



MINUTES

BOARD OF SELECTMEN

IN BOARD OF SELECTMEN TUESDAY, APRIL 21, 2015 6th FLOOR HEARING ROOM

Present: Chairman Kenneth Goldstein, Selectman Nancy Daly
Selectman Betsy DeWitt, , Selectman Neil Wishinsky,
Selectman Benjamin J. Franco

ANNOUNCEMENTS/UPDATES

Selectmen to announce recent and/or upcoming Events of Community Interest and report on activities related to carrying out the responsibilities of the Board.

SELECTMEN UPDATES

Reports by individual Selectmen on activities related to carrying out the responsibilities of the Board.

The Patriot's Day events were successful, which included the ride of William Dawes at the Devotion House and the Boston Marathon. Selectman Daly raised the ongoing concerns about spectator barriers and street crossings at the marathon event. Many people were not allowed to cross Beacon Street for hours in the rain, and the barricades hold people in which could be dangerous in an emergency.

The 1848 Reservoir Gatehouse is now listed as a National Historic Landmark.

April 22, 2015 is Earth Day.

April 22, 2015 the League of Woman Voters is holding a forum on the Override ballot question at the Senior Center.

PUBLIC COMMENT

Public Comment period for citizens who requested to speak to the Board regarding Town issues not on the Calendar.

Public Comment Guidelines, adopted by the Board in May 2007, and amended May 14, 2013, are that (1) up to 15 minutes at the beginning of each meeting may be open to the public for public comment. (2) Each speaker is limited to 3 minutes for comment. (3) Each speaker may comment once every four meetings on a different topic. (4) Members of the Board will not comment or respond, unless there is a question of clarification. (5) Speakers must notify the Selectmen's Office (617)730-2211 by Friday to sign up for the next Tuesday's meeting so that we can schedule time.

On motion it was,

Voted to approve the minutes of April 14, 2015 as amended.

GRANT

[Question of accepting a grant in an amount not to exceed \\$12,516.26 from the Office of Emergency Management \(EOM\) in connection with the Urban Areas Security Initiative \(UASI\) 2014 funding under the Critical Infrastructure Investment Area for the Town's Cyber Security and Resiliency Project \(Cyber Security Awareness Training\).](#)

Chief Information Officer Kevin Stokes stated that this grant will provide improvements to cyber security, mainly on the user standpoint. As public employees, the emails are public, and the system receives many unwanted emails. These funds will help place safeguards by educating the users.

Selectman Daly asked about this department being integrated with the School's technology department as some have recommended offsetting an override. Mr. Stokes replied that the skill sets differ. The schools require more of an education background in assisting their technology needs.

On motion it was,

Voted to accept a grant in an amount not to exceed \$12,516.26 from the Office of Emergency Management (EOM) in connection with the Urban Areas Security Initiative (UASI) 2014 funding under the Critical Infrastructure Investment Area for the Town's Cyber Security and Resiliency Project (Cyber Security Awareness Training).

Aye: Kenneth Goldstein, Nancy Daly, Betsy DeWitt, Neil Wishinsky, Benjamin J. Franco

GIFT

[Question of accepting a gift in the amount of \\$500 from the Century Bank in connection with the Poet Laureate program.](#)

Deputy Town Administrator Melissa Goff stated that this has been an annual gift in recent years to help support the Poet Laureate program.

On motion it was,

Voted to accept a gift in the amount of \$500 from the Century Bank in connection with the Poet Laureate program.

Aye: Kenneth Goldstein, Nancy Daly, Betsy DeWitt, Neil Wishinsky, Benjamin J. Franco

EXTRA ORDER

[Question of approving Extra Order #1 in the amount of \\$26,000.00 for work performed by Premier Fence, LLC in connection with Contract No.PW/14-02 "Repair and Installation of Chain Link Fencing".](#)

Director of Parks and Open Spaces Erin Gallentine stated that each year there is a fence repair and replacement contract. This year there are additional funds to the contract due to snow related damages. An inventory was performed and the repairs were itemized.

On motion it was,

Voted to approve Extra Order #1 in the amount of \$26,000.00 for work performed by Premier Fence, LLC in connection with Contract No.PW/14-02 "Repair and Installation of Chain Link Fencing".

Aye: Kenneth Goldstein, Nancy Daly, Betsy DeWitt, Neil Wishinsky, Benjamin J. Franco

AMENDMENT

[Question of approving and executing Amendment #1 in the amount of \\$83,817.00 with BETA Group, Inc. in connection with Contract No. PW/14-22 "Wastewater Master Plan Update, Infiltration and Inflow \(I/I Investigation and Sewer System Rehabilitation - Subareas NI-9, 10 &11\)".](#)

Director of Engineering Peter Ditto stated that in December 2013 the Board awarded a contract with BETA Group to collect data and to make recommendations for sewer system improvements. They are ready to move forward, and go out and correct the found deficiencies. This work will include adding fiberglass liners and sealing manholes, both geared toward wastewater treatment.

