

ARTICLE 2

SELECT BOARD'S SUPPLEMENTAL RECOMMENDATION

In addition to the contracts presented in the Combined Reports the Board was able to approve an MOAs with AFSCME Library, School Traffic Supervisors and the Teamsters, (911 Dispatchers). These contracts have similar provisions provided to AFSCME Main and other groups. The MOAs are attached to this report.

AFSCME Library:

Wages:

FY2018 2%

FY2019 2%

FY2020 2%

FY2021 7/1/20 2%, 9/1/20 0.5%

Similar provisions regarding changing the payday from Thursday to Friday, bi-weekly pay and the clothing allowance were also included in the MOA.

ITEM	FY19	FY20	FY21	FY22	TOTAL
7/1/18 - 2%	38,967	38,967	38,967		116,900
7/1/19 - 2%		39,746	39,746		79,492
7/1/20 - 2%			40,541		40,541
9/1/20 -0.5%			8,580	1,758	10,338
Clothing allowance	7,000	7,000	7,000		21,000
TOTAL ROLL-OUT COSTS	45,967	85,712	134,834	1,758	268,270

Each 1% =	19,483	19,873	20,270	20,777	
New Wages - \$ =	45,967	39,746	49,121	1,758	
New Wages - % =	2.4%	2.0%	2.4%	0.1%	6.9%
Wages on Base - \$ =	38,967	39,746	49,121	1,758	
Wages on Base - % =	2.0%	2.0%	2.4%	0.1%	6.5%

School Traffic Supervisors:

Wages:

FY2018 2%

FY2019 2%

FY2020 2%

FY2021 7/1/20 2%, 9/1/20 0.5%

Similar provisions regarding changing the payday from Thursday to Friday, bi-weekly pay and the clothing allowance were also included in the MOA.

ITEM	FY19	FY20	FY21	FY22	TOTAL
7/1/18 - 2%	13,195	13,195	13,195		39,584
7/1/19 - 2%		13,458	13,458		26,917
7/1/20 - 2%			13,728		13,728
9/1/20 - 0.5%			2,905	443	3,348
Uniform allowance	2,200	2,200	2,200		6,600
TOTAL ROLL-OUT COSTS	15,395	28,853	45,486	443	90,176
Each 1% =	6,597	6,729	6,998	7,173	
New Wages - \$ =	15,395	13,458	16,633	443	
New Wages - % =	2.3%	2.0%	2.4%	0.1%	6.7%
Wages on Base - \$ =	13,195	13,458	16,633	443	
Wages on Base - % =	2.0%	2.0%	2.4%	0.1%	6.4%

Teamsters:

Wages:

FY2018 2%

FY2019 2%

FY2020 2%

FY2021 7/1/20 2%, 9/1/20 0.5%

Similar provisions regarding changing the payday from Thursday to Friday, and the clothing allowance were also included in the MOA. (Bi-weekly pay had been negotiated in a prior contract.) There were also modifications to the senior step rate and an increase in the night differential and an increase to the rate for a Communications Training Officer.

Teamsters CBA					
ITEM	FY19	FY20	FY21	FY22	TOTAL
7/1/2018 - 2%	17,515	17,515	17,515		52,546
7/1/2019 - 2%		17,866	17,866		35,731
7/1/2020 - 2%			18,269		18,269
9/1/2020 - 0.5%			3,485	1,162	4,647
Senior Step Increase		826	2,279		3,106
Night Shift Diff		1,579	1,579		3,158
CTO	240	480	720		1,440
TOTAL ROLL-OUT COSTS OF 3-YEAR PERIOD	17,755	38,266	61,713	1,162	118,896
Each 1% =	8,758	8,933	9,111	9,157	
New Wages - \$ =	17,755	20,511	23,447	1,162	
New Wages - % =	2.0%	2.3%	2.6%	0.1%	7.0%

The Select Board thank the Town’s negotiating team and the unions for reaching a fair and equitable settlement. The Board recommends FAVORABLE ACTION, by a vote of 5-0 on the additional contracts as referenced below and described in the attached MOAs. For ease of voting, all the contract votes are presented below.

