



MINUTES

BOARD OF SELECTMEN

IN BOARD OF SELECTMEN TUESDAY, NOVEMBER 1, 2016 6th FLOOR HEARING ROOM

Present: Selectman Neil Wishinsky, Selectman Nancy Daly,
Selectman Benjamin J. Franco, Selectman Nancy S.
Heller, Selectman Bernard W. Greene

OPEN SESSION

[Question of whether the Board of Selectmen shall enter into Executive Session for the purpose of discussing strategy with respect to litigation in the matter of Town of Brookline et al v. MassDevelopment et al.](#)

In Open Session- the Chair must state the purpose for Executive Session, stating all subjects that may be revealed without compromising the purpose for which the Executive Session was called.

The Chair then stated the reason(s) for the Executive Session:

To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body, and the chair so declares. G.L. c. 30A, §§ 21(a)(3)

Roll call:

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

PROPOSED EXECUTIVE SESSION / LITIGATION

[For the purpose of discussing strategy with respect to litigation in the matter of Town of Brookline et al v. MassDevelopment et al.](#)

ANNOUNCEMENTS/UPDATES

[Selectmen to announce recent and/or upcoming Events of Community Interest.](#)

November 5th, Dancing with the Stars event for local charities will be hosted by Brookline Rotary.

November 11th Veteran's Day events will be held at Town Hall.

Brookline once again was awarded the Budget award from the Government Finance Officers Association.

The Town Administrator held a meeting on Performance Management Training with Department Heads to be incorporated into the budget process.

PUBLIC COMMENT

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

Up to fifteen minutes for public comment on matters not appearing on this Calendar shall be scheduled each meeting. Persons wishing to speak may sign up in advance beginning on the Friday preceding the meeting or may sign up in person at the meeting. Speakers will be taken up in the order they sign up. Advance registration is available by calling the Selectmen's office at 617-730-2211 or by e-mail at SORsini@brooklinema.gov. The full Policy on Public Comment is available at <http://www.brooklinema.gov/376/Meeting-Policies>

MISCELLANEOUS

Approval of miscellaneous items, licenses, vouchers, and contracts.

[Question of approving the Executive Session minutes of October 5, 2016](#)

[* Correction: this was an Open Session Meeting.](#)

[On motion it was,](#)

[Voted to approve the minutes of October 5, 2016 as amended.](#)

[Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Bernard Greene](#)

[Absent: Nancy Heller](#)

[Question of approving the minutes of October 18, 2016](#)

[On motion it was,](#)

[Voted to approve the minutes of October 18, 2016 as amended.](#)

[Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Bernard Greene](#)

[Absent: Nancy Heller](#)

[Question of approving the minutes of October 25, 2016](#)

[Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Bernard Greene](#)

[Absent: Nancy Heller](#)

In Board of Selectmen
Tuesday, November 1, 2016
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Selectman Heller arrived 7:20

GRANT

[Question of accepting a grant in the amount of \\$19,500 from the Commonwealth of Massachusetts Department of Environmental Protection \(MassDEP\) as part of the Sustainable Materials Recovery Program under the Recycling Dividends Program \(RDP\) and Small Scale Initiatives Grant.](#)

Deputy Town Administrator Austin Faison noted that this grant is related to the Town's recycling program.

On motion it was,

Voted to accept a grant in the amount of \$19,500 from the Commonwealth of Massachusetts Department of Environmental Protection (MassDEP) as part of the Sustainable Materials Recovery Program under the Recycling Dividends Program (RDP) and Small Scale Initiatives Grant.

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

GRANT

[Question of approving and authorizing the Chairman to execute a Chapter 40B Technical Review Assistance Application Grant relative to the Comprehensive Permit application submitted re: 111 Cypress Street.](#)

Planning Director Alison Steinfeld said that an application for a comprehensive permit has been submitted for 111 Cypress Street. This grant will allow the town to engage with a 40b consultant.

