

**Town of Brookline
Advisory Committee Minutes
Wednesday, May 31, 2023
Room 203, Brookline High School**

Present: Patricia Correa, John Doggett, Dennis Doughty, Katherine Florio, Harry Friedman, David-Marc Goldstein, Neil Gordon, Kelly Hardebeck, Amy Hummel, Anita Johnson, Alisa Jonas, Janice Kahn, Pamela Lodish, Joslin Murphy, Donelle O’Neal, Linda Olson Pehlke, Markus L. Penzel, David Pollak, Stephen Reeder, Carlos Ridruejo, Lee Selwyn, Carolyn R. Thall, Christine Westphal

Absent: Ben Birnbaum, Harry Bohrs, Clifford Brown, Susan Granoff, Carol Levin, Alok Somani

Also Attending: Deputy Town Administrator Melissa Goff, Human Resources Director Ann Braga; Town Counsel Joe Callanan; Katherine Silbaugh, Sean Lynn Jones, Susan Park, Regina Frawley, and other members of the public.

The meeting was called to order at 5:45 PM.

5:45 PM Public Comment – There was no public comment

6:00 PM Possible reconsideration, further review, and votes on the Committee’s recommendations on other Warrant Articles for the 2023 Annual Town Meeting including but not limited to

>WA 2 Collective Bargaining Agreements

Christine Westphal reviewed the Firefighters agreement which was negotiated in light of the Police Department decision in order to get this wrapped up in time for this Town Meeting. The full MOA is linked to these minutes.

The provisions of the MOA are:

- Wages: 3% effective July 1, 2021, 3% July 1, 2022; 3% July 1, 2023
- Add new step for employees with 15 years of service
- Increased Officers Differential, consistent with established rank differentials in the police union contract: (increase by 1%) to Lieutenant 21%, Captain 18%, Deputy Chief 18% over Firefighter max step Effective July 1, 2022
- Active Shooter/Hostile Event Response (ASHER) Differential: 1% effective July 1, 2022, and additional 2% effective July 1, 2023 (changes Firefighters’ response to a scene to include entering the scene for lifesaving prior to securing the source of the threat)
- Increased compensation for weekly holiday pay: From 1/4.35 to ¼, effective July 1, 2021
- Add Juneteenth Holiday: Effective July 1, 2021
- Add Assessment Centers as a part of the promotion process for Captains and Deputy Chiefs, no longer just the multiple-choice civil service examination.
- Establishes information that must be provided in a doctor’s certificate applicable to sick leave absences in excess of 3 hours in a calendar year.
- Adding 48 hours’ notice for Union Business Leave

- Clarify that Deputy Chiefs' use of time will be included in the available daily leave opportunities
- Amended Military Leave language to comply with state and federal laws
- Providing that the employees seeking voluntary professional development will not be eligible for overtime for course/trainings occurring outside of their regular schedule.
- Providing that once an employee is medically-cleared for modified duty, they will be assigned modified duty. Previously, the Chief could return employees to modified duty only if expected to return to full duty soon after.
- Clarify definition and use of General Orders
- Delete Agency Service Fee, in compliance with Supreme Court's Janus decision.

COST OF PROPOSED COLLECTIVE BARGAINING PROPOSAL WITH FIRE

ITEM	FY22	FY23	FY24	TOTAL
7/1/2021 - 3%	427,799	427,799	427,799	1,283,396
7/1/2022 - 3%		440,633	440,633	881,265
7/1/2023 - 3%			458,390	458,390
ASHR - 2%		151,284	472,142	623,426
3 Rank Differential		40,538	40,538	81,075
15 yrs step @ 3%			147,997	147,997
Juneteenth	49,466	49,466	49,466	148,399
Change holiday calc	20,464	20,464	20,464	61,391
				0
TOTAL ROLL-OUT COSTS OF 3-YEAR PERIOD	497,728	1,130,182	2,057,428	3,685,338

Each 1% =	142,600	146,878	151,284	
New Wages - \$ =	497,728	632,454	927,245	
New Wages - % =	3.5%	4.3%	6.1%	13.9%

Melissa Goff explained how the contract will be funded and where the money will come from (see table below and SB Amendment to WA 7 linked to these minutes).

