

**Town of Brookline
Advisory Committee Minutes
Thursday, October 26, 2023**

Present in Person or on Zoom: Paul Bernard, Ben Birnbaum, Harry Bohrs, Clifford Brown, John Doggett, Dennis Doughty, Harry Friedman, David-Marc Goldstein, Neil Gordon, Susan Granoff, Perry Grossman, Kelly Hardebeck, Alisa Jonas, Carol Levin, Pam Lodish, Joslin Murphy, Donelle O’Neal, Linda Olson Pehlke, Markus L. Penzel, David Pollak, Stephen Reeders, Carlos Ridruejo, Lee Selwyn, Carolyn R. Thall, Christine Westphal

Absent: Michael Berger, Amy Hummel, Katherine Florio, Alok Somani

Also Attending: Commissioner Erin Chute, Jay Hersey, Town Counsel Joe Callanan, David Leschohier, Ernie Frey, Richard Murphy, Yolanda Rodriguez, and other members of the public.

The meeting was called to order at 6:30 PM.

Announcements: Pursuant to this Board’s Authority under 940 CMR 29.10 (8), all of the committee members will be participating remotely via telephone or video conferencing due to emergency regulations regarding the Corona virus. The Chairman has reviewed the requirements of the regulations. There is a quorum physically present and all votes taken will be recorded by roll call so all above listed Advisory Committee members will be allowed to vote.

6:30 pm Public Comment

Richard Murphy spoke in favor of WA 14 and 15. Need to hold a high bar and minimize the incidents and number of animals that are abused and abandoned in our society. If we look at list of legal pets, it is very broad. We need to be open- minded toward other people who own pets of different styles and protect them, as well. Encourage support of WA 14 and 15.

6:45 pm Possible Reconsideration of Previous AC Vote on WA 7: Legislation authorizing the Select Board to offer a senior discount program for water and sewer rates. (Select Board)

Susan Granoff discussed why Advisory Committee should reconsider their original vote on WA 7. If voted to reconsider she will propose the simple wording change of Article 7 that has been approved by the Moderator, linked at the end of these minutes.[THIS IS FINE. I WOULDN’T ADD ANYTHING FROM THE TAPE]

Commissioner Chute offered some comments and shared a presentation (linked at the end of these minutes) that provided background about the Senior Discount Program, updates on the Article submitted by the Select Board for November Town Meeting and the difference between the 2019 version of the Article.

QUESTIONS DISCUSSION COMMENTS

Comment: While the program we have in place that is to be expanded, because this is a major expense for low income residents, what is the best way to provide relief for all needy residents? A: That will be part of our analysis. The SNAP program at the Federal level is considering this issue as well. For Brookline this is a big challenge. We have just under 12,000 customers and we are piecing apart census data and different categories and who is participating in different support programs at all different levels. Reached out to Town Department Heads for support and will compare to

customer list and then there will be an analysis. What we can do beyond who our customers are we need to see what makes sense for Brookline. May look at other models with various degrees of success in other parts of the country.

Comment: I don't think we should stick with our original vote because it isn't helpful. Spoke with Tommy Vitolo and our State rep doesn't think a Home Rule petition submitted now has any chance of passing. Too late in the session. At the end of last session fellow legislators did a favor to Brookline on tax break for seniors, and fellow legislators want to know how the program is going to be designed so they will be convinced it would be effective. There are examples with fuel assistance from ABCD. Based on total cost for heat for the building. So there are examples. Sympathetic to the admonition that we have something more concrete to send to the legislature. In favor of the resolution and reconsideration, and resubmit in a year. Less worried about Town Counsel suggesting this program may be challenged.

Comment: Opinion of Town Counsel was based on the opinions of Staff Counsel at Department of Revenue which is how they interpreted the law. Easiest approach is to continue what the Town is doing.

Question and Comment: Is there anything in this resolution that you can't be looking at and considering when looking at all other options? If Rep Vitolo is correct, would it make sense to refer the article back to the Select Board to bring something back to the legislature. A: The resolution is not necessary for Water & Sewer to continue doing the analysis. Always thought we would be doing this concurrently and would have a designed program by Spring.

Comment: Surprised by Rep Vitolo's comment. Back in 2019 we looked at all of this and it is now just a rubber stamp to change the word "eligible." Suggest we move on it not withstanding that we need someone to support it in the legislature.

There was a brief discussion about Home Rule Petitions and the legislature's possible reluctance about granting broad authority to the Select Board to determine these rates as opposed to a more concrete, specific program with defined breaks.

Comment: This is using up political capital and it is subsidizing one class at the expense of everyone else. To substitute a resolution is unnecessary effort on the part of this Committee and Town Meeting.

Comment: Agree this language adds a new class of individuals.

