

ARTICLE 2

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

SUMMARY:

The Town has negotiated new agreements with two of its collective bargaining units: Local 1358 AFSCME, Council 93, AFL-CIO (School Traffic Supervisors) and the International Brotherhood of Teamsters, Local 25 (Emergency Telecommunications Dispatchers).

The agreement with the School Traffic Supervisors covers a three-year period (FY2016–FY2018) for a total cost of \$88,220; the agreement with the Emergency Telecommunications Dispatchers covers the same three-year periods (FY2016–FY2018) for a total cost of \$89,457. Terms in both agreements are consistent with recent agreements reached with other bargaining units. The Advisory Committee voted 23–0–1 to recommend Favorable Action to fund the agreement with the School Traffic Supervisors and 22–0–1 to recommend Favorable Action to fund the agreement with the Emergency Telecommunications Dispatchers.

School Traffic Supervisors

BACKGROUND:

The Town of Brookline and Local 1358 AFSCME, Council 93, AFL-CIO, (School Traffic Supervisors) executed a memorandum of agreement on March 28, 2017 covering the period July 1, 2015 through June 30, 2018. The agreement was ratified by the bargaining unit on April 7, 2017 by unanimous vote, and approved by the Board of Selectmen on April 25, 2017.

DISCUSSION:

The agreement calls for a 2% annual wage increase effective July 1, 2015, July 1, 2016, and July 1, 2017, with retroactive pay limited to employees who were in the bargaining unit as of the date of ratification. The wage increase is consistent with other recent collective bargaining agreements as is a one-time ratification bonus of \$200. The stipend of a Working Supervisor will increase to \$2.50 per hour after the individual has been in the position for three consecutive years, and the monthly mileage allowance increases to \$35.00. Vacation benefits have been adjusted to align with other AFSCME contracts. The probationary period for new employees will be extended from six to twelve months. Total cost of the agreement over the three year period is \$88,220 or 6.6% as detailed below.

ITEM	FY16	FY17	FY18	TOTAL
7/1/15 - 2%	12,607	12,607	12,607	37,820

7/1/16 - 2%	12,859	12,859	25,718
7/1/17 - 2%		13,116	13,116
Supervisor Pay	2,088	2,088	4,176
Mileage Allowance	2,023	2,023	4,046
\$200 Signing Bonus	3,344		3,344
TOTAL ROLL-OUT COSTS	12,607	32,921	42,693

Each 1% =	6,303	6,429	6,687	
New Wages - \$ =	12,607	20,314	13,116	
New Wages - % =	2.0%	3.2%	2.0%	7.1%
Wages on Base - \$ =	12,607	16,970	13,116	
Wages on Base - % =	2.0%	2.6%	2.0%	6.6%

In addition to crossing and parking enforcement duties, the Working Supervisor has supervisory responsibilities for the other STS employees. The monthly mileage stipend is a travel allowance for those full time employees who use their own cars to move to other assignments after the school crossing time block.

Emergency Telecommunications Dispatchers

BACKGROUND:

The Town of Brookline and the International Brotherhood of Teamsters, Local 25, (Emergency Telecommunications Dispatchers) executed a memorandum of agreement on April 4, 2017 covering the period July 1, 2015 through June 30, 2018. The agreement was ratified by the bargaining unit on April 18, 2017 and approved by the Board of Selectmen on April 25, 2017.

DISCUSSION:

The agreement calls for 2% annual wage increases effective July 1, 2015 and July 1, 2016; a 1.5% increase effective July 1, 2017; and a .5% increase effective January 1, 2018. This is consistent with other collective bargaining agreements negotiated in recent years. The delayed third-year increase is an offset to the addition of a new Senior ETD 10-year step at \$24.30 per hour effective July 1, 2017. Adding the additional step is seen as a retention incentive for dispatchers, many of whom transition into positions in the police and fire departments. Training responsibility for new dispatchers is assigned to experienced dispatchers who receive an additional hourly rate while performing those duties. Under the terms of the agreement, the rate increases from \$1.00 to \$1.50 per hour.

The education incentive for dispatchers who have college degrees rises from \$750 to \$800 per year. A limited education incentive, which covers only three current employees, will also increase by \$50 to \$350, but will be phased out when each of them terminates their employment. Total cost of the agreement over the three year period is \$89,457 or 6.6% as detailed below.

ITEM	FY16	FY17	FY18	FY19	TOTAL
7/1/15 - 2%	13,968	13,968	13,968		41,903
7/1/16 - 2%		14,247	14,247		28,494
7/1/17 - 1.5%			10,899		10,899
1/1/18 - 0.5%			1,844	1,844	3,687
Adjusted Salary tables			3,323		3,323
Education incentive			650		650
Communications Off Stipend		100	400		500
					0
TOTAL ROLL-OUT COSTS	13,968	28,315	45,331	1,844	89,457

Each 1% =	6,984	7,124	7,266	7,375	
New Wages - \$ =	13,968	14,347	17,016	1,844	
New Wages - % =	2.0%	2.0%	2.3%	0.3%	6.6%
Wages on Base - \$ =	13,968	14,347	17,016	1,844	
Wages on Base - % =	2.0%	2.0%	2.3%	0.3%	6.6%

In addition to the wage increases, the parties agreed to extend the probationary period for new employees from six months to nine months and to extend the uniform allowance to the end of the contract period. The union agreed to move to a bi-weekly pay schedule should the town implement this change for all town employees.

RECOMMENDATION:

By a vote of 23–0–1, the Advisory Committee recommends FAVORABLE ACTION on the motion offered by the Selectmen to appropriate the sums of money required to fund the cost items in the agreement between the Town and Local 1358 AFSCME, Council 93, AFL-CIO (School Traffic Supervisors).

By a vote of 22–0–1, the Advisory Committee recommends FAVORABLE ACTION on the motion offered by the Selectmen to appropriate the sums of money required to fund the cost items in the agreement between the Town of Brookline and the International Brotherhood of Teamsters, Local 25, (Emergency Telecommunications Dispatchers).

ARTICLE 9

BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

At the Board's May 9, 2017 meeting, Article 9 was reconsidered in order to address the language for Item 67, the appropriation to further design the 9th School at Baldwin. Specifically, the Board approved an alternative motion that would allow for additional feasibility work in light of potential restrictions on the property and to clarify the information the Board will seek from Town Counsel and/or outside legal counsel in order to make the decision to proceed with the continuation of design services.

As you know, Brookline has been discussing the need for a ninth school for many years. Up until now, the Town has been executing an effective Expand in Place strategy which has accommodated an additional 1,500 students (40% growth) and carved out 55 new classrooms into our existing K-8 buildings. But more students are coming, and we have nowhere to put them. Students are already eating lunch at 10:30 AM, pull-out teaching happens in hallways. We have created classroom space in every school — closets have become offices; locker rooms are now classrooms. We have already expanded the Heath, Runkle, Lawrence, and Devotion Schools. We've shifted some Pierce, Baker, and BEEP classrooms and offices into rental spaces, at a cost of about \$1 million annually. We have run out of space.

Following selection of the Baldwin site for the 9th School, the Building Committee has been working with award winning architect Jonathan Levi Associates to design a school worthy of Brookline for the 21st century. The Committee has also been consulting with our Parks and Recreation Departments to design a series of improvements to the adjacent Soule Recreation Center to include a new larger Soule gymnasium, improved playing fields and pathways, and better site accessibility for persons with disabilities. The intent here is to create a win-win; a school designed for the 21st century AND significant improvements to our recreation and parks infrastructure. As a result of this project, more Brookline families will enjoy our parklands. An image showing the proposed school placement on the site along with changes and improvements to the Soule Recreation Center follows. Additional images are on the project website at:
<http://www.brookline.k12.ma.us/Page/1970>

This Board appreciates and takes seriously the concerns that have been expressed in recent weeks in response to an extensive letter from attorneys hired by a number of abutters and neighbors to the site calling into question the legality of aspects of the proposed plans. The Board has been aware of the Article 97 implications associated with this site and has been consulting with Town Counsel to understand the restrictions.

Additionally, the Town is in receipt of a recent email exchange between an employee of the National Park Service (NPS) and the Massachusetts Office of Energy and Environmental Affairs stating the employee's belief that use of the Baldwin School Playground is restricted under the terms of a Land and Water Conservation grant received by the Town in 1976. The Town disagrees with this apparently preliminary determination, and expects to challenge it. If this determination were to stand, the unrestricted buildable area of the school would be reduced.

As an added measure, this Board has requested (and was granted) a transfer from the Reserve Fund to provide outside legal support to Town Counsel as we delve further into understanding the outcome of an upcoming Supreme Court Decision in *Smith v. City of Westfield* and other legal factors. We are confident that, with the advice of an expert in the field, the Board and School Committee will have the information it needs to make the decision on whether to extend the design contract. This Board has agreed that it will not proceed until that analysis has been completed. The Board has further agreed to Advisory Committee participation in the process in order to receive further input on the advice of its legal team as affirmed by the following language discussed during its budget vote:

Four Advisory Committee members will be permitted to attend, receive materials and provide input and advice to the Board of Selectmen and School Committee during public and executive sessions discussions of the legal analysis referred to in the item 67 conditions. While not having a formal vote, the Advisory Committee participants will be able to express opinions individually or collectively that will be duly recorded in the meeting record. The four Advisory Committee personnel participating would be the Committee Chair, the Chair of the Capital Subcommittee, the Chair of the School Subcommittee, and the Advisory Committee Representative to the Baldwin School Building Committee.

This Board asks that Town Meeting support the appropriation of funding so that we can use our authority designated under section 3.1.2 of the Town's By-Laws to "exercise general supervision over all matters affecting the general and financial interest and welfare of the town." While the Board acknowledges that the \$1.5 million appropriation is a large sum of money, Town Meeting entrusts this Board with authority over a majority of the Town's \$275 million Budget). The Board takes this responsibility very seriously and, in conjunction with the School Committee, will undertake a realistic assessment of the legal risks and potential delays. We will also be enlisting Town Counsel and Advisory Committee members for guidance.

The additional language for feasibility is to allow the Town to adjust the design to address site concerns and potentially make changes to traffic and parking patterns if we were to need to test other options if the legal analysis so demands. If we were to proceed with schematic design, we would only do so for the so-called Option D (shown in the image below) or a variation of this preferred option voted by 9th School Building Committee. The intent is to give us flexibility to adjust the Option D design even if doing so would require the kind of analysis done during the feasibility phase. It is not to design a new project.

Current estimates for that potential work would be \$50-\$100K, acknowledging that without knowing the outcome of the additional legal analysis it is difficult to project.

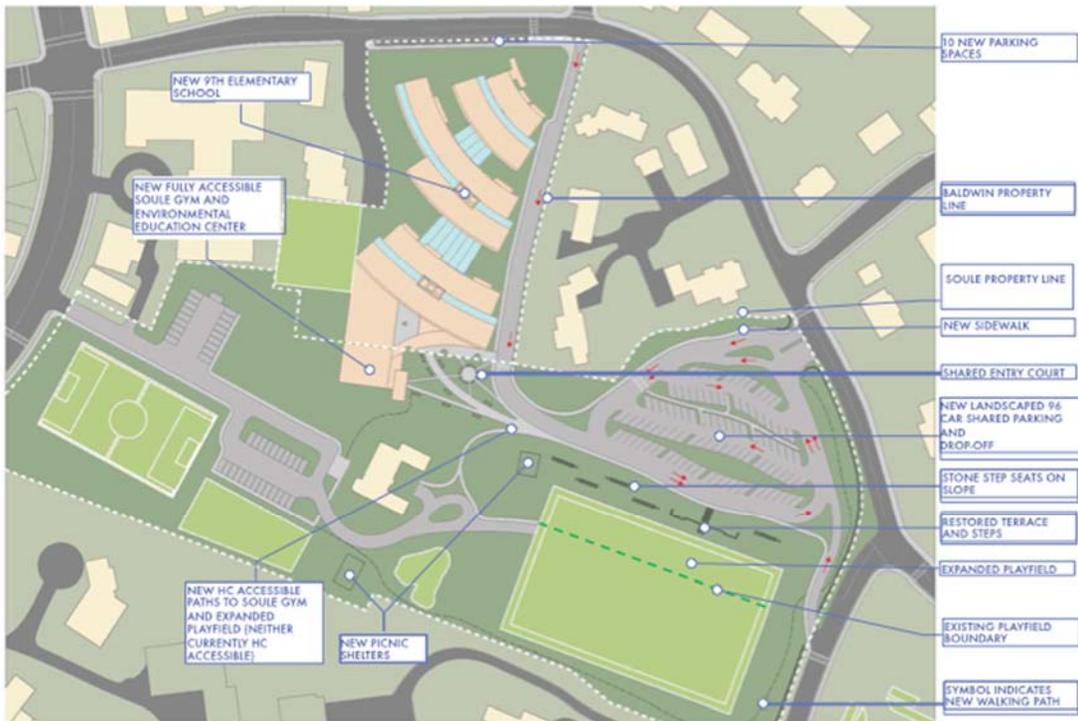
The Board supports the appropriation of these funds and will proceed cautiously with its decision to move closer to the opening of a much-needed 9th Elementary School.

A unanimous Board of Selectmen votes FAVORABLE ACTION on the following motion:

VOTED: To amend the Board's language for Section 13 item 67 as follows:

Raise and appropriate \$1,500,000 to be expended under the direction of the Building Commission, with any necessary contracts over \$100,000 to be approved by the Board of Selectmen and the School Committee, for a feasibility study and schematic design services, or any combination of the foregoing, for the construction of a 9th School to be located at 490 Heath Street, provided that the following conditions are satisfied before utilizing Town funds to commence such feasibility study and schematic design services:

- 1) The Board of Selectmen and School Committee receive and consider an analysis from Town Counsel and/or outside counsel regarding the impact of the anticipated Supreme Judicial Court decision in Smith v. City of Westfield;
- 2) The Board of Selectmen and the School Committee receive and consider further analysis from Town Counsel and/or outside counsel regarding the impact of the Town's past acceptance of a federal Land and Water Conservation Fund grant to improve the Baldwin School Playground site and any Article 97 or other land use restrictions imposed on the parcels of land comprising the sites of the Baldwin School, the Baldwin School Playground, and the Soule Recreation Area.



SELECTMEN’S VOTE vs. ADVISORY COMMITTEE’S BUDGET VOTE:

The Selectmen and Advisory Committee have the following differences in their budget votes. Please refer to the table at the end of this supplement labeled TMTABLES AC 051617 vote:

1. General Fund Appropriations

	Board of Selectmen	Advisory Committee	VARIANCE FROM AC VOTE
#8 Town Clerk	\$632,331	\$552,331	\$80,000
#24 Reserve Fund	\$2,460,011	\$2,540,011	-\$80,000

2. Special Appropriations:

Board of Selectmen language for item #67

VOTED: To amend the Board’s language for Section 13 item 67 as follows:

Raise and appropriate \$1,500,000 to be expended under the direction of the Building Commission, with any necessary contracts over \$100,000 to be approved by the Board of Selectmen and the School Committee, for a feasibility study and schematic design services, or any combination of the foregoing, for the construction of a 9th School to be located at 490 Heath Street, provided that the following conditions are satisfied before utilizing Town funds to commence such feasibility study and schematic design services:

- 1) The Board of Selectmen and School Committee receive and consider an analysis from Town Counsel and/or outside counsel regarding the impact of the anticipated Supreme Judicial Court decision in Smith v. City of Westfield;
- 2) The Board of Selectmen and the School Committee receive and consider further analysis from Town Counsel and/or outside counsel regarding the impact of the Town’s past acceptance of a federal Land and Water Conservation Fund grant to improve the Baldwin School Playground site and any Article 97 or other land use restrictions imposed on the parcels of land comprising the sites of the Baldwin School, the Baldwin School Playground, and the Soule Recreation Area.

Advisory Committee language for item #67

Raise and appropriate \$1,500,000 for a feasibility study and schematic design services, or any combination of the foregoing, for the construction of a 9th School to be located at 490 Heath Street, to be expended under the direction of the Building Commission, with any necessary contracts over \$100,000 to be executed after approval by the Board of

Selectmen and the School Committee and after approval of the expenditure of such funds by a vote of Town Meeting at either the Fall (November 2017) Special Town Meeting or at a Special Town Meeting at another date, provided that the following conditions are satisfied before utilizing any Town funds to commence such feasibility study and schematic design services:

(1) The Board of Selectmen, the School Committee and the Advisory Committee's Ad Hoc Subcommittee on the 9th School at Baldwin, as appointed by the Chair of the Advisory Committee, shall receive and consider in executive session an analysis from Town Counsel and an opinion letter from outside counsel as to the impact of the Town's past acceptance of a Federal Land and Water Conservation Fund grant and state Urban Self-Help grant for improvements to the Baldwin School Playground and the Soule Recreation area and the impact of the anticipated Supreme Judicial Court decision in *Smith v. City of Westfield* with respect to Article 97 of the Massachusetts Constitution on the proposal to construct a 9th school at 490 Heath Street as well as an estimate of a realistic time frame and cost estimates to resolve any of the aforementioned identified impediments as well as the anticipated delays and costs of potential administrative processes and litigation, through either negotiation or court action in both Federal and State Courts, that may be required for the Town to address these and other matters raised in the April 3, 2017 letter from Attorney Stephen Wald and that are to be included in the report from outside counsel to be engaged by Town Counsel pursuant to the \$50,000 Reserve Fund Transfer approved by the Advisory Committee on May 11, 2017.

