

**Town of Brookline  
Advisory Committee Minutes**

Sean Lynn-Jones, Chair

**Date:** October 6, 2016

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**Present:** Carla Benka, Carol Caro, Lea Cohen, Dennis Doughty, Harry Friedman, Janet Gelbart, David-Marc Goldstein, Sytske Humphrey, Angela Hyatt, Alisa G. Jonas, Janice S. Kahn, Steve Kanes, Bobbie Knable, David Lescohier, Fred Levitan, Robert Liao, Pamela Lodish, Sean Lynn-Jones, Shaari S. Mittel, Mariah Nobrega, Lee L. Selwyn, Stanley L. Spiegel, Charles Swartz, Christine Westphal

**Absent:** Amy Hummell, Michael Sandman, Kelly A. Hardebeck, Neil Gordon, Clifford M. Brown

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The meeting was called to order at 7:00 PM.

**1. Continue Review WA 4 Amend Article 8.23 of the Town's By-Laws – Tobacco Control -- enhance tobacco-control regulations for reducing youth access to conform to State's best practices. (Petition of Makena Binker-Cosen)**

A **MOTION** was made and seconded to take discussion of this article off table and put it back on the agenda for tonight's meeting.

By a **VOTE** of 11 in favor, 1 opposed with 2 abstentions the Advisory Committee approved putting discussion of this article back on the agenda

Alan Balsam, Director of Brookline's Department of Health and Human Services, noted that the Town had fallen behind other communities on these four issues. This is our attempt to bring us up to where everyone else is. The Advisory Council held a hearing and heard from the Petitioner and Tobacco Control Coordinator and two vendors in town. The Advisory Council voted unanimously to support WA 4.

Sytske Humphrey gave a brief report on the Subcommittee's meeting and provided an overview of the changes in the new document and noted new language approved by Town Meeting Moderator Sandy Gadsby. She mentioned the letters of objection from two vendors and posters they provided which were shared with the Committee.

Petitioner noted that we wanted to stop the cycle of new customers, specifically youth.

**Questions and Comments:**

Q: Question posters comparing tobacco to alcohol – what is the intent of the argument?

A: It was suggested that perhaps because the law requires that purchasers of tobacco be 21 or over, this compares flavored tobacco to flavored alcohol seems to be their argument. Alcohol is beyond the scope here.

Q: Is it legal for the Town to establish a minimum price for vendor's product?

A: Town Counsel said it could possibly be illegal but requires additional research.

The petitioner explained the pricing intent in the article. Cigars can be as cheap as .69 cents. These are marketed toward youth because most people interested in cigars wouldn't necessarily purchase such a low-priced cigar. Inexpensive tobacco products are targeting and are designed to attract youth.

Assumptions are being made about who the market is – what about a person over 21 who has a buck and wants to enjoy a cigar at the end of the week?

Q: This is based on other laws elsewhere – where is it currently in force?

A: Minimum prices are in effect in Boston, Newton, Cambridge and others. Watertown has 21 age, not minimum pricing but looking into it.

Q: How much will it cost to enforce this?

A: The Tobacco Control Coordinator for Brookline as well as other nearby communities responded that this will not result in any increase in cost or in activity in her job.

Q: Why isn't this being addressed at the State legislative level?

A: Attempts have been made but there was a strong lobby and efforts failed. Efforts continue, however.

Definitions in the article were confusing and contradictory and internally inconsistent. Some examples given included "Tobacco and tobacco products", "Electronic cigarettes and E-cigarettes", etc. This language seems poorly drafted and difficult to understand. Someone should read it for consistency.

Town Counsel would like to have an opportunity to review it more carefully. Agree that the language is inconsistent.

Objections were raised to legislating the signage – size, placement – size of font and color, etc.; imposing minimum price; cigars and pipe tobacco as a "gateway drug" to cigarettes; how it restricts the rights of adults from purchasing tobacco. Suggest we do a better job of enforcement to keep these things out of the hands of children.

Q: How has this succeeded or not in the towns where it is in force?

A: Amount of product available has lessened. Where there may have been four shelves there are now only two, so fewer products available.

Focus on flavor because that is what draws youth. But they are not allowed to smoke anyway so why don't we just enforce that?

Minimum pricing for tobacco was instituted in the 40s to favor the tobacco companies.