BROOKLINE FIRE UNION

VOTED: To approve and fund by an appropriation, provided for in the FY2019 (Item 20) budget, for the cost items in the following collective bargaining agreement that commences on July 1, 2018- and expires on June 30, 2021:

Brookline Fire Union, Local 950, IAFF, AFL-CIO

all as set forth in the report of Sandra DeBow, Director of Human Resources, dated January 22, 2018 which report is incorporated herein by reference.

AFSCME-Main

VOTED: To approve and fund by an appropriation, provided for in the FY2019, (Item 20) budget, for the cost items in the following collective bargaining agreement that commences on July 1, 2018- and expires on June 30, 2021:

AFSCME Council 93, Local 1358 AFL-CIO (AFSCME, Main contract)

all as set forth in the report of Sandra DeBow, Director of Human Resources, dated March 30, 2018, which report is incorporated herein by reference.

BROOKLINE ENGINEERS DIVISION ASSOCIATION

VOTED: To approve and fund by an appropriation, provided for in the FY2018, (Item #20) and FY2019 (Item #20) budgets, for the cost items in the following collective bargaining agreement that commences on July 1, 2017- and expires on June 30, 2021:

Brookline Engineers Division Association (BEDA)

all as set forth in the MOAs, dated April 26, 2018, which are incorporated herein by reference.

AFSCME-Library

VOTED: To approve and fund by an appropriation, provided for in the FY2019, (Item 20) budget, for the cost items in the following collective bargaining agreement that commences on July 1, 2018- and expires on June 30, 2021:

AFSCME, Local 1358, Staff Association of the Public Libraries

all as set forth in the MOAs, dated April, 2018, which are incorporated herein by reference.

AFSCME-School Traffic Supervisors

VOTED: To approve and fund by an appropriation, provided for in the FY2019, (Item 20) budget, for the cost items in the following collective bargaining agreement that commences on July 1, 2018- and expires on June 30, 2021:

AFSCME, Local 1358, School Traffic Supervisors

all as set forth in the MOAs, dated April, 2018, which are incorporated herein by reference

TEAMSTERS (Emergency Telecommunications Dispatchers)

VOTED: To approve and fund by an appropriation, provided for in the FY2019, (Item 20) budget, for the cost items in the following collective bargaining agreement that commences on July 1, 2018- and expires on June 30, 2021:

The International Brotherhood of Teamsters, Local 25 (Emergency Telecommunications Dispatchers)

all as set forth in the MOA, dated May 4, 2018, which is incorporated herein by reference.

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

SUMMARY:

The Town has negotiated new agreements with six of its collective bargaining units: Local 950 of the International Association of Firefighters; AFSCME Local 1358 (Main); Brookline Engineering Division Associates (BEDA); the Staff Association of the Public Library of Brookline, Council 93, AFSCME; School Traffic Supervisors, Local 1358, Council 93, AFSCME; and the Teamsters. The Advisory Committee has reviewed five of these agreements and recommends that the necessary funds be appropriated. It will review and report on the sixth, the agreement with the Teamsters, prior to Town Meeting.

These agreements were negotiated on a fast-track basis, which limits the number of issues to be discussed. In addition to wage increases, the negotiations covered a change in pay day from Thursday to Friday, the transition to a bi-weekly pay period, and beginning the deduction for union dues at date of hire. The Town has asked for changes to the payroll system to achieve efficiencies. Changing the pay day allows more time for processing payroll which should reduce the number of errors; reducing the number of payrolls processed is more cost-effective. The bargaining units benefit from improved cash flow if dues can be deducted upon hire instead of after the six-month introductory employment period.

The agreement with the Firefighters covers the three-year period from July 1, 2018 through June 30, 2021 for a total cost of \$1,912,827, or 7.4%. Wages will increase by 2% on July 1, 2018, and July 1, 2019, and by 2.5% on July 1, 2020. Additional compensation for Emergency Medical Technician (EMT) certification will increase by 0.5% on July 1 of each year covered by the contract. By a vote of 22–0–1, the Advisory Committee recommends FAVORABLE ACTION to appropriate the sums of money required to fund the cost items in the agreement between the Town and Local 950 of the International Association of Firefighters.