Chairman Wishinsky thanked Selectman Franco for his assistance in receiving this grant. He also gave a brief update on the influx of 40b applications that are lining up.

Selectman Franco added that as a supporter of affordable housing, increased housing puts a strain on the Town's infrastructure and services, and requires proactive planning; 40b projects do not allow that to happen.

On motion it was,

Voted to approve and authorize the Chairman to execute a Chapter 40B Technical Review Assistance Application Grant relative to the Comprehensive Permit application submitted re: 111 Cypress Street.

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

PROCLAMATION

Question of adopting a Proclamation declaring November 17th World Pancreatic Cancer Day in the Town of Brookline.

Chairman Wishinsky stated that Lauren Marotta has requested this proclamation, and he supports raising awareness for pancreatic cancer. Chairman Wishinsky read the proclamation.

On motion it was,

Voted that the Town adopts a Proclamation declaring November 17th World Pancreatic Cancer Day in the Town of Brookline.

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

CALENDAR

Review and potential vote on Calendar Items

DEVOTION SCHOOL RENOVATIONS/ADDITIONS

[\(1\) Question of awarding/approving filed sub-bids for Guaranteed Maximum Price \(GMP\) #2 \(Change Order #5\) to the following bidders in said categories:](#)

Masonry: Costa Brothers Masonry; Miscellaneous and Ornamental Iron: Roman Iron Works; Waterproofing, Damp-proofing and Caulking: P.J. Spillane; Roofing and Flashing: Stanley Roofing; Metal Windows, GW, Glass and Glazing: Chandler Architectural; Tile: West Floor Covering; Acoustical Tile: Central Ceilings; Resilient Floors: Capital Carpet & Flooring; Painting: Alpha Contracting; Elevators: Delta Beckwith; Fire Protection Work: Covenant Fire Protection; Plumbing Work: Grasseschi Plumbing; HVAC Work: Harold Bros.; Mechanical, Electrical Work: Your Electrical Solution (YES).

(2) Question of approving Change Order #5 in the amount of \$60,066,197.00 for work performed by Trade-Contractors and non-Trade Contractors in connection with Renovations and Additions to the Edward Devotion School.

Project Administrator Tony Guigli introduced representatives from HMFH Architects and Shawmut Construction. He stated that this change order is for the balance of the work, and noted that it is presented in the form of a Change Order is because of the methodology used for this large project. The project is being delivered under a Construction Manager at Risk. He added that this method works well for a project this size. This dollar amount is already incorporated in the project; to date the project is on budget and on schedule.

Selectman Daly asked about neighborhood concerns. Shawmut Construction's

representative said there is a large contingent of workers on site on a daily basis, and they have been able to accommodate parking for most of them. They continue to get concerns from the neighbors and address them as quickly as they can. There have been limited complaints on the daytime noise.

On motion it was,

Voted to approve Change Order #5 in the amount of \$60,066,197.00 for work performed by Trade-Contractors and non-Trade Contractors in connection with Renovations and Additions to the Edward Devotion School.

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

[BROOKLINE MUSIC SCHOOL LEASE](#)

Question of approving and executing a 20-year lease with the Brookline Music School for the property located at 19-25 Kennard Road.

Selectman Daly stated that her daughter was a student at the Brookline Music School. The school provides a wonderful program that is not provided through the regular public school's curriculum. This is a lease of school owned property, and the long term lease allows them to do some long-range planning.

Mary Ellen Dunn, Deputy Director of Finance for the Brookline Public Schools explained that this lease has gone through a variety of negotiations that began in 2014. The most recent override stalled the execution of the lease; this is why the document is dated back to 2014. She added that Brookline Public Schools do offer a music program; their program is compatible to that program.

Associate Town Counsel John Buchheit added that the provisions of the original lease are still applicable.

Tom Corcoran, President of Brookline Music School thanked the Board for their support.

On motion it was,

Voted to approve and execute a 20-year lease with the Brookline Music School for the property located at 19-25 Kennard Road.

