

Town of Brookline  
Advisory Committee Minutes

Sean Lynn-Jones, Chair

Date: April 14, 2016

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Present: Carla Benka, Clifford M. Brown, Carol Caro, John Doggett, Harry K. Friedman, Janet Gelbart, David-Marc Goldstein, Neil Gordon, Amy F. Hummel, Sytske Humphrey, Angela Hyatt, Alisa Jonas, Janice S. Kahn, Steve Kanen, Fred Levitan, Robert Liao, Pamela Lodish, Sean M. Lynn-Jones, Mariah Nobrega, Michael Sandman, Lee Selwyn, Charles Swartz

Absent: \* Stanley Spiegel, Lea Cohen, Jennifer Goldsmith, Dennis Doughty, Bobbie Knable, Kelly Hardebeck, Christine Westphal, Shaari S. Mittel,

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Also attending Petitioners Patricia Connors (WA 18), Ernie Frey (WA 13), Richard Murphy (WA 11), Tom Brady, Town Arborist.

**Announcements:**

Need to select a date for the AC Party. Either June 6 or June 7 – start time 6pm. Lisa will get best dates from full AC.

No meetings next week because of School Vacation.

Possibility of Meeting on May 2<sup>nd</sup>. The meeting was called to order at 7:40 PM.

**1. REVIEW OF WARRANT ARTICLE 1: APPOINTMENT OF MEASURERS OF WOOD AND BARK**

The Planning and Regulation Subcommittee voted 3-0 for favorable action.

A MOTION was made and seconded to recommend favorable action of Warrant Article 1.

**Vote:** With a vote of 19 in favor, 0 opposed with 0 abstentions, the Advisory Committee votes favorable action on Warrant Article 1.

**2. REVIEW OF WARRANT ARTICLE 11: PROPOSED TREE PROTECTION BY-LAW**

Janice Kahn gave an overview of the Subcommittee's report and background on the impetus for the Article. The petitioner brought this warrant article forward after the property next door to his home was clear cut – with all trees removed by a developer. The petitioner seeks to protect the “urban community forest” in Brookline and asks TM to adopt a tree protection by-law that would protect and preserve both public shade trees and designated trees on privately owned properties that meet certain criteria. Although the Town already manages and maintains more than 50,000 trees on public lands, including over 11,500 street trees, the vast majority of trees are on private property. This article would require the Town to also regulate “protected” trees on land that is privately-owned. This proposed by-law would put into place procedures to regulate the removal of trees at least 8” in diameter, and enforcements and penalties for violations. The subcommittee did not take a vote on this warrant article.

Article 24, which was passed at Fall 2000 Special Town Meeting urged a Moderator's Committee be formed to evaluate the feasibility, effectiveness and community benefits of such a bylaw in Brookline. This current draft is nearly identical to a tree protection bylaw proposed by that Moderator's Committee and included as part of their report to the Annual Town Meeting in 2003. The Committee concluded that: "The Town should not implement a tree protection bylaw until there is appropriate staffing in place that can ensure the process is fair, equitable, performed within a realistic time period and adds value to the community." The Moderator's Committee estimated that it would need at least a ¼ FTE to enforce the bylaw, and recommended that a bylaw be adopted as soon as the Town had the financial resources to afford the personnel costs. It also prepared a draft of a tree protection bylaw which it felt would fairly balance the trees' value to the community with other community needs and concerns. It further recommended that various town boards (including the Planning Board, Conservation Commission, Zoning Board of Appeals and Preservation Commission) consider the value of trees during their reviews. Since the Moderator's Committee report was submitted, additional language has been added to Section 5.09 of the Town's design review guidelines to consider preservation of trees and landscape in the review of all projects requiring design review. Public shade trees are protected from removal under M.G.L. Chapter 87.

Other towns have tree protection bylaws and many throughout the country. Each town has a different approach.

The petitioner-trigger for the action is residential / non-residential 10% increase, total teardown and rebuild. For every inch of tree you take down, you add a half an inch of tree to replace it.

Contribution to a Tree Fund.

If trees are to come down is there is some way to retain them elsewhere.

Tom Brady, Town Arborist – the memo summarizes the points we came to at the DPW – Good body of knowledge developed since.

Tree Planting Committee decided to take no action and do more research on how and what other communities are doing and specifically deal with some of the issues raised in the article.

#### **Discussion:**

I wonder about work load and levels of review that we have in the Town already, maybe something for Zoning ByLaw Committee to review – sign off from Conservation Wetlands, Preservation Commission, Special Permits or Variances because you would already have the staff working on the proposal – not just tree removal. Refer to Zoning Bylaw Review Committee – in how many cases would this apply under requests for zoning relief? Such an approach would hit some of instances of tree removal, although not all.