On motion it was,

Voted to approve and execute Amendment #1 in the amount of \$83,817.00 with BETA Group, Inc. in connection with Contract No. PW/14-22 "Wastewater Master Plan Update, Infiltration and Inflow (I/I Investigation and Sewer System Rehabilitation - Subareas NI-9, 10 &11)".

Aye: Kenneth Goldstein, Nancy Daly, Betsy DeWitt, Neil Wishinsky, Benjamin J. Franco

ALTERNATE MANAGERS

[Question of approving the application of Short Money, Inc. d/b/a Grove Street Market, holder of a Wine and Malt beverages license as a Retail Package Goods Store at 189 Grove Street for the appointment of the following employees as Alternate Managers:](#)

[Karen Glennon](#)

[Arkadiy Barshteyn](#)

The Board noted that all papers are in order.

On motion it was,

Voted to approve the application of Short Money, Inc. d/b/a Grove Street Market, holder of a Wine and Malt beverages license as a Retail Package Goods Store at 189 Grove Street for the appointment of the following employees as Alternate Managers:

Karen Glennon
Arkadiy Barshteyn

Aye: Kenneth Goldstein, Nancy Daly, Betsy DeWitt, Neil Wishinsky, Benjamin J. Franco

TEMPORARY WINE AND MALT BEVERAGES LICENSE

[Question of granting a temporary Wine and Malt Beverages license to Annunciation Cathedral Center in connection with a Birthday Party to be held on April 25, 2015 from 6pm-12M at 162 Goddard Avenue.](#)

On motion it was,

Voted to grant a temporary Wine and Malt Beverages license to Annunciation Cathedral Center in connection with a Birthday Party to be held on April 25, 2015 from 6pm-12M at 162 Goddard Avenue.

Aye: Kenneth Goldstein, Nancy Daly, Betsy DeWitt, Neil Wishinsky, Benjamin J. Franco

PERMIT TO SERVE ALL KINDS OF ALCOHOLIC BEVERAGES

[Question of granting a Permit to Serve All Kinds of Alcoholic Beverages \(non-sales\) to Larz Anderson Auto Museum in connection with a Harvard University Graduation Reception to be held on April 26, 2015 from 12:30pm to 5:30pm at 15 Newton Street.](#)

On motion it was,

Voted to grant a Permit to Serve All Kinds of Alcoholic Beverages (non-sales) to Larz Anderson Auto Museum in connection with a Harvard University Graduation Reception to be held on April 26, 2015 from 12:30pm to 5:30pm at 15 Newton Street.

Aye: Kenneth Goldstein, Nancy Daly, Betsy DeWitt, Neil Wishinsky, Benjamin J. Franco

TEMPORARY WINE AND MALT BEVERAGES LICENSE

[Question of granting a temporary Wine and Malt beverages license to Dexter Southfield in connection with a Cocktail Party/Fundraiser to be held on April 29, 2015 from 6pm-8pm at 20 Newton Street.](#)

On motion it was,

Voted to grant a temporary Wine and Malt beverages license to Dexter Southfield in connection with a Cocktail Party/Fundraiser to be held on April 29, 2015 from 6pm-8pm at 20 Newton Street.

Aye: Kenneth Goldstein, Nancy Daly, Betsy DeWitt, Neil Wishinsky, Benjamin J. Franco

TEMPORARY WINE AND MALT BEVERAGES LICENSE

[Question of granting a temporary Wine and Malt Beverages License to the Public Schools of Brookline, Michael D'Onofrio, Director of Administrative Services, in connection with a Retirement Party for Peter Rowe to be held on May 29, 2015 from 5pm-8pm at Brookline High School, 115 Greenough Street \(MLK Room and Atrium\).](#)

On motion it was,

Voted to grant a temporary Wine and Malt Beverages License to the Public Schools of Brookline, Michael D'Onofrio, Director of Administrative Services, in connection with a Retirement Party for Peter Rowe to be held on May 29, 2015 from 5pm-8pm at Brookline High School, 115 Greenough Street (MLK Room and Atrium).

