

MINUTES OF CTOS MEETING – January 25, 2023

The Brookline Committee on Town Organization and Structure (CTOS) held a duly posted meeting via the Zoom platform on January 25, 2023 to discuss warrant Article 5 that was referred by the Fall Town Meeting to CTOS.

In attendance were; Dick Benka (CTOS), Jean Berg (CTOS), Harry Bohrs (CTOS), Abby Cox (CTOS) Betsy DeWitt (CTOS), Sean Lynn-Jones (CTOS), Ian Roffman (CTOS), Dennis Doughty (Advisory Committee Chair), Harry Friedman (Advisory Committee/Town Meeting), Neil Gordon (Advisory Committee/Town Meeting), Susan Granoff (Advisory Committee/Town Meeting), Bernard Greene (Select Board), Alec Lebowitz (Town Meeting), Richard Nangle (Town Meeting), Kate Poverman (Town Moderator), Marty Rosenthal (Town Meeting), Michael Sandman (Select Board), John VanScoyoc (Select Board)

The meeting began at 6:30 p.m.

The committee began with a public hearing on Article 5 from the Fall Town Meeting. Sean Lynn-Jones summarized the history of the article and its referral back to CTOS. Article 5 was proposed by the Select Board in response to a rising number of warrant articles which has led to increased demand on the Select Board as it also tries to meet the other responsibilities of town governance. He shared two suggestions from the Town Meeting Listserv: 1) increase the number of signatures required (currently 10); and 2) increase the time between the closing of the warrant and the beginning of Town Meeting so there is more time for review of the articles. Dick Benka raised the issue of Article 4 which passed at the November 2021 Town Meeting, which sought legislation from the state to change the Town Administrator Act so that the Select Board did not have to weigh in on certain kinds of licenses, and whether that would have significant impact on the body's workload (which seemed to be the motivating factor behind Article 5). Bernard Greene stated that the Select Board does have a large workload and that they do not always review the articles as fully as they should. They need to be careful. Michael Sandman asked that where room can be left for discretion, please do so. He conceded that the Select Board had made a serious mistake in not reviewing the entire group of climate change articles that had come before Town Meeting, but that they had learned from it. John Van Scoyoc suggested that the Select Board should take a greater role in guiding what goes from town committees to Town meeting and that we should consider requiring more signatures on petitions for warrant articles, with perhaps 50 instead of 10. Marty Rosenthal voiced his feeling that Article 5 was a gross overreaction to the increase in warrant articles. Quoting Justice Brandeis, he stated that the most important office in a democracy is the office of citizen, and the right to petition the government goes back centuries. He believes the Select Board should hold public hearings on all articles, and it can choose whether or not to make a recommendation. Harry Friedman opposed Article 5 as the Select board has a duty to solicit and hear public comment. He argued that the Select Board is the most obvious place for people to go as it is more familiar than the Advisory Committee or other town boards. He pointed to the confusion around the climate change articles as an example of how allowing complete discretion to the Select Board in the review process doesn't work. He asserted that it does not take long to write the reports because that falls to the staff and that the Select Board can just say that it considered the article and report its vote without a lengthy explanation. Dennis Doughty pointed to the distinction between holding hearings and doing reporting. He is less interested in the reports and recommendations because you cannot force a

volunteer committee to do good work. However, accessibility to the public is a concern. The places and times the public can be heard need to be well publicized. Susan Granoff began her remarks by exploring the difference between the Advisory Committee and the Select Board. The Advisory Committee was expressly created to advise Town Meeting with information it cannot get anywhere else. Because one-third of Town Meeting members are new to their role, the Advisory Committee provides necessary background for them. The Select Board has a different role in that it is the Executive branch. Constituents should see where the Select Board members stand on the articles. The Select Board hearings give access that is unavailable elsewhere, including that they are broadcast on BIG, and thus they help educate the public on the articles. Granoff suggested that the Select Board consider not writing lengthy reports since the Advisory Committee already produces thorough investigative reports. Instead, the Select Board report could be a vote and a sentence or 2, and perhaps the Advisory Committee report could precede it in the Combined Reports. Alec Lebovitz expressed his concern for accessibility and transparency. He asked how it was possible that the Select Board did not review all the warrant articles before Article 5 had been passed. Kate Poverman explained that the Town Counsel had opined that the Select Board could operate this process as a pilot program before the article was brought to Town Meeting, though some might disagree with that opinion. Neil Gordon argued that the Select Board ought to be free at its own peril to decide what to take up in depth and what to spend less time on, but emphasized that there is no equivalent platform to the Tuesday podium at a Select Board meeting. It is regular and televised. The public has a right to speak on every article on the warrant. Richard Nangle expressed that there are too many frivolous articles that come to Town Meeting. When he was elected in 1996, Town Meeting convened for 3 nights in the spring and 2 nights in the fall. There needs to be a frank discussion with Town Meeting members on frivolous articles and working through a process. Van Scoyoc said he believes the Select Board is not going to repeat its pilot for the next Town Meeting. He explained that in the fall, the Select Board had held a hearing on which articles they would opt to comment on in depth and which they would pass over, and that would be sufficient to meet its responsibilities. Lynn-Jones followed up by asking whether the Select Board had that omnibus hearing or a succession of public hearings, saying he had not seen notice of the hearings on the articles that didn't get recommended or reported. Van Scoyoc answered that the Select Board Chair, Heather Hamilton, had gone over the ones she thought the Select Board could pass on, and the other members had opportunity to comment. The hearing on those opened and closed. Sandman admitted that the Select Board had not done a good job last fall, and have learned from those mistakes. They did hold an omnibus hearing on a cluster of articles they felt would not be controversial. He pointed out that people can always comment on articles at every Select Board meeting during the public comment section. However, the Select Board is not going to "go to war" over Article 5, and a lot of good points have been raised here. Friedman warned that if you hold a hearing at the beginning of the process, whatever your intentions, it's often not clear until partway through the process which articles are of any importance. Lynn-Jones summarized that the discussion had highlighted the importance of preserving public hearings at the Select Board, allowing the Select Board some discretion, but perhaps in other ways than the method used by the Select Board in the fall. CTOS will need to think about whether there are bylaw amendments we would like to offer. The committee closed the public hearing.

