

WARRANT

**Burlington Town Meeting
September 22, 2008
@ 7:30 P.M.**



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

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 Burlington Town Meeting
 September 22, 2008

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WARRANT

BURLINGTON TOWN MEETING

MONDAY, SEPTEMBER 22, 2008

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 22nd of September 2008 at seven-thirty o'clock in the evening then and there to act on the following articles of the warrant:

ARTICLE 1

RE: Report 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 2009 Annual Town Election Date

To see if the Town will vote to set the date of the 2009 Annual Town Election as Saturday, April 4, 2009 or to act in any other 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: Jackie's Law MGL Chapter 82A

To see if the Town will vote to designate the Building Inspector or his designee and the Public Works Superintendent or his designee as the trench permitting authority in accordance with Chapter 82A of the Massachusetts General Laws, 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 ()

GENERAL BYLAW ARTICLES

ARTICLE 4

RE: Home Rule Petition/Police Officer

To see if the Town will vote to request and authorize the Board of Selectmen to file a Home Rule Petition with the General Court so as to permit Louis Magliozzi of 90 Drake Road to apply for the position of Police Officer in the Town's Police Department notwithstanding the fact that the Town has not accepted the provisions of Section 61A and 61B of Chapter 31 of the General Laws and further notwithstanding the fact that Mr. Magliozzi's age is in excess of 32 years, or to act in any other manner in relation thereto.

Submitted by the Board of Selectmen at the request
of
Town Meeting Member Donald Barrucci,
Jr./Precinct I

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

ARTICLE 5

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 Board of Selectmen at the request of
the Town Administrator

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

ARTICLE 6

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 and to increase the amount of income allowed for said exemption from \$13,000 to \$20,000 annually for single and from \$15,000 to \$30,000 annually for married couple and to increase gross assets from \$28,000 to \$40,000 for a single applicant and from \$30,000 in gross assets to \$55,000 for a married couple.

Submitted by Board of Selectmen at the request of

the Town Administrator

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

FINANCIAL ARTICLES

ARTICLE 7 RE: Capital Items/General Obligation Bonds

To see if the Town will vote to appropriate \$8,100,000 or some other amount, to be expended at the direction of the Selectmen, to pay for the following Capital Projects, including any and all costs incidental and related thereto:

Road Construction and Paving	\$1,000,000
AMR (Install Town Wide Automated Meters)	\$1,500,000
Terrace Hall Force Main	\$3,000,000
High School/FWS roof(s)	\$1,600,000
Grandview Farm Complex	\$1,000,000

and to determine whether the appropriation described in the article should be raised by taxation, transfer from available funds, borrowing or otherwise or to take any other action in relation thereto

AMOUNT: \$ 8,100,000 Submitted by the Board of Selectmen at the request of the Town Administrator

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

ARTICLE 8 RE: Sale of Town-owned Lot

To see if the Town will vote to authorize the Board of Selectmen to sell an existing single family lot on South Bedford Street identified as Parcel 4, Map 47 on the Assessor’s maps for construction of a single residential home to pay for the cost of remodeling/reconstruction of the Grandview Farm complex, or to act in any other manner in relation thereto.

AMOUNT: -0- Submitted by the Board of Selectmen at the request of the Town Administrator

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

ARTICLE 9 RE: Fund the DPW Contract

To see if the Town 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 Department of Public Works Union (Local 1703) for Fiscal Year 2009, same to be spent under the appropriate authority, or to act in any other manner in relation thereto.

AMOUNT: \$
of

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 10

RE: Fund the BMEA Contract

To see if the Town 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 Burlington Municipal Employees Association (Local 1703) for Fiscal Year 2009, same to be spent under the appropriate authority, or to act in any other manner in relation thereto.

AMOUNT: \$
of

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

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

ARTICLE 11

RE: Fund the BPPA Contract

To see if the Town 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 Burlington Police Patrolmen's Association for Fiscal Year 2009, same to be spent under the appropriate authority, or to act in any other manner in relation thereto.