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

PLANNING & COMMUNITY DEVELOPMENT – PERSONNEL

Question of authorizing the filling of the following vacancy in the Planning and Community Development Department:

Community Development Administrator - T-8

Planning Director Alison Steinfeld publically acknowledged CDBG Administrator Gail Lewis for her 37 years of service. She will be retiring.

Selectman Greene hopes take into consideration someone who has ability to work with these targeted groups that the program serves.

On motion it was,

Voted to authorize the filling of the following vacancy in the Planning and Community Development Department:

Community Development Administrator - T-8

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

BROOKLINE COMMISSION FOR THE DISABLED – NAME CHANGE

Question of approving changing the name from Brookline Commission for the Disabled to Brookline Commission on Disability. Chair, Saralynn Allaire will appear to present the information.

Saralynn Allair, Chair of the Brookline Commission for the Disabled explained that the current language in this Commission's title is outdated and has been deemed disrespectful to those with a disability. Brookline is one of 2 local communities that use an outdated title.

On motion it was,

Voted to approve changing the name from Brookline Commission for the Disabled to Brookline Commission on Disability.

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

TREE PROTECTION COMMITTEE

Question of making appointments to the Tree Protection Committee.

Selectman Heller stated that this committee is a result of a Warrant Article. She read the proposed membership and Town Meeting's vote as follows:

To refer the subject matter of Article 11 to the Selectmen for the appointing of a committee, with members to be chosen from the public, and appropriate Town Committees and Boards, having the necessary skills and expertise to evaluate the best way to provide tree protection in the Town, including whether this should be a zoning and/or general bylaw amendment and make a report back to the 2017 Annual Town Meeting.

Members:

Nancy Heller-Chair, Clara Batchelor, Harry Bohrs, Bob Cook, Liz Erdman, Ken Goldstein, Richard Murphy, Roberta Snoor.

On motion it was,

Voted to approve the Charge and membership of the Tree Protection Committee.

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

9th SCHOOL AT BALDWIN PROJECT OVERSIGHT COMMITTEE

Question of approving the Charge of the Committee and a Slate of Membership.

Town Administrator Mel Kleckner stated that this information is not ready for approval at this time. He indicated that Selectman Daly is the proposed Chair of the Committee along with members David Pollak from the School Committee, and Janet Fierman from the Building Commission. They are still working on the charge.

Janice Kahn TMM#15 Craftsland Rd stated that there has been no real direct engagement with the neighbors and suggested that they think in broader terms, and perhaps delay the project until all considerations are reviewed. She referred to the Old Lincoln School and its potential use while further review is being conducted.

Chairman Wishinsky replied that this has been a four year process of selecting a site, and the Old Lincoln School is booked for the next few years. He added that there were various meetings where neighbors of the Baldwin School attended. The Board has received petitions from residents of all the considered sites, and has reviewed them.

ECONOMIC DEVELOPMENT UPDATES AND REQUESTS

Economic Development Director Kara Brewton will appear on the following matters:

- (1) Annual Storefront Survey including current and expected vacancies.
- (2) Question of Proclaiming Saturday, November 26, 2016 as Small Business Saturday, as part of the national effort to drive consumers to shop at local independently owned businesses on the Saturday after Thanksgiving.
- (3) Update on the 2016 First Light Festival event to be held on Thursday, December 1, 2016 from 5pm-8pm.

Economic Development Director Kara Brewton noted that the vacancy report will be presented at another meeting pending some last minute updates.

November 26th will be Small Business Saturday. This has been an event in Brookline in recent years. This year the merchants have asked that a proclamation is drafted to formalize this event and to acknowledge that Brookline is a participant in this national event.

On motion it was,

Voted to proclaim Saturday, November 26, 2016 as Small Business Saturday, as part of the national effort to drive consumers to shop at local independently owned businesses on the Saturday after Thanksgiving.

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

First Light will be held on December 1st. The local businesses have been fundraising, and doing a lot of work to support this local merchant event. The event schedule will be online shortly.

The Board thanked Ms. Brewton for the update.