Aye: Kenneth Goldstein, Nancy Daly, Betsy DeWitt, Neil Wishinsky, Benjamin J. Franco

TOWN COUNSEL - PERSONNEL

[Question of authorizing the filling of a vacancy in the position of Associate Town Counsel in the Legal Department.](#)

[Town Counsel Joslin Murphy stated that this authorization is to hire an Associate Town Counsel. The current Associate Town Counsel Patty Correa, has accepted the position of Assistant Town Counsel.](#)

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Attorney Murphy reviewed Ms. Correa's qualifications which she has demonstrated in the level of detail and orientation in her work. Ms. Correa is a member of the AMICUS Committee of Massachusetts, with a focus on legal writing, and is a member the Association of Hispanic Attorneys.

Attorney Murphy acknowledged Associate Town Counsel John Buchheit for his support while working with one less attorney in the office, and she hopes to find an attorney with experience in contract law and public school law.

The Board congratulated Attorney Correa and noted that she is well qualified for the position.

On motion it was,

Voted to authorize the filling of a vacancy in the position of Associate Town Counsel in the Legal Department.

Aye: Kenneth Goldstein, Nancy Daly, Betsy DeWitt, Neil Wishinsky, Benjamin J. Franco

EMERALD NECKLACE PLAN/MOA

Director of Parks and Open Space Erin Gallentine will appear to present the Emerald Necklace Tree Inventory, Conditions, Assessment, and Maintenance Management Plan.

a. Question of approving and executing a Memorandum of Agreement with the Emerald Necklace Conservancy.

Director of Parks and Open Space Erin Gallentine stated that this MOA relates to tree inventory, conditions and assessment management plan between the Town of Brookline and the Emerald Necklace Conservancy (ENC). In 2012 the ENC set out to raise funds to invest in the care of trees in the emerald necklace; they have raised over 1 million dollars.

Ms. Gallentine provided a PowerPoint presentation outlining the area, and the extensive tree database. She spoke briefly on the different approaches between the woodland trees and park land trees, adding that this is an exciting collaboration between the three jurisdictions and a nonprofit that has been in the works for many years.

Selectman Daly noted that this is a wonderful plan and asked about the ongoing funding. She noted that the Parks and Open Spaces division may lose staff positions should an override fail.

Ms. Gallentine replied that none of the partners are willing to commit funds. We will define to the conservancy what the funds would be. There are some capital funds put aside in the budget in the tree planting and removal line item. The funds may look different from year to year, and they are not committing to an annual number. They can leverage funds with volunteer work, and staff time.

On motion it was,

Voted to approve and execute a Memorandum of Agreement with the Emerald Necklace Conservancy.

Aye: Kenneth Goldstein, Nancy Daly, Betsy DeWitt, Neil Wishinsky, Benjamin J. Franco

WARRANT ARTICLES

Public Hearing and possible vote on the following Warrant Articles for the May 26, 2015 Annual Town Meeting.

Art No. Title

11. Local Historic District Crowninshield (Preservation)

Planning Director Alison Steinfeld stated that she supports this LHD.

Jim Batchelor, Chair of the Preservation Commission stated that this group has been working diligently in support of this Article and came before the Preservation Commission, the Planning Board and others. This district is very coherent in its shape related directly to the original Crowninshield estate. The proposed district includes 63 dwellings in the neighborhood and has 85% in support of an LHD. He reviewed the proposed map which included the dwellings that are in support.

The purpose of the Article is to maintain the character of the neighborhood, and to protect its historical, architectural and cultural significance. This area is close to Commonwealth Avenue and the neighborhood is facing development pressures.

Public Hearing:

John Sherman, Adams Street and 39 year resident stated that he loves the neighborhood, and it is special to the residents that came together in the prospect of an LHD to protect its character.

Kate Poverman, Adams Street stated that the neighborhood galvanized when they observed a property that changed hands begin taking down trees, indicating a new development; that and the fact that Boston University has plans to expand closer to the neighborhood. This is a unique cluster of stucco homes that were all part of the original Harriet Crowninshield estate.

Barbara Sherman, Adams Street, added that this is a unique neighborhood that has endured and survived incursions on all sides; and a house has never been demolished. The neighborhood felt pain when there was talk about demolishing a home. The neighborhood takes pride in these houses.

Mr. Batchelor was asked if he knew the reasoning behind those residents that oppose the LHD. Mr. Batchelor replied that he was not sure, but thinks that some may not want to listen to someone else should they want to do something to their property.

Chairman Goldstein asked if they had considered becoming part of an abutting LHD.

Ms. Poverman replied that there has been no discussion on that; it seems easier to mobilize everyone within their neighborhood, and it would be more manageable to create a new one.

The Board noted that the percentage of support from the neighbors is impressive.

On motion it was,

Voted 5-0 Favorable Action on Article 11 as submitted.