(2) A report and recommendation from the Advisory Committee on such matters as referenced above shall be provided to the Town Meeting called to consider such expenditure at least seven days before such Town Meeting convenes.

Marked up version of the BOS motion amending the Advisory Committee motion for item #67

Raise and appropriate \$1,500,000 to be expended under the direction of the Building Commission, with any necessary contracts over \$100,000 to be executed after approval by the Board of Selectmen and the School Committee for a feasibility study and schematic design services, or any combination of the foregoing, for the construction of a 9th School to be located at 490 Heath Street, ~~to be expended under the direction of the Building Commission, with any necessary contracts over \$100,000 to be executed after approval by the Board of Selectmen and the School Committee and after approval of the expenditure of such funds by a vote of Town Meeting at either the Fall (November 2017) Special Town Meeting or at a Special Town Meeting at another date~~, provided that the following conditions are satisfied before utilizing any Town funds to commence such feasibility study and schematic design services:

~~(1) The Board of Selectmen, the School Committee and the Advisory Committee's Ad Hoc Subcommittee on the 9th School at Baldwin, as appointed by the Chair of the Advisory Committee, shall receive and consider in executive session an analysis from Town Counsel and an opinion letter from outside counsel as to the impact of the Town's past acceptance of a Federal Land and Water Conservation Fund grant and state Urban Self Help grant for improvements to the Baldwin School Playground and the Soule Recreation area and the impact of the anticipated Supreme Judicial Court decision in *Smith v. City of Westfield* with respect to Article 97 of the Massachusetts Constitution on the proposal to construct a 9th school at 490 Heath Street as well as an estimate of a realistic time frame and cost estimates to resolve any of the aforementioned identified impediments as well as the anticipated delays and costs of potential administrative processes and litigation, through either negotiation or court action in both Federal and State Courts, that may be required for the Town to address these and other matters raised in the April 3, 2017 letter from Attorney Stephen Wald and that are to be included in the report from outside counsel to be engaged by Town Counsel pursuant to the \$50,000 Reserve Fund Transfer approved by the Advisory Committee on May 11, 2017.~~

~~(2) A report and recommendation from the Advisory Committee on such matters as referenced above shall be provided to the Town Meeting called to consider such expenditure at least seven days before such Town Meeting convenes.~~

- 1) The Board of Selectmen and School Committee receive and consider an analysis from Town Counsel and/or outside counsel regarding the impact of the anticipated Supreme Judicial Court decision in *Smith v. City of Westfield*;
- 2) The Board of Selectmen and the School Committee receive and consider further analysis from Town Counsel and/or outside counsel regarding the impact of the Town's past acceptance of a federal Land and Water Conservation Fund grant to improve the Baldwin School Playground site and any Article 97 or other land use restrictions imposed on the parcels of land comprising the sites of the Baldwin School, the Baldwin School Playground, and the Soule Recreation Area.

ADVISORY COMMITTEE’S SUPPLEMENTAL RECOMMENDATION

As the deadline for submitting supplemental reports approached on Thursday, May 18, the chair, vice chair, and other members of the Advisory Committee learned of at least one potential new amendment to Item 67 in the FY2018 budget—the \$1.5 million special appropriation for the Ninth School at 490 Heath Street. The following report is as current as possible, but the Advisory Committee may present additional information and recommendations at the Annual Town Meeting.

SUMMARY:

As originally voted, the Advisory Committee recommended appropriating the requested Special Appropriation of \$1.5 million in schematic design funds for the ninth school at 490 Heath Street and “parking” these funds in the Special Appropriation for Classroom Capacity (Item 66), with the condition that \$1.5 million of the now \$2,495,000 in Item 66 not be encumbered or expended until after December 1, 2017. The rationale behind the vote was to ensure that the decision to proceed with schematic design for the ninth school would rest with Town Meeting and that by December 1 the November Town Meeting would have made its determination with full knowledge of the Massachusetts Supreme Judicial Court’s decision in the critical *Smith vs. the City of Westfield* case. A majority of the Advisory Committee was firm in its belief that the expenditure of such large amounts of money should rest with Town Meeting, and not the executive branch of Town government, and that a decision should not be made before the Town had taken into account the implications of the *Westfield* case for the proposed 9th school.

Upon further consideration—at both its May 11th and May 16th meetings—of its initial recommendation, the Advisory Committee voted to amend its earlier recommendation regarding the special appropriations for Classroom Capacity (Item 66) and the ninth school at 490 Heath Street (now Item 67). The Advisory Committee then voted unanimously for its amended overall Article 9 motion, as described at the end of this report.

To summarize, the Advisory Committee now recommends appropriating \$995,000 (the original request of the School Department) for Classroom Capacity funds. It also recommends appropriating \$1.5 million for both feasibility and schematic design purposes for the ninth school at 490 Heath Street, with the condition that those funds be expended only (1) after the Board of Selectmen and School Committee have given careful consideration to guidance from outside counsel on various legal issues that have arisen and on anticipated delays and costs of potential administrative processes and litigation, and (2) after a Special Town Meeting votes to approve expenditure of the \$1.5 million.

The amendment voted by the Advisory Committee on May 16 and incorporated into its Article 9 (budget) motion reflects the need to clearly appropriate funds for the proposed 9th school, but to expend those funds only when the Town has more information on legal issues related to the proposed school. The Advisory Committee took into account the fact that

Town Counsel is seeking advice from outside counsel on legal issues related to the proposed 9th school site, including the *Westfield* case but also other issues, such as restrictions that may have been imposed by the use of a federal grant to improve part of the Baldwin Playground. Instead of waiting until November, release of the \$1.5 million can now be tied to when the Town receives more information and analysis from Town Counsel and outside counsel.

BACKGROUND:

Please refer to pp. 9-84 to 9-94 of the Combined Reports for general background information on the proposed ninth school at the Baldwin site, recent and ongoing studies, issues, and remaining questions. The following summary covers recent developments related to the proposed school.

On May 15, JLA was asked to produce sketches to show the possibility of reducing parking on the Soule Recreation site, in response to Park and Recreation Commission and Article 97 concerns, and also the possibility of building the school on the “front parcel” of the Baldwin site, i.e. that portion that apparently would not be subject to either Article 97 or Land and Water Conservation Fund (LWCF) restrictions. These sketches were shown to and discussed by members of the 9th School at Baldwin Building Committee at its May 16th meeting. Recognizing that further investigation of some—or all—of these options might be needed, the Board of Selectmen on May 16 voted to add language to the Selectmen’s recommendation for Item 67 of Special Appropriations so that the \$1.5 million in that appropriation could be spent for feasibility studies, as well as schematic design, for the proposed 9th school at 490 Heath Street. The Selectmen’s revised motion was approved by the Moderator and appears below in this report.

DISCUSSION:

At its May 11 meeting, having moved and approved reconsideration of its initial Article 9 motion, including the recommendation regarding the 9th school, the Advisory Committee continued to discuss possible amendments to its original recommendation. The Committee examined three options:

- 1) The Advisory original motion to defer voting on the \$1.5 million until November, as it appears in the Combined Reports.
- 2) The motion of the Board of Selectmen, as voted on May 16 and communicated to the Advisory Committee during its simultaneous May 16 meeting.
- 3) An amendment to the Advisory Committee’s previous motion, calling for Town Meeting to vote on the expenditure of the \$1.5 appropriation at a Special Town Meeting, convened by the Board of Selectmen after more information is available on legal issues related to propose the 9th school site.

Proposing a Special Town Meeting, as opposed to the November Town Meeting addressed the concern that waiting until November could slow down the process. It was noted that

the Board of Selectmen is empowered to convene a Special Town Meeting (STM) quickly: 14 days after posting the warrant. Several years ago a STM was convened in August to vote on a local option meals tax and there were no difficulties in reaching a quorum. Town Meeting members might be even more likely to attend a Special Town Meeting devoted to the 9th school, given the considerable interest in this issue.

There was no support expressed for returning to the Committee's original recommendation regarding the \$1.5 million 9th school appropriation. The Advisory Committee focused on the other two options.

The Selectmen's Motion of May 16, 2017

The Advisory Committee was informed that the Selectmen would consider the following motion at their May 16 meeting (**bold** insertions are new language added since the previous voted of the Selectmen on Item 67):

VOTED: To raise and appropriate \$1,500,000 to be expended under the direction of the Building Commission, with any necessary contracts over \$100,000 to be approved by the Board of Selectmen and the School Committee, for **a feasibility study and schematic design services, or any combination of the foregoing, for the construction of a 9th School** to be located at 490 Heath Street, provided that the following conditions are satisfied before utilizing Town funds to commence such **feasibility study and** schematic design services:

- 1) The Board of Selectmen and School Committee receive and consider an analysis from Town Counsel and/or outside counsel regarding the impact of the anticipated Supreme Judicial Court decision in *Smith v. City of Westfield*;
- 2) The Board of Selectmen and the School Committee receive and consider further analysis from Town Counsel and/or outside counsel regarding the impact of the Town's past acceptance of a federal Land and Water Conservation Fund grant to improve the Baldwin School Playground site and any Article 97 or other land use restrictions imposed on the parcels of land comprising the sites of the Baldwin School, the Baldwin School Playground, and the Soule Recreation Area.

A few members initially indicated their preference for the Selectmen's motion as the one that would enable the process of building the school to move forward as quickly as possible. In the end, however, the Advisory Committee recognized that there were too many uncertainties regarding the Baldwin School to delegate to the Selectmen and School Committee responsibility for releasing the \$1.5 million. Would the report from outside counsel conclude that a school should only be built on the "front parcel" of the Baldwin site—a radically different proposal than the current Option D? Would legal concerns delay construction of a school for many years? Would Eminent Domain be necessary to acquire

an adequate site? Under what, if any, conditions would the Town re-open the site selection process? The decision one week before Town Meeting to request funds for feasibility studies to the special appropriation indicated continuing uncertainty on how the appropriated funds would be spent.

By a vote of two in favor, eighteen opposed, and five abstentions, the Advisory Committee voted against the Selectmen's May 16 motion on Item 67.

The Advisory Committee's Recommended Option

Regarding the third option, some members offered their support based on their belief that voting on budgetary matters is an extremely important function of the legislative branch of town government. Others noted that there was great uncertainty about how the appropriated funds would be spent. The apportionment of the \$1.5 million allocation between feasibility and schematic design is not included in the requested special appropriation, which was modified very late in the budget process. In addition, the scope of additional feasibility studies are currently unknown. The Advisory Committee was given an estimate from Building Department staff that tentatively places the feasibility cost between \$200,000 and \$300,000. (The next day, the Chair of the Board of Selectmen said that only \$50,000 might be needed, suggesting that there was still much uncertainty.) If the cost of the feasibility studies were to reach \$300,000, additional funding might then be needed to proceed with schematic design for Option D, should that be the chosen course. There were no suggestions as to the source of additional funding. Furthermore, as the Selectmen's vote is written, money could be spent on the feasibility of building a school on just the "front parcel" of the Baldwin site without any further consideration or discussion. When the Advisory Committee met on May 16, it was not clear which plan will be investigated for further feasibility.

In addition, the possibility of taking one or more houses for eminent domain, although not contemplated at this time, was mentioned at the Baldwin Building Committee meeting on May 16th. A number of Advisory Committee members stated their firm belief that before any such step was "officially" contemplated, it should be done so only with the support of Town Meeting. There was also the perspective that bringing the matter back to Town Meeting, as opposed to leaving it up to the School Committee and Selectmen, would provide an opportunity to ensure that there was greater community-wide support for the next step, whatever it may be,

Finally, it was noted that whatever guidance is offered by Town Counsel and outside counsel regarding legal issues and the risks of time delays and financial expenditures, the Board of Selectmen and School Committee, having voted for the Baldwin site and having worked so long and hard on reaching this point in the process, might have a difficult time responding in a dispassionate manner to such guidance and advice. This observation was not made in a disparaging manner, but rather to take note of fundamental human nature.

All of these considerations persuaded the Advisory Committee that the best course would be to appropriate the \$1.5 million for feasibility studies and schematic design of the proposed 9th school, but to have a Special Town Meeting decide whether to approve utilization of these funds after receiving reports on the legal issues related to the proposed school and the implications of such issues for the Town's options for designing and building a 9th school. As of May 16, the Board of Selectmen agreed with the need for a delay, but the Selectmen's motion would allow the Selectmen and School Committee to authorize expenditure of the \$1.5 million without further action by Town Meeting.

Before voting its recommendation, the Advisory Committee took up an amendment to the third option, which gave greater specificity as to the legal and other issues to be considered by Town Counsel and outside counsel before making their required reports to the Board of Selectmen and School Committee. This secondary amendment was approved and incorporated into the amendment voted by the Advisory Committee and shown below.

Amendment to The Advisory Committee's Previous Recommend Motion under Article 9

By a vote of 23–0–2, the Advisory Committee amended its previous recommended motion under Article 9 (see pp. 9-95 – 9-103 of the Combined Reports) by making the following changes, which are also reflected in the attached Table 1 (FY18 Budget). The remainder of the Advisory Committee's motion is unchanged. The amendment only changes special appropriations, and the principal substantive changes are to items that appear on page 9-102 and page 9-103.

VOTED: To Amend the Advisory Committee's recommended motion under Article 9, as it appears on pages 9-95 to 9-103 of the Combined Reports, by making the following changes and retaining the existing language that is not subject to these changes.

- Substitute the following for the previously recommended special appropriation 66 [p. 9-102]:

66.) Raise and appropriate \$995,000 to be expended under the direction of the Building Commission, with any necessary contracts over \$100,000 to be approved by the Board of Selectmen and the School Committee, for the expansion of classroom capacity in various schools.

- Insert new special appropriation 67 [p. 9-103]:

67.) Raise and appropriate \$1,500,000 for a feasibility study and schematic design services, or any combination of the foregoing, for the construction of a 9th School to be located at 490 Heath Street, to be expended under the direction of the Building Commission, with any necessary contracts over \$100,000 to be executed after approval by the Board of Selectmen and the School Committee and after approval of the expenditure of such funds by a vote of Town Meeting at either the Fall (November 2017) Special Town Meeting or

at a Special Town Meeting at another date, provided that the following conditions are satisfied before utilizing any Town funds to commence such feasibility study and schematic design services:

- (1) The Board of Selectmen, the School Committee and the Advisory Committee's Ad Hoc Subcommittee on the 9th School at Baldwin, as appointed by the Chair of the Advisory Committee, shall receive and consider in executive session an analysis from Town Counsel and an opinion letter from outside counsel as to the impact of the Town's past acceptance of a Federal Land and Water Conservation Fund grant and state Urban Self-Help grant for improvements to the Baldwin School Playground and the Soule Recreation area and the impact of the anticipated Supreme Judicial Court decision in *Smith v. City of Westfield* with respect to Article 97 of the Massachusetts Constitution on the proposal to construct a 9th school at 490 Heath Street as well as an estimate of a realistic time frame and cost estimates to resolve any of the aforementioned identified impediments as well as the anticipated delays and costs of potential administrative processes and litigation, through either negotiation or court action in both Federal and State Courts, that may be required for the Town to address these and other matters raised in the April 3, 2017 letter from Attorney Stephen Wald and that are to be included in the report from outside counsel to be engaged by Town Counsel pursuant to the \$50,000 Reserve Fund Transfer approved by the Advisory Committee on May 11, 2017.
 - (2) A report and recommendation from the Advisory Committee on such matters as referenced above shall be provided to the Town Meeting called to consider such expenditure at least seven days before such Town Meeting convenes.
- Renumber existing special appropriation 67 (Brookline Reservoir) as special appropriation 68 (p. 9-103 of the Combined Reports).
 - In paragraph 13 "Special Appropriations" change "Items #67 – 68" to "Item #68" (p. 9-99 of the Combined Reports).

RECOMMENDATION:

The Advisory Committee, by a vote of 25-0-0, recommends FAVORABLE ACTION on its Article 9 motion, as amended. The changes to the motion in the Combined Reports are shown below (additions in **bold**; deletions in ~~strike through~~). All other parts of that motion remain unchanged.