AMOUNT: \$
of

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

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

ARTICLE 12

RE: Fund the IBPO Contract

To see if the Town 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 International Brotherhood of Police Officers for Fiscal Year 2009, same to be spent under the appropriate authority, or to act in any other manner in relation thereto.

AMOUNT: \$
of

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

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

Route 62, and Lexington and Bedford; and to make a recommendation to the Town on a potential land use plan for the site, and furthermore to raise and appropriate the sum of \$50,000 to pay for technical and professional services to complete the tasks associated with this article or to act in any other manner in relation thereto.

AMOUNT: \$ 50,000
of

Submitted by the Board of Selectmen at the request
of
the Landlocked Parcel Committee

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

(Financial Articles continued)

FINANCIAL ARTICLES (continued)

ARTICLE 16

RE: Sewer I/I Fund

To see if the Town will vote to transfer from the Sewer Inflow/Infiltration fund the sum of \$179,146 for the purpose of paying the FY2009 debt service on the Town's three existing 0% MWRA loans, or to act in any other manner in relation thereto.

AMOUNT: \$ 179,146
of

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

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

ARTICLE 17

RE: Police Department Software

To see if the town will vote to enter into a ten-year lease with Information Management Corporation to provide public safety software to the Burlington Police Department, said lease to begin on July 1, 2009, or to act in other manner in relation thereto.

AMOUNT: -0-

Submitted by Board of Selectmen at the request of
the Chief of Police

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

ARTICLE 18

**RE: Adjustment of Real Estate Tax
(Thorstensen Property)**

To see if the Town will vote, pursuant to M.G.L. Chapter 61B, to accept the classification/Tax Abatement of Lots 57-1-0; 57-2-0; 57-3-0; 57-4-0; 57-5-0; 57-6-0; 57-7-0; 57-8-0; 57-9-0; and 56-29-0 in totality as seen on the Assessor's Maps # 56 & 57, as 'Recreational land and uses', or to act in any other manner in relation thereto.

of

Submitted by the Board of Selectmen at the request
of
Town Meeting Member John Cormier/Precinct 6
on behalf of the 'Friends of Mary Cummings Park'

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

(Financial Articles continued)

FINANCIAL ARTICLES (continued)

ARTICLE 19

RE: Ice Palace Lease

To see if the Town will vote to authorize the Board of Selectmen to lease for a term or terms not to exceed ten (10) years in total, or such other terms and conditions as the Selectmen may determine, the premises known as the Burlington Ice Palace together with all appurtenant facilities including but not limited to all refrigeration and ice maintenance equipment, snack bar, pro-shop inventories and equipment as well as the parking area for the premises located at 36 Ray Avenue, Burlington, Massachusetts or to act in any other manner in relation thereto.

AMOUNT: \$
of

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

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

ARTICLE 20

RE: Sidewalks on South Bedford Street

To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$ 250,000 or any other sum for the purpose of constructing a sidewalk along South Bedford Street from the corner of Lexington Road to the intersection with Mall Road, or to act in any other manner in relation thereto.

AMOUNT: \$250,000
of

Submitted by the Board of Selectmen at the request
of
Ten Registered Voters (see backup)

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

ZONING BYLAW ARTICLES

ARTICLE 21

RE: Inclusionary Zoning Bylaw Admend Article II

To see if the Town will vote to amend Article II of the Zoning Bylaw, by adding the following new definitions:

2.1.7 Affordable Housing Unit -- A dwelling unit that can be purchased at an annual cost that is deemed affordable for a household that is earning no more than 70% of the area median income as reported by the U.S. Department of Housing and Urban Development (HUD) and/or the Massachusetts Department of Housing and Community Development (DHCD).

2.65.2 Qualified affordable housing unit purchaser -- An individual or family with a household income that does not exceed 80% of the area median income, with adjustments for household size, as reported by the most recent information from the United States Department of Housing and Urban Development and/or Massachusetts Department of Housing and Community Development.