<u>Art No.</u>	<u>Title</u>
17.	40B Resolution (Heller)

Petitioner Nancy Heller, TMM#8 stated that there is concern about implementation on 40B development statewide because the current statute takes on a one size fits all approach, which is not the case in every community. With the current 40B proposals on Crowninshield Road and Hancock Village, it became apparent that the Town needs to put forth something to Town Meeting to think about how we can better manage this issue in Brookline. After meeting with the Housing Advisory Board (HAB), HAB felt that they were not pursuing a strategy; a better way of approach would be to work with State regulators on a plan in Brookline to enhance controls over 40B projects. They are now proposing to refer the subject matter of this resolution to both HAB and the Planning Board in efforts to work with similar communities to achieve a safe harbor status, and gain us some advantage in working with developers on 40B proposals.

Brookline is facing increasing school enrollments, but lacks the infrastructure to accommodate such increased enrollment. The petitioners agree that 40B is a valuable program for producing affordable housing statewide, but in communities that are built out as much as Brookline is, it is a challenge.

John Sherman, Adams Rd and Article supporter stated that he came on board due to recent 40B proposal in his highly dense neighborhood, and to tear down a historic home which would have a degrading effect on this and other neighborhoods which is the central fabric of Brookline.

Roger Blood, Chair of the Housing Advisory Board noted that the City of Newton is currently in litigation about 40B. HAB would like to see the State regulators take a fairer approach to the way they look at built out communities in 40B decisions, and amend their "safe harbor" parameters without the need to amend the Chapter 40B law itself. Several years ago HAB drafted a plan and proposal that he felt had a lot of merit in addressing the inventory formula, but Brookline was out there by itself. He feels there may be more traction now years later. Brookline is at a solid 8% affordability in their housing stock, which leaves a deficit of 416 units. The regulations require 10%.

Selectman DeWitt noted that there are several benchmarks used to measure whether Brookline has achieved its affordable housing unit's quota. The Town is given a number of units, which 10% of that need to be affordable in order to reach its affordable housing threshold. Brookline has created affordable housing which the State chooses not to include in its inventory. For

instance in a 40B project the non-affordable units get accounted as if they were affordable. She hopes that these units could be counted towards affordable housing, which they are.

Public Hearing:

Robert Weinberg, Copley St. stated that he became involved after learning about the 40B proposal on Crowninshield Rd. A developer can come in and tear down a house and put up a 40B multi-unit development in the middle of a neighborhood. He hopes this will offer some protection for the residents of the neighborhood.

Sarah Boehs, Aspinwall Ave and lawyer in the affordable housing field stated that she and her signatories have submitted a letter to the Board expressing their deep concerns with this Article as originally written and hopes that it is referred to HAB for further review. She stated that she is not an expert in 40B law, and over the course of the years, chapter 40B may not be a perfect statute, but in spite all its imperfections, it is the one program responsible for the most affordable housing in the state. There is a lack of affordable housing for families and the 40B law was up for repeal and was resoundingly defeated by the voters of Massachusetts. There are other avenues to pursue including Chapter 40R and an S overlay districts can create areas that expect to have denser housing and increased affordable units and monetary incentives to deal with increased school populations.

Selectman DeWitt asked if Ms. Boehs would be willing to work with those at the state level. Ms. Boehs replied yes, she would help do that.

Selectman Daly stated that she did vote against the repeal of 40B at that time, but would not do that again. It allows developers to override our zoning laws for projects that have mostly unaffordable units. The affordable housing requirements should be much higher for these developments. If these developers were really interested in affordable housing and not just to overbuild in our community, there would be support. Brookline has always supported affordable housing, but the 40B law is really flawed in a community like this.

Selectman Wishinsky stated that he is in agreement that the 40B is a flawed statute, but we need to recognize the political realities that 40B is here to stay. The approach and the motion is one most likely to succeed given that we are seeking changes and coordination with like communities that don't require legislative action.

On motion it was,

Voted 5-0 Favorable Action

To refer the subject matter of Warrant Article 17 to the Housing Advisory Board (HAB) and the Planning Board, each to report back to the 2015 Fall Town Meeting in accordance with the following:

1. HAB is requested to develop a plan for Brookline to work with other mature, built-out communities that demonstrate substantial and continuous progress towards reaching the goal of 10% of affordable housing in order to effectuate changes to the regulations promulgated under c. 40B to achieve a temporary “safe harbor” status as Brookline and these other communities continue to progress towards 10%.
2. HAB and the Planning Board are requested to take advantage of available planning tools to ensure that Brookline makes progress towards its affordable housing goal in a manner that: (a) optimizes the Town’s opportunity to secure c.40B “safe harbor” status, including through the development of a Housing Production Plan that will be acceptable to the Commonwealth’s c.40B regulators; and (b) is sensitive to the integrity of existing residential properties and neighborhoods.