The agreement with AFSCME Local 1358 (Main) calls for a 2% annual wage increase effective July 1 in each year covered by the contract and an additional 0.5% increase effective September 1, 2020. Total cost over the three-year period is approximately \$1,578,804, or 7.0%. By a vote of 22–0–1, the Advisory Committee recommends FAVORABLE ACTION to appropriate the sums of money required to fund the cost items in the agreement between the Town and AFSCME Local 1358 (Main).

Two agreements were reached with Brookline Engineering Division Associates (BEDA). The first extends the existing contract from June 30, 2017, to June 30, 2018, with a salary increase of 2% effective July 1, 2017. The second covers a three-year period from July 1, 2018, through June 30, 2021, and calls for a 2% wage increase effective July 1 in each

year, with an additional 0.5% increase effective January 1, 2021. Total cost of the two agreements is approximately \$203,459, or 8.7%. By a vote of 23–0–0, the Advisory Committee recommends FAVORABLE ACTION to appropriate the sums of money required to fund the cost items in the agreement between the Town and Brookline Engineering Division Associates.

The agreement with the Staff Association of the Public Library of Brookline covers a three-year period from July 1, 2018, through June 30, 2021. The agreement calls for a 2% annual wage increase effective July 1 in each year of the contract, plus a 0.5% increase effective September 1, 2020. Total cost over the three year period is approximately \$268,270, or 6.9%. By a vote of 23–0–0, the Advisory Committee recommends FAVORABLE ACTION to appropriate the sums of money required to fund the cost items in the agreement between the Town and Staff Association of the Public Library of Brookline.

The agreement with the School Traffic Supervisors covers the period July 1, 2018, through June 30, 2021. The agreement calls for a 2% annual wage increase effective July 1 in each year of the contract, with an additional 0.5% increase effective September 1, 2020. Total cost over the three year period is approximately \$90,176, or 6.7%. By a vote of 23–0–0, the Advisory Committee recommends FAVORABLE ACTION to appropriate the sums of money required to fund the cost items in the agreement between the Town and the School Traffic Supervisors.

The agreement between the Town and the Teamsters had not been approved in time for the Advisory Committee to consider the requested appropriation. A supplemental report on this agreement will be circulated at Town Meeting.

DISCUSSION:

All of the agreements were negotiated on a fast-track basis, which limits the number of issues to be discussed. In addition to wage increases, the negotiations covered a change in pay day from Thursday to Friday, the transition to a bi-weekly pay period, and beginning the deduction for union dues at date of hire. The Town has asked for changes to the payroll system to achieve efficiencies. Changing the pay day allows more time for processing payroll which should reduce the number of errors; reducing the number of payrolls processed is more cost-effective. The bargaining units benefit from improved cash flow if dues can be deducted upon hire instead of after the six-month introductory employment period.

Firefighters

The Town of Brookline and the International Association of Firefighters executed a memorandum of agreement on January 26, 2018, covering the period July 1, 2018, through June 30, 2021. The agreement was ratified by the bargaining unit on March 9, 2018, and approved by the Select Board on May 1, 2018. The agreement calls for a 2% annual wage increase effective July 1, 2018, and July 1, 2019 and a 2.5% increase

effective July 1, 2020. Additional compensation for EMT pay will increase by 0.5% on July 1 of each year covered by the contract. Total cost over the three year period is approximately \$1,912,827 or 7.4% as shown below and does not exceed the level of funds available within the collective bargaining reserve.

ITEM	FY19	FY20	FY21	TOTAL
7/1/2018 - 2%	265,463	265,463	265,463	796,388
7/1/2019 - 2%		270,772	270,772	541,544
7/1/2020 - 2.5%			345,234	345,234
EMT 6.5%	36,410	36,410	36,410	109,229
EMT 7%		39,211	39,211	78,421
EMT 7.5%			42,011	42,011
TOTAL ROLL-OUT COSTS OF 3-YEAR PERIOD	301,872	611,855	999,100	1,912,827

Each 1% =	132,731	135,386	138,771	
New Wages - \$ =	301,872	309,982	387,245	
New Wages - % =	2.3%	2.3%	2.8%	7.4%

The number of firefighters who can take EMT training each year increases from five to ten, and the additional compensation for being certified, currently at 6% of base pay, increases by 0.5% on July 1 of each year of the contract. Most firefighters currently have their certification.