Targeted at tobacco companies because the only way they can continue their existence is by getting new customers and getting people hooked; but affecting the smaller seller in an effort to hurt big tobacco. Don't think too many adults chose to purchase these so comfortable with this effort.

Suggest you should apply the rules for cigarettes to these cigars that come 20 in a pack but handled on a State level.

The spirit of the article is to promote a tobacco-free generation and part of that does involve limiting tobacco use for other people. It goes after big tobacco's inclination to create cheap sweet and easy-to-get products to hook another generation.

A Selectman's Committee is being formed to come to Spring Town Meeting with a number of ways we can move toward a tobacco-free generation. Still many questions about legality and language for this article.

A **MOTION** was made and seconded to recommend to referral of this article to a Selectman's Committee.

By a **VOTE** of 19 in favor, 4 opposed with 1 abstention the Advisory Committee recommended referral of Article 4 to a Selectman's Committee.

**2. Review WA 29 Petition regarding Police Officer training and responsibility for dangerous dogs or animals. (Petition of Gary Jones)**

**3. Review WA 30 Petition regarding the online posting of Police Reports. (Petition of Gary Jones)**

Janice Kahn gave background on the incident. A woman and her small dog were mauled by a large dog that had gotten away from its walker. Given the horrific nature of the attack the neighborhood felt that there was a need to do something about animal attacks and how they are handled by the police. The second article concerns transparency.

The subcommittee heard from residents of the neighborhood and their views on the lack of response and inappropriate behavior from the police officer who arrived at the scene. Police Department has received 5 citizen complaints regarding this incident. Chief O'Leary has designated someone to hold a hearing and is creating a general order to better advise officers on what to do if they encounter a dog attack. It should be noted that the Animal Control Officer was not on duty that day.

Warrant Article 30 refers to notification. Not all police reports are publicly available and when available can be redacted. Police logs however are public. Police logs in Newton are online. Brookline doesn't have them online. You have to request them and go to the station and can see them. There should be an effort made to find a way to make these logs, which are public, more accessible to the general public.

Referral to a study committee would look at that. Subcommittee recommended unanimously to establish a special committee to further review both of these issues.

The incident was in the police log but it wasn't reported in the Tab. There was a redacted copy of the police officer's report of the incident also.

The petitioner offered the following comments:

The article is a petition from his neighborhood. What hasn't been captured is the passion and anger against the police that this incident engendered from the petitioner and his neighbors. He recounted the incident – the screams, the blood and some 40 people coming to help and his interaction with the police officer on the scene. When asked about what he would do about the dog, the officer said it was not his

responsibility. Not his responsibility to protect the public?! Why are we responsible for our own safety? It is a terrible thing that we feel we are not safe in our own neighborhood and that dog is still there. The dog is vicious toward other dogs as well as people. There is a feeling that the police handled the investigation poorly and that they were dismissive of the victim's concerns and more concerned with the wellbeing of the dog walker.

The neighbors want that dog put down. Why is it upon us to get the dangerous dog hearing – that should have been the responsibility of the Police. We need to look to see what other communities are doing but the main point is to protect the public. The fact that it didn't get into the Tab was surprising.

The police should have taken the dog away because he was clearly a danger.

Daniel O'Leary, Chief of Police, responded to the petitioner's comments:

Chief O'Leary agreed that the officers that night could have done things differently and this matter has been addressed with them. The responding officer did not ask for backup and no supervisor called to the scene, for example.

When the officer arrived, the attack was over and the dog was being restrained by a neighbor (who wrote a letter to the editor in the Tab today). The officer spoke with the victim, the person restraining the dog, some bystanders, and the dog walker. He spoke with the owner and turned the dog over to him. The smaller dog that was attacked went to the hospital, as did the dog's owner. The officer went to the hospital and talked with victim, victim's husband. Gave report to Animal Control Officer. Citations were issued and a muzzle order for the dog was placed in effect for 180 days. The dog is currently under an order to be wearing a muzzle when in public. There have been reports of the dog being walked without the muzzle but have not had any verification of those reports.

Purpose of hearing to see if the dog is dangerous, if ruled dangerous testing done on dog, muzzle order extended, or dog is euthanized. Any decision can be appealed to court. There is a process we have to follow. A hearing will be set up by the end of this month. We are currently interviewing people who filed complaints, the victim (again), and other witnesses who were there on the scene. Victim suffered very serious wounds, not downplaying that but we have to conduct a full investigation. No backup and no supervisor were called to the scene.