ITEM #	AC MOTION	PROPOSED CHANGE	AMENDED BUDGET
4. Diversity, Inclusion, & Community Relations	\$393,864	-\$30,000	\$363,864
5. Finance Department	\$3,558,210	-\$30,000	\$3,528,210
10. Police	\$17,648,217	-\$100,000	\$17,548,217
12. Building	\$11,142,213	-\$50,000	\$11,092,213
13. Public Works	\$18,153,751	-\$50,000	\$18,103,751
19. Personnel Services Reserve	\$1,214,973	-\$50,397	\$1,164,576
20. Collective Bargaining - Town	\$4,554,699	\$1,007,428	\$5,562,127
23. Employee Benefits	\$80,446,412	-\$402,285	\$80,044,127

The Select Board was aligned with the AC on Traffic and has come into alignment with the Advisory Committee recommendation on the funding for the Police Joint Labor-Management Commission (“JLMC”) arbitration award, while reserving its right to appeal that aspect of the award that provides a stipend for Peace Officer Standards & Training (“POST”) Commission certification, which the Board believes was beyond the scope of the authority of JLMC panel to award and contrary to the evidence presented at the hearing.

After discussion with the Town School partnership it was agreed that the entirety of State aid will come to the Town-side and that is what the Select Board voted to support. Feel confident there is surplus in the Group Health budget (Town share only). We won’t be implementing all of the Salary Study so there may be \$50K to squeeze out of Personnel Services reserve. The Building Department has some salary savings and the same with Assessing. We suggest \$30K can be used to fund the contract. In Public Works, Parks and Open Space there will be salary savings used to support this contract and the same with ODICR.

Comments, Questions, Discussion

Melissa Goff noted that the money for POST stipend is included. The Select Board will still appeal. We can still talk to the unions but assuming we will be funding the agreement as defined by the arbitrator.

Harry Friedman: Can you describe the Active Shooter Training? How does this contract compare to other communities?

Ann Hess Braga responded. FY 23 24 has not been settled in comparable communities. For Fire Active Shooter Hostile Event Responder – in past practice Fire Fighters did not go in until after the event was subsided (shooter is captured and not a threat). ASHER provides in conjunction with Police and EMS in advance of subduing the hostile individual to provide medical aid.

We expect that we are coming in on par with other comparable communities.

Janice Kahn: The Firefighter’s union did not go into arbitration. A: Yes and we got more things settled and agreed to. The Board was able to reach agreement with the Fire union, which avoided a similar outcome of a third-party making decisions on this agreement as well. This is a more desirable outcome—JLMC limits the number of topics that can be addressed, any prior side agreements do not become part of the final award, and, in practice, the awards tend to heavily favor labor.

Carlos Ridruejo: Will they need more equipment and training for the active shooter training? A: They already have things in place.

Joslin Murphy: What are comparable communities? Are they the same as the JLMC find comparable? A: JLMC took some of each – ours and the unions. The Police had provided Cambridge, Somerville, State Police and Boston.

The Town offered seven (7) cities and towns in their proposed list of comparable communities. The Union offered a group of ten (10) communities. Four of these were on both parties lists: Arlington, Needham, Newton and Watertown. In addition to those four communities, the panel elected to look at additional communities from each party's proposed list. Thus, Wellesley, Everett, Lexington, Natick and Medford rounded out the group of nine (9) communities who wage and benefit packages warrant comparison. Excluded from our group were Boston, Cambridge, Quincy and Somerville which are dissimilar from Brookline in several ways.

Pam Lodish: Sorry we are taking money out of DPW because we did no sidewalk repair last year because we had no one to do. A: This cut will not have an impact. They turned back funding this year. We will be running tighter than we normally do.