The new agreement requires 48-hour notification before taking vacation and includes language giving management better control of overtime. While the Town was able to secure agreement to change the pay day to Friday with 30 days' advance notification, the transition to bi-weekly pay was not successfully negotiated.

AFSCME (Main Bargaining Unit)

The Town of Brookline and AFSCME (American Federation of State, Country, and Municipal Employees) Local 1358 (AFSCME Main) executed a memorandum of agreement in March covering the period July 1, 2018, through June 30, 2021. The agreement was approved by the Select Board on April 4, 2018, and ratified by the bargaining unit on April 12, 2018. It calls for a 2% annual wage increase effective July 1, in each year covered by the contract and an additional 0.5% increase effective September 1, 2020. Total cost over the three year period is approximately \$1,578,804, an increase of 7.0% as show below.

ITEM	FY19	FY20	FY21	FY22	TOTAL
7/1/18 - 2%	225,161	225,161	225,161		675,482
7/1/19 - 2%		229,664	229,664		459,328
7/1/20 - 2%			234,257		234,257
9/1/2020 - 0.5%			44,802	14,934	59,736
Clothing allowance	50,000	50,000	50,000		150,000
					0
TOTAL ROLL-OUT COSTS	275,161	504,825	783,884	14,934	1,578,804

Each 1% =	112,580	114,832	117,129	119,919	
New Wages - \$ =	275,161	229,664	279,059	14,934	
New Wages - % =	2.4%	2.0%	2.4%	0.1%	7.0%
Wages on Base - \$ =	225,161	229,664	279,059	14,934	
Wages on Base - % =	2.0%	2.0%	2.4%	0.1%	6.5%

In addition to the wage increase, the clothing allowance, which had not changed since 2003, will increase from \$200 to \$600 per year. DPW employees who work when other Town services are suspended due to storms will be granted compensatory time off of up to 7.5 or 8 hours depending on the employee's regularly scheduled work week. The "Adverse Weather Day" must be taken by May 1 of the following year.

The bargaining unit did agree to a change in pay day from Thursday to Friday with 30 days' advance notification. Also agreed is the transition to a bi-weekly pay period once all other bargaining units accept the change. Upon implementation of the new pay period, union members will receive a one-time \$350 bridge payment. Union dues will be deducted upon commencement of employment instead of at the conclusion of the six-month introductory employment period.

Brookline Engineering Division Associates (BEDA)

The Town of Brookline and Brookline Engineering Division Associates (BEDA) executed two memorandums of agreement on April 26, 2018. The first extends the existing contract from June 30, 2017, to June 30, 2018, with a salary increase of 2% effective July 1, 2017. The second covers a three-year period from July 1, 2018, through June 30, 2021 and calls for a 2% wage increase effective July 1 of each year plus an additional 0.5% increase effective January 1, 2021. Total cost of the two agreements is

approximately \$203,459, or 8.7% as shown below. The agreements were ratified by the bargaining unit on April 26, 2018, and approved by the Select Board on May 1, 2018.

ITEM	FY18	FY19	FY20	FY21	FY22	TOTAL
7/1/2017 - 2%	18,879	18,879	18,879	18,879		75,515
7/1/2018 - 2%		19,256	19,256	19,256		57,769
7/1/2019 - 2%			19,641	19,641		39,283
7/1/2020 - 2%				20,034		20,034
1/1/2021 - 0.5%				2,554	2,554	5,109
Certification Stipend		1,350	2,025	2,025		5,400
Longevity			175	175		350
						0
TOTAL ROLL-OUT COSTS	18,879	39,485	59,976	82,565	2,554	203,459

Each 1% =	9,439	9,628	9,821	10,017	10,268	
New Wages - \$ =	18,879	20,606	20,491	22,589	2,554	
New Wages - % =	2.0%	2.1%	2.1%	2.3%	0.2%	8.7%
Wages on Base - \$ =	18,879	19,256	19,641	20,709	2,554	
Wages on Base - % =	2.0%	2.0%	2.0%	2.1%	0.2%	8.3%

Longevity pay for the 11 employees in this bargaining unit has not increased since 2014 and lags behind other AFSCME bargaining units. Beginning on July 1, 2019, longevity pay for each longevity gate will increase by \$25.

