

**ADJOURNED TOWN MEETING  
MONDAY, JANUARY 28, 2008  
FOGELBERG AUDITORIUM – BHS**

A quorum being present, the meeting was called to order at 7:40 P.M. The MSMS Acappella Singers opened the meeting with the National Anthem and performed a couple of other tunes for the members.

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**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 Bike Committee presented a report to the members. The Ways and Means Committee gave a financial overview.

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**ARTICLE 2 RE: Recreation/Simonds Trust**

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

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

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

**ACTION: MAJORITY APPROVED MAIN MOTION**

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**ARTICLE 3 RE: Purchase of Voting Booths**

To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$24,000, or any other amount for the purchase of new voting booths, same to be spent under the direction of the Town Clerk, 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 \$24,000 for the purchase of new voting booths, same to be spent under the direction of the Town Clerk.

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

**ACTION: MAJORITY APPROVED MAIN MOTION**

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**ARTICLE 4 RE: Funding Immigration and Customs Enforcement (ICE)**

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 for legal services associated with the appeal(s) of the ICE facility in Burlington, 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 \$100,000 for legal services associated with the appeal(s) of the ICE facility in Burlington.

Recommendations: Ways & Means voted 9-4-0 in favor.

A motion to amend by adding the words "same to be spent under the direction of the Moderator" was moved, seconded and so voted.

A motion to end debate was moved, seconded and failed. After more debate, a motion to end debate was moved, seconded and so voted.

The Moderator called for a roll call vote.

**ACTION: BY A ROLL CALL VOTE OF 44 IN FAVOR AND 51 OPPOSED, THE MAIN MOTION AS AMENDED FAILED.**

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**ARTICLE 5 RE: Funding Burlington Police Patrolmen's Association Contract**

To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$120,000, or any other amount for the salary increases for the Burlington Police Patrolmen's Association collective bargaining agreement, or to act in any other manner in relation thereto.

**ACTION: WITHDRAWN**

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**ARTICLE 6 RE: Landlocked Parcel/Consulting Services**

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 for expert real estate appraisal services, engineering consulting services and other professional expertise to evaluate the value and marketability of the landlocked parcel, 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 expert real estate appraisal services, engineering consulting services and other professional expertise to evaluate the value and marketability of the landlocked parcel.

Recommendations: Ways & Means voted 11-1-0 in favor.  
Selectmen voted 5-0 in favor. Land Use voted 3-4 in opposition.

**ACTION: MAJORITY DEFEATED MAIN MOTION**

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**ARTICLE 7 RE: Superintendent Search Process**

To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$25,000 or any other amount, for the costs associated, with conducting a comprehensive search for the position of Superintendent of Schools. Cost to include all advertisements, consulting fees, printing and postage; including the payment of all costs incidental and related thereto, and to be expended at 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 transfer from Free Cash the sum of \$25,000 for the costs associated, with conducting a comprehensive search for the position of Superintendent of Schools. Cost to include all advertisements, consulting fees, printing and postage; including the payment of all costs incidental and related thereto, and to be expended at the direction of the School Committee.

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

**ACTION: MAJORITY APPROVED MAIN MOTION**

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**ARTICLE 8 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 \$150,000 or any other amount to place in the FY 2008 Reserve Fund budget, or to act in any other manner in relation thereto.

**MAIN MOTION:** To see if the Town will vote to transfer from available Free Cash the sum of \$150,000 to place in the FY 2008 Reserve Fund budget.

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

**ACTION: MAJORITY APPROVED THE MAIN MOTION**

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**ARTICLE 9 RE: Transfer of Free Cash to Stabilization Fund**

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

**MAIN MOTION:** To see if the Town will vote to from Free Cash the sum of \$500,000 to place in the Town's Stabilization Account.