AND Further to see if the Town will vote to amend Article V of the Zoning Bylaw, by deleting the existing Section 5.1.9 “Development Incentive for Affordable Housing”, and to substitute therefore a new Section 5.1.9 “Inclusion of Affordable Housing”, as follows:

5.1.9 Inclusion of Affordable Housing

5.1.9.1 Purpose and Intent - The purpose of this Bylaw is to increase the supply of housing in the Town of Burlington that is available to and affordable by low income or moderate income households who might otherwise have difficulty in finding homes in Burlington, and to ensure that such housing is affordable over the long-term and provided in accordance with the requirements of Massachusetts General Law Chapter 40B and its implementing regulations, the 1997 Housing Element of the Burlington Master Plan, the 2004 Community Development Plan, and other ongoing programs within the Town of Burlington and its Housing Partnership. It is intended that the affordable dwelling units authorized under the provisions of this Bylaw be considered as Local Initiative Program (LIP) dwelling units in compliance with the requirements for the same as specified by the Massachusetts Department of Housing and Community Development (DHCD), or successor, or additional programs adopted by the Commonwealth or its agencies, and that said units count toward Burlington’s requirements under Massachusetts General Law Chapter 40B, Sections 20-23, as amended.

5.1.9.2 Applicability

5.1.9.2.1 Beginning with the effective date of this Bylaw, any development or division of land which will result in the creation of six (6) or more dwelling units, shall require a Special Permit from the Planning Board, whether created through Massachusetts General Law 40A (commonly known as the Zoning Act), Massachusetts General Law Chapter 41, Sections 81-K through 81-GG (commonly known as the Subdivision Control Law), or other provisions of this Zoning Bylaw. The Planning Board shall include as a condition of said permit that:

(Zoning Bylaw Articles continued)

Zoning Bylaw Articles (continued)

- A. At least 10% of the units, and in no case less than one unit, be priced for qualified affordable housing purchasers;
- B. The mix of affordable dwelling units and market rate housing built in any one year be equivalent to the overall mix for the entire development;
- C. Deed restrictions, acceptable to the Town, and established in accordance with the standards of DHCD or successor or additional programs adopted by the Commonwealth or its agencies, shall be placed on the appropriate property to ensure that affordable dwelling units created under this section shall remain affordable dwelling units in perpetuity or for as long a period as is allowed by law.

5.1.9.2.2 Dwelling units shall be considered as part of a single development if located either on a single parcel or contiguous parcels of land which have been in the same ownership at any time subsequent to the date of adoption of this Section, 5.1.9, Inclusion of Affordable Housing.

5.1.9.3 Inclusion of Affordable Housing Regulations -- The Planning Board shall adopt and maintain regulations incorporating the necessary policies, procedures, and requirements to implement the provisions of this Section.

5.1.9.4 Provision of Affordable Dwelling Units -- Affordable dwelling units required under Section 5.1.9.2.1 may be provided in any one or combination of methods described below, subject to the approval of the Planning Board:

- A. Constructed on the parcel or parcels subject to the Special Permit;
- B. Constructed on a parcel or parcels different than the one subject to the Special Permit;
- C. An applicant may offer, and the Planning Board, in concert with the Board of Selectmen may accept, donations of land in fee simple, on or off the parcel or parcels, that the Planning Board determines are suitable for the construction of an equivalent number of affordable dwelling units. The Planning Board may require, prior to acceptance of land by the Town, satisfaction of the requirements of this Section 5.1.9, that the applicant

submit appraisals of the land in question, as well as other data relevant to the determination of value;

- D. For fractional affordable dwelling units, the applicant may round up to the next whole number of units or choose to pay equivalent fees-in-lieu of units (see Section 5.1.9.6) proportionate to the percentage of the units required;
- E. Preservation of existing dwelling units as affordable dwelling units through the purchase of deed restrictions.

5.1.9.5 Provisions Applicable to Affordable Dwelling Units On- and Off-Site

5.1.9.5.1. Allowed types of Affordable Dwelling Units:

- A. Single-family Dwellings;
- B. Single-family Dwellings with Accessory Apartments;

(Zoning Bylaw Articles continued)

Zoning Bylaw Articles continued

- C. Multi-family Dwellings;
- D. Accessory uses and structures incidental to principal uses indicated above and approved by the Planning Board.