To encourage staff to become certified so that inspections can be done within the department instead of by outside contractors, the stipend for each certificate was raised from \$125 to \$150 effective July 1, 2018, and to \$175 effective July 1, 2019. No individual will be reimbursed for more than four certificates in one year.

BEDA staff normally work 8 ½ hours per day, Monday–Thursday, and 4 ½ hours on Friday. The bargaining unit agreed that at least one employee will work Fridays from 12:30 to 5:00 p.m. and shall receive compensatory time off to be taken on a subsequent Friday morning. Pay day will change from Thursday to Friday upon 30 days’ notice from the Town.

Staff Association of the Public Library of Brookline

The Town of Brookline and the Staff Association of the Public Library of Brookline entered into a memorandum of agreement in April, 2018 covering the period July 1, 2018 through June 30, 2021. The agreement calls for a 2% annual wage increase effective July 1 in each year of the contract, with an additional .5% increase effective September 1, 2020. Total cost over the three year period is approximately \$268,270 or 6.9% as detailed below:

ITEM	FY19	FY20	FY21	FY22	TOTAL
7/1/18 - 2%	38,967	38,967	38,967		116,900
7/1/19 - 2%		39,746	39,746		79,492
7/1/20 - 2%			40,541		40,541
9/1/20 -0.5%			8,580	1,758	10,338
Clothing allowance	7,000	7,000	7,000		21,000
TOTAL ROLL-OUT COSTS	45,967	85,712	134,834	1,758	268,270

Each 1% =	19,483	19,873	20,270	20,777	
New Wages - \$ =	45,967	39,746	49,121	1,758	
New Wages - % =	2.4%	2.0%	2.4%	0.1%	6.9%
Wages on Base - \$ =	38,967	39,746	49,121	1,758	
Wages on Base - % =	2.0%	2.0%	2.4%	0.1%	6.5%

The clothing allowance will increase from \$350 to \$550 per year, prorated for part-time employees. All libraries will be closed on the days that Town Hall is closed for inclement weather. The monitor position at the Coolidge Corner branch has been eliminated.

Pay day will change from Thursday to Friday upon 30 days' notice from the Town. The transition to bi-weekly pay will occur at such time that all other bargaining units have agreed to the change. Members will receive 30 days' advance notice of the change and a \$350 bridge payment to ease the transition. The deduction for union dues will begin upon date of hire or the date of the employee's signed authorization, whichever comes first.

School Traffic Supervisors

The Town of Brookline and the School Traffic Supervisors entered into a memorandum of agreement in April, 2018 covering the period July 1, 2018 through June 30, 2021. The agreement calls for a 2% annual wage increase effective July 1 of each year, plus a 0.5%

increase effective September 1, 2020. Total cost over the three year period is approximately \$90, 176 or 6.7% as detailed below:

ITEM	FY19	FY20	FY21	FY22	TOTAL
7/1/18 - 2%	13,195	13,195	13,195		39,584
7/1/19 - 2%		13,458	13,458		26,917
7/1/20 - 2%			13,728		13,728
9/1/20 - 0.5%			2,905	443	3,348
Uniform allowance	2,200	2,200	2,200		6,600
TOTAL ROLL-OUT COSTS	15,395	28,853	45,486	443	90,176

Each 1% =	6,597	6,729	6,998	7,173	
New Wages - \$ =	15,395	13,458	16,633	443	
New Wages - % =	2.3%	2.0%	2.4%	0.1%	6.7%
Wages on Base - \$ =	13,195	13,458	16,633	443	
Wages on Base - % =	2.0%	2.0%	2.4%	0.1%	6.4%

Employees in Groups 1 and 4 who are scheduled to work for the full year will receive a uniform allowance of \$585 on or about the start of the school year. The allowance will be prorated for Group 3 employees.