13.) SPECIAL APPROPRIATIONS: The appropriations set forth as items 35 through 68, inclusive, in Table 1 shall be specially appropriated for the following purposes. In addition, with the exception of Items ~~#67–~~ 68, they shall be transferred from the General Fund to the Revenue-Financed Capital Fund.

66.) Raise and appropriate ~~\$2,495,000~~ **\$995,000** to be expended under the direction of the Building Commission, with any necessary contracts over \$100,000 to be approved by the Board of Selectmen and the School Committee, for the expansion of classroom capacity in various schools; ~~provided that \$1,500,000 of this total not be expended or encumbered before December 1, 2017.~~

67.) Raise and appropriate \$1,500,000 for a feasibility study and schematic design services, or any combination of the foregoing, for the construction of a 9th School to be located at 490 Heath Street, to be expended under the direction of the Building Commission, with any necessary contracts over \$100,000 to be executed after approval by the Board of Selectmen and the School Committee and after approval of the expenditure of such funds by a vote of Town Meeting at either the Fall (November 2017) Special Town Meeting or at a Special Town Meeting at another date, provided that the following conditions are satisfied before utilizing any Town funds to commence such feasibility study and schematic design services:

(1) The Board of Selectmen, the School Committee and the Advisory Committee's Ad Hoc Subcommittee on the 9th School at Baldwin, as appointed by the Chair of the Advisory Committee, shall receive and consider in executive session an analysis from Town Counsel and an opinion letter from outside counsel as to the impact of the Town's past acceptance of a Federal Land and Water Conservation Fund grant and state Urban Self-Help grant for improvements to the Baldwin School Playground and the Soule Recreation area and the impact of the anticipated Supreme Judicial Court decision in *Smith v. City of Westfield* with respect to Article 97 of the Massachusetts Constitution on the proposal to construct a 9th school at 490 Heath Street as well as an estimate of a realistic time frame and cost estimates to resolve any of the aforementioned identified impediments as well as the anticipated delays and costs of potential administrative processes and litigation, through either negotiation or court action in both Federal and State Courts, that may be required for the Town to address these and other matters raised in the April 3, 2017 letter from Attorney Stephen Wald and that are to be included in the report from outside counsel to be engaged by Town Counsel pursuant to the \$50,000 Reserve Fund Transfer approved by the Advisory Committee on May 11, 2017.

(2) A report and recommendation from the Advisory Committee on such matters as referenced above shall be provided to the Town Meeting called to consider such expenditure at least seven days before such Town Meeting convenes.

~~67~~ **68.)** Appropriate \$2,200,000 to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over \$100,000 to be approved by the Board of Selectmen, for the renovation of Brookline Reservoir Park; and to meet the appropriation

authorize the Treasurer, with the approval of the Board of Selectmen, to borrow \$2,200,000, under General Laws, Chapter 44, Section 7, Clause 25.

FY18 BUDGET - TABLE 1 May, 2017 AC 051617 vote

	FY15 ACTUAL	FY16 ACTUAL	FY17 BUDGET	FY18 BUDGET	\$\$ CHANGE FROM FY17	% CHANGE FROM FY17
REVENUES						
Property Taxes	182,239,297	195,049,924	204,064,199	211,298,230	7,234,031	3.5%
Local Receipts	25,847,019	29,377,154	23,836,698	29,556,650	5,719,952	24.0%
State Aid	17,675,450	18,837,306	19,657,251	20,273,713	616,462	3.1%
Free Cash	5,084,152	5,016,501	5,311,538	8,354,017	3,042,479	57.3%
Overlay Surplus	2,100,000	0	0	0	0	-
Other Available Funds	6,903,508	6,895,644	7,840,067	3,485,110	(4,354,956)	-55.5%
TOTAL REVENUE	239,849,426	255,176,529	260,709,753	272,967,720	12,257,968	4.7%
EXPENDITURES						
DEPARTMENTAL EXPENDITURES						
1 . Selectmen	685,876	684,191	688,622	697,169	8,547	1.2%
2 . Human Resources	676,217	728,432	548,060	686,579	138,519	25.3%
3 . Information Technology	1,783,823	1,843,320	1,908,580	1,896,399	(12,181)	-0.6%
4 . Diversity, Inclusion, and Community Relations	177,539	202,210	239,050	243,101	4,051	1.7%
5 . Finance Department	2,869,580	2,985,840	3,216,609	3,262,446	45,837	1.4%
<i>a. Comptroller</i>	551,138	571,910	589,139	597,669	8,530	1.4%
<i>b. Purchasing</i>	667,116	681,950	661,456	665,782	4,326	0.7%
<i>c. Assessing</i>	664,015	685,044	689,132	690,060	928	0.1%
<i>d. Treasurer</i>	987,311	1,046,936	1,276,882	1,308,935	32,053	2.5%
6 . Legal Services	889,316	989,752	967,934	972,934	5,000	0.5%
7 . Advisory Committee	13,021	13,704	25,672	25,779	107	0.4%
8 . Town Clerk	645,463	613,440	696,935	552,331	(144,604)	-20.7%
9 . Planning and Community Development	851,249	874,057	958,875	982,599	23,724	2.5%
10 . Police	16,260,029	16,732,901	16,738,565	16,829,005	90,440	0.5%
11 . Fire	12,960,394	12,961,446	14,607,589	14,980,571	372,982	2.6%
12 . Building	7,029,407	7,321,190	7,600,286	7,699,954	99,668	1.3%
(1) 13 . Public Works	16,330,565	14,970,796	14,387,630	14,457,331	69,701	0.5%
<i>a. Administration</i>	874,470	908,138	890,192	891,296	1,104	0.1%
<i>b. Engineering/Transportation</i>	1,165,797	1,255,638	1,260,195	1,216,151	(44,044)	-3.5%
<i>c. Highway</i>	4,872,841	4,574,473	5,027,423	4,957,738	(69,685)	-1.4%
<i>d. Sanitation</i>	2,858,581	3,340,207	3,020,670	3,080,034	59,364	2.0%
<i>e. Parks and Open Space</i>	3,322,096	3,701,159	3,701,557	3,826,815	125,258	3.4%
<i>f. Snow and Ice</i>	3,236,779	1,191,182	487,593	485,297	(2,296)	-0.5%
14 . Library	3,894,348	3,993,162	3,992,157	3,974,583	(17,574)	-0.4%
15 . Health and Human Services	1,184,308	1,193,045	1,189,084	1,193,753	4,669	0.4%
16 . Veterans' Services	361,218	326,172	335,631	335,531	(100)	0.0%
17 . Council on Aging	855,130	883,926	912,543	917,628	5,085	0.6%
18 . Recreation	1,010,362	1,124,759	1,011,042	1,000,208	(10,834)	-1.1%
(2) 19 . Personnel Services Reserve	715,000	715,000	715,000	715,000	0	0.0%
(2) 20 . Collective Bargaining - Town	2,321,220	1,596,442	783,529	1,500,000	716,471	91.4%
<i>Subtotal Town</i>	68,477,847	68,442,343	71,523,393	72,922,901	1,399,508	2.0%
21 . Schools	86,842,575	95,916,094	101,118,783	104,710,912	3,592,129	3.6%
22 . Vocational Education Assessments	0	0	0	92,895	92,895	-
<i>Subtotal Education</i>	86,842,575	95,916,094	101,118,783	104,803,807	3,685,024	3.6%
TOTAL DEPARTMENTAL EXPENDITURES	155,320,422	164,358,438	172,642,176	177,726,708	4,991,637	
NON-DEPARTMENTAL EXPENDITURES						

		FY15 ACTUAL	FY16 ACTUAL	FY17 BUDGET	FY18 BUDGET	\$\$ CHANGE FROM FY17	% CHANGE FROM FY17
(1)	23 . Employee Benefits	50,474,515	54,064,860	56,848,194	60,454,518	3,606,324	6.3%
(3)	<i>a. Pensions</i>	17,882,573	18,707,021	19,718,677	21,499,185	1,780,508	9.0%
	<i>b. Group Health</i>	25,110,830	27,484,720	29,042,055	30,173,026	1,130,971	3.9%
	<i>c. Health Reimbursement Account (HRA)</i>	49,478	70,000	0	0	0	
(3)	<i>d. Retiree Group Health Trust Fund (OPEB's)</i>	3,311,860	3,499,119	3,774,837	4,480,080	705,243	18.7%
	<i>e. Employee Assistance Program (EAP)</i>	24,900	28,000	28,000	28,000	0	0.0%
	<i>f. Group Life</i>	132,666	145,000	145,000	145,000	0	0.0%
	<i>g. Disability Insurance</i>	10,221	16,000	16,000	16,000	0	0.0%
(3)	<i>h. Worker's Compensation</i>	1,450,000	1,550,000	1,450,000	1,450,000	0	0.0%
(3)	<i>i. Public Safety IOD Medical Expenses</i>	300,575	250,000	250,000	200,000	(50,000)	-20.0%
(3)	<i>j. Unemployment Compensation</i>	325,000	300,000	300,000	200,000	(100,000)	-33.3%
	<i>k. Medical Disabilities</i>	18,565	40,000	40,000	40,000	0	0.0%
	<i>l. Medicare Coverage</i>	1,857,847	1,975,000	2,083,625	2,223,228	139,603	6.7%
(2)	24 . Reserve Fund	1,718,000	2,200,198	2,348,736	2,540,011	191,275	8.1%
	25 . Stabilization Fund	0	0	0	0	0	
	26 . Affordable Housing	170,390	163,078	158,539	576,803	418,264	263.8%
	27 . Liability/Catastrophe Fund	234,839	78,969	144,322	203,644	59,322	
	28 . General Insurance	332,137	382,645	394,148	405,972	11,824	3.0%
(3)	29 . Audit/Professional Services	81,500	130,000	137,000	137,000	0	0.0%
	30 . Contingency Fund	10,528	15,000	15,000	15,000	0	0.0%
	31 . Out-of-State Travel	2,253	3,000	3,000	3,000	0	0.0%
	32 . Printing of Warrants & Reports	28,046	35,000	35,000	35,000	0	0.0%
	33 . MMA Dues	11,746	12,278	12,585	12,900	315	2.5%
	<i>Subtotal General</i>	2,589,439	3,020,169	3,248,330	3,929,329	680,999	21.0%
(1)	34 . Borrowing	9,403,333	9,276,014	10,742,938	12,766,192	2,023,254	18.8%
	<i>a. Funded Debt - Principal</i>	7,196,544	7,188,044	7,923,973	9,031,750	1,107,777	14.0%
	<i>b. Funded Debt - Interest</i>	2,193,256	2,082,502	2,658,965	3,574,442	915,477	34.4%
	<i>c. Bond Anticipation Notes</i>	0	0	100,000	100,000	0	0.0%
	<i>d. Abatement Interest and Refunds</i>	13,533	5,468	60,000	60,000	0	0.0%
	TOTAL NON-DEPARTMENTAL EXPENDITURES	62,467,287	66,361,043	70,839,462	77,150,040	6,310,578	8.9%
	TOTAL GENERAL APPROPRIATIONS	217,787,709	230,719,481	243,481,638	254,876,747	11,302,217	4.6%
	SPECIAL APPROPRIATIONS						
	35 . Town Building Furniture (revenue financed)				50,000		
	36 . Town Building Rehab/Upgrade (revenue financed)				50,000		
	37 . Data Room Improvements (Re-appropriation)				120,000		
	38 . Technology Applications (revenue financed)				175,000		
	39 . Fire Apparatus Rehab (revenue financed)				50,000		
	40 . Engine #6 Replacement (revenue financed)				625,000		
	41 . Fire Station Renovations (revenue financed)				280,000		
	42 . PPE Washers and Dryers (revenue Financed)				71,000		
	43 . Coolidge Corner Library - Elev./Rear Windows /Carpet (revenue financed)				646,500		
	44 . Traffic Calming / Safety Improvements (revenue financed)				58,659		
	45 . Bicycle Access Improvements (re-appropriation \$27,900, + revenue financed)				33,000		
	46 . Parking Meter Technology Upgrade (revenue financed from Parking Meter Fund)				161,040		
	47 . Carlton St /Monmouth Traffic Signal (revenue financed)				333,663		
	48 . Street Rehabilitation (revenue financed)				1,670,000		
	49 . Sidewalk Repair/Reconstruction (revenue financed)				312,000		

		FY15 ACTUAL	FY16 ACTUAL	FY17 BUDGET	FY18 BUDGET	\$\$ CHANGE FROM FY17	% CHANGE FROM FY17
	50 Municipal Service Center Site Improvements (revenue financed)				240,000		
	51 Davis Path Footbridge Study (revenue financed)				40,000		
	52 . Stormwater Improvements (revenue financed Water and Sewer fund)				300,000		
	53 Water System Improvements (Utility bond)				300,000		
	54 Murphy Playground (revenue financed)				70,000		
	55 . Playground Equipment, Fields, Fencing (revenue financed)				305,000		
	56 . Town/School Grounds Rehab (revenue financed)				150,000		
	57 . Tree Removal and Replacement (revenue financed)				230,000		
	58 . School Furniture Upgrades (revenue financed)				90,000		
	59 . Town/School ADA Renovations (revenue financed)				75,000		
	60 . Town/School Elevator Renovations (revenue financed)				475,000		
	61 . Town/School Energy Conservation Projects (revenue financed)				75,000		
	62 . Town/School Energy Management Systems (revenue financed)				125,000		
	63 . Town/School Building Security / Life Safety (revenue financed)				215,000		
	64 . School Building Rehab/Upgrade (revenue financed)				100,000		
	65 . Driscoll School Rehabilitation (re-appropriation \$282,724 + revenue financed)				400,000		
	66 . Classroom Capacity (revenue financed)				995,000		
	67 . 9th School at Baldwin Feasibility/ Schematic Design (revenue financed)				1,500,000		
	68 . Brookline Reservoir Park - Construction (bond)				2,200,000		
(4)	69 . High School Schematic Design (bond)				1,850,000		
(5)	TOTAL REVENUE-FINANCED SPECIAL APPROPRIATIONS	9,415,000	10,113,000	8,879,374	9,720,862	841,488	9.5%
	TOTAL APPROPRIATED EXPENDITURES	227,202,709	240,832,481	252,361,012	264,597,609	12,236,597	4.8%
	NON-APPROPRIATED EXPENDITURES						
	Cherry Sheet Offsets	126,443	91,451	89,197	86,983		
	State & County Charges	6,201,536	6,319,715	6,393,642	6,508,126		
	Overlay	2,080,721	1,965,726	1,840,902	1,750,000		
	Deficits-Judgments-Tax Titles	25,000	25,000	25,000	25,000		
	TOTAL NON-APPROPRIATED EXPEND.	8,433,700	8,401,892	8,348,741	8,370,109	21,368	0.3%
	TOTAL EXPENDITURES	235,636,409	249,234,373	260,709,753	272,967,718	12,257,965	4.7%
	SURPLUS/(DEFICIT)	4,213,017	5,942,156	0	0		

(1) Breakdown provided for informational purposes.

(2) Figures provided for informational purposes. Funds were transferred to departmental budgets for expenditure.

(3) Funds are transferred to trust funds for expenditure.

(4) Article 1 of the Second Special Town Meeting

(5) Amounts appropriated. Bonded appropriations are not included in the total amount, as the debt and interest costs associated with them are funded in the Borrowing category (item #34).