Comment: There is a cost to deciding to submit it and that is worrisome. It is not just that we come rushing in at the last minute with our program design at a hearing, but rather that language would be written into the legislation and submit it at a time that is appropriate.

A **MOTION** was made and seconded to **AMEND by substitution** our previous recommendation with WA 7 Proposed Amendment submitted by Susan Granoff (linked below).

An **AMENDMENT** was made and seconded to refer the subject matter of WA 7 back to the Select Board or its designee(s). By a **VOTE** of 21 in favor, none opposed and no abstentions the AMENDMENT carries.

Comment: I don't think the Amendment will do anything for us, we should remain steadfast with our original vote.

Comment: There is no oversight this grants the Select Board authority to set water rates at whatever they want.

There was a brief discussion regarding Ernie Frey's Resolution Proposal.

By a **VOTE** of 21 in favor, none opposed and no abstentions, the Advisory Committee recommends Favorable Action to amend their original vote on WA 7 and to refer the subject matter of WA 7 back to the Select Board or its designee(s).

7:15 pm Review, Discussion and Possible Vote on Revised Versions Offered by the Ad Hoc Committee on Warrant Article 14: Amend the General By-Laws to ban the sale of mammals, birds, reptiles, and amphibians in pet shops within The Town. (Fisher et. al) and Warrant Article 15: Amend the General By-Laws to prohibit the use of certain wild animals including elephants, monkeys, and zebras in traveling animal acts such as circuses and carnivals. (Fisher et. al)

Joslin Murphy, lead for the Ad Hoc Task Force charged with reviewing Articles 14 and 15, shared an overview of the proposed edits and amendments.

Good evening. I am very pleased to introduce the amendments being proposed under WAs 14 and 15 since they were last discussed on October 5th, and to inform you that the petitioners fully support them. Most of the edits are to the form and appearance of the articles, however there is one substantive change in each that I will highlight.

Regarding Article 14 - if it is adopted, the Bylaw would prohibit the retail sale of all birds and mammals, including rabbits, guinea pigs and hamsters, at pet shops, but it would permit pet shops to showcase animals that are available for adoption from animal shelters and rescues. Reptiles and amphibians, which appeared in the original article, have been excluded. At least thirteen other communities in MA have adopted local laws that prohibit the sale of dogs and cats, and in some cases rabbits at pet shops, however Cambridge prohibits the sale of all animals, including birds and reptiles. Boston is currently considering legislation that would prohibit the sale of guinea pigs in addition to dogs and cats, and earlier this year New York City adopted legislation that prohibits the sale of guinea pigs as well.

There are at least two significant reasons why communities are now prohibiting the sale of these animals in pet shops. A predominant issue is that the same egregiously inhumane conditions that exist at so-called “puppy mills” also exist at facilities operated by large scale commercial breeders who sell rabbits, guinea pigs and hamsters to pet shops. These smaller, easily contained animals are often considered “starter pets” and are treated accordingly, as “throwaways.” Investigations of commercial breeding facilities have uncovered filthy cages where small animals, some of whom are diseased or dying, are contained in soiled, stacked plastic containers in these facilities. This is an industry that should not be supported.

Another significant reason is because animal shelters and rescue organizations are overwhelmed with animals that have been abandoned at shelters or worse, disposed of outdoors and left to fend for themselves. The MSPCA reported a 64% increase in the intake of guinea pigs alone at their facilities over the past decade; and the majority of these animals were reportedly purchased at pet shops.

Finally, a word about the letters received today from the so-called “Animal Policy Group” and “Pet Advocacy Network”. The Animal Policy Group, which is based in Arizona, states that it doesn’t oppose bans on the sale of dogs and cats at pet stores because there are a variety of sources for people to get dogs and cats, such as from a breeder or from a rescue/shelter and, they say, that is not the case with small animals. They assert that there are not many private breeders or shelters that have small animals available. As evidenced by the letter in your materials from the MSPCA, that is simply not true in Massachusetts where shelters are overwhelmed with these animals. The Pet Advocacy Network, which is based in Virginia, sent a boilerplate letter, forgetting to replace Attleboro with Brookline. Last year, the Attleboro city council voted unanimously to prohibit the sale of cats, dogs, rabbits and guinea pigs at pet shops.

For those who can't say no to their small children pleading for a guinea pig, for example, (and believe me, I have been there), there is a viable option: **meet Bashful** (image below). Bashful is a one-year-old guinea pig, who, along with many other similarly situated guinea pigs, is available for adoption at the MSPCA in Boston. He was found as a stray, meaning that he was likely abandoned outside when caring for him became too expensive or burdensome.

There are also responsible breeders, who belong to breeder associations in Massachusetts and greater New England, who breed rabbits, guinea pigs and birds - and from whom these animals are available as pets.