CABLE TELEVISION RENEWAL LICENSE TRANSFER

Public Hearing to review the FCC Form 394 completed transfer request received by the Town of Brookline on September 12, 2016 seeking the Board's approval of:

- (1) An assignment of the Cable Television Renewal License from Yankee Cable Partners, LLC to Radiate Holdings, LP.
- (2) A transfer of the control of the Cable Television License from Yankee Cable Partners, LLC to Radiate Holdings, LP.

Assistant Town Administrator Austin Faison introduced Peter Epstein, outside Counsel for Communication Law.

Attorney Epstein stated that he has some questions for the applicant that need to be on the record, as required by the FCC. He noted that a similar transfer occurred in 2010. The State requires a public hearing within 60 days of the FCC form 394 submission. September 12, 2016 is the effective date.

Representing the applicant TPG Holdings, Attorney Seth Davidson from Mintz, Levin, and representing RCN attorney Thomas Steele were present.

Mr. Epstein stated that there are 4 criteria for the Board to consider when looking at this transfer:

1. The transferee's (Radiate Holdings) financial capability
2. Their management team
3. Their technical experience
4. Their ability to operate under the existing license.

Selectman Greene expressed concern that most of the financial information in the materials is redacted. We don't have a form 394 before us, he asked Mr. Epstein if he had reviewed the documents.

Mr. Epstein replied that he has gone over the Form 394, some financial information has been redacted, but he is not in the position to state that. If the Board grants this transfer there will not be anything adverse about that, however, he does not think that will be the case.

- 1) Mr. Epstein: Can the transferee prove to the Board that they are financially capable to assume control of this Brookline cable system.

Mr. Davidson: TPG is the ultimate controlling party, a proven investment firm, one of the largest in the country with over 70 billion in assets. This transaction will be financed with new debt and equity capital contributions from TPG managed funds with an additional 8 billion in uncalled capital commitment, and smaller equity contributions. There is also a 150 million dollar revolving line of credit. The revenues produced by the system will generally cover the operating cost. We believe this is a much deeper pocket than Abry partners.

Mr. Epstein: what is the purchase price?

Mr. Davidson: The total purchase price is 2.25 billion, of that 1.6 billion is related to RCN properties. Other companies are being purchased together.

Mr. Epstein: Cash deal?

Mr. Davidson: They will pay off previous debt with other capital equity investments.

Mr. Epstein: Can Radiate certify that the purchase price will have no adverse effect on

Brookline subscribers?

Mr. Davidson: Yes, this is a largely transparent transaction; the system will still be operated by the same people in the Massachusetts franchise.

Mr. Epstein: How many Brookline subscribers?

Thomas Steele: 4100 has been a stable core number. We add homes all the time into the system. The biggest expense is underground service. Digging up sidewalks and street right of way access makes it difficult in an urban setting like Brookline.

2) Mr. Epstein: Why do you believe that the management team of Radiate has the expertise to assume control the Brookline cable system?

Mr. Davidson: The day-to-day operations will be managed by the same group that Radiate is contracting with the Patriot Media Group, with members of the Board with Radiate. This experienced team in the cable industry will be investors in the system and be part of the Board with Radiate and running day to day operations as they have in the past.

Mr. Epstein: It might be useful as a follow up for Radiate to write to the Board certifying that they will continue to use the local management team, and name them.

Mr. Davidson: We are prepared to do that.

3) Mr. Epstein: Today the whole industry is changing, there are migration mobile devices, and some may question the viability of fixed infrastructure; why are you buying RCN in 2016 and why are you making this investment? That being said competition is great in Brookline.

Mr. Davidson: The belief still is that cable and broadband plan is still the best platform, not only traditional service, but new services coming on. TPG still looks at this as a great opportunity and RCN is a very well managed facility and we will build on what they have.

Mr. Epstein: Yes, as an investment firm you feel that buying RCN will be a profitable venture. As you know we don't control rates, and here in Brookline there are two vendors, enough to control some increases.