Harry Friedman: How will we do this next year – increase Police and Firefighters? A: It will increase our structural gap in 2025.

A **MOTION** was made and seconded for Favorable Action on the WA2 Firefighters MOA of \$3,685,338 over 3 years. By a **VOTE** of 21 in favor, none opposed, and 1 abstention, the Advisory Committee recommends favorable action on the Firefighter’s MOA.

>WA 7 Annual (FY24) Budget Appropriations

See the Select Board Amendment to WA 7 linked to these minutes.

A **MOTION** was made and seconded for Favorable Action on WA7 as amended by Select Board.

By a **VOTE** of 21 in favor, none opposed, and 1 abstention, the Advisory Committee recommends Favorable Action on WA 7 as amended by the Select Board.

>WA 17Amend Article 8.37.2 of the Town’s General By-Laws to change “marijuana” to “cannabis” and to permit two additional Storefront Cannabis Retailers licenses for Equity Applicants (O’Neal)

The Vogt Amendment > refer to Select Board

Kate Silbaugh introduced her Amendment to the Vogt Amendment > refer subject matter to an existing committee that is already charged with the thing that WA 17 is designed to do. WA 7 in 2021 we had a Moderator’s Committee looking at equity and they have been doing this work held up by some legal issues; the Moderator’s Committee needs to be

responsive to State regulations coming out in November. They did an interim report to the Moderator citing the need for more time given pending State regulations.

Alok Somani, an Advisory Committee member is on this committee.

Comments, Questions, Discussion

Kate Silbaugh noted that Marissa's motion is to the Select Board and would require a recommendation before the regulations are out so doesn't really make sense. She feels the Select Board is the better body because it is closer to the electorate.

She then referenced what was the original scope of the Moderator's Committee on WA 7 – there were 3 Warrant Articles about cannabis, 7, 8 and 9. Town Meeting voted to take the health matter to refer it to the Advisory Committee on Public Health and the work is going forward and the two committees are working in tandem.

The work of the current Moderator's Committee would cover all areas that are relevant to WA 17.

Language of the Silbaugh Amendment suggests that any actions should be consistent with the ballot question.

Susan Park noted that the Silbaugh referral motion is 100% aligned with the ballot question outcome. This referral motion honors the will of the voters. Whatever is discussed in this committee is in conjunction with what the voters wanted.

The ballot question permits the Town to create the cap it doesn't require it.

Donelle O'Neil commented that there is a difference between the voters voting and what Town Meeting is allowed to do. They can change the number of licenses and social equity is a good reason why. If there is an additional license someone could file a complaint if they do not have access.

Stephen Reeder: There is some knowledge as how the State views the social equity licenses. Other Towns have simplified and improved the application process. From the perspective of the State, no particular type of license is indicated as needing to be made specifically available to social equity candidates. The penalty we could be assessed would be to lose the tax we collect from retailers. It is zero at the moment so currently we are not losing anything. The rate in growth in cannabis sales has flattened out. Revenue has also decreased. The Select Board already has a policy in place regarding

Susan Park added, once regulations come out in November, Brookline will have time to respond to them. It is a process.

Patty Correa: To Town Counsel, do you anticipate a need where we would need a social equity license? A: We are reacting to regulations that have not yet been drafted. We may have a better idea in August and have a chance to respond if anyone thinks we are out of compliance. We thought we were in good shape regarding social equity and put a policy and procedure in place. We have good connections with Cannabis Control Commission and they indicated a concern that we hadn't thought of – we lowered the cap after the law passed. We have the minimum required. And seeing storm clouds coming. More risk in May than in April but we have to figure it out when we see the regulations. We are collecting less but not zero as we are still in negotiations. The possible penalty is not only losing the HCA fees from retailers but also the percent we get from the State. The potential penalty is something but we don't know if it will be applied until we see regs in August/September.

Linda Olson Pehlke: If we do license a social equity shop, the State has made a provision that the Town receives 1% of the revenue from that shop. Monetize the incentive. Opening a shop requires much more capital and the State made the social equity trust fund to support funding shops.

