

## MINUTES OF CTOS MEETING – April 19, 2023

The Brookline Committee on Town Organization and Structure (CTOS) held a duly posted public hearing via the Zoom platform on April 19, 2023 to discuss warrant Articles 13 and 19 that are coming before the Spring Town Meeting.

In attendance were: Jean Berg (CTOS), Dick Benka (CTOS), Harry Bohrs (CTOS), Abby Cox (CTOS), Betsy DeWitt (CTOS), Sean Lynn-Jones (CTOS), Ian Roffman (CTOS), Harry Friedman (Advisory Committee; Town Meeting), Susan Granoff (Advisory Committee; Town Meeting), Janice Kahn (Advisory Committee; Town Meeting), John Moreschi (Town Counsel's Office), ChiChi Wu (Town Meeting)

The meeting began at 6:30 p.m.

The committee began with a discussion of Article 19, which calls for the establishment of a Black n Brown Commission. Ian Roffman updated the committee on the Select Board's public hearing, commenting that there were a number of passionate speakers on the article. There is some question as to whether a subcommittee of the Advisory Committee is working on some of the constitutional issues that Article 19 raises, specifically in reference to two issues: 1) The initial proposal of an election to select commission members poses the problem that Town Meeting does not have the authority to create an election; and 2) the mechanism for populating the commission had racial classifications, which would be unlikely to pass the standard of "strict scrutiny." The Select Board voted 4-0 for "no action," explaining that while they support the concept of the commission, this proposal would not be workable. John Moreschi, from Town Counsel's office, shared that he had met with the petitioners and that they hope to work together to address the concerns. It's not clear whether there will be an amendment in time for the spring Town Meeting. Harry Bohrs noted the clear sense of frustration that has both racial and economic components among residents in tow. He understands the desire to bring this article to Town Meeting in an effort to not feel invisible and overcome the tyranny of the majority. However, he worries about the legal issues around representation. He wonders if there are ways to deal with the larger issues without segregating within our community. Abby Cox suggested that CTOS wait to see what the petitioners do after working with Town Counsel's Office. Betsy DeWitt observed that this is the second time the idea of the Black n Brown Commission has been brought forward, and the goals must be addressed. She asked if anyone had suggested referring the article for study, and pointed out that the Town has tailored things for specific populations in the past (e.g. veterans, senior citizens.) Roffman reminded everyone that the legal obstacles related only to the process proposed for populating the commission and not to the representation on the commission itself. The passion for this proposal is that the members of the commission come from the population they are intended to serve, and the feeling is that it's better for a solution to come from that group than to be imposed by the Town. He suggested that the best course would be to let the petitioners come back with an amended proposal. Sean Lynn-Jones also noted that the petitioners seem to be working with Town Counsel's office and hopefully will return with solutions that are both legal and workable. Dick Benka, responding to DeWitt, commented that while you can have programs that are targeted to benefit different populations, the issue here was the racial component of the selection process (i.e. an election where only certain members of the population, determined by racial identity, would be allowed to vote.) The law mandates "strict scrutiny" for any restrictions based on race, and this is a very difficult standard to meet

(one must demonstrate that the measure would correct a history of discrimination.) The crux of the conflict is that the proponents of Article 19 do not trust the Select Board to make appointments that would fulfill their vision of who should sit on the Black n Brown Commission. That the Select Board voted “no action” perpetuates a vicious circle of distrust. Until this is broken, there will not be progress. Benka believes in the concept of the commission but does not think the proposed structure will work. Rather than referring the issue, he believes the proponents need to work with Town Counsel’s office to see if they can break the loggerheads. DeWitt asked about other existing models. Roffman responded that in some of those instances (e.g. the Commission on Disabilities), the language in our by-laws is taken from state law. To pass strict scrutiny, you must identify a compelling government interest. You then have to have a solution that is narrowly tailored to serve it, and you have to do a rigorous study that shows you’ve exhausted all means of achieving that interest through means that don’t involve a racial classification. That last piece that’s particularly difficult to meet. He believes that it is challenging, but not impossible. Jean Berg observed that the proponents of the Article want to choose their own representatives, and that how things currently work is not working for them. Roffman replied that the Racial Disparity Report has the beginnings of an analysis and shows the need for greater representation of certain populations, but there haven’t been any studies on best mechanisms for addressing the problem. Berg wondered if this might lead to going down a rabbithole where all other groups that don’t want the Select Board or Moderator to choose their representatives will seek similar remedies. Lynn-Jones outlined two potential avenues: 1) A difficult road of having explicit racial and/or socioeconomic qualifications, which would face significant legal hoops; or 2) Certain groups could nominate members for consideration, and thus achieve a similar outcome. DeWitt stated that it is undesirable for the result of the debate over Article 19 to be uniformly “No Action,” as it doesn’t address the issues.