FY18 BUDGET - TABLE 2 May, 2017

Department/Board/Commission	Personnel Services/ Benefits	Purchase of Services	Supplies	Other Charges/ Expenses	Utilities	Capital Outlay	Inter-Govt'al	Debt Service	Agency Total
Board of Selectmen (Town Administrator)	666,784	6,580	4,000	17,600		2,205			697,169
Human Resources Department (Human Resources Director)	309,230	325,709	19,000	31,000		1,640			686,579
Information Technology Department (Chief Information Officer)	1,131,127	469,272	10,350	17,550		268,100			1,896,399
Diversity, Inclusion, and Community Relations (Director)	213,076	20,000	9,000	150		875			243,100
Finance Department (Director of Finance)	2,215,168	967,836	48,760	22,057	1,375	7,250			3,262,446
Legal Services (Town Counsel)	625,425	230,309	3,500	112,000		1,700			972,934
Advisory Committee (Chair, Advisory Committee)	22,639		2,275	570		295			25,779
Town Clerk (Town Clerk)	524,379	89,672	14,550	2,450		1,280			632,331
Planning and Community Department (Plan. & Com. Dev. Dir.)	946,264	18,633	9,712	4,550		3,440			982,599
Police Department (Police Chief)	15,246,124	574,743	219,900	74,000	281,611	432,627			16,829,005
Fire Department (Fire Chief)	14,299,208	166,240	167,488	31,350	193,809	122,476			14,980,571
Public Buildings Department (Building Commissioner)	2,444,025	2,361,802	29,750	10,400	2,731,607	122,370			7,699,954
Public Works Department (Commissioner of Public Works)	8,019,901	3,336,525	960,750	53,500	1,073,453	993,202	20,000		14,457,331
Public Library Department (Library Board of Trustees)	2,876,169	186,559	594,250	4,700	286,905	26,000			3,974,583
Health & Human Services Department (Health & Human Svcs Dir)	926,337	205,490	15,100	4,120	38,686	4,020			1,193,753
Veterans' Services (Veterans' Services Director)	168,448	1,988	650	163,935		510			335,531
Council on Aging (Council on Aging Director)	774,288	43,583	19,763	2,900	71,394	5,700			917,628
Recreation Department (Recreation Director)	734,358	23,037	86,480	12,400	139,913	4,020			1,000,208
School Department (School Committee)									104,710,912
Total Departmental Budgets	52,142,950	9,027,978	2,215,278	565,232	4,818,753	1,997,710	20,000		175,498,812
DEBT SERVICE									
Debt Service (Director of Finance)								12,766,192	12,766,192
Total Debt Service								12,766,192	12,766,192
EMPLOYEE BENEFITS									
Contributory Pensions Contribution (Director of Finance)	21,434,185								21,434,185
Non-Contributory Pensions Contribution (Director of Finance)	65,000								65,000
Group Health Insurance (Human Resources Director)	30,173,026								30,173,026
Retiree Group Health Insurance - OPEB's (Director of Finance)	4,480,080								4,480,080
Employee Assistance Program (Human Resources Director)	28,000								28,000
Group Life Insurance (Human Resources Director)	145,000								145,000
Disability Insurance	16,000								16,000
Workers' Compensation (Human Resources Director)	1,450,000								1,450,000
Public Safety IOD Medical Expenses (Human Resources Director)	200,000								200,000
Unemployment Insurance (Human Resources Director)	200,000								200,000
Ch. 41, Sec. 100B Medical Benefits (Town Counsel)	40,000								40,000
Medicare Payroll Tax (Director of Finance)	2,223,228								2,223,228
Total Employee Benefits	60,454,518								60,454,518
GENERAL / UNCLASSIFIED									
Vocational Education Assessments									92,895
Reserve Fund (*) (Chair, Advisory Committee)				2,460,011					2,460,011
Liability/Catastrophe Fund (Director of Finance)				203,644					203,644
Housing Trust Fund (Planning & Community Development Dir.)				576,803					576,803
General Insurance (Town Administrator)		405,972							405,972
Audit/Professional Services (Director of Finance)		137,000							137,000
Contingency (Town Administrator)				15,000					15,000
Out of State Travel (Town Administrator)		3,000							3,000
Printing of Warrants (Town Administrator)	15,000	10,000	10,000						35,000
MMA Dues (Town Administrator)				12,900					12,900
Town Salary Reserve (*) (Director of Finance)	1,500,000								1,500,000
Personnel Services Reserve (*) (Director of Finance)	715,000								715,000
Total General / Unclassified	2,230,000	555,972	10,000	3,268,358					6,157,225
TOTAL GENERAL APPROPRIATIONS	114,827,468	9,583,950	2,225,278	3,833,590	4,818,753	1,997,710	20,000	12,766,192	254,876,747

(*) NO EXPENDITURES AUTHORIZED DIRECTLY AGAINST THESE APPROPRIATIONS. FUNDS TO BE TRANSFERRED AND EXPENDED IN APPROPRIATE DEPT.

ARTICLE 9

**MOTION OFFERED BY NEIL WISHINSKY, DAVID POLLAK
AND FRED LEVITAN**

VOTED: To amend Section 13 item 67 so that it read as follows:

VOTED: To raise and appropriate \$1,500,000 to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for a feasibility study and schematic design services, or any combination of the foregoing, for the construction of a 9th School to be located at 490 Heath Street, with the condition that no funds with the exception of \$100,000 for additional design services for the preferred Scheme D to be expended prior to the publishing of the decision of the Massachusetts Supreme Judicial Court in the matter of Smith v Westfield and until the Board of Selectmen, the School Committee and an Ad Hoc Subcommittee of the Advisory Committee receive the opinion of Town Counsel and/or outside counsel hired to review land use limitations and protections on both Baldwin and Soule and until a successive Town Meeting affirmatively releases the funds.

PETITIONER EXPLANATION

There has been much discussion and debate on the decision to move forward with schematic design services for the Baldwin School project. This motion attempts to allow for funding to move forward with \$100,000 dedicated to additional feasibility work for Scheme D at the Baldwin School and the remaining balance of \$1,400,000 set aside for a future Town Meeting to affirm support of the project's schematic design. The additional feasibility work would allow the Town to respond to design suggestions and concerns raised by the Park and Recreation Commission, will allow for adjustments to Scheme D necessitated by the analysis presented after the outcome of the Westfield case and in response to further analysis of other land use issues. The analysis should include the questions posed in the proposed Advisory Committee motion voted on 5/16/2017. But the ultimate check on the completeness of the analysis will be the requirement to return to Town Meeting to authorize spending money beyond the initial \$100,000. It is the petitioner's expectation that an ad hoc subcommittee of the Advisory Committee would participate in executive sessions where analysis of Town Counsel and/or outside counsel would be presented and discussed.

A complete package for the next phase of the project will be presented at a new Special Town Meeting, either in the fall or earlier, if necessary. The petitioners expect the Selectmen to convene a Special Town Meeting for this purpose as soon as they believe we

are at a point a decision can be made probably prior to the normal November Special Town Meeting.

ARTICLE 10

BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

The Board of Selectmen reconsidered Article 10 at their May 9, 2017 meeting in order to consider the Advisory Committee motion. The Board struck the word prominently from the Advisory Committee motion because they felt that it was too vague and was open to a variety of interpretations. This Board understands the desire for transparency and accessibility of information related to the warrant and index, and feels that they will be able to accomplish that goal under their current motion.

A unanimous Board of Selectmen voted FAVORABLE ACTION on the following motion:

VOTED: That the Town amend Article 2.1, Section 2.1.5 (B) of the Town's General By-Laws as follows:

(Note: Language to be deleted from Section 2.1.5 appearing in ~~striketrough~~, and new language appearing in **bold**);

Article 2.1, Section 2.1.5

(B) Distribution. The Board of Selectmen shall cause a copy of the articles in the warrant for each Town Meeting to be ~~published in a newspaper of general circulation within the Town,~~ posted on the Town website, and to be delivered in hand, or mailed, either separately or as a part of the Combined Reports, to the Moderator and to the representative Town Meeting members, and shall cause the posting of copies of the same in ten public places in the Town, **and shall further cause a copy of the index of such articles and the means by which the full warrant and explanations may be accessed electronically to be published in a newspaper of general circulation within the Town,** at least seven (7) days before a Special Town Meeting is to convene and at least fifteen (15) days before an Annual Town Meeting is to convene. The requirements provided in this subsection (B) shall not be deemed to be a part of the legal notification of such meeting or the legal service of such warrant and the failure to comply with the provisions of this subsection (B) shall not serve to invalidate the proceedings of any Town Meeting.

ARTICLE 12

BOARD OF SELECTMEN’S SUPPLEMENTAL RECOMMENDATION

The recommendations of the Selectmen and the Advisory Committee as contained in the Combined Reports had slightly different language. In order to address the difference, the Board revised their language. By a vote of 5-0 taken on May 9, 2017 meeting, the Board recommends FAVORABLE ACTION on motion offered by the Advisory Committee.

ADVISORY COMMITTEE’S SUPPLEMENTAL RECOMMENDATION

SUMMARY:

Warrant Article 12 proposes to create a new Article 3.23 in the Town’s General By-laws to provide revised and updated guidelines for the Brookline Commission on Disability. The Advisory Committee voted 21–0–3 to recommend Favorable Action on Warrant Article 12 as amended.

BACKGROUND:

In 1986 Town Meeting, with unanimous support from the Board of Selectmen and Advisory Committee, voted to accept the provisions of M.G.L. Chapter 40, Section 8J, to establish a local Handicapped (or Disability) Commission. The Commission has operated under different names since then, and is now known as the Brookline Commission on Disability. The Commission receives professional and administrative support from the Office of Diversity, Inclusion and Community Relations (DICR). The provisions and principles or procedures for the governance of the Commission were established in Warrant Article 25 of the 1986 Town Meeting. In August 2016 the Commission was re-energized, grew from four members to nine, and reached its full complement of Commission members. The Commission carries out its programs in coordination with programs of the Massachusetts Office on Disability to bring about full and equal participation in all aspects of life in Brookline, for all of its citizens. The Commission realized this fall that the 31-year-old body still had the 1986 outdated guidelines on the books. Adoption of the new By-Law 3.23 would clarify and update the role of the Commission and bring it in line with the current M.G.L. Chapter 40, using 2017 terminology.

DISCUSSION:

The recommended principles and procedures in Warrant Article 12 are based on the model proposed by the Massachusetts Office on Disability. This website (www.mass.gov/mod) provides by-laws for a Commission on Disability. These by-laws also clarify roles for Commission members, the Commission’s role in our community, and beyond, and the process for membership in the Commission. Among others, the Commission has worked closely with Town Counsel, DICR, and Selectman Ben Franco to establish guidelines that work in our community and are in line with Massachusetts General Laws.

M.G.L. Chapter 40, Section 22G clarifies the creation of a fund through pooling handicapped parking fines (\$25,000 annually in Brookline) to support the work of the Brookline Commission on Disability. The Commission on Disability is funded by the Handicapped Parking Fines Fund. The ADA position in the Department of Inclusion and Community Relations is funded through this fund (\$15,860 for FY2018). Funds are listed in the budget book under the special revenue section (page V-I 10). These funds also pay for interpreters at meetings, Braille printings, and other unexpected needs.

The Commission, like other commissions in Brookline, is able to receive gifts through the Selectmen’s office. The amended Section 3.23.5 clarifies the handling of funds received by the Commission in accordance with M.G.L. 40, Section 8J. Town Counsel and DICR support these changes. Requests made for expenditures will come under the oversight of the Health Department and DICR. An example of an expenditure is funding for interpreter services at community events.

Members of the Commission, the Board of Selectmen, and the Advisory Committee worked closely to revise and refine the language of the new by-law, resulting in the many changes shown below. This was a cooperative “housekeeping” effort to create the best possible statutory basis for one of Brookline’s most important commissions.

How the Advisory Committee Motion Differs from the Article as it appears in the Warrant

For informational purposes, the changes to the original language of Article 12, as it appeared in the Warrant are indicated below. Additions are in **bold**; deletions in ~~strikethrough~~.

Article 3.23: BROOKLINE COMMISSION ON DISABILITY

SECTION 3.23.1: ESTABLISHMENT AND PURPOSE

The purpose of this Article is to establish the Brookline Commission on Disability (the “Commission”) under the Town of Brookline’s General By-laws, and to establish principles and procedures for the governance of the Commission. The purpose of the

Commission is to **bring about the integration and participation of people with disabilities in the Town of Brookline in coordination** ~~coordinate and/or carry out programs in coordination~~ with programs of the Massachusetts Office on Disability. ~~in order to bring about full and equal participation in all aspects of life in the Town of Brookline for people with disabilities.~~ The Commission shall ~~be located within the work~~ **in conjunction with** the Office of Diversity, Inclusion and Community Relations for **purposes of resource allocation and administrative support**. The Town’s ADA Coordinator, a staff position located within the Office of Diversity, Inclusion and Community Relations, shall be an *ex officio* member of the Commission, **shall** attend Commission meetings and **shall** serve as the primary conduit of communication with the Town of Brookline’s Chief Diversity Officer.

SECTION 3.23.2: DEFINITIONS

~~Person with a disability shall mean as defined under Title II of the Americans with Disabilities Act of 1990 (28 CFR Part 35).~~ **any** person who has a physical or mental impairment that substantially limits a major life activity; has a record of such an impairment; or is regarded as having such an impairment.

People with disabilities shall for the purpose of this by-law mean the plural of “person with a disability”.

SECTION 3.23.3: POWERS AND DUTIES

The Commission on Disability is established under **M.G.L. Chapter 40, Section 8J and** shall perform and discharge all of the powers and duties set forth in **said section 8J**. These powers and duties include:

- (1) Research local problems of people with disabilities;
- (2) Advise and assist municipal officials and employees in ensuring compliance with state and federal laws and regulations that affect people with disabilities;
- (3) Coordinate or carry out programs designed to meet the problems of people with disabilities in coordination with programs of the Massachusetts Office on Disability;
- (4) Review and make recommendations about policies, procedures, services, activities and facilities of departments, boards and agencies of said city or town as they affect people with disabilities;
- (5) Provide information, referrals, guidance and technical assistance to individuals, public agencies, businesses and organizations in all matters pertaining to disability;

(6) Coordinate activities of other local groups organized for similar purposes.

~~In addition to the aforementioned powers and duties, the Commission shall also:~~

~~(7)-(1) Work in cooperation with the departments and agencies of the Town of Brookline to bring about maximum participation of people with disabilities;~~

~~(8) (2) Initiate, monitor, and promote legislation at the city, state and federal level which advances the equal status of people with disabilities and ensure that appropriate regulations are adopted and enforced pursuant to such legislation;~~

~~(9) (3) Encourage public awareness of disability issues;~~

~~(4) Provide information, referral, guidance and advice to individuals, businesses, organizations and public agencies in all matters pertaining to disability;~~

(10) Compose a mission statement for the Commission and review the statement every five (5) years; post the statement on the Commission's Web page;

(11) Prepare written long term goals that are specific, measurable and relevant to the Commission's mission. Review these goals every five (5) years and revise as needed. Prepare written short term goals annually;

(12) File an annual report, which shall be printed in the Town's annual report, listing current members and summarizing Commission accomplishments;

~~Receive gifts of property, both real and personal, in the name of the Town subject to the approval of the Board of Selectmen; such gifts to be managed and controlled by the Commission for the purposes of said section 8J~~

(13) (8) When needed and to aid the Board of Selectmen, the Commission may recommend prospective Commission Members for appointment by the Board of Selectmen. The Commission shall endeavor especially to solicit nominations that reflect diversity in type of disability community to the greatest extent possible. Members of the public are welcome to apply directly to the Board of Selectmen for appointment. A recommendation for appointment from the Commission shall only be advisory and not necessary to receive appointment to the Commission on Disability;

~~Recruit and recommend prospective Commission members for appointment by the Board of Selectmen when needed. At least one month prior to making such recommendations, the Commission shall solicit nominations that reflect the diversity of disabled community, to the greatest extent possible.~~

(14) ~~(7)~~ Take such action as the Commission considers appropriate to ensure the purposes of this By-law are met.

SECTION 3.23.4: MEMBERSHIP

The Commission shall consist of seven (7) ~~to~~ **or** nine (9) volunteer members appointed by the Board of Selectmen. The majority of members shall consist of people with disabilities. One member shall be a member of the immediate family of a person with a disability. One member shall be either an ~~elected or appointed~~ **a member of the Board of Selectmen or a Department Head**. All members shall serve three-year terms. Terms shall be staggered to preserve continuity. Resignations shall be made by notifying the Board of Selectmen and Town Clerk in writing. If any member is absent from three or more regularly scheduled meetings in any one calendar year, a recommendation shall be made by the chairperson to the Board of Selectmen that such member be removed from the Commission, unless any or all absences are excused for good cause by the chairperson. Good cause shall include, but not be limited to: illness, a death in the family, severe weather, and professional responsibilities. The Board of Selectmen shall fill any vacancy for the remainder of the unexpired term in the same manner as an original appointment. Any members of said Commission may, after a public hearing if so requested, be removed for cause by the Board of Selectmen. No member shall undertake to speak or act on behalf of the Commission without the approval of the Commission. All members, with the exception of the Town's ADA Coordinator, shall have full voting rights.

SECTION 3.23.5: OFFICERS

Officers of the Commission shall include a chairperson, deputy chairperson, secretary and treasurer. Officers shall be elected annually by a majority vote of the Commission. One member may hold more than one office. The chairperson shall: develop meeting agendas in coordination with the other officers and staff; preside over all meetings; appoint subcommittees as needed; and authorize expenditures as needed. The deputy chairperson shall: perform all the functions of the chairperson in the chairperson's absence. The secretary shall: create and maintain minutes of all meetings; maintain copies of correspondence; and **make sure all meetings are posted**. ~~post notice of all meetings in compliance with the Open Meeting law and send notice of meetings and minutes of the prior meeting to members at least fourteen (14) days prior to the meeting.~~ In absence of a secretary, **other Commission Members or** the ADA Coordinator shall undertake these duties. The treasurer shall: **regularly inform the Commission of the status of any funds from gifts received by the Commission (and approved by the Board of Selectmen), as well as the status of any other funding to which the Commission may have access, The Treasurer shall** ~~keep records of any financial matters pertaining to the Commission; develop a budget in coordination with the Commission as needed;~~ and prepare a financial statement **report** for inclusion in the annual report, as needed.