Art No. Title

19. Olympics (Biernbaum)

Marty Rosenthal TMM#9, standing in for the petitioner stated that they have looked at maps for the potential Olympic games sites, and geographically Brookline is part of Boston. Mr. Rosenthal provided a PowerPoint outlining various publications on the potential of Boston hosting the Olympic Games. Brookline is referenced by some local universities. He added that the Olympics will affect Brookline, and that those in support of Boston 2024 have not considered including Brookline in any shape or form in any of their planning discussions. This process is not the way to spend public monies, and those planning the proposal are not accountable to the public.

Chris Dempsey, TMM#6 and Co-Chair of No Boston Olympics stated there are two Olympic events in Brookline being discussed, yet there has been out outreach to the Town.

Mr. Dempsey made a presentation.

The presentation included the potential cost to host the games which is estimated at \$14.3 billion dollars before any cost overruns. A study indicated that every Olympic Games from 1960-2012 had cost overruns.

Implications for the Town of Brookline:

Direct costs:

Planning and logistics expenses
Public Safety
DPW

Indirect costs:

Diversion of commonwealth resources

Financial non-financial
Disruption to businesses and residents.

Highlights:

Host governments would be required to provide a financial guarantee regardless of overruns. In some cases employees were asked to stay home during the games. The plan does not include any public transportation improvements. There has been no demonstration of long-term economic benefit to host cities.

Public Hearing: no speakers

Selectman Wishinsky stated that he would like to hear from Boston 2024, the event organizers before taking a vote on this Article.

Selectman Daly stated that she agrees that the disruptions in Brookline would be significant, plus if State funds are diverted, that would be a cost to Brookline as well.

Selectman Franco asked about the International Olympic Committee's (IOC) technical manual transportation demands that could require school closings, employees working from home, and road lane closings.

Mr. Dempsey replied that they have not heard on whether the IOC will have roads open to the public or not. In the past employees of businesses have been asked to stay home.

Selectman DeWitt asked about the amount of people to expect compared to the Boston Marathon event. Mr. Dempsey replied that it may be fewer attendees than the marathon, but it would be repeated day after day, which could require road closures.

Chairman Goldstein stated that the Olympics are a cultural event, and he would be proud to showcase our community if the concerns were addressed. He would like to see a way for the event to happen without those risks, and to have better controls as citizens of the commonwealth.

The Board agreed that it is concerning that a bid was submitted to include Brookline locations, yet there has been no outreach to the Brookline community.

There was no vote on Article 19.

[OPEN AIR PARKING LICENSE](#)

[Public Hearing on the application of Rawson Road Parking LLC, Andrew Gordon, Manager, for a license to conduct and maintain an open-air parking lot with an area of about 10,240 square feet at 195 Rawson Road, for twenty \(20\) automobiles.](#)

Attorney Mike Buoniconti, representing the applicant, Rawson Road Parking LLC requesting approval for an open air parking lot at Rawson Rd. The application was submitted and he provided the required notices to the abutters. The license is currently for 20 overnight parking spaces, and the applicant would like to continue with its current use. The users are residents that rent parking spaces. This license was granted in 1978 as a Special Permit, and there are no changes anticipated at this point.

Public Hearing:

Morgan Daly and John Manaras, representing the Claflin Path Association stated that there are about 40 families that abut this right of way and the purpose of the association is to maintain and care for the property. Their concern is that a lot of the lot renters use the path as an exit. Also, the application is for 20 vehicles but there is striping for 30 vehicles. Another concern is during the winter the egress was blocked by amounting snow. The association requests that the new owner contribute to the snow removal there, and the 20 vehicles be adhered to.

Selectman Daly recused herself because she contributes to the Claflin Path Association's snow removal budget.

Mr. Manaras also pointed out that Chairman Goldstein represented an abutter in a real estate transaction.

Chairman Goldstein recused himself due to a business relationship.

Selectman DeWitt acting Chair.

Dina Salzberg, owner of a Rawson Rd. property stated that they have had a good relationship with the previous owner of property. She has tenants that use the lot and this year everybody was using the community driveway. The snow piles made it impossible to navigate in this area. She hopes the new applicant will remove excess snow once it piles up.

Jeffery Barnes, Rawson Rd spoke about snow removal issues, where private companies moved snow onto his property. He hopes the new owner will maintain the property better.

Selectman Wishinsky asked about the 30 spaces marked out on the property.

Attorney Mike Buoniconti replied that the special permit is for 20 vehicles and it requires snow removal. That is what they are requesting and what their financial plan is based on. As far as the 30 spaces, he is not aware of that.

Applicant Andrew Gordon added that he has been there a few times during the day

when there have only been about 10 cars on the lot.