Could ask the property owners to measure the trees?

A preservation staff person could not make those assessment – you need to replace every tree in the buffer zone unless it is invasive, etc. etc. so discussion takes place with the arborist and others who know how to do this.

Anytime anyone makes major changes or improvements plot plans and surveys are required. Measuring set back, etc. but seems it would build in naturally without additional staffing.

A review not just for size but relative condition of the tree – would need an arborist.

Why are we trying to wordsmith or conceptualize changes to this Warrant Article when various groups are already recommending no action and the need for more research to come up with an appropriate and well thought through set of recommendations for this Warrant Article.

The article needs more work by another committee or the petitioner. No matter how well you write this, unless there is some way to shift the cost to someone other than the Town to pay for this, can't adopt it if you can't enforce it and if you can't pay for the enforcement... In addition to the work that needs to be done on this before the AC would decide on this, the cost shifting must be a part of it.

Very supportive of the idea of what you are trying to accomplish, and that shouldn't stop the effort entirely. Hopefully won't go to a Moderator's Committee because it has already been there.

If the only reason this is being held up is that we cannot find the staff for enforcement, not persuaded that other than the staffing issue that there really is no reason why we can't support and proceed with this. The sooner we take action the sooner we protect people.

There are also some loopholes where developers can avoid the bylaw and the penalties. Those things also need to be addressed before we move forward. It could encourage people to clear cut their land ahead of time.

People could still do this right now so we wouldn't be making anything any worse.

There still can be more study done. Taking no action and asking that additional work be done, premature to put in place something that seems acknowledged by many as flawed.

Just because a group says no does not mean that a warrant article should be discarded and it might be more appropriate to refer to Zoning By-law Review Committee.

We would be remiss to say we could fund a position just because we all care about trees when so many departments have wish lists of positions they would like funded. It makes no sense whatsoever to say we would fund a position when something has come before us in such an incomplete way.

It would be great to find ways to have this work done and enforced without necessarily needing to hire a position.

I mentioned reserve fund transfer because we could still amend the budget. It would be wonderful if citizen petitioners attached to their petition a proposed budget on how to fund it. If a warrant article requires funding then it should be considered comprehensively. If this is worth passing and the principal impediment is we don't have funds for a staff person, we can put it before Town Meeting before the budget is passed. Regarding the issue of unintended consequences, suggest pass it now and fix it in the fall rather than defer it. I do see the possibility that actions could be taken over the next 6 months that could be prevented if we take action now.

Suggest a middle road and refer to Zoning Bylaw Review Committee to see if existing laws may be looking into these projects as outlined in the article.

If Zoning Bylaw Review Committee does review this, I hope that really large pieces of land would not be neglected in their review or study.

I would like to see a really good article come out of this. I am concerned about the level and pace of development and renovation going on so think it is important to do something quickly.

This addresses big projects – development small and large – the three triggers can be adjusted if the budget is going to be a roadblock then getting the erosion and sedimentation disturbance (put cost on developer) cuts down the scale of work. Amend and bring back other two triggers down the road. Concerned about amount of labor we could withdraw 10% development and increase, erosion and sedimentation.

Refer it and come back with a clearer and stronger article.

The estimate on the staff is 3 hours of staff time per event. Assuming you would receive the plan and other documentation, then do the site visit, and then do a follow up visit to be sure nothing has been removed that wasn't supposed to be removed.

A MOTION was made and seconded to table a vote on warrant article 11 and reconsider it at a later date.

**Vote:** By a vote of 8 in favor, 11 opposed and 2 abstentions the motion to table fails.

A MOTION was made and seconded to refer the issue of Warrant Article 11 to the Zoning Bylaw Committee.

**Vote:** By a vote of 16 in favor, 1 opposed and 4 abstentions the Advisory Committee voted to refer the issue of Warrant Article 11 to the Zoning Bylaw Committee.

### **3. REVIEW OF WARRANT ARTICLE 4: CLOSE OUT OF SPECIAL APPROPRIATIONS**

Harry Friedman gave an overview of the Subcommittee's report.

The Comptroller has the capacity to do this whether we say so or not.

Closing K127 – Fire Fleet Maintenance and Training Facility – Fiscal 16 an authorized feasibility study – project completed with \$500 leftover.

A MOTION was made and seconded to recommend favorable action to close K127 Fire Fleet Maintenance and Training Facility and return those funds to surplus revenue.

**Vote:** By a vote of 18 in favor, 1 opposed and no abstentions, the Advisory Committee votes favorable action on the motion under Article 4.

Suggest a condition of appropriation be that the AC be notified whenever a department goes over – also incentivize savings.