On Article 30 we are under restrictions as to what we can release to the public. We have to go through a review of each and every report before we put it up on line. 6500 police reports per year on average plus supplementary and follow up reports added bring that number up to 10,000 or 15,000 reports each year. The Tab follows Twitter, the Police Blog and requests copies of reports as needed. Anyone can come into the station and request a report. Not against a referral to a committee to see if there is some way to do things better.

Any person can petition for a dangerous dog hearing (it doesn't have to be the victim) with the Hearing Authority and it can be the Animal Control Officer, the Selectman, (Chief has designated the Director of Health in this case).

AC Question: Interval between when the incident happened and the dog being muzzled and confirming that it was, who's responsibility was that? The blood and what not was evidence enough to trigger the muzzle order? Answer: He felt he needed all the information before issuing the order so that was why the time span.

Comment from AC member: If this had been another person who attacked someone with a knife one or two times, that person would have been put in custody immediately. Outrageous that the dog was returned to its owner as opposed to being put in the pound temporarily.

AC Question: Is an Animal Control Officer is a police officer with additional training. Is this a relatively low cost training to provide so that we could bring our numbers up to more than one Animal Control Officer?

Chief O'Leary noted he is drafting a general order that will give guidelines to officers and will train all officers in the new policies and our expectations.

AC Question: Why can't we get the special certification for another officer so we have another on staff or three? It is a budget thing.

AC Comment: This is something that a referral committee could explore and recommend.

AC Comment: Even with more training, these officers would not have the additional equipment that the Animal Control Officer typically has.

AC Question: Why the decision to refer it and why not just vote it as is? What was wrong with the original Article?

AC response: Town Moderator didn't accept it in its original form that Town Meeting could vote on. He assisted the petitioner in redrafting the motion to referral.

Chief O'Leary: Training will be done as soon as the policy is written so sometime before November that will be completed.

AC Comment: Feel that we should always have an Animal Control Officer on duty with the access to the truck and tools needed.

AC Question: If someone cannot take an animal to impound, would the shelter come and assist?

Chief O'Leary answer:Yes.

AC Question: Can you revoke a Green Dog License? Yes under current requirements.

Answer: Botherome dogs can be ejected from the parks.

AC Comment: I have faith in our police department and their training. More thought should be given when an attack triggers a dangerous hearing and get further information about costs of training.

I would like to have this addressed sooner rather than later town-wide.

AC Comment: I would like to see in the next budget that we have addressed the issue in some way and that we know the costs and we find the funds.

Comment: Neighbor should sue the dog owner to make sure the seriousness of the case is recognized.

A **MOTION** was made and seconded to recommend favorable action on the referral motion offered by the petitioner under WA 29.

By a **VOTE** of 19 in favor, none opposed with 1 abstention, the Advisory Committee recommends to refer WA 29.

A **MOTION** was made and seconded to recommend favorable action on the referral motion offered by the petitioner with the addition of the word “and” between “ reports” and “determine” under WA 30.

By a **VOTE** of 18 in favor, 0 opposed with 1 abstention, the Advisory Committee recommends to refer WA 30.

**4. Review WA 31 Amendment to Article 2.1 of the Town’s By-Laws – Town Meeting --to extend requirements of the Massachusetts Open Meeting Law to Town Meeting-created committees. (Petition of Regina Frawley, TMM16)**

Review of WA31 will be considered at the October 13 meeting as the petitioner had to leave the meeting before it was heard.

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Upon a **MOTION** made and seconded to adjourn, and voted unanimously, the meeting was adjourned at 9:30 pm.

**Documents Presented:**

- Human Services Subcommittee revised report on WA 4
- Advisory Council on Public Health Report on WA 4
- Petitioner’s Revision WA 4
- Patel and Iqbal Speeches WA 4
- Posters
- Public Safety Subcommittee Report on WA 29 and 30
- Substitute Motions offered by the Petitioner and Approved by the Moderator for WA 29 and 30
- Witness Statements
- Schools Subcommittee report on WA 31
- Draft Amendment by Town Counsel to WA 31
- Petitioner’s Revision WA 31