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

**ACTION: UNANIMOUSLY APPROVED THE MAIN MOTION**

**ARTICLE 10 RE: Discontinuance of Lexington Street/YU 66 Corporation**

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 "Lot Consolidation and Easement Plan No. 1 Wheeler Road, Burlington, Mass." prepared by Harry R. Feldman, Inc. dated November 12, 2007, and pursuant to MGL Chapter 40, Section 15 to transfer from the Board of Selectmen for public way purposes to the Board of Selectman 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 024471] for such consideration and on such terms as the Selectmen may determine, providing that any such consideration shall include the transfer of easements rights to the easement areas shown on said plan and a payment of \$10,000 to the Town, 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: Ways & Means voted 12-0-0 in favor. Land Use voted 7-0-0 in favor.

**ACTION: UNANIMOUSLY APPROVED MAIN MOTION**

**ARTICLE 11 RE: Amend Administrative and Professional Plan**

To see if the Town will vote to amend the current Administrative and Professional Classification Plan by adding the new title of "Director of Parks and Recreation" to Group 14 of said plan, or act in any other manner in relation thereto.

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

**ACTION: MAJORITY APPROVED THE MAIN MOTION**

**ARTICLE 12 RE: Ratify Action of September Town Meeting**

To see if the Town will vote to ratify, validate and confirm the action taken at the September 24, 2007 Town Meeting, excluding action taken under articles 8 and 19, as set forth in the Town Clerk's September 24, 2007, meeting minutes, which minutes which include the full text of all the articles considered at that meeting and the votes taken thereunder, and which minutes and articles are hereby incorporated herein in their entirety and are appended to this warrant, including articles relative to the approval and adjustment of certain real estate exemptions, a request for special legislation relative to amendment of 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, discontinuance and abandonment of certain roads, questions relative to appropriations and borrowing authorizations for drainage structure improvements and design/engineering services for the Terrace Hall Bypass Sewer Project and removing sources of inflow and infiltration into the Town's sewer system, and various appropriations, with the vote to be taken hereunder to be considered a separate vote on each article on the September 24, 2007 Town Meeting warrant, or to act in any other manner in relation thereto. (September 24, 2007 Town Meeting Minutes included in the Warrant)

**ACTION: WITHDRAWN**

**ARTICLE 13 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.

**ACTION: WITHDRAWN**

**ARTICLE 14 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.

**ACTION: WITHDRAWN**

**ARTICLE 15 RE: Amend Zoning Bylaw Article IV, Principal Use Regulation Schedule; Section 4.2.6 Retail, Consumer, and Trade Uses**

To see if the Town will vote to amend Article IV of the Zoning Bylaw, as follows:

TO amend Section 4.2.6.2 "Convenience food stores, drugstores, ..." by changing the use designation in the CC and CBD Districts from YES1 to SP1.

AND further to amend Section 4.2.6.3.A "Retail stores other than above and showrooms, each tenant less than 20,000 sq. ft.", by deleting "20,000 sq. ft." and substituting therefore "7,500 sq. ft."

AND further to amend Section 4.2.6.3.B "Retail stores other than above and showrooms, any individual tenant greater than 20,000 sq. ft.", by deleting "20,000 sq. ft." and substituting therefore "7,500 sq. ft." (see PRINCIPAL REGULATION SCHEDULE ON NEXT PAGE)

**MAIN MOTION:** To see if the Town will vote to amend Article IV of the Zoning Bylaw, as follows:

TO amend Section 4.2.6.2 "Convenience food stores, drugstores, ..." by changing the use designation in the CC and CBD Districts from YES1 to SP1.

AND further to amend Section 4.2.6.3.A "Retail stores other than above and showrooms, each tenant less than 20,000 sq. ft.", by deleting "20,000 sq. ft." and substituting therefore "10,000 sq. ft."

AND further to amend Section 4.2.6.3.B "Retail stores other than above and showrooms, any individual tenant greater than 20,000 sq. ft.", by deleting "20,000 sq. ft." and substituting therefore "10,000 sq. ft."

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

**ACTION: UNANIMOUSLY VOTED MAIN MOTION**

**App. A.G. Posted**

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

Attest:  
Jane L. Chew  
Town Clerk