Mr. Epstein: The form 394 does require that the transferee certifies that they have the sufficient net liquid assets that are available from committed resources to cover the transaction and operate for three months. Have you made a statement that you do have those net liquid assets?

Mr. Davidson: Yes, they do have 150 million dollars available at closing, plus funds on hand for not just three months, but beyond. They are confident of sufficient funding.

4) Mr. Epstein: Does Radiate have the legal ability to operate under the existing renewal license? Regarding that license, has Radiate reviewed the Brookline renewal license?

Mr. Davidson: Yes, as part of the due diligence of entering into the agreement they were

reviewed.

Mr. Epstein: So Radiate is stating that they will continue to comply with all the terms and conditions in RCN renewal license.

Mr. Davidson: Yes

Mr. Epstein: The merger agreement embodies the full and complete agreement between both Radiant and Yankee, however, the agreement is heavily redacted. In explaining the redactions Radiate and Yankee noted that certain exhibits and schedules are not necessary in order to understand the terms of the purchase agreement, and contain confidential trade business pricing and marketing data that are not otherwise publically available. You should certify that such omitted information is not germane to the Board of Selectmen's consideration for a form 394 transfer request in writing.

Mr. Davidson: No it is not germane, this relates to employment matters and other matters that are not necessary for the Town's consideration.

Selectman Greene: Also, identification of each of the types of redactions that are there. Identifying the categories involved.

Mr. Davidson: We can provide that.

Mr. Epstein: Why should the Board approve the form 394 request for a transfer from Yankee Cable Partners LLC to Radiate Holdings, L.P.?

Mr. Davidson: This is a transaction that puts the system into a committed well-financed entity to build on these systems and benefit consumers with upgraded internet service, it is also putting pressure on Comcast, with transparency to the consumers and will have the same day- to- day operations.

Discussion:

Selectman Daly: These transactions often result in trimming the workforce for savings, is that the plan?

Mr. Davidson: There are no changes in personnel. The system will be managed day to day by the same people in the Massachusetts area. The goal is not to pull anything out of the systems, but to add; there will be no loss of employees.

Selectman Franco: What can Brookline subscribers expect from this investment in the system?

Mr. Steele: When Abry bought RCN in 2010 they made a huge commitment to improve customer service. That investment has been made, and the system will continue to grow with these added resources. The same management team will remain, they are cable industry veterans.

Selectman Franco: The current situation in Town is that not everybody has access to RCN

service, and if they do it comes at a significant cost.

Mr. Steele: It is difficult to get access into buildings, sidewalks and right of ways; if underground access is required RCN will pay half of the cost; the consumers have the opportunity to pay the difference. The average cost to the consumer is \$750.00 or less for new service access to a building. We continue to add homes as best we can.

Selectman Heller: Is there a rate increase planned in order to receive a rate on your return.

Mr. Davidson: There are no plans to increase rates due to this transaction.

Public hearing:

Selectman Franco added that he hopes that there will be significant enhancements in efforts to reach into the community and provide service to more residents and not just continue as a normal course of business as usual.

Ernie Frey TMM#7 asked what the consequences of doing nothing would be related to this transfer.

Mr. Epstein replied that under Federal Law the Board of Selectmen has 120 days to render a decision, if they do nothing, the transfer will be deemed approved by this body for Brookline by Federal Law. If you deny the transfer, that will be a different route and can be discussed subsequently.

Selectman Greene noted that upon briefly reviewing the materials he did not see a financial statement. They are asked to approve something based on one page certifications; there is a balance sheet but most information is redacted. What are we basing the approval of this transaction on?

Mr. Davidson replied that Radiate is a new company and does not have a financial statement to provide. We provided the capital commitments. They believe that they have provided what is required under federal law. In these transactions certain information is by allowed to be redacted by the FCC's standard rule; I understand your position but feel the information provided is sufficient. The information not redacted provides the information needed to see that the qualifications are met.