At 7:09, the committee took up a discussion of Article 13, which proposes the establishment of an Office of Housing Stability. ChiChi Wu, one of the petitioners, gave a slide presentation which is posted on the Town website. She noted that some have questioned the lack of specificity in the article, especially in regards to where in Town Government the Office of Housing Stability would be located, and what the staffing and costs might be. She explained that because of her history in proposing an article at a prior Town Meeting where she was told that she had been too prescriptive, she had written Article 13 with greater flexibility. The idea behind the Office of Housing Stability is to have a clearinghouse of information. Renters often don’t know what resources are available to them. They often face language and/or disability barriers. A website is not sufficient to provide for their needs. Benka reported that Joe Viola of the Brookline Planning Department had commented that they often get individuals looking for help and the employees of that department don’t always feel comfortable in their ability to provide it. He wondered if there had been any conversations with the Town Administrator about how an Office of Housing Stability would fit in with current departments, whether there is any ARPA funding to get it going, and if there is any data on the number of displacements in Brookline that might give a sense of the workload to address. Wu responded that the petitioners of Article 13, in conversations with the Town Administrator, had promised to leave some flexibility so he could figure out the best implementation. Wu has been told that the ARPA funds have been committed and can’t be counted upon, though the Community Preservation Act might be a possible funding source. She also had heard from Joe Viola’s testimony where he said, “We are planners, not social workers.” There is no data. She suspects that there are not a huge number of displacements (i.e. homeless individuals) because many people will move to Boston where the rents are cheaper. She noted that there is often a challenge in finding housing for people with hoarding issues. Bohrs summarized Article 13 and the public hearing

around it that had taken place at the Select Board. In discussions, it has become clear that the qualitative data doesn't exist. The town does not know what in the poverty figure relates to the large, transient student and international population. Bohrs pointed out that students and visiting professionals often will pay more in rent for the convenience of Brookline's location, which drives up housing costs. He reported that Joe Viola had suggested there is a need and a centralized position would be helpful. This might also allow the town to collect the data. Bohrs spoke with Town Administrator Chas Carey, who believes he can work with Article 13. He is planning to put out an RFP for a study on general resident services including this issue. If funding is available, he would initially use it for someone to help oversee that RFP, and hopes that once the information comes back from a consultant, the position might transition into a Housing Coordinator, who could direct people to the resources that they need. The Housing Advisory Board would like more time to think about this and be involved, though they are not eager to be the group that would run a specific study on it. The Advisory Committee has recommended that Article 13 be referred back to the Select Board, with a request for a report to the fall Town Meeting. There is the issue of the advocacy and liability, which is in the second half of the draft that Bohrs had circulated to CTOS and posted to the Town website. The current language says "may," but Bohrs is concerned that it implies the Town will provide mediation services in things like tenant/landlord disputes. He reached out to Town Counsel's office, which said the "may" allows the town the ability to handle that issue. Bohrs summarized how various neighboring communities fund their initiatives in this area: Boston imposes a landlord fee, Somerville uses ARPA funds, and Malden also uses ARPA funds to provide services through a non-profit organization. Revere has not staffed its office yet, but offers a webpage with links to resources. While he knows the petitioners want to have Town Meeting pass a by-law in order to ensure that steps are taken by the Town, Bohrs asked Wu if the Select Board, under the aegis of the Town Administrator, put together a committee including Wu and someone from the Health Department, the Planning Department, HAB and the Council on Aging, with a mandate to return to fall Town Meeting with a report, would that be acceptable? Wu expressed her concern that a study, even with a date certain, doesn't accomplish the goal. If there's anything other than a bylaw, there is no assurance that it will happen. She cited the example of bringing a language coordinator to Town government, where even with a bylaw requirement, it has taken two years to come to fruition. Wu also shared that she has an email from Joe Callanan, Town Counsel, saying the warrant article looks fine (the only comment he made was not to use "and/or.") Cox thanked the petitioner for bringing the issue to the Town's attention, and establishing the need for a centralized place where residents who need help can seek it. It sounds like the Town Administrator is saying he can work with the language in this article, and Bohrs has laid out some options for CTOS to discuss in terms of its recommendation. DeWitt recalled her experience some decades ago in helping the Brookline Community Foundation set up emergency assistance funds because of people who were struggling to pay their rent. She returned to Bohrs' point about students sharing the cost of an apartment, which makes it more affordable for them but more prohibitive for families looking to rent. She noted that the models from other communities are helpful but might not have direct relationship to Brookline because of our unusual population of students and visiting professionals. She remains open-minded and supportive. Lynn-Jones said that if the Town Administrator and Select Board were willing to back this, a task force might be the more efficient way to go than having the Select Board appoint a committee, which takes a very long time. If that commitment were made, then it would make sense to do a by-law, but the crux of the issue is how to study what exactly needs to be done and by whom and at what cost to address what is a critical need for