Amy Hummel: Not going to vote for referral. We got into this in a rush and we were lured by the money. Licensing issue came before us and Town Meeting in the past, we killed it without much discussion. For us as an Advisory Committee to override the voters' will is in bad faith.

Janice Kahn: Our Select Board did take the first four applicants, whereas Newton has a process for social equity candidates. Seems odd to penalize a Town who followed the original rules now that the rules have changed.

Katherine Florio: Do different licenses have more value? A: Yes. Storefront.

Pam Lodish: We need to a better job of putting in the Town wide brochure of what people are actually voting on. We have failed in educating the voters.

Carolyn Thall: Why is it important to you to be able to have a storefront as opposed to other licenses? A: Donelle responded that it is a better opportunity overall.

A **MOTION** was made and seconded for Favorable Action the Vogt motion.

A **MOTION** by substitution was made for the Silbaugh Amendment.

By a **VOTE** of 17 in favor, 3 opposed, and 2 abstentions, the Advisory Committee recommends Favorable Action on the Silbaugh Amendment.

A **MOTION** was made for Favorable Action on Referral as per the Silbaugh Amendment. By a **VOTE** of 13 in favor, 4 opposed and 5 abstentions, the Advisory Committee recommends favorable action on the Silbaugh Amendment to WA 17.

6:45 PM Other business

Upon a **MOTION** made and seconded to adjourn, and voted unanimously, the meeting was adjourned at 8:45 p.m.

Documents Presented

<https://www.brooklinema.gov/DocumentCenter/Index/4227>

- 5-22-23 FINAL MOA, ToB and Local 950 (Partially Signed)
- Amended Motion under WA 17 - adding one social equity license 5 17 23
- FY22-24 CB Costs - 051723 Fire-Town Proposals
- May 2023 Annual Town Meeting Night 3 Supplements 052523 Article 2
- May 2023 Annual Town Meeting Night 3 Supplements 052523 Article 7
- WA 17 referral motion final Vogt
- Amendment to Vogt Referral Motion K Silbaugh

VOTES

	Vote 1	Vote 2	Vote 3	Vote 4	Vote 5
# Votes Yes	0	17	13	21	21
# Votes No	0	3	4	0	0
# Votes Abstain	0	2	5	1	1
Vote Description:	MAIN MOTION: FAVORABLE ACTION on Vogt Referral Motion	GORDON: Substitute Silbaugh Referral Motion	MAIN MOTION as amended: Refer as per Silbaugh Motion	MAIN MOTION: FAVORABLE ACTION on WA2 Firefighters MOA of \$3,685,338 over 3 years	MAIN MOTION: FAVORABLE ACTION on WA7 as amended by SB
Ben Birnbaum					
Harry Bohrs					
Cliff Brown					
Patty Correa		N	N	Y	Y
John Doggett		Y	A	Y	Y
Katherine Florio		Y	A	Y	Y
Harry Friedman		Y	Y	A	A
David-Marc Goldstein		Y	Y	Y	Y
Neil Gordon		Y	Y	Y	Y
Susan Granoff					
Kelly Hardebeck		Y	Y	Y	Y
Amy Hummel		Y	Y	Y	Y
Anita Johnson		Y	A	Y	Y
Alisa Jonas		Y	Y	Y	Y
Janice Kahn		Y	Y	Y	Y
Pam Lodish		Y	A	Y	Y
Joslin Murphy		Y	Y	Y	Y
Donelle O'Neal, Sr.		A	N	Y	Y
Linda Olson Pehlke		N	Y	Y	Y
Markus Penzel		N	N	Y	Y
David Pollak		Y	Y	Y	Y
Stephen Reeders		Y	Y	Y	Y
Carlos Ridruejo		Y	Y	Y	Y
Lee Selwyn		Y	Y	Y	Y
Alok Somani					
Carolyn Thall		Y	N	Y	Y
Christine Westphal		A	A	Y	Y
Dennis Doughty					