Selectman Heller asked how RCN's rates in Brookline compare to other communities.

Mr. Steele replied they are pretty much uniform throughout the system, Brookline and Boston are the same.

Selectman Franco would like information on how the company plans to benefit the consumers of Brookline and not just the shareholders. He also asked if they plan to continue the case before the Appellate Tax Board.

Selectman Greene stated that he was not opposed to approving this transaction when the time

comes, but the process of Board review was not good.

Mr. Epstein noted that he will follow up on the Board's concerns.

There was no vote.

WARRANT ARTICLES

Further review and final vote on the following Warrant Articles for the November 15, 2016 Special Town Meeting:

Article 22 FAR (Floor Area Ratio)

Petitioner Dick Benka stated that the Advisory Committee voted favorable action on their revision of the Article. The goal in the reduction of the FAR is to discourage new construction of attics and basements that would exceed FAR. There was a discussion on reducing the current 150% limit to 130%. It has been recommended to keep it at the 150% of the total permitted gross floor area. The thought was that by reducing the allowance to 130% some single family homes would become non-conforming, and the intent is to discourage initial overbuilding.

Selectman Daly noted that there was a concern about enforcement by the Building Department.

Deputy Building Commissioner Mike Yanovitch replied that there is no clarification that could assist in the enforcement; they will enforce based on the intent of the Article.

Selectman Franco added that this is the third attempt to address this issues; he complimented Mr. Benka, Mr. Selwyn and other committee members for thoroughly vetting this subject.

The Board agreed with the Advisory Committee's language.

On motion it was,

VOTED: That the Town amend Sections 5.09, 5.22 and 7.06 of the Brookline Zoning By-Law as follows (additions appear as underlined bold text; deletions appear with strikethroughs):

A. By amending Section 5.09.2 (Design Review, Scope) as follows:

2. Scope.

In the following categories all new structures and outdoor uses, exterior alterations, exterior additions, and exterior **modifications or** changes, including exterior demolitions, which require a building permit from the building department under the Building Code, shall require a special permit subject to the community and environmental impact and design review procedures and standards hereinafter specified. Exterior alterations, exterior additions and exterior changes

(except as provided below), including fences, walls, and driveways, to residential uses permitted by right in S, SC, T, and F districts; signs as regulated in §§ 7.02, and 7.03; and regulated facade alterations as defined and regulated in §7.06 shall be exempt from the requirements of this section.

....

j. any exterior addition **or exterior modification** for which a special permit is requested pursuant to §5.22

.....

n. any construction of newly created space, whether or not habitable, finished or built out, where such space substantially satisfies the requirements for habitability under the State Building Code or could with the addition of windows or doors and without other significant alterations to the exterior of the building be modified to substantially meet such habitability requirements, and which space if finished or built out or converted to habitable space would result in the total Gross Floor Area of the structure being greater than the permitted Gross Floor Area in Table 5.01. In granting any such special permit, the Board of Appeals, in addition to the requirements of §5.09 and §§9.03 to 9.05, shall be required to find that the massing, scale, footprint, and height of the building are not substantially greater than, and that the setbacks of the building are not substantially less than, those of abutting structures and of other structures conforming to the zoning by-law on similarly sized lots in the neighborhood. In granting a special permit for construction of such non-habitable space, the Board of Appeals shall set forth as a condition of the special permit the extent to which such space may or may not be converted to habitable space in the future pursuant to Section 5.22 or otherwise, with the allowed future conversion to habitable space no greater than the applicant's representation of the intended amount of future conversion.

B. By amending Section 5.09.3.c.4 (Procedure, Photographs) as follows:

4. Photographs – Photographs show the proposed building site and surrounding properties, and of the model (if required). Applications for alterations, **modifications** and additions shall include photographs showing existing structure or sign to be altered and its relationship to adjacent properties.