SECTION 3.23.6: MEETINGS

Regular meetings of the Commission shall be held at least ten (10) times a year. A quorum for a ~~an 8 or~~ nine (9) member Commission shall consist of five (5) members; a seven (7) member Commission quorum shall consist of four (4) members. Meeting minutes shall be reviewed, ~~and~~ approved, **and posted** in a timely manner. Special meetings may be called by the chairperson or by any three (3) members. Votes on all matters concerning the Commission shall be made by a majority of those members present. ~~Notice of meetings shall be sent to members at least fourteen (14) days prior to the meeting. Meetings shall be conducted under Robert's Rules of Order.~~

SECTION 3.23.7: AMENDMENTS TO COMMISSION PROCEDURES

~~Commission procedures may be amended at any duly constituted meeting of the Commission by a two-thirds vote of the appointed members of the commission provided written notice of the proposed amendment has been distributed to each member at least fourteen (14) days prior to the meeting.~~

RECOMMENDATION:

The Advisory Committee by a vote of 21-0-3 recommends FAVORABLE ACTION on the following motion:

VOTED: That the Town create a new Article 3.23 in the Town's General By-laws, as follows:

Article 3.23: BROOKLINE COMMISSION ON DISABILITY

SECTION 3.23.1: ESTABLISHMENT AND PURPOSE

The purpose of this Article is to establish the Brookline Commission on Disability (the "Commission") under the Town of Brookline's General By-laws, and to establish principles and procedures for the governance of the Commission. The purpose of the Commission is to bring about the integration and participation of people with disabilities in the Town of Brookline in coordination with programs of the Massachusetts Office on Disability. The Commission shall work in conjunction with the Office of Diversity, Inclusion and Community Relations for purposes of resource allocation and administrative support. The Town's ADA Coordinator, a staff position located within the Office of Diversity, Inclusion and Community Relations, shall be an *ex officio* member of the Commission, shall attend Commission meetings and shall serve as the primary conduit of communication with the Town of Brookline's Chief Diversity Officer.

SECTION 3.23.2: DEFINITIONS

Person with a disability shall mean any person who has a physical or mental impairment that substantially limits a major life activity; has a record of such an impairment; or is regarded as having such an impairment.

People with disabilities shall for the purpose of this by-law mean the plural of “person with a disability.”

SECTION 3.23.3: POWERS AND DUTIES

The Commission on Disability as established under M.G.L. Chapter 40, Section 8J, and shall perform and discharge all of the powers and duties set forth in said Section 8J. These powers and duties include:

- (1) Research local problems of people with disabilities;
- (2) Advise and assist municipal officials and employees in ensuring compliance with state and federal laws and regulations that affect people with disabilities;
- (3) Coordinate or carry out programs designed to meet the problems of people with disabilities in coordination with programs of the Massachusetts office on disability;
- (4) Review and make recommendations about policies, procedures, services, activities and facilities of departments, boards and agencies of said city or town as they affect people with disabilities;
- (5) Provide information, referrals, guidance and technical assistance to individuals, public agencies, businesses and organizations in all matters pertaining to disability;
- (6) Coordinate activities of other local groups organized for similar purposes;
- (7) Work in cooperation with the departments and agencies of the Town of Brookline to bring about maximum participation of people with disabilities;
- (8) Initiate, monitor, and promote legislation at the city, state and federal level which advances the equal status of people with disabilities and ensure that appropriate regulations are adopted and enforced pursuant to such legislation;
- (9) Encourage public awareness of disability issues;
- (10) Compose a mission statement for the Commission. Review the statement every five (5) years, and revise it as needed. Post the statement on the Commission’s web site;

- (11) Prepare written long term goals that are specific, measurable and relevant to the Commission's mission. Review these goals every five (5) years and revise as needed. Prepare written short term goals annually;
- (12) File an annual report which shall be printed in the Town's annual report, listing current members and summarizing Commission accomplishments;
- (13) When needed, and as an aid to the Board of Selectmen, the Commission may recommend prospective Commission members for appointment by the Board of Selectmen. The Commission shall endeavor especially to solicit nominations that reflect diversity in type of disability to the greatest extent possible. Members of the public are welcome to apply directly to the Board of Selectmen for appointment. A recommendation for appointment from the Commission shall only be advisory and not necessary to receive appointment to the Commission on Disability;
- (14) Take such action as the Commission considers appropriate to ensure the purposes of this By-law are met.

SECTION 3.23.4: MEMBERSHIP

The Commission shall consist of seven (7) or nine (9) volunteer members appointed by the Board of Selectmen. The majority of members shall consist of people with disabilities. One member shall be a member of the immediate family of a person with a disability. One member shall be a member of the Board of Selectmen or a Department Head. All members shall serve three-year terms. Terms shall be staggered to preserve continuity. Resignations shall be made by notifying the Board of Selectmen and Town Clerk in writing. If any member is absent from three or more regularly scheduled meetings in any one calendar year, a recommendation shall be made by the chairperson to the Board of Selectmen that such member be removed from the Commission, unless any or all absences are excused for good cause by the chairperson. Good cause shall include, but not be limited to: illness, a death in the family, severe weather, and professional responsibilities. The Board of Selectmen shall fill any vacancy for the remainder of the unexpired term in the same manner as an original appointment. Any members of said Commission may, after a public hearing if so requested, be removed for cause by the Board of Selectmen. No member shall undertake to speak or act on behalf of the Commission without the approval of the Commission. All members, with the exception of the Town's ADA Coordinator, shall have full voting rights.

SECTION 3.23.5: OFFICERS

Officers of the Commission shall include a chairperson, deputy chairperson, secretary and treasurer. Officers shall be elected annually by a majority vote of the Commission. One member may hold more than one office. The chairperson shall: develop meeting agendas in coordination with the other officers and staff; preside over all meetings; appoint subcommittees as needed; and authorize expenditures as needed. The deputy chairperson

shall: perform all the functions of the chairperson in the chairperson's absence. The secretary shall: create and maintain minutes of all meetings; maintain copies of correspondence; and make sure all meetings are posted. In absence of a secretary, other Commission members or the ADA Coordinator shall undertake these duties. The treasurer shall: regularly inform the Commission of the status of any funds from gifts received by the Commission (and approved by the Board of Selectmen), as well as the status of any other funding to which the Commission may have access, and prepare a financial report for inclusion in the annual report, as needed.

SECTION 3.23.6: MEETINGS

Regular meetings of the Commission shall be held at least ten (10) times a year. A quorum for a nine (9) member Commission shall consist of five (5) members; a seven (7) member Commission quorum shall consist of four (4) members. Meeting minutes shall be reviewed approved, and posted in a timely manner. Special meetings may be called by the chairperson or by any three (3) members. Votes on all matters concerning the Commission shall be made by a majority of those members present.

ARTICLE 13

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

SUMMARY:

Due to a number of concerns, the Advisory Committee initially voted to refer the subject matter of Article 13 back to the Tobacco Control Committee. On May 16, 2017, the Committee reconsidered its recommendation and decided by a vote of 22–2–0 to recommend Favorable Action on a motion that would amend Article 13 as printed in the Warrant.

As would the Article as printed in the Warrant, the Advisory Committee motion would amend Article 8.23 of the Town's General By-Laws–Tobacco Control, and more specifically, section 8.23.5, Sale and Distribution of Tobacco Products. The Advisory Committee's motion would limit the issuance of new permits for the sale of tobacco products to current holders of such permits, as proposed in the original Article, but would not limit the number of times that a permitted business could be transferred to a subsequent owner. The Advisory Committee motion also retains restrictions on such transfers, except with respect to the relocation of a business holding a tobacco sales permit by an acquirer. The Advisory Committee motion also provides for a thirty (30) day period in which a loss of permit, or fine, imposed by the Health Department, may be appealed to the Board of Selectmen.

BACKGROUND:

Article 13 is the latest in a series of tobacco control Warrant Articles that have come before Town Meeting in recent years. Brookline has adjusted the age of sale of tobacco products to 21, incorporated reference to e-cigarettes in its By-Laws, developed a tobacco-free zone around the High School, banned the sale of flavored tobacco products, and set a minimum price for cigars. These measures were focused on preventing teenagers from starting to smoke, and to limit their access to tobacco products that are especially appealing to young people.

Article 13, as amended by the Advisory Committee attempts to regulate tobacco sales more broadly, by limiting the sale of tobacco products to existing permit holders, and, by limiting the issue of a new permit to subsequent acquirers of the permit holder's business only when such business continues to operate in substantially the same manner. Over time, the number of tobacco sales permits will decline and, eventually, the sale of tobacco products in Brookline will cease.

DISCUSSION:

Advisory Committee members did not raise a specific objection to limiting the number of permits to sell tobacco. However, a majority had reservations or objections specific to

Article 13 as printed in the Warrant, centered on (i) opposition to the Article in principle, and/or (ii) opposition to language in the Article they felt was ambiguous or unworkable.

More specifically:

Unlike the By-Law changes noted above, Article 13 focuses not on preventing teenagers from starting to smoke, but rather is intended to ban adults from purchasing, in Brookline, an otherwise legal (albeit harmful) product. Several members of the Committee felt that this was an overreach by Town government.

Restricting the transfer of tobacco permits to just one subsequent business owner was felt by several members of the Committee to be an unfair, targeted restriction on private businesses, and one that would, presumably, unfairly decrease the value of those businesses. This objection is overcome in the Advisory Committee motion, which does not restrict the number of times a permit can be transferred.

Similarly, several Committee members felt that restricting the transfer of tobacco permits would adversely impact the owners of gasoline stations, in particular. These businesses rely on tobacco sales to supplement modest profit or offset losses on the sale of gasoline. An unintended consequence of Article 13 as printed in the Warrant is the potential further closure of gasoline stations in Brookline. This objection is substantially overcome in the Advisory Committee motion, which does not restrict the number of times a permit can be transferred or the relocation of any existing tobacco permitted business.

Several Committee members noted that the language of the proposed By-Law amendment would treat sole proprietors differently from corporate or similar entities. An individual owner would be limited to a single transfer of ownership. Shares in a corporation, on the other hand, could be sold and resold, without limit, without any transfer of ownership of the business. Some Committee members felt that legally sophisticated holders of permits would skirt the By-Law, while less sophisticated holders of permits would suffer its consequences. This objection is overcome in the Advisory Committee motion, which does not restrict the number of times a permit can be transferred.

Some Committee members felt that language in the proposed bylaw that would require subsequent owners to express their intent to operate in the same location as the prior owner to be overly restrictive and/or ambiguous. For example, in the case of a fire, or loss of lease, an existing permit holder could presumably relocate their business. Combined with a transfer of ownership, however, a new permit for the sale of tobacco products could not be issued except perhaps for the location that was no longer available. This objection is overcome in the Advisory Committee motion, which would not restrict the relocation of any existing tobacco permitted business.

The permitting process is currently subject only to procedures established by the Department of Public Health. Some Committee members expressed concern that a zealous Director might impose rules that could cause a loss of a permit to sell tobacco (e.g., due to

an owner's inadvertent failure to apply for renewal in a timely manner), and that under the proposed By-Law, such permit could not then be renewed. This objection is substantially overcome in the Advisory Committee amendment through the addition of a thirty (30) day period in which a loss of permit or fine imposed by the Health Department may be appealed to the Board of Selectmen.

The expressed concerns initially motivated the Advisory Committee to recommend referral of Article 13 back to the Tobacco Control Committee. On May 16, however, the Advisory Committee reconsidered its previous vote so that it could consider a revised motion that addresses many members' concerns.

RECOMMENDATION:

By a vote of 22-2-0 taken on May 16, 2017, the Advisory Committee recommends FAVORABLE ACTION on the following motion:

VOTED: That the Town amend Article 8.23, Section 8.23.5 a. of the Town's General By-Laws as follows:

(New By-Law language in Article 13 as printed in the Warrant is in **bold print**. New language added to Article 13 as printed in the Warrant by the Advisory Committee motion is in **bold print italicized**. Deletions from Article 13 as printed in the Warrant are in ~~strike through~~.)

SECTION 8.23.5 SALE AND DISTRIBUTION OF TOBACCO PRODUCTS

a. Permit – No Entity otherwise permitted to sell tobacco products shall sell such products within the Town of Brookline without a valid tobacco sales permit issued by the Director of Public Health. Permits must be posted in a manner conspicuous to the public. Tobacco sales permits shall be renewed annually by June 1st, at a fee set forth in the Department's Schedule of Fees and Charges. ***Effective September 1, 2017 or upon the approval of the Attorney General if later, the Director of Public Health shall not issue any new tobacco sales permits to first-time permit applicants with new businesses not currently licensed. Holders of tobacco sales permits on the effective date of this section may continue to use such permits. All such holders must apply for renewal of their permits within thirty (30) days of the renewal date according to the procedures of the Department. Failure to apply for renewal within thirty (30) days will deem them ineligible for a permit. Those who fail to apply for renewal in a timely manner will receive written notification from the Department and then those permits may be revoked or fines imposed after such procedure as set forth in the procedures of the Department. Any such action may be appealed to the Board of Selectmen within thirty (30) days. However, applicants who purchase acquire a business that is the holder of a tobacco sales permit on the effective date of this section may apply, within sixty (60) days of such purchase acquisition, for a tobacco sales permit such as that held by the seller***

previous owner of the business, only if the buyer intends to sell tobacco products and will be operating a substantially similar business in the same location, and subject to rules and requirements of the Health Department. ~~Subsequent sales of such businesses will render them ineligible for future tobacco sales permits.~~

The amended By-Law would thus read as follows:

SECTION 8.23.5 SALE AND DISTRIBUTION OF TOBACCO PRODUCTS

a. Permit – No Entity otherwise permitted to sell tobacco products shall sell such products within the Town of Brookline without a valid tobacco sales permit issued by the Director of Public Health. Permits must be posted in a manner conspicuous to the public. Tobacco sales permits shall be renewed annually by June 1st, at a fee set forth in the Department's Schedule of Fees and Charges. Effective September 1, 2017 or upon the approval of the Attorney General if later, the Director of Public Health shall not issue any new tobacco sales permits to first-time permit applicants with ~~new~~ businesses not currently licensed. Holders of tobacco sales permits on the effective date of this section may continue to use such permits. All such holders must apply for renewal of their permits according to the procedures of the Department. Those who fail to apply for renewal in a timely manner will receive written notification from the Department and then those permits may be revoked or fines imposed after such procedure as set forth in the procedures of the Department. Any such action may be appealed to the Board of Selectmen within thirty (30) days. However, applicants who acquire a business that is the holder of a tobacco sales permit on the effective date of this section may apply, within sixty (60) days of such acquisition, for a tobacco sales permit such as that held by the previous owner of the business, only if the buyer intends to sell tobacco products and will be operating a substantially similar business, and subject to rules and requirements of the Health Department.

ARTICLE 14

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

SUMMARY:

Brookline, like other cities and towns in Massachusetts, will ultimately need to adopt zoning and other by-law changes to accommodate the introduction of recreational marijuana establishments resulting from the successful November 2016 statewide ballot initiative. However, because final Massachusetts regulations applicable to such establishments are not expected to be issued prior to March 15, 2018, the Town cannot realistically adopt zoning and other measures at this time. The Department of Planning and Community Development submitted Warrant Article 14 in order to place a moratorium upon the creation of any recreational marijuana establishment in Brookline prior to April 15, 2019, by adopting two successive moratoria, one expiring on December 31, 2018 and a second commencing on January 1, 2019 and sunseting on April 15, 2019. The rationale is explained below.

By a vote of 14–4–7 The Advisory Committee recommends FAVORABLE ACTION on Article 14 as amended by the Planning Board and the Board of Selectmen.

BACKGROUND:

In November 2016, Massachusetts voters approved a statewide ballot initiative to legalize recreational marijuana (now codified as 2016 Mass. Legis. Serv. Ch. 334, “The Regulation and Taxation of Marijuana Act,” hereinafter “Act”). The Massachusetts Legislature is currently in the process of reviewing and revising certain provisions of the Act as adopted by the voters, after which the executive agency to which responsibility for regulating recreational marijuana is assigned will propose and adopt specific regulations regarding the manner in which commercial enterprises will be authorized to sell and distribute recreational marijuana in the Commonwealth.

DISCUSSION:

Article 14 creates a new definition in the Zoning By-Law of a “RECREATIONAL MARIJUANA ESTABLISHMENT” as applying to “a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer, or any other type of marijuana-related business as is subject to regulation under Chapter 94G of the Massachusetts General Laws,” and establishes a new “Use Code,” designated as 20C, in the Brookline Zoning By-Law for such Recreational Marijuana Establishments. Defining this product-specific Use category will enable the Town to limit the locations at which recreational marijuana may be produced and/or sold, subject to the provisions that are ultimately adopted in state legislation and by regulation. However, because the details of such state actions are not known at this time and are not expected to become final any sooner than March 15, 2018, we do not know what flexibility will ultimately be available to the Town with respect to zoning of any such recreational marijuana establishments.