Upon 30 days' notice from the Town, pay day will change from Thursday to Friday. The bargaining unit also agreed to transition to bi-weekly pay at such time that all other bargaining units have agreed to the change. Members will receive 30 days' advance notice and a \$350 bridge payment to ease the transition. The deduction for union dues will begin upon date of hire or the date of the employee's signed authorization, whichever comes first.

RECOMMENDATION

The Advisory Committee recommends FAVORABLE ACTION on all five agreements, as follows.

By a vote of 22–0–1, the Advisory Committee recommends FAVORABLE ACTION to appropriate the sums of money required to fund the cost items in the agreement between the Town and Local 950 of the International Association of Firefighters.

By a vote of 22–0–1, the Advisory Committee recommends favorable action to appropriate the sums of money required to fund the cost items in the agreement between the Town and AFSCME Local 1358 (Main).

By a vote of 23–0–0 the Advisory Committee recommends favorable action to appropriate the sums of money required to fund the cost items in the agreement between the Town and Brookline Engineering Division Associates.

By a vote of 23–0–0 the Advisory Committee recommends favorable action to appropriate the sums of money required to fund the cost items in the agreement between the Town and the Staff Association of the Public Library of Brookline.

By a vote of 23–0–0 the Advisory Committee recommends favorable action to appropriate the sums of money required to fund the cost items in the agreement between the Town and School Traffic Supervisors.

Memorandum of Agreement
By and Between
The Town of Brookline
And
The Staff Association of the Public Library of Brookline
Council 93, AFSCME, AFL-CIO
April 2018

The Town of Brookline (“Town”) and the Staff Association of the Public Library of Brookline, Council 93, AFSCME, AFL-CIO (“Union”) agree to extend their July 1, 2015 – June 30, 2018 collective bargaining agreement through June 30, 2021 with the following changes:

1. Article XXIX – Duration
Amend Article XXIX to reflect a duration of July 1, 2018 through June 30, 2021.
2. Article V – Compensation and Appendix A – Library Salary Schedule
 - A. Increase the hourly rates in the pay schedules in Appendix A as follows:

<u>Fiscal Year</u>	<u>Effective Date</u>	<u>Increase</u>
FY2019	July 1, 2018	2.0%
FY2020	July 1, 2019	2.0%
FY2021	July 1, 2020	2.0%
	September 1, 2020	0.5%

- B. Amend Article V, section d) by replacing the existing language with the following:

- d) Clothing Allowance. The Town shall make an annual [clothing allowance] payment of one hundred dollars (\$100.00) on or before August 1 to each full-time employee represented by the Union. Effective July 1, 2003, the annual clothing allowance shall be increased from \$100 per year to \$200 per year for full-time employees represented by the Union. Effective July 1, 2004, the annual clothing allowance shall be increased to \$250.00. Effective September 1, 2004, part-time employees who are regularly scheduled to work 20 or more hours per week, shall be eligible for prorated clothing allowance. Effective July 1, 2008, the annual clothing allowance shall be increased to \$350.00. Effective July 1, 2018, such annual allowance will be \$550 per year. Such benefits shall be prorated based on the relationship between the employee’s regularly scheduled hours per week to that of a full-time employee. For example, if an employee is regularly scheduled to work 21 hours per week, she would

be eligible for 21/37ths of the annual clothing allowance.

C. Add the following new sections e) and f) to the end of Article V:

- e) Pay Day. The Union agrees that the Town has satisfied all of its bargaining obligations associated with changing pay day from Thursday to Friday. The Town agrees to provide the Union with 30 calendar days' notice prior to implementing the change from Thursday pay day to Friday pay day.
- f) Bi-Weekly Pay. The Union agrees that the Town has satisfied all of its bargaining obligations associated with changing from weekly pay to bi-weekly pay. The Town agrees not to implement bi-weekly pay for employees represented by the Union until such time as it is implementing bi-weekly pay for all Town employees represented by other Town unions including the fire and police unions. The Town agrees that the first time it implements bi-weekly pay for employees represented by the Union it shall pay such employees a one-time, lump sum transition payment of three hundred fifty dollars (\$350.00), less regular and ordinary deductions for state and federal taxes and other withholdings required by law. Such payment shall be made during the week between the last weekly paycheck and the first bi-weekly pay check. The Town agrees to provide the Union with 30 calendar days' notice prior to implementing the change to bi-weekly pay schedule.