I urge your support of these friendly amendments.

A **MOTION** was made and seconded for favorable action on WA 14 as Amended. By a **VOTE** of 13 in favor, 1 opposed and 8 abstentions the Advisory Committee recommends Favorable Action WA 14 as Amended.

With regard to WA15, Ms. Murphy noted the proposed edits are largely to form and appearance, however, the classes of covered animals were consolidated to present a more clearly understood bylaw and avoid discrimination between subclasses. The Moderator has ruled these changes within scope. As the MSPCA has pointed out in its letter in support of the Article, the previously wild and exotic animals that are subjected to life in these shows often includes painful training using physical restraints, shock prods and whips, confinement in cramped spaces, and prolonged travel, which has on occasion resulted in behavior resulting in injury to their handlers and bystanders. She again urged support of these friendly amendments.

QUESTIONS COMMENTS DISCUSSION

Q: Has there ever been a traveling animal act in Brookline? A: Not recently, but the purpose is to ensure that there aren't any in the future.

Q: Exceptions – this article shall not apply to a) period of less than 14 days. If they stay 15 days they are approved? This problem doesn't exist in Brookline. This isn't going to stop anything. A: Point of the legislation is to make it known that these traveling acts are inhumane. It is important to take a position as other communities have.

Comment: This will stop these activities in Brookline. They will be illegal and they won't happen. Our Zoning bylaws are filled with all sorts of authorized use and many things you can't do. If this passes, we won't have traveling animal acts in Brookline for 14 days or otherwise. No worse than the veal resolution similarly gathering dust.

Comment: Odd proliferation of laws that no one knows about. Seems wrong somehow.

Comment: This is true for many of our bylaws. Petitions brought by people who felt strongly and were voted by Town Meeting. So support the principles behind the initiatives.

A **MOTION** was made and seconded for Favorable Action on WA 15 as Amended. By a **VOTE** of 13 in favor, 2 opposed and 8 abstentions the Advisory Committee recommends Favorable Action WA 15 as Amended.

The Chairman and others thank Joslin and the task force for their fine work on bringing back these articles with the amendments.

8:30 pm Other Business

Possible reconsideration of previous votes on Warrant Articles as necessary: WA 8 Amend the Senior Tax work off program (Finance and COA Directors)

Town Counsel Callanan shared the following explanation for a No Action vote:

As we have discussed, in my opinion, the Town already has the authority to allow a maximum of 125 volunteer services hours, based upon the Town's action involving 2015 Nov STM, WA 4.

That warrant article stated that "To see if the Town will elect to increase the amount of the Senior-Work-off Exemption for eligible taxpayers, for fiscal year 2016 to \$1,125 from the current \$1,000 based on the current state minimum wage of \$9.00 per hour and the continued use of the 125 volunteer services hours as allowed by section 5K of Chapter 59 of the General Laws, originally adopted by the 2008 Annual Town Meeting. Further, to maintain the 125 volunteer services hours and increase the amount of the exemption as the scheduled increases in the state minimum wage take effect in calendar year 2016 and 2017, or act on anything relative thereto." (emphasis added highlighting TM fixing the maximum allowable volunteer services hours).

I checked with DOR-Local Services about St. 2023, c. 50, § 2, approved on October 4, 2023, and made effective for tax years after January 1, 2023, by section 49, that changed G.L. 59 § 5K by increasing the allowable property tax reduction from \$1,500 to \$2,000. DOR told me that on October 6, 2016, DLS issued an FAQ concerning statutory amendments made by the 2016 Municipal Modernization Act to local government statutes, including G.L. 59 § 5K.

In that FAQ, DLS wrote that "As a general rule, if a municipality has accepted a local option statute, then the community will operate under the statute as amended. Therefore, a city or town is not required to re-accept MGL c. 59, sec. 5K. If the maximum amount that may currently be granted by the city or town under the program is fixed by a bylaw, ordinance or other legislative body vote authorizing the program or establishing program rules, then the city or town must amend the bylaw, ordinance or vote."

Thus, this FAQ provides us with good news, but also bad news. Good news in that WA8 is not necessary to increase the amount of allowable volunteer service hours, as we already did that in 2015. But, bad news in that we cannot take advantage of the increased exemption amount in St. 2023, c. 50, § 2, without further TM approval because TM fixed that amount too in 2015.

2015 Nov STM, WA 4 did two things. First, the WA fixed the amount or number of maximum allowable volunteer services hours at 125 volunteer services hours. The DLS FAQ says we can rely upon that action into the future.

But, 2015 Nov STM, WA 4 also fixed the amount of the maximum allowable exemption at \$1,125. Thus, according to the DLS FAQ, we must seek further TM approval to take advantage of the higher exemption amount of \$2,000 contained in St. 2023, c. 50, § 2.