C. By amending Section 5.09.4.c (Design Review Standards, Relation to Streetscape) as follows:

c. Relation of Buildings to the Form of the Streetscape and Neighborhood—Proposed development shall be consistent with the use, scale, **massing, height, footprint, siting,** yard setbacks and architecture of existing buildings and the overall streetscape of the surrounding area, **including existing abutting buildings and existing buildings that conform to the zoning by-law on lots of similar size in the neighborhood.** The Board of Appeals may require modification in **massing, scale, height, footprint, siting, setbacks** or design so as to make the proposed building more consistent with the form of **such existing buildings and** the existing streetscape, and may rely upon data gathered that documents the character of the existing streetscape in making such a determination. Examples of changes that may be required include

addition of bays or roof types consistent with those nearby; alteration of the **massing, scale, siting, footprint, setbacks and** height of the building to more closely match **such** existing buildings **and the existing streetscape**, or changes to the fenestration. The street level of a commercial building should be designed for occupancy and not for parking. Unenclosed street level parking along the frontage of any major street as listed in paragraph 2., subparagraph a. of this section is strongly discouraged. Otherwise, street level parking should be enclosed or screened from view.

D. By amending Sections 5.22.1.a, 5.22.1.b and 5.22.1.c (Exceptions to Maximum Floor Area Ratio (FAR) Regulations for Residential Units, General Provisions) as follows:

- a. Any expanded unit (individual residential units subject to an increase in gross floor area as per this Section) shall not be eligible to be ~~concurrently or subsequently~~ divided into multiple units. **If the limitations set forth in this paragraph 1, subparagraph a, or the limitations in paragraph 2 regarding separate dwelling units, should be found to be invalid, § 5.22 shall be deemed null and void in its entirety, and no increase in gross floor area shall be allowed pursuant to § 5.22.**
- b. Insofar as practicable, the additional floor area allowed pursuant to this Section shall be located and designed so as to minimize the adverse impact on abutting properties and ways, and interior conversions shall be considered preferable to exterior additions. **Any exterior additions or modifications shall further comply with the provisions of §5.09, including §5.09.4.c, §§ 9.03 to 9.05, and this Section. The limitations and standards set forth in such provisions shall also guide the Zoning Board of Appeals in determining under G.L. c.40A, §6 whether a change, extension or alteration is substantially more detrimental to the neighborhood than an existing nonconforming use.**
- c. Additional floor area shall be allowed pursuant to this Section only if the Certificate of Occupancy for the original construction was granted at least ten years prior to the date of the application for additional gross floor area under this section or if there is other evidence of lawful occupancy at least ten years prior to the date of such application. **In the case of the substantial demolition of a structure or of an increase in the number of units, the time period prior to such demolition or unit increase shall not be counted toward the required ten-year waiting period, and the ten-year waiting period shall be deemed to commence with the grant of a new Certificate of Occupancy after such demolition or unit increase. As used in this paragraph 1, subparagraph c, “substantial demolition” shall mean the act of pulling down, destroying, removing or razing a structure or a significant portion thereof, by removing one or more sides of the structure, or removing the roof, or removing**

25% or more of the structure. If the limitation set forth in this paragraph 1, subparagraph c should be found to be invalid, § 5.22 shall be deemed null and void in its entirety, and no increase in gross floor area shall be allowed pursuant to § 5.22.

E. By amending Section 5.22.2 (Exceptions to Maximum Floor Area Ratio (FAR) Regulations for Residential Units, Conversion of Attic or Basement Space) as follows:

2. Conversion of Attic or Basement Space in Single-Family and Two-Family Residential Dwellings.

Conversions of attics or basements to habitable space for use as part of an existing single- or two-family dwelling, not as a separate dwelling unit, and effectively increasing the gross floor area of the dwelling, shall be allowed ~~as of right~~ **in S and SC Districts** provided the following conditions are met in addition to the conditions set forth in paragraph 1 of this Section:

a. Any exterior modifications that are made to the structure to accommodate the conversion shall be subject to **the procedures, limitations, and conditions specified in §5.09, §§9.03 to 9.05, and this Section.** ~~the façade and sign design review process as provided in §7.06, paragraph 1 of the Zoning Bylaw.~~ No exterior modifications made under the provisions of this subparagraph may project above the ridge of the roof nor project beyond the eaves.

b. Any increase in gross floor area through such basement or attic conversion shall be limited such that the total resulting gross floor area of the building(s) after such conversion is no more than **130%** ~~450%~~ of the total permitted in Table 5.01 (the “permitted gross floor area”).