As originally submitted in the Warrant, Article 14 proposed a zoning moratorium with a sunset date of April 15, 2019. This was intended to permit time for the November 2018 Town Meeting (which may be the first opportunity, depending on the timing of regulatory measures at the State level) to vote a proposed general and/or zoning by-law amendment and for the Attorney General's Office to review and approve it. However, subsequent to the filing of Article 14, the director of the Attorney General's Municipal Law Unit has stated publicly that it is unclear whether the Attorney General's Office will approve a moratorium on recreational marijuana establishments past December 31, 2018. The director suggested that municipalities that wish to propose a moratorium into 2019 divide the moratorium time periods into two, one through the end of 2018 and the second for any period after that. She stated that, in the event that the Attorney General determines to disapprove any portion of a moratorium extending beyond December 31, 2018, this approach will afford the Attorney General's Office the ability to strike a 2019 portion without affecting the balance of a by-law. Based on this advice, Article 14 was amended to provide for two (2) successive moratoria, one ending on December 31, 2018, and a second commencing on January 1, 2019 and extending through April 15, 2019. The Board of Selectmen and the Planning Board both recommend Article 14 with these two moratoria. The Advisory Committee concurs.

RECOMMENDATION:

By a vote of 14-4-7 the Advisory Committee recommends FAVORABLE ACTION the motion offered by the Selectmen.

ARTICLE 14

LICENSING REVIEW COMMITTEE RECOMMENDATION

In 2015, the Licensing Review Committee (LRC), the Town body responsible for reviewing and making recommendations regarding Board of Selectmen licensing regulations, made detailed recommendations regarding Town medical marijuana by-laws, regulations, and license conditions following passage of the medical marijuana ballot initiative in 2012.

The LRC met in January and February 2017 to discuss next steps following the successful ballot initiative to legalize recreational marijuana in November 2016 (now codified as 2016 Mass. Legis. Serv. Ch. 334, “The Regulation and Taxation of Marijuana Act”, hereinafter “Act”). The LRC supported a temporary moratorium on recreational marijuana establishments as the Town’s next step, pending issuance by the State of its own regulations (now due by March 15, 2018) and further legislative amendments to the Act expected to come in 2017. The LRC believes that once the Statewide legislative and regulatory scheme has been further determined, the Town will be poised to identify what, if any, reasonable regulation is needed locally, including possible general and zoning by-law amendments. The considerations supporting the concept of a moratorium are further detailed in the Explanation that follows Warrant Article 14. The moratorium’s sunset date that was proposed in Warrant Article 14 as filed is April 15, 2019, which was intended to permit time for the November 2018 Town Meeting (which may be the first opportunity, depending on the timing of regulatory measures at the State level) to vote a proposed general and/or zoning by-law and the Attorney General’s Office to approve it.

Since the filing of the Warrant Article, the Director of the Attorney General’s Municipal Law Unit has stated publicly that it is unclear whether the Attorney General’s Office will approve a moratorium on recreational marijuana establishments past December 31, 2018. The Director suggests that municipalities that wish to propose a moratorium into 2019 divide the moratorium time periods into two, one through the end of 2018 and the second for any period after that. She states that this approach will afford the Attorney General’s Office the ability to strike a 2019 portion without affecting the balance of a by-law, in the event that it determines to disapprove any portion after December 31, 2018. Based on this advice, the LRC recommends amending Warrant Article 14 as follows (changes shown in redlining):

ARTICLE 14

Submitted by: Department of Planning and Community Development

To see if the Town will add to the Zoning By-Law in Section 2.18, “R” Definitions, a #3 for “Recreational Marijuana Establishment” as follows, and change the current #3 to #4 :

Principal Uses	Residence					Business			Ind
	S	SC	T	F	M	L	G	O	I
<p>— Temporarily restricting this use will allow the Town to review the State-promulgated regulations governing these facilities and allow the Town to enact zoning provisions, consistent with State law and regulations, setting forth the allowed locations, dimensional, parking and other requirements applicable to Recreational Marijuana Establishments. Chapter 351 of the Acts of 2016 establishes March 15, 2018 as the deadline for the State to generate regulations.</p>									

Or act on anything relative thereto.

ARTICLE 15

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

SUMMARY:

Article 15, as placed on the Warrant, was intended to amend Section 7.08, Design Review Procedures of the Brookline Zoning By-Law, in order to permit the Assistant Director of Regulatory Planning or designee, on delegated authority, to administratively approve an application for a proposed sign following specific design guidelines adopted by the Planning Board.

After incorporating new language to ensure that the Article effectively serves its intended purpose and also to provide proper notice and appeal provisions for administrative review, the Advisory Committee by a vote of 24–0–1 recommends Favorable Action on a significantly revised motion under Article 15.

BACKGROUND:

The Planning Board, in addition to its regular zoning work, also reviews applications for signs. The final design of these signs often does not change as a result of the Planning Board's review; however, they are subject to the same review process as other, more complex applications. This work has proven to be a burden on the Planning Board. From time to time, the Planning Board has tried various ways to reduce this burden and to separate the sign review process from its other zoning work, such as assigning review of signs to morning meetings as opposed to its regularly scheduled evening meetings. With the support of the Planning Board, the Planning and Community Development Department is proposing to amend Section 7.08 to delegate to the Assistant Director for Regulatory Planning or designee the authority to administratively approve sign applications following guidelines adopted by the Planning Board.

DISCUSSION:

The Advisory Committee was sympathetic to the concerns raised by the Planning Board and Department of Planning and Community Development, but raised several concerns with respect to Article 15 as it appears in the Warrant:

- Excessive Grant of Authority. Article 15 in its original form grants authority to the Assistant Director for Regulatory Planning or designee to approve applications for all new or replacement signs, subject to guidelines that are adopted by the Planning Board. While the petitioner's description of the Warrant Article focuses upon in-kind replacement or substantially similar signs, there is no such limitation in the original language of Article 15. The Advisory Committee believes the By-Law change should be limited to the stated need of the Planning Board to delegate to the Assistant Director for Regulatory Planning or designee only the authority to administratively approve in-kind replacement or substantially similar replacement

signs, subject to specific and identified guidelines adopted by the Planning Board.

- Lack of Notice. Under the existing procedure, when an application for a new or replacement sign is submitted to the Planning Board, it is treated in the same manner as other applications that may come before the Board, including the mailing or e-mailing of notices to Town Meeting Members in the affected precincts and in certain cases to Town Meeting Members in abutting precincts, and the item is then published on the agenda for the Planning Board’s meeting at which the application will be considered. An aggrieved party may then appear at the Planning Board to oppose or otherwise address the proposed sign. However, as originally submitted, Article 15 contains no requirement for, or even a mechanism whereby, notice of any application that would be subject to administrative approval would be sent to Town Meeting Members or published on the Planning Board’s agenda. Indeed, as originally submitted, the first time that an abutter or other interested party would most likely become aware of the administrative action is after the sign is physically installed. Furthermore, there is also no notice required to be given for any administrative action taken by the Assistant Director for Regulatory Planning in connection with the approval of sign applications. The Advisory Committee believes that notice of any administrative approval of a proposed sign should be given to Town Meeting Members in the precinct in which the sign is to be located and in some cases to Town Meeting Members in abutting precincts, in the same manner that notice is given of meetings of the Planning Board.
- Lack of an Appeal Process. As submitted, Article 15 provides that “If the applicant or other aggrieved party does not agree with the recommendations of the Planning Board ... he may appeal to the Board of Appeals within 30 days through the special permit procedure in Article IX.” However, under the delegated authority contemplated in Article 15 as originally submitted, there will be no “recommendations of the Planning Board” that would be subject to appeal. While an application for a sign that is administratively denied automatically goes to the Planning Board and is also subject to appeal by the applicant to the Board of Appeals, there is no similar Planning Board appeal process for an aggrieved party (for example, a neighbor) for sign applications that would be administratively approved. The Advisory Committee believes that an aggrieved party should be able to appeal any administrative approval to the Planning Board with ultimate appeal rights to the Board of Appeals. Even if one were to argue that approvals by the Assistant Director for Regulatory Planning on delegated authority are equivalent to “recommendations of the Planning Board,” as contemplated in Article 15 as submitted, any appeal of the administrative action would then be to the ZBA, but only if it is submitted within thirty (30) days of the administrative action. Without the requirement for any notice to be published, a sign that is not installed until after the expiration of that 30-day period would not be subject to appeal.

The petitioner agreed that these concerns were in fact oversights in the original language and were not intentional omissions, and revised Article 15 accordingly. The Advisory

Committee had initially voted to recommend NO ACTION on Article 15 as submitted. However, in light of the revised language submitted by the petitioner that explicitly addressed the Committee's concerns, the Advisory Committee on May 16 voted to reconsider its previous recommendation on Article 15.

RECOMMENDATION:

The Advisory Committee is comfortable that the revised language provided by the petitioner addresses the Committee's concerns and, upon reconsideration on May 16, 2017, now recommends FAVORABLE ACTION on the following motion by a vote of 24–0–1:

bold underlined italics: language added to the by-law by the original Warrant Article
~~striketrough~~: language deleted from the current by-law by the original Warrant Article
bold italics: language added by the Advisory Committee to the original Warrant Article
~~double striketrough~~: language deleted by the Advisory Committee from both the original Warrant Article and the existing by-law

For clarity, deleted and replaced letters for paragraphs a, b, c are not denoted; paragraphs are lettered as they would appear in the by-law as amended. See also the "clean" version below.

VOTED: That the Town amend the Brookline Zoning By-Law related to Signs, Illumination, & Regulated Façade Alterations, by:

Amending Section 7.08 of the Zoning By-Law as follows:

§7.08 – DESIGN REVIEW PROCEDURES

All permanent signs permitted in §7.02, 7.03 and 7.04, except signs permitted in paragraph 7.02(a) shall be subject to the following design review process:

1. ALL APPLICATIONS

The applicant shall submit to the Planning ***and Community Development*** Department an application form, plans of the proposed sign, facade alterations, if any, and photographs showing the existing building or site, and such other material as may be required by the ***Assistant Director for Regulatory Planning or designee***, Building Commissioner or Planning Board.

2. ADMINISTRATIVE APPROVAL

a. Within 10 working days, the ***Assistant Director for Regulatory Planning or designee*** ~~Planning Department~~ ***may administratively approve an application only if it solely relates to either an in-kind or substantially similar replacement of an***

existing sign following the guidelines of the Planning Board with respect to size, color, number, style, location and illumination. All administratively approved applications shall be subject to the notice and appeals procedures described in subparagraphs b, c, d, e and 3.b below. ~~shall either administratively approve the application following guidelines adopted by the Planning Board or shall refer the application, its recommendations and accompanying materials to the Planning Board for review.~~

- b. Within 5 working days of any administrative approval, notice shall be provided to the Building Commissioner and those Town Meeting Members set forth in subparagraph 3.b below.*
- c. The address and a description of all administratively approved signs shall be noticed in the next Planning Board Design Review Meeting agenda.*
- d. Upon receipt of the notice of administrative approval, the Building Commissioner may issue a permit for a sign which conforms to the administrative approval; regulations of the Zoning By-Law and such other technical requirements as are within the Building Commissioner's jurisdiction.*
- e. An aggrieved party may appeal the administrative approval to the Planning Board within 15 days of the date of publication of the next Planning Board Design Review Meeting agenda containing the notice of approval by submitting a written request for Planning Board review of the application to the Assistant Director for Regulatory Planning.*

3. PLANNING BOARD APPROVAL

- a. Within 10 working days, all applications not subject to administrative approval as described above as well as those for which an aggrieved party has requested Planning Board review, shall be referred to the Planning Board along with recommendations, and accompanying materials for review and approval and shall be subject to the notice and appeals procedures described in subparagraphs b, c and d below.*
- b. After its receipt of the application and all required materials, the Planning Board shall review the application at its next public meeting for which legal notice can be given. At least seven days before such meeting, the Planning Board shall mail or deliver a notice of the meeting, with a description of such application or a copy thereof, to each elected Town Meeting Member for the precinct in which the property is located, and to those Town Meeting Members of a precinct which is within 200 feet of such property as to which such application has been made. The notice requirements of this section shall be deemed satisfied if such notices are mailed and/or emailed to those individuals whose names appear as Town Meeting Members in the records of the Town Clerk at the addresses as they appear in such*

- records. The Planning Board shall submit its recommendations in writing to the applicant, *aggrieved part(ies)* and the Building Commissioner. The recommendations shall be based on the provisions of this Section of the Zoning By-law, the community and Environmental Impact and Design Standards in §5.09 and such design guidelines as the Planning Board may adopt.
- c. Upon receipt of the Planning Board's report or the lapse of thirty days from his referral to the Board without such report, the Building Commissioner may issue a permit for a sign which conforms to the Planning Board's recommendations, if any, the regulations in the Zoning By-law, and such other technical requirements as are within the Building Commissioner's jurisdiction.
 - d. If the applicant or other aggrieved party does not agree with the *staff administrative approval*, recommendations of the Planning Board, or other requirements imposed by the Building Commissioner, he may appeal to the Board of Appeals within 30 days through the special permit procedure in Article IX.

A “clean” version of the amended Section 7.08 of the Zoning By-Law would read as follows:

§7.08 – DESIGN REVIEW PROCEDURES

All permanent signs permitted in §7.02, 7.03 and 7.04, except signs permitted in paragraph 7.02(a) shall be subject to the following design review process:

1. ALL APPLICATIONS

a. The applicant shall submit to the Planning and Community Development Department an application form, plans of the proposed sign, facade alterations, if any, and photographs showing the existing building or site, and such other material as may be required by the Assistant Director for Regulatory Planning or designee, Building Commissioner or Planning Board.

2. ADMINISTRATIVE APPROVAL

a. Within 10 working days, the Assistant Director for Regulatory Planning or designee may administratively approve an application only if it solely relates to either an in-kind or substantially similar replacement of an existing sign following the guidelines of the Planning Board with respect to size, color, number, style, location and illumination. All administratively approved applications shall be subject to the notice and appeals procedures described in subparagraphs b, c, d, e and 3.b below.

b. Within 5 working days of any administrative approval, notice shall be provided to the Building Commissioner and those Town Meeting Members set forth in subparagraph 3.b below.

c. The address and a description of all administratively approved signs shall be noticed in the next Planning Board Design Review Meeting agenda.

d. Upon receipt of the notice of administrative approval, the Building Commissioner may issue a permit for a sign which conforms to the administrative approval; regulations of the Zoning By-Law and such other technical requirements as are within the Building Commissioner's jurisdiction.

e. An aggrieved party may appeal the administrative approval to the Planning Board within 15 days of the date of publication of the next Planning Board Design Review Meeting agenda containing the notice of approval by submitting a written request for Planning Board review of the application to the Assistant Director for Regulatory Planning.

3. PLANNING BOARD APPROVAL

a. Within 10 working days, all applications not subject to administrative approval as described above as well as those for which an aggrieved party has requested Planning Board review, shall be referred to the Planning Board along with recommendations, and accompanying materials for review and approval and shall be subject to the notice and appeals procedures described in subparagraphs b, c and d below.

b. After its receipt of the application and all required materials, the Planning Board shall review the application at its next public meeting for which legal notice can be given. At least seven days before such meeting, the Planning Board shall mail or deliver a notice of the meeting, with a description of such application or a copy thereof, to each elected Town Meeting Member for the precinct in which the property is located, and to those Town Meeting Members of a precinct which is within 200 feet of such property as to which such application has been made. The notice requirements of this section shall be deemed satisfied if such notices are mailed and/or emailed to those individuals whose names appear as Town Meeting Members in the records of the Town Clerk at the addresses as they appear in such records. The Planning Board shall submit its recommendations in writing to the applicant, aggrieved part(ies) and the Building Commissioner. The recommendations shall be based on the provisions of this Section of the Zoning By-law, the community and Environmental Impact and Design Standards in §5.09 and such design guidelines as the Planning Board may adopt.

c. Upon receipt of the Planning Board's report or the lapse of thirty days from referral to the Board without such report, the Building Commissioner may issue a permit for a sign which conforms to the Planning Board's recommendations, if any, the regulations in the

Zoning By-law, and such other technical requirements as are within the Building Commissioner's jurisdiction.

d. If the applicant or other aggrieved party does not agree with the staff administrative approval, recommendations of the Planning Board or other requirements imposed by the Building Commissioner, he may appeal to the Board of Appeals within 30 days through the special permit procedure in Article IX.

ARTICLE 18

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

SUMMARY:

Warrant Article 18 would authorize the Transportation Board to lower the default speed limit from 30 mph to 25 mph in thickly settled residential and business districts, either town-wide or by neighborhood or roadway. Reduced speed is associated with increased safety, particularly for pedestrians. By a vote of 20–4–1, the Advisory Committee recommends Favorable Action.