Selectman Wishinsky asked if the egress over Claflin Path is trespassing. Mr. Buoniconti replied that as far as they know the access is from Rawson Road through the parking lot. He added that the current owner was overwhelmed by the amount of snow this past winter as everybody was.

The Board noted that the conditions of the license do require that the property is kept in good condition, and that the license is up for renewal in June, should there be additional issues it can be revisited then.

Selectman DeWitt would like the Building Department to inspect the 30 parking spots and to make sure they are not in use.

Nicole Dwyer, Rawson Rd. noted that the driveway was not passable for weeks, and the Town trucks could not get up the hill for trash pickups. This lot has had snow removal issues for years.

Mr. Buoniconti stated that they would be responsible to clear the easement.

Selectman DeWitt would like to consult with the Planning and Building Departments to review what is considered possible conditions under the special permit and under the license agreement.

Hearing continued.

[ALL KINDS COMMON VICTAULLER/PLEDGE OF LICENSE](#)

[Question of approving the application of JJAZ, Restaurant, Inc., d/b/a LaMorra, Joshua Ziskin, Owner, Manager holder of an All Kinds of Alcoholic Beverages License as a Common Victualler at 48 Boylston Street for a Pledge of License to Brookline Bank.](#)

The Attorney for the applicant stated that this is a request of a pledge of the license required for a loan with Brookline Bank. It is for the purchase of real property, and the bank is seeking collateral as part of the pledge.

The Board noted all papers were in order.

On motion it was,

Voted to approve the application of JJAZ, Restaurant, Inc., d/b/a LaMorra, Joshua Ziskin, Owner, Manager holder of an All Kinds of Alcoholic Beverages License as a Common Victualler at 48 Boylston Street for a Pledge of License to Brookline Bank.

Aye: Kenneth Goldstein, Nancy Daly, Betsy DeWitt, Neil Wishinsky, Benjamin J. Franco

FOOD VENDOR LICENSE

Question of approving the application of Maurice and Carol Sapoznik, LLC d/b/a Olive Connection, Maurice and Carol Sapoznik, Owners for a Food Vendor License at 1426 Beacon Street.

Applicant Maurice Sapoznik stated that he is a retired educator and is looking forward to starting a family business. This is for a specialty food shop specializing in olive oil and vinegars.

All papers were in order.

On motion it was,

Voted to approve the application of Maurice and Carol Sapoznik, LLC d/b/a Olive Connection, Maurice and Carol Sapoznik, Owners for a Food Vendor License at 1426 Beacon Street.

Aye: Kenneth Goldstein, Nancy Daly, Betsy DeWitt, Neil Wishinsky, Benjamin J. Franco

CONTINUED HEARING COMMON VICTUALLER LICENSE/ ENTERTAINMENT LICENSE / WINE AND MALT BEVERAGES (TRANSFER)

Continued Hearing on the question of approving the application of Genki Harvard 2014, Inc., d/b/a Genki Yah Hub Id Chen, President for a Common Victualler license at 398 Harvard Street.

- a. Continued Hearing of the question of approving the application of Genki Harvard 2014, Inc., d/b/a Genka Yah, Hub Id Chen, President holder of a Common Victualler license at 398 Harvard Street for Outside Seating for 8.
- b. Continued Hearing on the question of approving the application of Genki Harvard 2014, Inc., d/b/a Genki Yah, Hub Id Chen, President holder of a Common Victualler license at 398 Harvard Street for an Entertainment License to include Radio and Taped Music.
- c. Continued Public Hearing on the application of Genki, Inc., d//b Genki Yah, Jason J. Yup, President holder of a Wine and Malt Beverages License as a Common Victualler at 398 Harvard Street for the transfer of said license to Genki Harvard 2014, Inc., d/b/a Genki Yah, Hui Di Chen, Manager.

d. Question of approving the application of Genki Harvard 2014, Inc., d/b/a Genki Yah Hub Id Chen, President, holder of a Wine and Malt Beverages License as a Common Victualler at 398 Harvard Street or the appointment of Zax Yao Duong as an Alternate Manager.

Applicant Jason Yup reviewed their liquor protocols to the Board's satisfaction. Mr. Yup clarified that the requested indoor seating is 16.

On motion it was,

Voted to approve the application of Genki Harvard 2014, Inc., d/b/a Genki Yah Hub Id Chen, President for a Common Victualler license at 398 Harvard Street.

Voted approving the application of Genki Harvard 2014, Inc., d/b/a Genka Yah, Hub Id Chen, President holder of a Common Victualler license at 398 Harvard Street for Outside Seating for 8.

Voted to approve the application of Genki Harvard 2014, Inc., d/b/a Genki Yah, Hub Id Chen, President holder of a Common Victualler license at 398 Harvard Street for an Entertainment License to include Radio and Taped Music.