F. By amending Sections 5.22.3.a., 5.22.3.a.1 and 5.22.3.a.2 (Special Permit for Exceeding Gross Floor Area for Residential Dwellings) as follows:

a. The Board of Appeals may allow, by special permit, a maximum gross floor area greater than permitted gross floor area for an existing residential building(s) on a single lot, subject to the procedures, limitations, and conditions specified in §5.09, **§§9.03 to 9.05**, and this Section for an existing residential building which meets the following basic requirements:

- 1) The existing building(s) is located on a lot (or part of a lot) in a ~~an S or SC~~ **District with a permitted maximum floor area ratio no greater than 1.5.**
- 2) The existing building contains at least one residential unit but no more than ~~four~~ **two** total units. For the purpose of this paragraph 3, subparagraph (a)(2), total units shall be defined to include all residential dwellings, offices, and commercial spaces within the building.

G. By amending Section 5.22.3.b.2 as follows:

~~In all T, F, M-0.5, M-1.0, and M-1.5 Districts, a special permit may be granted for an increase in floor area that is less than or equal to 20% of the permitted gross floor area, whether it be for an exterior addition, interior conversion, or a combination of the two. The total increase in floor area granted by special permit for all applications made under this paragraph 3, subparagraph (b)(2), or any prior version of Section 5.22, shall not exceed 20% of the permitted gross floor area.~~

H. By amending Section 7.06.1.c (Regulated Façade Alterations) as follows:

~~Conversion of attic or basement space in Single Family and Two Family Residential Dwellings where exterior modifications beyond that required by the State building code are made.~~

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

WARRANT ARTICLES

Question of reconsidering the Board's vote on the following Warrant Articles for the November 15, 2016 Special Town Meeting:

Article 15 Solicitation Content Neutrality

Deputy Town Administrator Melissa Goff reviewed that the Advisory Committee changed the Title only in Article 15 by replacing "SOLICITING MONEY" **WITH** "SALES IN PUBLIC PLACES"

On motion it was,

Voted to reconsider Article 15.

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

Voted that the Town amend the General By-Laws, Article 8.20, Soliciting Money as,

ARTICLE 8.20 SALES IN PUBLIC PLACES ~~SOLICITING MONEY~~

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

Article 24 Resolution Leaf Blower Control Officer

Deputy Town Administrator Melissa Goff explained that the petitioner has revised language that would shift enforcement to the public works division; the employee that is assigned to ½ time to

trash enforcement.

Chairman Wishinsky noted that this would share enforcement with the Police Department.

Town Administrator Kleckner stated that he opposes removing the Police Department as the enforcing entity. He added that he would like to cooperate, but feels it is not necessary to have a resolution, which the petitioner felt otherwise. Resolutions create expectations, and could be held as binding.

Selectman Franco noted that the Police often show up after a complaint call regardless of who the responding agency is. Often times the DPW employee is not viewed as a legitimate enforcer.

Selectman Daly does not support adding addition responsibilities and duties to the DPW division.

There was no motion to reconsider.

Article 28

DICR Amendments

Petitioner Ernie Frey reviewed the Advisory Committee's recommendation vs. the Board of Selectmen's. The current practice is that a member continues until a replacement is appointed; this would mean it would be assumed the member is applying for reappointment until the Town Administrator is told otherwise. The main difference relates to reappointment of Commissioners, and the sequence of a denial process on an application. The Board prefers their language that they voted on previously.

There was no motion to reconsider Article 28.

There being no further business, the Chair adjourned the meeting at 9:35 p.m.

ATTEST