#### **4. REVIEW OF WARRANT ARTICLE 13: TIMELY NOTICE OF NEIGHBORHOOD MEETINGS FOR MAJOR IMPACT PROJECTS**

Angela Hyatt gave a summary of the Subcommittee’s meeting. The article puts a time restriction on notices for major impact projects - a process that starts prior to the Planning Department’s involvement in the project. Onus is on property owner and/or developer to get word out that there is a project ongoing on in their neighborhood. Seven day notice on mailed or delivered – postmarked or received – purposely ambiguous...it does protect residents and abutters in a way that presently isn’t included in the bylaws.

One example was notice given on a Friday for a meeting the following Monday.

The article increases the breadth of who is notified – currently town meeting members and abutters in the precinct. Now notice would also go to Town Meeting Members in abutting precincts 300 foot project boundary.

Suggests clarifying of language. Ambiguity about what constitutes “notice” but that is something for a future warrant article.

The subcommittee voted unanimously to recommend favorable action on the warrant article.

Petitioner Ernie Frey

The article relates to major impact projects which are developments of 16 residences or more. This proposal was for a 29 unit article. Notices received on Friday or Saturday by most neighbors. Zoning rules say you don’t have to have any notice at all. Prior to filing with Building Commissioner there just has to be a community meeting involving developers and TMM in the precinct.

Add abutters – IT modified the abutters app and the map shows precinct boundaries which would be used for this notification process.

Delivery issue – Petitioner would like to have had that more specific – proof of mailing or post office mailings but it was recommended by the Planning Department to use comparable language for notices that is used now.

Notify the neighborhood associations – working with Brookline Neighborhood Alliance to determine who should be notified but no change required for this WA. Planning Board approved the WA and Zoning Bylaw Committee will be considering this next week.

Q: Who sends out the notices?

A: Responsibility of applicant or the attorney to send out the notice.

Q: Is there a commonly accepted format for the type of information that is to be included in the Notification?

A: No. There had been suggestions previously to include notification on the outside of an envelope indicating that this has an impact on your neighborhood. Alison mentioned that they were looking into doing their mailings in post card form.

Q: Why is email not being used for this?

A: An email is not excluded but the Town doesn't have everyone's email address.

Q: Somethings can be taken care of through a policy or practice and thought this had already been agreed to and implemented with the Planning Department.

A: This is for a neighborhood meeting before the Town even hears about it. This step is preliminary to Zoning Board or Planning Department.

Q: Discussion of Cinema project, Planning Board appeared to us as a rubber stamp – all the work we did was done in Boston. BRA sponsors several public meetings. Our Planning Board doesn't really do that. BRA holds meeting with developer presenting – all letters are responded to line by line by the developer and every person who wrote in which were included in the main document. They may not take your point but they had to answer it and explain their position.

A MOTION was made and seconded to recommend favorable action on Warrant Article 13.

**Note:** With a vote of 19 in favor, 0 opposed with 3 abstentions, the Advisory Committee votes favorable action on Warrant Article 13.

##### **5. REVIEW OF WARRANT ARTICLE 18: HISTORIC PLAQUE AT SITE OF ST. AIDAN'S CHURCH**

Pam Lodish gave a summary of the Subcommittee's report. Design, wording, and siting of plaque had been approved by Conservation Commission but seem to have gotten lost along the way. The plaque had been fabricated but the project got bogged down. Capital Subcommittee voted no action because the plaque was finally installed by Planning Office of Urban Affairs, the developer of the St. Aidan's site.

Fight to preserve as much of St. Aidan's as possible was accomplished by many. Began working on this in 2000. We felt that after the housing development was completed it was time to have a plaque there to recall the historic significance of the church. Place where both President John F. Kennedy and his

brother, US Senator Robert F. Kennedy and four of the Kennedy sisters were baptized. We all came to an agreement on the language (National Parks Service was involved in collaboration on the language, as well). Petitioner is thrilled that the plaque has been installed and very pleased with the language.

A MOTION was made and seconded to recommend no action on Warrant Article 18.

**Vote:** With a vote of 22 in favor, 0 opposed with 0 abstentions, the Advisory Committee votes no action on Warrant Article 18.

**Next Meeting:** The next meeting of the Advisory Committee will be on April 26.

Upon a MOTION made and seconded and voted unanimously, the meeting adjourned at 10:00 pm.

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**Documents Presented at Advisory Committee Meeting:**

- WA 4 Revenue Funded Accounts
- WA 4 Bond Funded Accounts
- Public Safety Subcommittee Report on WA 11
- Planning Board Report and Recommendation on WA 11
- Commentary on WA 11 by Frank Caro
- Memo from Department of Public Works, Parks and Open Spaces regarding WA 11
- Capital Subcommittee Report and Recommendation on WA 18
- Images of St. Aidan's plaque