Voted to grant the application of Genki, Inc., d//b Genki Yah, Jason J. Yup, President holder of a Wine and Malt Beverages License as a Common Victualler at 398 Harvard Street for the transfer of said license to Genki Harvard 2014, Inc., d/b/a Genki Yah, Hui Di Chen, Manager.

Voted to approve the application of Genki Harvard 2014, Inc., d/b/a Genki Yah Hub Id Chen, President, holder of a Wine and Malt Beverages License as a Common Victualler at 398 Harvard Street or the appointment of Zax Yao Duong as an Alternate Manager.

* with the condition that the outdoor seating plan is submitted and approved by the DPW.

Aye: Kenneth Goldstein, Nancy Daly, Betsy DeWitt, Neil Wishinsky, Benjamin J. Franco

WARRANT ARTICLES

Further review and vote on the following Warrant Articles for the May 26, 2015 Annual Town Meeting:

<u>Art No.</u>	<u>Title</u>
<u>18.</u>	<u>Eminent Domain (Frawley)</u>

Chairman Goldstein stated that there is a 40B project on the table right now, and asked Town Counsel if she thinks there would be any affect positive or negative if this article should pass

because of the litigation and if eminent domain taking of this proposed land has an impact of striping the 40B process.

Town Counsel Joslin Murphy replied that the Article simply seeks a study on the issue, and feels that any legal concerns would come up in that process. She feels there would be no effect on the litigation.

Selectman Daly stated that she is concerned about potential allegations of bad faith, and recommended that the Board does not take a position on this Article, and allow Town Meeting to vote on it.

Regina Frawley, petitioner stated that the finance committee voted to support a study. This Article relates to a contract agreement made in 1946. This article is not violating, and does not contain any exclusionary zoning; it relates to any development on this open space.

Steve Chiumenti, TMM#16 agrees with Town Counsel on the good faith issue. There have been 2 supreme court cases on this point involving conservation land, and they have gone both ways; one for and one against. He added that the Town has so far prevented any construction from being built there.

Ms. Frawley added that she alone has worked on this Article and Town officials have had no influence in it.

Selectman DeWitt added that the Board of Selectmen has consistently worked to protect that green belt area. There are places for this development without going on to the green belt area, and maintains her position to protect the open space.

Selectman Daly feels that it is prudent to have one less factor that we were actively promoting this.

Selectman Daly made the Motion of Favorable Action on Article 19.

On motion it was,

Voted 2-0-3 motion failed.

Aye: Betsy DeWitt, Benjamin J. Franco

Abstained: Kenneth Goldstein, Nancy Daly, Neil Wishinsky

Art No. Title

9. Extending At Large Town Meeting Membership (Frey)

Chairman Goldstein stated that he supports the Article, and added that any town resident that is an elected official representing our community would be more than qualified at Town

Meeting.

Selectman Franco stated that right now it refers to 2 potential new at-large Town Meeting members, with the potential of up to 11 if all these officials were to reside in Brookline, which is unlikely.

On motion it was,

Voted 4-0-1 Favorable Action on Article 9.

Aye: Kenneth Goldstein, Nancy Daly, Neil Wishinsky Benjamin J. Franco
Abstained: Betsy DeWitt

<u>Art No.</u>	<u>Title</u>
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10.	Living Wage By-Law Amendment (Recreation)
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Chairman Goldstein recused himself a family member works for the recreation department.

The Board noted that Patricia Connors, original member of the Living Wage By-law Committee petitioner has submitted a revised Article. The Advisory Committee voted in favor of it with the exception of striking “one dollar more than” in section 4.8.3

Selectman Franco recommended that the “one dollar more” remain in the Article, based on the Understanding Brookline survey acknowledging poverty levels in Brookline, and offered some other revisions.

Selectman Daly stated that she feels this relates to junior positions held by high school students and that the wage without the “one dollar more” clause is sufficient for the work. She is also concerned that the Steps to Success jobs will go to fewer students if they are required to pay at the higher pay rate, these positions are paid with grant funding.

Patricia Connors stated that in section 4.8.3 a,b,c,d, and f should be included, instead of excluding these positions, and when drafted those positions should get the State’s minimum wage plus one dollar; (f) was not included in the petitioners submitted Article.

On Selectman Daly’s motion of Favorable Action on Selectman Franco’s recommendations with the exception of omitting the additional dollar above the minimum wage for these junior positions.

On motion it was,

Voted 1-3 motion failed.

Aye: Nancy Daly

Nay: Betsy DeWitt, Neil Wishinsky Benjamin J. Franco

On Selectman Franco's motion it was,

Voted 4-0 Favorable Action on Article 10 as revised by Selectman Franco.