Benka asked the Select Board members in attendance where they think their time is wasted. Greene replied that there is lots of work but it is not oppressive. Perhaps the place for improvement is the

committee structure (he is on 8!) Sandman concurred that there is a large number of committees – 50-60 boards in Brookline – and a Select Board member is often assigned to serve on them in the warrant article that creates them. Each week, each member spends 2-4 hours in committee meetings. Both Greene and Sandman said that the majority of licenses don't take that much time. Sandman likes that they allow the Select Board to see what's going on in town, but thinks they could be handled by a sub-committee of the Select Board. He asked that the focus be turned to what the Select Board should be doing, and shared news of recent workshops on overall priorities for the town that should guide the budget. He stressed the importance of having that executive (vs. administrative) time. Van Scoyoc said that the key question is the existential threat to the planet, and how the major problems of our time can be addressed at the local level. Ian Roffman followed up on Sandman's comment during the public hearing that the Select Board had learned lessons from not taking up the climate change articles in the fall, asking what lessons had been learned. Sandman explained that because climate change is so important, the Select Board had thought these articles would easily pass, and didn't think about what the objections might be. Roffman asked whether they would exercise discretion differently in the future, and Sandman expressed a hope that they would take a more thoughtful look at each article. Roffman asked Van Scoyoc about his comment on requiring additional signatures on petitions for warrant articles wondering how to set the basis for the required number. Van Scoyoc answered that he did not have a magic number, but that incumbent Select Board members have to collect 50 signatures to run for re-election, while a new Town Meeting member can tie up government with a warrant article where only 10 signatures were required. He argued that when you run town-wide, you bring more to the table. The Select Board is one place where you have consensus of the governed that they've chosen 5 people to make important decisions versus one Town Meeting member. Roffman asked whether the suggestion was that the Select Board should have a stamp of approval on all warrant articles, and Van Scoyoc replied that no, that would be going too far. Greene admitted that it had been a naïve assumption that the ZEAB articles would pass, and without review, the Select Board cannot discover potential problems with an article. He suggested the Select Board could make better use of the Sustainability Director and ZEAB members to get the Select Board and community up to speed as to the rationale and the issues, and that existing resources could be better leveraged to tee up articles for the Select Board's review. He believes CTOS could look into that. Dick Benka has touched base with Town Counsel to ask about the Town Administrator Act and the issue of licensing. Whenever there's the change of a manager/agent/officer, it comes before the Select Board. They come already vetted by the police and the 6th floor staff, and at the Select Board they would be asked if they were TIPS trained and if they understood how important it is to Brookline that liquor not be sold to minors, and in every case their answers were yes. They all needed to sit there for an hour, and it seemed wasteful of people's time (and, in cases where they had to hire an attorney due to language barriers, wasteful of money). Benka wonders if this is all necessary even if the Town Administrator Act does not change in the near future. He also has posed questions to Town Counsel around whether it's necessary for the Select Board to consider every contract changes and budget reallocations, or whether thresholds could be set. He believes there are a lot of issues in addition to the rising number of warrant articles that CTOS could be looking at to streamline the process and reduce the workload of the Select Board. Lynn-Jones said it's clear that there are problems of time and workload management for the Select Board. What are the Select Board's ideas of how to change procedures to reduce this load, with or without warrant articles? If the Select Board could bring suggestions in a persuasive way, that would be a good way to go forward. He asked the CTOS members to share ideas of how to move forward with the issues raised by Article 5 in

how the Select Board chooses which warrant articles to take up. However, he believes it is very clear that CTOS should come up with language that guarantees the Select Board will at least hold a public hearing on every article, even if it decides not to make a recommendation. He acknowledged the irony of creating warrant articles to stem the number of warrant articles. Harry Bohrs noted that a whole stew of issues is at play, and that we are contending with the symptoms of having an increased number of warrant articles. There are ways the SB can choose to be more efficient with other things, and that could be achieved through executive policies rather than warrant articles. While some might characterize various warrant articles as “frivolous” or an “end-run” around the process, they actually are part of the process. We’ve seen articles come to Town Meeting that probably could have been resolved by having a conversation with town staff. We also see many articles coming to Town Meeting that arrive in a “not terribly great” state and need a lot of work. If we can wrestle with these issues, that might help the Select Board. CTOS needs to look at 2.52 and 2.2.6 right now are in a bit of conflict and we need to resolve that. SB and AC have separate roles and we will need to contemplate that in any legislation we propose. Having some degree of requirements for what things get reported on is not unreasonable but allowing some level of discretion is also important. The notion of more signatures is a state issue, but Bohrs thinks it’s still worth discussing with the understanding that we will not be able to move quickly. Abby Cox asked whether the growth in the number of warrant articles in the last 10 Town Meetings might be related to the movement to virtual meetings and the rise in political engagement that the results of the presidential election of 2016 engendered. She wonders whether we will see continued growth as public health and political conditions change, and if it might be best to consider the potential for those changes as CTOS considers the scale of recommendations it might make.

The meeting adjourned at 8:00 pm.