BACKGROUND:

National studies of the relationship between driving speeds and injuries and fatalities have shown that fatality rates of pedestrians struck by a car driving 20 mph is only 6%, increasing to 19% at 30 mph, and is 65% at 45 mph. These studies suggest that reducing speed limits by small increments can have a significant impact on injuries and fatalities. For this reason, legislation to lower default speed limits in the State's residential and business areas had been filed in each of the past five legislative sessions. Although these legislative initiatives were supported by numerous municipal transportation authorities, including Brookline's Transportation Board, the bills languished in committee at the state legislature.

In August 1996, the Legislature passed the Municipal Modernization Act (MMA), a compilation of over 253 reforms intended to improve municipal governance. The MMA is a product of the Baker administration, based largely on input solicited from towns and cities regarding their own wish lists. Most of the reforms streamline and increase flexibility in the areas of municipal finance and administration, but several other reforms are also included. Two of these provide municipalities with the authority to lower speed limits within their borders. Passage of Warrant Articles 18 and 19 would enable the Town to implement these two reforms.

The reform addressed by this warrant article is provided for in Section 193 of the MMA. Section 193 added section 17C to MGL Chapter 90, which, if accepted by a municipality, allows the appropriate municipal authority (the Transportation Board in Brookline) "in the interests of public safety and without further authority, [to] establish a speed limit of 25 miles per hour on any roadway inside a thickly settled or business district...that is not a state highway." Currently the speed limit may not be set below 30 mph. The municipality may implement the lower speed limit town-wide or by specific roads and neighborhoods.

Passage of Warrant Article 18 by Town Meeting would constitute Town acceptance of the provisions of MGL Ch. 90, section 17C, thereby empowering the Transportation Board to implement the default speed reductions.

DISCUSSION:

One of the most consistent requests by residents to the Transportation Board is for traffic calming. As more cars are on the road, commuters are increasingly driving through the Town's residential neighborhoods—often directed by GPS—to avoid the main clogged arteries. At the same time, more persons are using bicycles as a means of transportation. These two factors have further increased neighborhood concerns about driving speed and pedestrian and bicycle safety.

In response, the Town has taken measures on its own to reduce traffic speeds, with the Transportation Board implementing a Traffic Calming Policy, which has included constructing rotaries, bump-outs and curb extensions. The Transportation Board also has wanted to reduce the default speed limit in Town from 30 mph to 25 mph. Prior to passage of the MMA, this could only be accomplished upon approval from the Massachusetts Department of Transportation (DOT) based on engineering studies carried out by the Town. That approach was not pursued because it would have been time-consuming and costly. For this reason, the Town joined the coalition of municipalities that supported and lobbied for the passage of the speed limit legislation that the legislature repeatedly failed to vote on for each of five consecutive sessions. Now we have the opportunity to reduce speed limits without the cumbersome procedures required to obtain DOT approval. Lowering speed limits is also a less costly tool for traffic calming than other approaches that have been taken by the Town.

Brookline would not be in the forefront of implementing the default reductions made possible by the Municipal Modernization Act. Somerville implemented the reductions on November 7, 2016, the day the Act went into effect throughout Massachusetts. According to Somerville officials, the reductions have worked well. Other cities and towns that already have implemented the reductions include Boston, Newton, Cambridge, Arlington, Swampscott, Danvers, Beverly and Chelsea.

If Town Meeting were to pass Article 18, the Transportation Board likely would want to make the speed reduction the default town-wide rather than by street or neighborhood. The former approach would be less confusing to drivers and posted signs would only be required at the Town borders. If reductions were to be done by street, signs would need to be posted on each such street. Most of the municipalities that have implemented the speed reductions have done so town-wide. (Danvers has implemented the reductions by neighborhoods.) The Transportation Board nonetheless would make its decision only following one or more public hearings; and if the public did not support town-wide implementation, the Board could take the neighborhood by neighborhood approach, which likely would be request-based.

Under the law, the town-wide implementation is limited to areas that are thickly settled residential districts and business districts, with "thickly settled" defined as having structures on average less than 200 feet apart for ¼ mile. It appears that all of the Town's neighborhoods meet this criterion, so that almost all of Brookline would have the 25 mph

speed limit. The exceptions would be Boylston Street, the Horace James Circle, and the Hammond Pond and West Roxbury Parkways, which are State highways.

There was some concern expressed about how slowly cars would have to drive to abide by the 25 mph limit, thereby potentially encouraging people to go faster than the speed limit. Todd Kirrane, Brookline's Transportation Administrator, explained that police enforcement in practice is such that only drivers going faster than 10 mph above the posted speed limit are ticketed. With the reduction in the speed limit to 25 mph, the police would stop cars driving at 35 mph rather than 40 mph, which could result in significantly lower fatality and injury rates when accidents occur.

Another concern was that as speeds are reduced on neighborhood streets, drivers might instead choose to drive on main arteries such as Route 9 or the Parkways. Todd Kirrane noted that Brookline's main arteries are already congested, which has led drivers to drive onto neighborhood streets, a trend that residents would like to see reversed.

Finally, there was a concern about the cost involved in posting new signs with the reduced speed limits, but Mr. Kirrane pointed out that the cost would be minimal if the speed reduction is implemented town wide, in which case signs need to be posted only at the borders of the Town, just as is currently done with the posting of the 30 mph speed limit.

RECOMMENDATION:

The Advisory Committee, by a vote of 20–4–1, recommends FAVORABLE ACTION on the motion offered by the Selectmen.

ARTICLE 19

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

SUMMARY:

Warrant Article 19 would authorize the Transportation Board to designate safety zones around areas near locations where greater driving precautions are appropriate. The zones would have posted 20 mph speed limits for designated time periods, as is currently done for areas near our elementary schools. A majority of the Advisory Committee supported granting such authorization, but some members were concerned that creating too many safety zones could adversely affect the flow of traffic. By a vote of 12–10–2, the Advisory Committee recommends Favorable Action.

BACKGROUND:

Under current State law, municipalities have the authority to designate school zones in the vicinity of public elementary schools, at which locations speeds are limited to 20 mph. The option to establish safety zones for other locations was newly granted to municipalities in 2016 when the State Legislature enacted the Municipal Modernization Act. (See background discussion of Warrant Article 18 for more details.)

Section 194 of the Act added section 18B to MGL Chapter 90. Acceptance of this new Section 18B by a municipality allows the appropriate municipal authority (the Transportation Board in Brookline) to create designated safety zones on roads that are not a state highway without the need to obtain approval from the Massachusetts Department of Transportation (DOT), and to designate safety zones on state highways upon DOT approval. Such safety zones would have a posted speed limit of 20 MPH.

Passage of Warrant Article 19 by Town Meeting would constitute Town acceptance of the provisions of MGL Ch. 90, section 18B, thereby empowering the Transportation Board to designate safety zones.

DISCUSSION:

Absent implementation of the new Section 18B of MGL c. 90, municipalities are allowed to establish safety zones of 20 mph only near schools, with “schools” limited to public schools having grades K-8. Private schools with K-8 grades may request the slower speed limit and some of Brookline’s private schools, including Park, Brimmer & May and Maimonides, have received DOT approval to do so. Brookline had requested a waiver from the State to make the area around Brookline High School a safety zone, but DOT will not provide waivers for high schools or preschools, and therefore the waiver was denied, which is why the Town took other approaches to slow traffic near the high school.

If Town Meeting votes for Article 19, the Transportation Board would have the authority to determine which locations in town would benefit from being designated as safety zones.

Appropriate locations might include the areas near parks, the Senior Center, Brookline High School, and playgrounds. The 20 mph speed limit in those designated safety zones would be required only at appropriate times, for example, the area around the Senior Center would have the reduced speed limit during those times when the Center is open.

Some members of the Advisory Committee pointed out that the Article could have negative consequences. A key area of concern was that the Town might end up with an excessive amount of safety zones, particularly if safety zones were to be designated for areas surrounding all of the many day care centers in Town, and especially on Harvard Street, where there already are traffic problems. In addition to the sheer number of safety zones, there would be a patchwork of speed zones, with the limit increasing and then decreasing as cars moved from one zone to another. There also was concern about the number of new signs, their aesthetic impact, and their cost.

The Town's Transportation Administrator, Todd Kirrane, noted that Harvard Street traffic is already so slow during the day that the slower speed limits likely would not have much of an impact. He also pointed out that the Transportation Board has the discretion to determine which locations should be designated as safety zones, and the Board will take this factor, among any other relevant factors, into consideration.

RECOMMENDATION:

The Advisory Committee, by a vote of 12–10–2, recommends FAVORABLE ACTION on the motion offered by the Selectmen.

ARTICLE 20

BOARD OF SELECTMEN’S SUPPLEMENTAL RECOMMENDATION

At the Board’s May 9, 2017 meeting, Article 20 was reconsidered in order to contemplate the Advisory Committee’s version of this article. The Board accepted the Advisory Committee language as well as some scrivener edits made by the petitioner. The Board of Selectmen unanimously submits the following motion under Article 20:

VOTED: That the Town adopt the following resolution:

A RESOLUTION REGARDING THE PARIS CLIMATE AGREEMENT

WHEREAS the Paris Agreement¹ is now in force under the United Nations Framework Convention on Climate Change (UNFCCC), and the United States of America is an official Party to the Paris Agreement as of 2016;²

WHEREAS climate change has already imposed economic and ecological hardships on various people across the world and it poses ever-increasing hardships on the peoples of the world in the future, including the loss of livelihood and possible death;

WHEREAS the Paris Agreement states “the need for an effective and progressive response to the urgent threat of climate change on the basis of the best available scientific knowledge;”³

WHEREAS the Paris Agreement states “the importance of education, training, public awareness, public participation, public access to information and cooperation at all levels on the matters addressed in this Agreement;”⁴

WHEREAS the UNFCCC has established a NON-STATE ACTOR ZONE for Climate Action,⁵ which provides a process that states, municipalities and other entities can use as “a platform for the exchange of experiences and sharing of best practices on mitigation and adaptation in a holistic and integrated manner”;⁶

WHEREAS as of April 2017, at least 2,508 cities, towns, and communities worldwide have registered their support for the Paris Agreement on the Non-State Zone platform. This includes American cities as diverse as Anchorage, Baltimore, Berkeley, Cleveland, Dallas, Las Vegas, Pittsburgh, Sacramento and Savannah; and locally Boston, Cambridge, Medford and Somerville;⁷

WHEREAS each country signing the Paris Climate Agreement (UNFCCC) sets its own aspirational climate goals, which encourages each Non-State Actor to do the same, to be evaluated every 5 years;⁸ The Town of Brookline should set its own aspirational climate action goals for recurring evaluation;

WHEREAS, as a town of diverse and well-educated and informed citizens, Brookline is able to play a leading role relative to other cities and towns within Massachusetts and the U.S. in both mitigating and adapting to climate change;

WHEREAS the Paris Agreement requires that all parties should pursue efforts to help keep the global increase in average temperature due to human-caused climate change to no more than 2.0 degrees Celsius (3.6 degrees Fahrenheit) above pre-industrial levels, and to 1.5 degrees Celsius if possible;⁹

BE IT RESOLVED THAT the Town of Brookline:

1. Understands it to be a moral and political obligation of the Town to commit to pursue upholding and adhering to the Paris Agreement of 2015.
2. Commits to register its support for implementing the Paris Agreement on the Non-State Zone platform, as other U.S. cities and towns have done.
3. Commits to file its existing 2012 Climate Action Plan as amended in 2015,¹⁰ which was intended to meet the objectives of the Massachusetts Global Warming Solutions Act of 2008, on the Non-State Platform, as other U.S cities and towns have done.
4. Commits to a goal of developing a revised town plan during 2018 to mitigate and adapt to human-caused climate change that may take a leading role above and beyond those plans of the State of Massachusetts and the “nationally determined contribution”¹¹ of the U.S. government, in order to help insure that those state and federal plans are achieved faster and more thoroughly due to Brookline’s actions.
5. Continue educating the citizens of Brookline about the dangers that climate change pose in both the short and long run to the world, in general, and to Massachusetts in particular. This enhanced education will, presumably, facilitate and accelerate both the voluntary and mandatory actions that the citizens of Brookline will take to help slow the rate of climate change.

¹Paris Agreement.

http://unfccc.int/files/essential_background/convention/application/pdf/english_paris_agreement.pdf. Accessed 041117.

²“Paris Agreement - Status of Ratification.”
http://unfccc.int/paris_agreement/items/9444.php. Accessed 041117.

³Paris Agreement, 1.

⁴Paris Agreement, 2. ⁵<http://climateaction.unfccc.int/about>. Accessed 041117.

⁶<http://newsroom.unfccc.int/paris-agreement/new-un-platform-to-boost-indigenous-peoples-and-local-communities-climate-action/>. Accessed 041117.

⁷Paris Agreement art. 2 § 1a.

⁸Paris Agreement art. 4 § 9, art. 14 § 2.

⁹Paris Agreement art. 2 § 1a.

¹⁰<http://www.brooklinema.gov/DocumentCenter/View/2402>. Accessed
041117¹¹Paris Agreement art 3.

¹⁰<http://www.brooklinema.gov/702/Climate-Action-Plan>

¹¹Paris Agreement art. 3.

ARTICLE 21

BOARD OF SELECTMEN’S SUPPLEMENTAL RECOMMENDATION

At the Board’s May 9, 2017 meeting, Article 21 was reconsidered in order to contemplate the Advisory Committee’s version of this article. A unanimous Board of Selectmen voted FAVORABLE ACTION on the motion offered by the Advisory Committee.

ADVISORY COMMITTEE’S SUPPLEMENTAL RECOMMENDATION

SUMMARY:

Warrant Article 21 sets out energy efficiency goals and minimum standards for constructing the Ninth Elementary School and the expansion of Brookline High School. Adopting NetZero energy principles, LEED standards, and high EUI performance seeks to promote a significant advance toward “net zero energy” for Brookline’s schools. By a vote of 24–1–0, the Advisory Committee recommends Favorable Action with amendments.

BACKGROUND:

LEED stands for “Leadership in Energy Efficiency Design.” This standard has been developed by the United States Green Building Council. LEED has evolved as building science technology has advanced. Version four is the current version. Buildings can be qualified at four levels: Certified, Silver, Gold or Platinum. The level depends on the number of points earned by the building design in each category. A minimum of 40 points are required for the lowest level, “Certified.” With additional points, the building can earn Silver, Gold, or Platinum levels up to a possible 110 points.

The categories are:

- Location and Transportation
- Sustainable Sites
- Water Efficiency
- Energy and Atmosphere
- Materials and Resources
- Indoor Environmental Quality
- Innovation, and Regional Priority

The Energy and Atmosphere category offers the most points, and the Optimize Energy Performance subcategory offers the most points within the Energy and Atmosphere category, a maximum of 16 points.

LEED uses a modeling method to determine the LEED Optimize Performance score. It works somewhat like Turbo Tax software or an accreditation manual. As the designer answers building characteristics and energy optimization questions, the modelling software or the accreditation worksheet forms assign points as appropriate.

EUI stands for “Energy Use Intensity.” It is commonly expressed in thousand British Thermal Units (kBtu) per square foot per year. “Thousand British Thermal Units” measures energy just like kilowatt hours (kWh). However, engineers prefer kBtu because it is understood to represent any form of energy, not just electrical energy.

Net zero energy schools are schools for which the energy delivered to the building for heating, ventilation, cooling, and plug-in loads, all the energy the building uses, is less than the amount of offsetting energy produced (exported) by the building. Net zero energy buildings typically employ a solar Photovoltaic (PV) array as a means of providing an offsetting energy source.

There are a wide range of understandings and definitions for how to calculate the actual net zero energy budget of a building. The term net zero energy building does not yet have a clearly established, universally accepted meaning even though the U.S. Department of Energy, through the National Institute of Building Sciences has published “A Common Definition for Zero Energy Buildings” in September 2015.

Therefore, comparing the performance of buildings that claim to be net zero energy buildings is currently not straightforward. In view of this uncertainty, unlike LEED and EUI, the Warrant Article does not identify an explicit minimum or goal for net zero energy performance.

Regardless, the Warrant Article seeks to set in motion the use of net zero energy building principles, thereby aiming to decrease the carbon footprint of Brookline’s schools as much as feasible.

Brookline’s most recent Climate Action Plan, as updated in 2015, accepted Massachusetts’ Green Communities Act target for greenhouse gas emissions, i.e. a reduction in emissions to 80% below 1990 levels by 2050. However, the overall town-wide progress toward reduced emissions has been slow, not yet approaching the rate needed to reach this goal.

While all efforts to achieve reductions in greenhouse gas emissions are important, the emissions under the direct control of the Town are a small part of the whole (about 3%) and offer only limited scope for achieving the overall town-wide reduction goal.