Aye: Nancy Daly, Betsy DeWitt, Neil Wishinsky Benjamin J. Franco

(recused) Goldstein

To see if the Town will amend the General By-laws, Article 4.8, Living Wage, as follows (additions appear in underlined bold text, and deletions appear in stricken bold text):

ARTICLE 4.8

LIVING WAGE

SECTION 4.8.2 LIVING WAGE

(a) The town of Brookline ("town") shall pay each of its employees no less than \$10.30 an hour except as provided in Section 4.8.5 and in collective bargaining agreements with the town under G.L. c. 150E, section 7.

(b) The wage prescribed in paragraph (a) of this Section 4.8.2 shall be known as the "living wage" and shall be adjusted annually by the same percentage and on the same schedule relative to wage adjustments given to full-time, nonunion town employees on the town's general pay schedule, beginning in the year 2003.

(c) The living wage shall also be adjusted annually at the time of and after the adjustment set forth in paragraph (b) of this Section 4.8.2 if necessary to insure that as so adjusted, it is at least one dollar more than the state minimum wage in effect under G.L. c.151 at the time of such adjustment.

SECTION 4.8.3 MINIMUM WAGE

The compensation of employees exempted from the living wage under paragraphs (a), (b), (c), (d) **and** (f) of Section 4.8.5 shall be adjusted annually at the same time as the adjustment referred to in paragraph (b) of Section 4.8.2 if necessary to insure that the hourly wage is at least one dollar more than the state minimum wage in effect under G.L. c.151 at the

time of such adjustment.

SECTION 4.8.5 EXCEPTIONS

The town shall not be required to pay the living wage to the following persons:

- (a) seasonal ~~or temporary~~ employees who work less than six consecutive months ~~in any twelve-month cycle~~ in a fiscal year in a given position.
- (b) employees participating in a work-study or cooperative educational program;
- (c) employees whose positions are funded, in full or in part, by Community Development Block Grant or State Elder Services Grant monies;
- (d) town library Junior Library Pages;
- (e) Putterham Meadows Golf Course rangers;
- (f) town junior, part-time positions funded by a Recreation revolving fund, specifically, Jr. Swim Coach, Jr. Swim Instructor, Jr. Lifeguard, Jr. Skate Guard, Jr. Referee, Jr. Assistant Recreation Leader, Jr. Camp Counselor, Jr. Camp Instructor, Jr. Skate Concessions;
- (g) volunteers and all persons appointed or elected to town committees;
- (h) elected officers of the town.

Or an act on anything relative thereto.

SECTION 4.8.6

a. Definitions:

In construing SECTION 4.8.6, the following words shall have the meanings herein given, unless a contrary intention clearly applies.

Covered employer means anyone who has been awarded a service contract or subcontract with the Town after the effective date of the By-law.

Covered Employee means any employee who performs direct services for the purpose of fulfilling the covered employer's contractual obligations, provided however, employees who perform services that are incidental to the execution of the contract are not covered employees.

Person means one or more of the following or their agents, employees, servants, representatives, and legal representatives: individuals, corporations, partnerships, joint ventures, associations, labor organizations, educational institutions, mutual companies, joint-

stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, fiduciaries, and all other entities recognized at law by this commonwealth,

~~Seasonal employee means an employee who has been hired for a certified seasonal position, as defined by the Department of Unemployment Assistance and M.G.L. c. 151A, sec. 1 (bb).~~

Services means the furnishing of labor, time, or effort by a contractor and/or covered employer.

Service contract means a contract for services awarded to a vendor by the town for no less than the following amounts: (i) \$25,000.00 for contracts commencing in fiscal year 2006, (ii) \$10,000.00 for contracts commencing in fiscal year 2007 (iii) \$5,000.00 for contracts commencing in fiscal year 2008 and thereafter. Any bids opened prior to fiscal year 2006 shall not be subject to this article.

~~Temporary employee means an individual who works for the Town of Brookline on either a full or part time basis; whose employment is explicitly temporary in nature and does not exceed six consecutive months of service in a given position.~~

Or an act on anything relative thereto.

Art No. Title

12. Snow By-Law (Selectmen)

This Article was held until the DPW Commissioner is present.

[FY16 FINANCIAL PLAN](#)

[Review of the FY2016 Capital Improvements Program \(CIP\) budget.](#)

Deputy Town Administrator Melissa Goff gave a brief presentation of the CIP budget.

Selectman DeWitt noted that the Devotion School Project is within budget and is subject to MSBA approval.

ATTACHED.

There being no further business the Chair adjourned the meeting at 10:30 p.m.

ATTEST