED MAIN MOTION

ARTICLE 11 RE: Francis Wyman Playground Improvements

To see if the Town will vote to raise and appropriate, transfer from available funds borrow or otherwise provide the sum of \$196,000 or any other sum, for the purpose of funding the repairs, improvements and modifications to the Francis Wyman playground, including the payment of all costs incidental, to be spent under the direction of the School Committee, or to act in any other manner in relation thereto.

MAIN MOTION: To see if the Town will vote to raise and appropriate the sum of \$104,100 for the purpose of funding the repairs, improvements and modifications to the Francis Wyman playground, including the payment of all costs incidental, to be spent under the direction of the School Committee.

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

ACTION: MAJORITY APPROVED MAIN MOTION

ARTICLE 12 RE: Pavement Replacement/High School

To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$27,000 or any other sum for the purpose of repairing the pavement at the Burlington High School parking lot, same to be spent under the direction of the School Committee, or to act in any other manner in relation thereto

MAIN MOTION: To see if the Town will vote to raise and appropriate the sum of \$27,000 for the purpose of repairing the pavement at the Burlington High School parking lot, same to be spent under the direction of the School Committee.

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

ACTION: MAJORITY APPROVED MAIN MOTION

A motion to discuss articles 13-15 together but vote separately was moved, seconded and so voted.

ARTICLE 13 RE: Fund the DPW Contract

To see if the Town will vote to transfer from the Negotiated Settlement Account the sum of \$73,800 or any other sum for the purpose of funding the approved Collective Bargaining Agreement between the Town of Burlington and the Department of Public Works (Local 1703) for Fiscal Year 2008, 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 FY2008 Negotiated Salary Account the sum of \$73,800 to pay for salary adjustments to the Town's DPW Contract. Said sum shall include \$67,600 for Full Time Salaries and \$6,200 for Overtime Salaries.

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

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

ACTION: MAJORITY APPROVED MAIN MOTION

ARTICLE 14 RE: Fund the BPPA Contract

To see if the Town will vote to transfer from the Negotiated Settlement Account the sum of \$_____ or any other sum for the purpose of funding the approved Collective Bargaining Agreement between the Town of Burlington and the Burlington Police Patrolmen Association for Fiscal Year 2008, same to be spent under the appropriate authority, or to act in any other manner in relation thereto.

MAIN MOTION: WITHDRAWN

ARTICLE 15 RE: Fund the IAFF Contract

To see if the Town will vote to transfer from the Negotiated Settlement Account the sum of \$_____ or any other sum, for the purpose of funding the approved Collective Bargaining Agreement between the Town of Burlington and the International Association of Firefighters (Local 2313) for Fiscal Year 2008, 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 FY2008 Negotiated Salary Account the sum of \$97,000 to pay for salary adjustments to the Town's IAFF Contract. Said sum shall include \$85,500 for Full Time Salaries and \$11,500 for Overtime Salaries.

Recommendations: Ways & Means voted 9-0-1 in favor.

ACTION: MAJORITY APPROVED MAIN MOTION

ARTICLE 16 RE: Insurance Check Disbursement

To see if the Town will vote to raise and appropriate the sum of \$21,486 to replace the damaged items in the Police Armory Room of which \$21,486 will come from the Insurance Reimbursement Fund, or to act in any other manner in relation thereto.

MAIN MOTION: As printed in the Warrant

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

ACTION: MAJORITY APPROVED MAIN MOTION

ARTICLE 17 RE: Wildwood School/Engineer for Demolition

To see if the Town will raise and appropriate, transfer from available, borrow or otherwise provide the sum of \$80,000 or any other sum for the purpose of preparing specification and bid documents for the demolition/deconstruction of the Wildwood School, or to act in any other manner in relation thereto.

MAIN MOTION: To see if the Town will raise and appropriate the sum of \$80,000 for the purpose of preparing specification and bid documents for the demolition/deconstruction of the Wildwood School.

Recommendations: Ways & Means voted 11-1-0 in favor.
Capital Budget voted 6-0-0 in favor.

ACTION: MAJORITY APPROVED MAIN MOTION

ARTICLE 18 RE: Amendment Zoning Bylaw Article VIII, 8.5.0/Town Center Overlay Districts

To see if the Town Meeting will vote to amend Zoning Bylaw Article VIII, 8.5.0/Town Center Overlay Districts, Section 8.5.5.5 "Minimum Buffer to Adjoining RO Districts", by deleting the existing second sentence and substituting a new sentence, as follows: "For the purposes of the town center districts, adjoining RO Districts shall include lots located across a private or public way, but said buffer shall not apply where such way provides the only means of frontage and access to the subject property in the CC or CBD District."