an unknown number of people. If there isn't that level of commitment, a bylaw won't take us very far. Roffman outlined two areas of question: 1) when considering adding a new position, one must assess whether existing employees have the capacity to do the work. If there's not enough work to do on a day-to-day basis, you will not be able to hire a good person for the role (so you might consider whether this would be full-time or part-time.) 2) Article 13 lists potential services the Office of Housing Stability might include. Is this an exhaustive list from which the person who occupies the role would choose priorities? Would they have license to do work outside of those specified areas? Wu responded that the position was written with flexibility in mind so that the Town Administrator could determine those answers. Bohrs noted that he has some unease about some of the items in the list of potential services. The Town Administrator, as the boss, might determine which items get prioritized. Roffman said he read the list as the outer bounds of the Office of Housing Stability's authority. Bohrs noted that, in his memo, he had proposed eliminating some of the bullets on the list as he felt they were inserting the Town into negotiations between landlords and tenants. He also suggested removing language that implied the Office of Housing Stability would lead policy work, noting it could be done jointly with HAB and Planning. He envisions the Office of Housing Stability as a resource navigator that helps direct residents towards resources. Theoretically, the Office of Housing Stability could be limitless, but the Town doesn't have limitless resources. DeWitt pointed out that there are lots of non-profits with lengthy experience in this area. The purpose of an Office of Housing Stability would be to guide residents on who can help a particular individual in particular circumstances. It's hard to know whether it would need major staffing. It could easily be effective with the ability to make referrals. Having a staff person with a breadth of information would be helpful, and the town seems to have a well-documented need for these services. Susan Granoff (Advisory Committee; Town Meeting) stated that she led the Advisory Committee's sub-committee that examined Article 13, and summarized the points that were discussed there:

1. There are a number of departments in Town that have been dealing with housing issues for decades, namely the Council on Aging and Veterans' Services. They agree there is a need for a person who conveys information and understands what resources are available. The petitioners have not consulted with them.
2. There is information that both tenants and landlords could benefit from. Someone who understands the housing laws and how they are applied could be a great resource.
3. There are so many unknown elements. Brookline is not like the other communities named by the petitioners as models. Brookline has lots of luxury housing and international residents.

The subcommittee concluded that it would be best to have some kind of study before drafting a bylaw. They worry that a lot gets put into the Health Department without additional funding. Things often get put on the backburner there, especially if something like Covid emerges. They believe a focused study committee or task force would meet the urgency to get something done and done right. Benka observed that the flexibility built in to Article 13 is inconsistent with a bylaw and sounds more like a resolution. Because of the uncertainties (e.g. full time vs. part time role), it would be wise to have a task force looking at it. Roffman supported the idea of a task force, arguing that the Town Administrator should have a handle on staff and assignments, and that a bylaw or resolution would need to ensure that the Town Administrator has the authority to make those staffing decisions. Bohrs responded that he believes that authority is there. He echoed DeWitt's observation that there are many non-profits in

town that can help with housing issues, but that it would be useful to have a designated role in the Town who could refer residents appropriately. From his conversation with Carey, Bohrs felt that the Town Administrator really wants to look at these issues, to put out an RFP, and have a consultant help with it. He might then hire someone in-house to go through the consultant's report, distill it, and outline an approach the Town could take. The sense Bohrs got was that Carey initially had feared there would be rigid language in a bylaw, but that he feels he can work with Article 13. Benka asked if this were passed as a bylaw by the spring Town Meeting, and there is no explicit deadline for the establishment of the Office of Housing Stability, could the Town Administrator then proceed with the consultant study and set up the office for inclusion in the 2025 budget? In other words, does it tie his hands? Bohrs' sense is that it would not. The study would give a sense of what the need is. The question is where the funding would come from (could be ARPA or the Select Board's study fund.) Then he could determine how to staff the office, and just because an office is established, it doesn't necessarily require new staff. The committee decided to wait for its May 10<sup>th</sup> meeting with the Town Administrator before determining its recommendation on Article 13.

The meeting adjourned at 8:40 pm.