Given this information, I would suggest a two-step process. Although additional work for staff and TMMs, seniors would be eligible to receive the maximum benefits allowed.

First, we can withdraw WA8. You already have authority, based upon 2015 Nov STM, WA 4, to allow seniors to work a maximum of 125 volunteer services hours, which means they may be entitled to a maximum allowable exemption of \$1,875. Even if passed by TM, seniors would be entitled to the 125 hours and \$1,875 amounts this tax year either way.

Second, to take advantage of the increased maximum allowable exemption of \$2,000 in the new statute, we file for the spring ATM a new WA that allows us to take advantage of any statutory increase in G.L. 59 § 5K. I would further suggest that the WA next year be phrased in such a way that future TM actions are not necessary for any future statutory increases in the maximum allowable amounts. The earliest the \$2,000 maximum exemption amount would be effective would be next tax year. Thus, there is no difference for seniors in adopting this WA next TM as we could make it effective next tax year.

A **MOTION** was made and seconded to revise the Advisory Committee’s original vote from Favorable Action to No Action. By a **VOTE** of 23 in favor, none opposed and no abstentions, the Advisory Committee recommends No Action.

Upon a **MOTION** made and seconded to adjourn, and voted unanimously, the meeting was adjourned at 8:12 p.m.

Meeting recording link:

<https://brooklinema.zoomgov.com/rec/share/vtM2Ijn29Htf4imQYkQF9KjU4DHWgzbzfAFL3x9tzL8kkB7yaMLkNXY97sPG0a6J.eWxfP99tek7xCSqQ>

Documents Presented: <https://www.brooklinema.gov/DocumentCenter/Index/4668>

- Brookline Humane Pet Shop By-Law 10.20 (clean)
- Brookline Humane Pet Shop By-Law 10.20
- Brookline Traveling Animal Act By-Law, 10.20 (clean)
- Brookline Traveling Animal Act By-Law, 10.20
- WA 7 proposed amendment
- W and S Enabling Legislation_WA7
- Brookline- Warrant 15 Letter of Support
- Support for Article 14 from the MSPCA-Angell
- Massachusetts Brookline Pet Shops Comments Animal Advocacy Group
- Brookline Testimony Pet Advocacy Network
- Warrant Article 7 - Resolution Proposal - Frey



Bashful the Guinea Pig

VOTES

	Vote 1	Vote 2	Vote 3	Vote 4	Vote 5	Vote 6
# Votes Yes	0	21	21	13	13	23

# Votes No	0	0	0	1	2	0
# Votes Abstain	0	0	0	8	8	0
Vote Description:	GRANOFF MOTION: REVISE OUR RECOM- MENDATION ON WA7 TO FAVORABLE ACTION ON REVISED MOTION (use the word "for")	BOHRS AMENDMENT: RECOMMEND REFERRAL OF THE SUBJECT MATTER OF WA7 TO THE SB OR ITS DESIGNEE(S)	MOTION AS AMENDED: REVISE RECOM- MENDATION	MOTION: FAVORABLE ACTION ON WA14 AS AMENDED	MOTION: FAVORABLE ACTION ON WA15 AS AMENDED	MAIN MOTION: REVISE RECOMMENDA- TION ON WA8 TO NO ACTION
Michael Berger						
Paul Bernard		Y	Y	A	A	Y
Ben Birnbaum		Y	Y	Y	Y	Y
Harry Bohrs		Y	Y	Y	Y	Y
Cliff Brown		Y	Y	A	A	Y
John Doggett		Y	Y	A	A	Y
Katherine Florio						
Harry Friedman		Y	Y	Y	Y	Y
David-Marc Goldstein		Y	Y	A	N	Y
Neil Gordon		Y	Y	Y	Y	Y
Susan Granoff		Y	Y	A	Y	Y
Perry Grossman		Y	Y	Y	Y	Y
Kelly Hardebeck		Y	Y	Y	Y	Y
Alisa Jonas					Y	Y
Carol Levin		Y	Y	A	A	Y
Pam Lodish		Y	Y	Y	Y	Y
Joslin Murphy		Y	Y	Y	Y	Y
Donelle O'Neal, Sr.		Y	Y	Y	A	Y
Linda Olson Pehlke		Y	Y	A	N	Y
Markus Penzel		Y	Y	Y	Y	Y
David Pollak		Y	Y	Y	Y	Y
Stephen Reeders		Y	Y	A	A	Y
Carlos Ridruejo		Y	Y	Y	Y	Y
Lee Selwyn						
Alok Somani						
Carolyn Thall				Y	A	Y
Christine Westphal		Y	Y	N	A	Y
Dennis Doughty						