Section 8.5.5.5 Minimum Buffer to Adjoining RO Districts, would then provide:

The minimum buffer to adjoining residentially zoned property shall be 20% of the average depth and/or width of the lot as

applicable, with a minimum of 25' and a maximum requirement of 50'. For the purposes of the town center districts, adjoining RO Districts shall include lots located across a private or public way, but said buffer shall not apply where such way provides the only means of frontage and access to the subject property in the CC or CBD District. The buffer shall consist of natural vegetation and/or landscaping designed and constructed to mitigate the impact of any commercial use within the CC or CBD Districts on the abutting residential district. The buffer shall be designed and constructed to minimize the visual effect of the bulk and height of buildings, structures, parking areas, lights, or signs, and shall be kept free of encroachment by all buildings, structures, storage areas, and parking, except that bicycle paths and fences may be sited within such buffer area if approved pursuant to a site plan review by the Planning Board but subject to a minimum 20' setback for bicycle paths, or to act in any other manner in relation thereto.

MAIN MOTION: WITHDRAWN

ARTICLE 19 RE: South Avenue Planned Development District

To see if the Town will vote to approve the Concept Plan filed with the Planning Board on (insert date), and as modified, included as part of the backup material to this Warrant Article, which shall govern the use and development of the proposed Planned Development (PD) District; and to amend the Zoning Map to rezone certain parcels of land from General Industrial (IG) District to a Planned Development (PD) District, said parcels generally known as 43, 63 South Avenue and 33 Second Avenue and as more specifically identified on the Town of Burlington Assessor's Maps by the following Map and Parcel numbers: 51-10-0, 51-11-0 and 45-2-0.

The aforementioned parcels are further described as follows:

Certain parcels of land located in the Town of Burlington, County of Middlesex, Massachusetts, situated on the easterly side of Route 3.

Said parcels being further bounded and described as follows:

Beginning at a point located easterly from Route 3 at the southwesterly corner of Lot 0, Block 10 on assessors Map 51, said point being the POINT OF BEGINNING; thence,

Along the easterly side of Route 3 the following three courses:

N25°43'54"W, a distance of 500.21' feet (five hundred and 21/100 feet) to a point,

Along a curve to the left having a radius of 12,250.00 feet (twelve thousand two hundred fifty feet) and a distance of 1120.00' feet (one thousand one hundred twenty and 00/100 feet) to a concrete bound with drill hole found at the northwesterly corner of the lot described herein; thence,

Along the land now or formerly of Northwest Industrial Park Tr. c/o Nordblom Co. N63°24'50"E, a distance of 270.01' feet (two hundred seventy and 01/100 feet) to a concrete bound with drill hole found; thence,

Along Second Avenue the following three courses:

S30°35'45"E, a distance of 160.00' feet (one hundred sixty and 00/100 feet) to a point,

N63°24'50"E, a distance of 207.28' feet (two hundred seven and 28/100 feet) to a point,

Along a curve to the right having a radius of 20.00 feet (twenty and 00/100 feet) and a distance of 31.42' feet (thirty one and 42/100 feet) to a point; thence,

Along the westerly side of South Avenue the following two courses:

S26°35'10"E, a distance of 1239.45' feet (one thousand two hundred thirty nine and 45/100 feet) to a point,

Along a curve to the left having a radius of 62.00 feet (sixty two and 00/100 feet) and a distance of 81.18' feet (eighty one and 18/100 feet) to a concrete bound with drill hole found; thence,

Along the land now or formerly of Burlington Theater LP c/o Davies Companies the following two courses:

S78°23'50"W, a distance of 202.86' feet (two hundred two and 86/100 feet) to a point,

S43°06'30"W, a distance of 148.76' feet (one hundred forty eight and 76/100 feet) to a point; thence,

Along the land now or formerly of Paul A. Calvo Tr. The following two courses:

S25°56'50"W, a distance of 213.80' feet (two hundred thirteen and 80/100 feet) to a point,

S36°53'16"W, a distance of 24.83' feet (twenty four and 83/100 feet) to the POINT OF BEGINNING.

Said parcels contain a total of 680,054 square feet or 15.61 acres, more or less in the Town of Burlington, Massachusetts

Being the same premises shown on the Concept Plan entitled "SOUTH AVENUE PLANNED DEVELOPMENT DISTRICT CONCEPT PLAN", dated July 31, 2007, or to act in any other manner in relation thereto.

MAIN MOTION: As Printed In the Warrant

A motion to amend the Concept Plan, Article 10 by adding the following sentence "In no event shall anything herein override the town's local wetlands bylaws" was moved and seconded. Amendment carried.

Recommendations: Planning Board voted unanimously in favor. Land Use voted 6-1-0 in favor.

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

The Moderator asked for a Roll Call.

ACTION: BY A ROLL CALL VOTE OF 55 IN FAVOR AND 12 OPPOSED, THE MAIN MOTION AS AMENDED WAS APPROVED

App'd. A.G. Posted

At 11:40 P.M., a motion to adjourn was moved, seconded and so voted.

Attest:
Eleanor M. Gelinis
Assistant Town Clerk