5.1.9.5.2. Siting of Affordable Dwelling Units. All affordable dwelling units that are constructed under this Section 5.1.9 shall be situated within the development so as not to be in less desirable locations than market-rate units in the development and shall, on average, be no less accessible to public amenities, such as open space, as the market-rate units. The Site Plan shall identify those lots selected for Affordable Dwelling Units.

5.1.9.5.3. Minimum Design and Construction Standards for Affordable Dwelling Units. Affordable Dwelling Units within market-rate developments shall be integrated with the rest of the development and shall be compatible to the extent practicable in exterior design and appearance with other units, to the extent that such regulation is not inconsistent with Massachusetts General Laws Chapter 40B, Section 3.

5.1.9.5.4. With the approval of the Planning Board, as an alternative to the requirements of Section

5.1.9.4.A, an applicant subject to the Bylaw may develop, construct or otherwise provide affordable dwelling units equivalent to those required by Section 5.1.9.2.1 on land other than the parcel or parcels that are the subject of the Special Permit. To the maximum extent practicable, all requirements of this Section 5.1.9 that apply to on-site provision of affordable dwelling units shall apply to provision of off-site affordable dwelling units. In addition, the Planning Board shall approve the location of the off-site units to be provided as an integral element of the Special Permit review and approval process.

5.1.9.6 Fees-in-Lieu of Affordable Dwelling Unit Provision -- As an alternative to the requirements of Section 5.1.9.2.1, and as allowed by law and with the approval of the Planning

Board, an applicant may contribute an amount in cash equal to the costs of constructing such affordable dwelling units, and satisfactory to the Planning Board in consultation with other relevant Town boards and departments, to the Town of Burlington Housing Partnership or its designee for the development and preservation of affordable housing, in consultation with the Planning Board and other appropriate Town boards and departments, in lieu of constructing and offering affordable dwelling units within the parcel or parcels of the proposed development or off-site, as set forth in Section 5.1.9.6.1 below.

5.1.9.6.1. Calculation of fees-in-lieu of units. The applicant for development subject to this Section 5.1.9 may pay fees-in-lieu of the construction of an affordable dwelling unit. For the purposes of this provision, the fees-in-lieu of the construction or provision of each affordable dwelling unit is determined to be three (3) times 80% of the median income for a household of four (4), as reported by the most recent information from the United States Department of Housing and Urban Development (HUD) and/or the Massachusetts Department of Housing and Community Development (DHCD) in the Standard Metropolitan Statistical Area in which the Town is located.

(Zoning Bylaw Articles continued)

Zoning Bylaw Articles (continued)

5.1.9.7 Marketing Plan for Affordable Units -- Applicants under this Bylaw shall submit a marketing plan or other method approved by the Planning Board to the Burlington Housing Partnership for approval, which describes how the affordable units will be marketed to potential buyers or tenants. The plan shall include a description of the lottery or other process to be used for selecting buyers or tenants. The marketing plan must describe how the applicant will accommodate local preference requirements, if any, established by the Board of Selectmen, in a manner that complies with the nondiscrimination in tenant or buyer selection guidelines of the Local Initiative Program.

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

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

ARTICLE 22

**RE: Rezone City of Boston Property to
Open Space District**

To see if the Town will vote to rezone the following parcels from RO (One Family Dwelling) District to OS (Open Space) District, and amend the Town of Burlington Zoning Map accordingly, as follows: Property known as City of Boston land, also referred to as the Cummings Estate or Mary Cummings Park, comprised of lands shown on Assessor's Map 54 as Parcels 16 (148.0 acres), 12 (7.6 acres) and 18 (4.4 acres), or to act in any other manner in relation thereto.

Submitted by Board of Selectmen at the request of
Ten Registered Voters (see backup)

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 22, 2008 at Fogelberg Auditorium, 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 5th day of September in the year of our Lord 2008

Sonia Rollins, Chairman
Gary J. Gianino, Vice Chairman
Albert L. Fay, Jr.
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 of September 22, 2008.

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 5th day of September, 2008.

Attest: Jane L. Chew, Town Clerk