However the actions of the Town—leading by example, demonstrating what is possible, and acting on the Town’s environmental stewardship values—will likely have an impact beyond the specific reductions or avoided increases associated with the construction of the Ninth Elementary School and the expansion of Brookline High School.

In addition, there are clearly extremely significant but less measurable benefits, such as these school buildings serving as teaching assets, particularly for the science, social studies, and environmental aspects of the curriculum.

Today's students are likely to be very aware and concerned about future climate change since, in view of their age, they are more vulnerable to the expected consequences. Aiming for net zero energy schools is consistent with Brookline's educational and environmental stewardship values.

The Public Schools of Brookline Education Plan for the Ninth Elementary School says: "Building a new school...when our community and society are more conscious than ever of the delicate balance between environmental sustainability and ongoing development provides an opportunity to have the physical plant itself play a significant role in the culture, educational approach, and daily lives of students and teachers."

DISCUSSION:

A lengthy and wide ranging discussion among the Committee and the petitioners touched on a number of points.

Within this discussion, it was agreed that this Warrant Article:

- Is relevant regardless of the siting of the Ninth School or the expansion of Brookline High School decisions;
- Is consistent with the design processes required by Town Bylaw Article 3.7, the role of the Board of Selectmen, the Building Commission, and the School Committee;
- Respects applicable building codes or other requirements;
- Is consistent with established methods for cost-benefit analysis;
- Will not have any bearing on fiscal decisions ultimately requiring Town Meeting approval.

The Warrant Article is timely because it was widely recognized that in order to most cost-effectively implement these LEED/EUI/NetZero principles, high performance environmental and sustainability goals must be incorporated into the planning at the beginning of the design process.

Ultimately, there was interest in the suggestion that these principles could possibly be applied to all appropriate future Town building construction projects. This Warrant Article is a good beginning.

Other key points:

While the environmental impact reduction goals should definitely be supported, would the impact of the original wording of this Warrant Article create the impression that we are imposing costs that future Town Meetings would be forced to accept? This was addressed through amendments to the original language of the Article that were accepted by the

petitioners to change instances of “be designed” to “seek” in the first “resolved” clause. This recommended change is intended to make it plain that the Warrant Article is not to be implemented in a manner that would create a cost burden for a future Town Meeting.

How do these standards compare to the new Devotion building, which, along with Runkle, are high performance buildings? How much additional performance would this Warrant Article require? Are the goals and minimums feasible, or would meeting them be a stretch? How certain are we that the Warrant Article 21 minimums are practical? The minimums specified in the Warrant Article have been aligned to be consistent with the expected energy efficiency performance of the new Devotion School, and therefore the Building Department feels confident they can be achieved.

Does the net zero energy principle consider the carbon emission impact of the transportation of students to and from the building by automobile? While the LEED standards include a Location and Transportation category which could earn, or not earn points, as the case may be, this Warrant Article is limited to the Energy Optimization subcategory that can award up to 16 points.

How does Massachusetts School Building Authority (MSBA) interact with net zero principles? The MSBA practice counters any incentives that the Town may receive by deducting incentive earned funds from the award. The Massachusetts Department of Energy is advocating that the MSBA change this practice. (Neither the Ninth Elementary School nor the Brookline High School expansion are funded through MSBA, however.)

If the Town were to embark on adapting an existing building for use as a school, would the energy savings embedded in the materials of the current building provide significant environmental benefit?

The performance of newly constructed buildings based on current standards and technology is so much better than existing buildings constructed years ago, that over the service life of a retrofitted building, any saving in this regard is likely of little consequence compared to the performance of a newly constructed building. However, it is likely that, to some extent, the Brookline High School expansion will involve retrofitting. As this Warrant Article indicates in the second “resolved” clause, retrofitting rather than new construction is likely to impact the potential for using net zero energy principles, but nevertheless the Warrant Article says that net zero energy principles should be kept in mind at every stage in design so that all opportunities for energy efficiency are identified and considered.

Is there an attractive the payback for the additional cost of buildings using net zero principles, considering additional capital cost versus savings in operating cost? There are buildings where the user/owner claims a worthwhile payback, but each project must be examined based on the context and specifics of that building.

With respect to net zero principles, is the level of carbon emissions of the materials and construction factored? The LEED standard does calculate this and awards more or less points depending on the specific project, the impact of the manufacture of the materials used, and their transportation to the site.

Specifically the Advisory Committee recommends the following changes to the Warrant Article as originally filed:

1. Changing “Platinum” to “Silver” for the LEED minimum standard. While Devotion is very, very close to Gold, it is slightly short of the points needed to be Gold. Therefore, to be cautious and guard against over promising, the committee recommends that the Warrant Article should set Silver rather than Gold or Platinum as the minimum, while “Platinum” is still the goal. (With respect to new Devotion, only one additional point would raise it to the Gold level.)
2. Changing the minimum energy optimization points from 16 to 13, while keeping a goal of 16.
3. Change the minimum EUI standard to at least 30 kBtu/sq. ft. /yr. with a goal of 25 kBtu/sq. ft./yr.

Finally, the Advisory Committee recommends:

1. Moving the “whereas” clause that defines LEED to second place, before other whereas clauses that reference this term.
2. Deleting “at Baldwin” throughout so that the Ninth School is not specific to any site for the purposes of this Warrant Article.

These changes are incorporated into the following recommended Advisory Committee motion.

Recommendation:

The Advisory Committee, by a vote of 24–1–0 recommends FAVORABLE ACTION on the following:

(~~Strikethrough~~ signifies deletions from the Warrant Article as filed; **bold** signifies additions.):

VOTED: That the Town adopt the following resolution:

A RESOLUTION REGARDING A NET ZERO ENERGY NINTH ELEMENTARY
SCHOOL AND THE EXPANSION OF BROOKLINE HIGH SCHOOL

Whereas our town, the nation, and the world are increasingly aware of the need to address climate change and of the importance of better protection of the environment in general, and

***Whereas* an international standard known as LEED (Leadership in Energy and Environmental Design of the United States Green Building Council) allows for a building's environmental and energy performance to be accurately measured and provides a benchmark to assist in designing a net zero energy building, and**

Whereas net zero energy LEED Platinum schools create an environment that supports student learning and health through improvements in daylighting, indoor air quality, thermal comfort, acoustics, and classroom design, all of which have an impact on a child's ability to learn and a teacher's ability to teach, while saving energy, resources, and money, and

Whereas net zero energy LEED Platinum schools increase energy efficiency, thereby reducing greenhouse gas emissions, cost less to operate, utilize durable materials, reduce water and energy use, and provide other benefits, while providing an educational experience that transcends the classroom by creating opportunities for curriculum innovation and hands-on, project-based learning in which the building itself becomes an interactive teaching tool, and

Whereas decisions made now about the design of the Ninth Elementary School and the expansion of Brookline High School will determine each school's environmental footprint, particularly greenhouse gas emissions, for decades to come, and

Whereas the technical ability to create energy-efficient, high performing buildings has increased significantly by incorporating systems thinking into design processes, and

Whereas construction of new schools in Massachusetts and around the nation during the past five years has shown the feasibility and desirability of net zero energy schools, that is, schools in which the amount of energy delivered on an annual basis is less than or equal to the amount of renewable energy exported from the site, and

~~*Whereas* an international standard known as LEED (Leadership in Energy and Environmental Design of the United States Green Building Council) allows for a building's environmental and energy performance to be accurately measured and provides a benchmark to assist in designing a net zero energy building, and~~

Whereas the most accurate measure of energy efficiency for a building is EUI (Energy Use Intensity), calculated by dividing total energy consumed annually by the gross floor area of the building,

Now therefore be it Resolved that in order for the Ninth Elementary School at Baldwin to be a **significant advance toward** a net zero energy school **and consistent with the**

projected energy efficiency results at the new Devotion School, it shall be designed to seek to obtain a minimum of LEED v4 certification at the ~~Platinum~~ Silver rating level, with a goal of achieving the Platinum rating level; and in addition specifically to achieve 16 of the possible 16 points available in the optimize energy performance category and to achieve an EUI of 25 kBTU/sq. ft. it shall prioritize achieving points in the Optimize Energy Performance category and shall seek to achieve a minimum of 13 of the possible 16 points available in that category, with the goal of achieving 16 of the possible 16 points available in that category; and, finally, it shall seek to achieve at least an EUI of 30 kBTU/sq. ft./yr., with the goal of achieving an EUI of 25 kBTU/sq. ft./yr.,

And, be it further Resolved that while overall net zero energy is unlikely to be achieved for Brookline High School and even the degree to which the as-of-yet-undefined, expanded portion of the school can approach net zero energy design is currently uncertain, nevertheless, net zero energy principles shall be **appropriately** applied, to the extent feasible, during all design phases of Brookline High School.

ARTICLE 22

BOARD OF SELECTMEN’S SUPPLEMENTAL RECOMMENDATION

Article 22 is a resolution to support the Town of Brookline to participate in a national network of local governments that work to achieve racial equity and advance opportunity for all; said network is The Government Alliance on Race and Equity (GARE). Currently, the Office of Diversity, Inclusion and Community Relations (ODICR) has become a core member of GARE, and the resolution urges the Town to support the implementation process and eventual reporting from the relationship.

GARE presents the Town with the unique opportunity to use racial equity tools in a data driven process, to ultimately take racial equity into consideration when evaluating policies, procedures and budgeting. This resolution would ensure that one or more departments, other than ODICR, would participate in the implementation process and work in conjunction with the GARE model. Also, there is strong integration of community input and participation in the implementation process.

The Board is supportive of the proposed process and felt that it is a worthwhile program, specifically the assessment of racial equity in consideration of policies and procedures. There was an appreciation for the revision in the Advisory Committee language that allowed for the evaluation of the effectiveness of the program, because the Town should gauge the utilization of the tools available through the membership. In addition, the Board supposed that there is very little downside to working with GARE and the membership should provide benefits to the Town.

Selectmen voted 5-0 FAVORABLE ACTION on the Advisory Committee’s motion on Article 22.

ARTICLE 22

MOTION TO BE OFFERED BY THE PETITIONER

VOTED: That the Town adopt the following resolution:

RESOLUTION TO SUPPORT THE TOWN OF BROOKLINE TO PARTICIPATE IN THE GOVERNMENT ALLIANCE ON RACE AND EQUITY (GARE)

WHEREAS, the Town of Brookline, Massachusetts (the Town) has a proclaimed public policy to improve diversity, inclusion, and community relations within its territory; and

WHEREAS, the Town has in its General By-laws many parts of the framework for achieving racial justice; and

WHEREAS, those are found in the goals of diversity and inclusion in the Town's General By-laws pertaining to the Office of Diversity, Inclusion and Community Relations (ODICR) and the Commission for Diversity, Inclusion and Community Relations (CDICR), including in the powers, duties, responsibilities, and authorizations given to CDICR and ODICR, along with the requirement that that all departments and agencies of the Town cooperate, share information and have a dialogue with CDICR and ODICR on relevant matters; and

WHEREAS, those powers, duties, responsibilities, and authorizations and requirements are found in Articles 3.14, 3.15, 5.5, and 10.2 of the Town's General By-laws, as most recently amended, along with the Equal Employment Opportunity policy promulgated by the Human Relations Department, and approved by CDICR September 21, 2016, approved by the Human Resources Board December 13, 2016, and by The Board of Selectmen February 7, 2017; and

WHEREAS, the Town is committed to work for racial equity in the Town's employment practices, business practices, allocation and handling of its services, and in its treatment of all people within its environs; and

WHEREAS, The Government Alliance on Race and Equity (GARE) is a national network of local governments working to achieve racial equity and advance opportunity for all. GARE works with government jurisdictions to assess the impact of public policies and procedures on racial equity and opportunity. The GARE approach is data driven and includes community engagement, setting and evaluating progress toward measurable goals and consultation with all levels of government employees, community members, and decision-makers; and

WHEREAS, in keeping with the above, through the work of the ODICR, the Town of Brookline has become a core member of the Government Alliance on Race and Equity (GARE), a joint project of the Center for Social Inclusion (CSI) and the Haas Institute for a Fair and Inclusive Society, which is itself a non-profit organization that catalyzes community, government and other institutions to dismantle structural racial inequity and create equitable outcomes for all; and

WHEREAS, we believe the Town's goals and policies promoting racial justice will be augmented by maintaining the core membership benefits offered by GARE, and will be enhanced by contracts with the GARE-related Center for Social Inclusion (CSI) to give trainings to designated Town employees and relevant Town Departments, on topics deemed fit by ODICR and CDICR.

NOW THEREFORE, BE IT HEREBY RESOLVED, THAT TOWN MEETING
URGES:

1. The Board of Selectmen and the Town Administrator, in conjunction with the ODICR, to support and facilitate participation by Town departments in the GARE implementation process. This includes but is not limited to using racial equity tools in a data driven process to integrate explicit consideration of racial equity into creating and evaluating Town policies, procedures, and department budgeting.
2. The Board of Selectmen, the Town Administrator, the School Committee and the Superintendent of Schools to work with the ODICR to identify one or more departments (in addition to the ODICR itself) that will fully engage in GARE's implementation process during fiscal year 2018.
3. The Town to allocate financial support and other resources to support successful implementation of the GARE implementation process, including enrollment of department administrators and leaders in trainings provided by GARE, and that future budgets consider the funding requirements of this resolution.
4. That the Board of Selectmen and the Town Administrator, in conjunction with the ODICR, actively work to develop trust and accountability by seeking input and participation from the community in the GARE implementation process, prioritizing voices of residents of color, and that the Town's Chief Diversity Officer report on GARE progress in the CDICR monthly meeting and in a comprehensive annual report to the Board of Selectmen and Town Meeting.

ARTICLE 23

BOARD OF SELECTMEN’S SUPPLEMENTAL RECOMMENDATION

Article 23 is a Resolution concerning support of the passage of Massachusetts Senate Bill 1551 (S.1551) “An Act Relevant to Regional Transportation Ballot Initiatives” and the potential actions that could be taken after passage. S.1551 is a comprehensive bill that would allow the Town to raise additional local money for transportation projects via ballot initiatives. The Bill also sets standards on the levy and collection, the establishment of a local transportation committee, the establishment of local transportation trust funds, and the disbursement of said funds.

The Board supports the intent of the Article, and is very supportive of S.1551, but there were concerns about the proscriptive nature of the additional actions set forth in the original warrant article, specifically about the singular focus on a potential gas tax. The revised language recommended by the Advisory Committee, which follows the intent of the State Bill, alleviates these concerns and allows for a menu of potential options for the Town to adopt that could be used for transportation improvements. The Board did not find it necessary to detail the potential implementation of S.1551, but is looking forward to working through the issues if the legislation is ultimately passed at the State level.

On May 9, 2017 a unanimous Board of Selectmen voted FAVORABLE ACTION on the Advisory Committee’s motion.

SELECTMEN'S COMMITTEE UPDATE

FEASIBILITY AND APPLICABILITY OF TREE ORDINANCE IN BROOKLINE

May 2017 Town Meeting

As a result of the Fall Town Meeting 2016 a Selectmen's Committee was established to study the possible benefits of a tree protection ordinance. The intent of the tree protection by-law would be to preserve mature trees that have aesthetic appeal, contribute to the distinct character of the community, improve air quality, provide glare and heat protection, reduce noise, aid in stabilization of soil, provide natural flood- and climate-control, create habitats for wildlife, enhance property values, and provide natural privacy to neighbors.

The Committee has held six meetings to consider the purpose and intent of a tree protection ordinance in Brookline, the respective applicability and jurisdiction, implementation and enforcement. The Committee is considering various regulatory mechanisms which could be utilized in a draft tree protection ordinance.

In order to provide consideration and protection of trees considered significant to the health and character of the community, the Committee is considering the experience and viability of existing tree ordinances in both the Commonwealth of Massachusetts and the Nation. To better understand the implications and effectiveness of any proposed bylaw the Committee met with representatives from Cambridge, Newton, Springfield, Wellesley, and Lexington to discuss the implementation strategies they have used when enforcing private tree protection measures in their respective communities. The Committee is also evaluating the possible avenues for implementation, including the use of existing permitting and by-law mechanisms within the Town. The Committee intends to present a final report to Town Meeting in the Fall of 2017.

Members of the Committee

Nancy Heller, Board of Selectmen

Thomas Brady, Town Arborist/Tree Warden

Ken Goldstein, Zoning Bylaw Committee & Former Selectmen

Harry Bohrs, Brookline GreenSpace Alliance & Former Chair of Advisory Committee

Clara Batchelor, Park & Recreation Commission

Bob Cook, Planning Board

Roberta Schnoor, Conservation Commission

Elizabeth Erdman, Tree Planting Committee

Richard Murphy, Citizen Petitioner of Tree Protection Article