

WARRANT

**Burlington Town Meeting
September 24, 2007
@ 7:30 P.M.**



**Burlington High School
Fogelberg Auditorium
123 Cambridge Street
Burlington, MA**

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Burlington Town Meeting
September 24, 2007

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WARRANT

BURLINGTON TOWN MEETING

MONDAY, SEPTEMBER 24, 2007

In accordance with the provisions of Chapter 686 of the Acts of 1970 of the Commonwealth of Massachusetts, you are hereby notified that the Town Meeting Representatives of the Town of Burlington will meet in general assembly at the Burlington High School, Fogelberg Auditorium, in said Town, the 24th of September 2007 at seven-thirty o'clock in the evening then and there to act on the following articles of the warrant:

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.

Submitted by the Board of Selectmen
at the request of the Rules Committee

PASSED () DEFEATED () POSTPONED INDEFINITELY () OTHER ()

GENERAL ARTICLES

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.

Submitted by the Board of Selectmen
at the request of the Town Clerk

PASSED () DEFEATED () POSTPONED INDEFINITELY () OTHER ()

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.

Submitted by the Board of Selectmen
at the request of the Board of Assessors

PASSED () DEFEATED () POSTPONED INDEFINITELY () OTHER ()

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.

Submitted by the Board of Selectmen
at the request of the Board of Assessors

PASSED () DEFEATED () POSTPONED INDEFINITELY () OTHER ()

GENERAL ARTICLES (continued)

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.

Submitted by the Board of Selectmen
at the request of the Town Administrator

PASSED () DEFEATED () POSTPONED INDEFINITELY () OTHER ()

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.

Submitted by the Board of Selectmen
at the request of the Town Administrator

PASSED () DEFEATED () POSTPONED INDEFINITELY () OTHER ()

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

GENERAL ARTICLES (continued)

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 .

Submitted by the Board of Selectmen at the
request of the Town Administrator

PASSED () DEFEATED () POSTPONED INDEFINITELY () OTHER ()

GENERAL BYLAW ARTICLES

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.

GENERAL BYLAW (continued)

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.

Submitted by Board of Selectman
at the request of the Fire Chief

PASSED () DEFEATED () POSTPONED INDEFINITELY () OTHER ()

FINANCIAL ARTICLES

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.

AMOUNT: \$1,000,000

Submitted by the Board of Selectmen
at the request of the Town Administrator.

PASSED () DEFEATED () POSTPONED INDEFINITELY () OTHER ()

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.

AMOUNT: \$440,000

Submitted by Board of Selectmen
at the request of the Town Administrator

PASSED () DEFEATED () POSTPONED INDEFINITELY () OTHER ()

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.

AMOUNT: \$196,000

Submitted by Board of Selectmen
at the request of the School Committee

PASSED () DEFEATED () POSTPONED INDEFINITELY () OTHER ()

FINANCIAL ARTICLES (continued)

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

AMOUNT: \$27,000

Submitted by Board of Selectmen
at the request of the School Committee

PASSED () DEFEATED () POSTPONED INDEFINITELY () OTHER ()

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.

AMOUNT: \$73,800

Submitted by the Board of Selectmen
at the request of the Town Administrator

PASSED () DEFEATED () POSTPONED INDEFINITELY () OTHER ()

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.

AMOUNT: \$_____

Submitted by the Board of Selectmen
at the request of the Town Administrator

PASSED () DEFEATED () POSTPONED INDEFINITELY () OTHER ()

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.

AMOUNT: \$_____

Submitted by the Board of Selectmen
at the request of the Town Administrator

PASSED () DEFEATED () POSTPONED INDEFINITELY () OTHER ()

FINANCIAL ARTICLES (continued)

FINANCIAL ARTICLES (continued)

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.

AMOUNT: \$21,486

Submitted by the Board of Selectmen
at the request of the Town Accountant

PASSED () DEFEATED () POSTPONED INDEFINITELY () OTHER ()

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.

AMOUNT: \$80,000

Submitted by the Board of Selectmen
at the request of the Town Administrator

PASSED () DEFEATED () POSTPONED INDEFINITELY () OTHER ()

ZONING ARTICLES

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.

Submitted by the Board of Selectmen
at the request of the Planning Board

PASSED () DEFEATED () POSTPONED INDEFINITELY () OTHER ()

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.

ZONING ARTICLES (continued)

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,

ZONING ARTICLES (continued)

ZONING ARTICLES (continued)

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.

Submitted by the Board of Selectmen
at the request of the Planning Board

PASSED () DEFEATED () POSTPONED INDEFINITELY () OTHER ()

THE COMMONWEALTH OF MASSACHUSETTS

To either of the Constables of the Town of Burlington in the County of Middlesex Greeting.

You are hereby directed to serve this warrant by posting up attested copies thereof at the billboard at the Town Hall, in said Town, at least fourteen days before the Town Meeting of September 24, 2007 at Fogelberg Auditorium, 123 Cambridge Street, Burlington High School.

HEREOF FAIL NOT, to make due return of the warrant, with your doings thereon, to the Town Clerk, at the time and place of meeting as aforesaid

Given under our hands this 7th day of September in the year of our Lord 2007

Albert L. Fay, Jr., Chairman
Sonia Rollins, Vice-Chairman
Gary J. Gianino
Ralph C. Patuto
Walter T. Zenkin

SELECTMEN OF BURLINGTON, MASSACHUSETTS

A true copy attest.

_____ Constable

Dated _____

Middlesex ss

Pursuant to the within warrant, I have notified and warned the inhabitants of the Town of Burlington by posting up an attested copy of the same at the billboard in the Town Hall and as within directed, at least fourteen days before Town Meeting, September 7, 2007.

s/s _____
Constable of Burlington

A copy of the warrant was mailed to each Town Meeting Member, the Town Moderator and the Town Clerk on the 7th day of September, 2007.

Attest: Jane L. Chew, Town Clerk