3. Article XXIV – Dues, Agency Service Fee and Check Off

Amend Article XXIV by adding the following to the end of the first sentence in 2): “, upon the date of their authorization or date of hire, whichever occurs first.”

4. Article VI – Hours of Work and Overtime

Amend Article VI, section f) to read: “Since July 1, 2002 all accrual of compensatory time has been eliminated., section g) by replacing the existing language with the following: “This section g) intentionally left blank.”

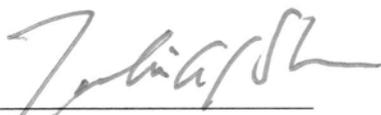
5. Article XXVI – Miscellaneous Working Conditions

- A. The parties agree that the Town has satisfied its bargaining obligations with respect to the elimination of the monitor position at the Coolidge Corner branch.
- B. Amend Article XXVI, section 8) a. by replacing the existing language with the following: “This section 8) a. intentionally left blank.”
- C. Add subsection 13) If Town Hall closes due to adverse weather, all locations of the Library will also close.

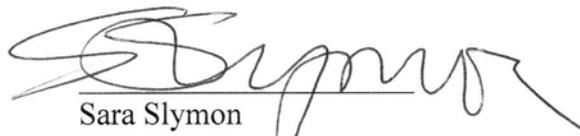
This Memorandum of Agreement is subject to ratification by the Union membership, approval by the Select Board for the Town of Brookline, and funding by the Brookline Town Meeting.

Agreed to by the Town and the Union on the date(s) indicated.

For the Town of Brookline:



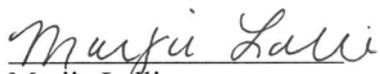
Mel Kleckner
Town Administrator



Sara Slymon
Library Director

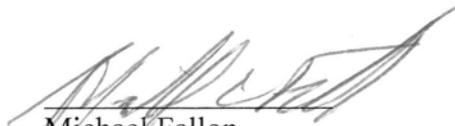


Anne Reed
Assistant Library Director



Marjie Lalli
Labor Relations Specialist

For the Staff Association of the
Public Library of Brookline Council
93, AFSCME AFL-CIO:



Michael Fallon
President, Local 1358



Ed Nastari
Business Agent, AFSCME
Council 93



Colin Wilkins

MEMORANDUM OF AGREEMENT

BY AND BETWEEN

THE TOWN OF BROOKLINE

AND

SCHOOL TRAFFIC SUPERVISORS, LOCAL 1358
COUNCIL 93, AFSCME, AFL-CIO

April 2018

The Town of Brookline (“Town”) and the School Traffic Supervisors, Local 1358, Council 93, AFSCME, AFL-CIO (“Union”) agree to extend their July 1, 2015 – June 30, 2018 collective bargaining agreement through June 30, 2021 with the following changes:

1. Article XXI – Term of Agreement
Amend Article XXI to reflect a duration of July 1, 2018 through June 30, 2021.
2. Article VII – Compensation and Appendix A – Pay Schedule
 - A. Increase the hourly rates in the pay schedules in Appendix A as follows:

<u>Fiscal Year</u>	<u>Effective Date</u>	<u>Increase</u>
FY2019	July 1, 2018	2.0%
FY2020	July 1, 2019	2.0%
FY2021	July 1, 2020	2.0%
	September 1, 2020	0.5%

- B. Add the following new sections 9) and 10) to the end of Article VII:

- 9) Pay Day. The Union agrees that the Town has satisfied all of its bargaining obligations associated with changing pay day from Thursday to Friday. The Town agrees to provide the Union with 30 calendar days’ notice prior to implementing the change from Thursday pay day to Friday pay day.
 - 10) Bi-Weekly Pay. The Union agrees that the Town has satisfied all of its bargaining obligations associated with changing from weekly pay to bi-weekly pay. The Town agrees not to implement bi-weekly pay for employees represented by the Union until such time as it is implementing bi-weekly pay for all Town employees represented by other Town unions including the fire and police unions. The Town agrees that the first time it implements bi-weekly pay for employees represented by the Union it shall

pay such employees a one-time, lump sum transition payment of three hundred fifty dollars (\$350.00), less regular and ordinary deductions for state and federal taxes and other withholdings required by law. Such payment shall be made during the week between the last weekly paycheck and the first bi-weekly pay check. The Town agrees to provide the Union with 30 calendar days' notice prior to implementing the change to bi-weekly pay schedule.

3. Article III – Check-Off and Agency Service Fee

Amend Article III by adding the following to the end of the first sentence in section 1.a.:
“, upon the date of their authorization or date of hire, whichever occurs first.”

4. Article XV – Uniforms

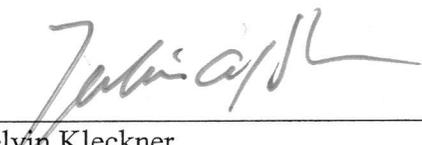
Amend Article XV by adding the following paragraph to the end of section 4):

“Effective July 1, 2018, employees in Groups 1 and 4 who are scheduled to work for the full year shall receive a five hundred eighty-five dollar (\$585.00) maintenance allowance on or about the start of the school year. Group 3 employees shall receive a prorated maintenance allowance.”

This Memorandum of Agreement is subject to ratification by the Union membership, approval by the Select Board for the Town of Brookline, and funding by the Brookline Town Meeting.

Agreed to by the Town and the Union on the date(s) indicated below.

For the Town of Brookline



Melyin Kleckner
Town Administrator

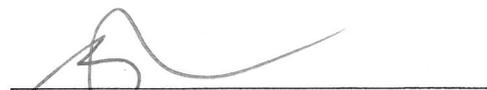
For the School Traffic Supervisors,
Local 1358, Council 93, AFSCME,
AFL-CIO



Michael Fallon, President



Myles Murphy
Police Deputy Superintendent



Ed Nastari, AFCME Business Agent

Marjie Lalli

Marjie Lalli
Human Resources

4/27/2018

Date

Jacqueline Joy

4-27-2018

Date

MEMORANDUM OF AGREEMENT
BETWEEN THE TOWN OF BROOKLINE
AND

THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 25
(EMERGENCY TELECOMMUNICATIONS DISPATCHERS)

May 4, 2018

This Memorandum of Agreement (“Agreement”) is made between the Town of Brookline (“Town”) and the International Brotherhood of Teamsters, Local 25 (“Union”), collectively referred to as the “Parties”. Except as specifically modified by this Agreement, the terms and provisions of the Parties’ July 1, 2015 – June 30, 2018 shall continue in full force and effect. The Parties agree to the following modifications:

1. Article 25 Duration
July 1, 2018 – June 30, 2021
2. Article II and Appendix B Wages

A. Increase the hourly rates for all Steps in accordance with the following schedule:

<u>Effective Date</u>	<u>Increase All Steps</u>
July 1, 2018	2.0%
July 1, 2019	2.0%
July 1, 2020	2.0%
September 1, 2020	0.5%

After the above increases have been applied increase the current senior step as follows:

<u>Effective Date</u>	<u>Increase</u>
July 1, 2019	\$0.05
July 1, 2020	\$0.10

- B. Article 11 Wages
Amend Article 11 by adding the following new section:

Pay day: The Union agrees that the Town has satisfied its bargaining obligations with respect to changing pay day from Thursdays to Fridays.

3. Article 13 Uniform Allowance
Amend Section 3 (Modified Uniform Allowance) of Article 13 as follows:
 - A. Replace the phrase: “through June 30, 2018” in the first sentence with “through June 30, 2020”;
 - B. Replace the phrase “re-instituted effective July 1, 2018” with “re-instituted effective July 1, 2020” in the second sentence.

4. Article 23 Communications Training Officer

Amend subparagraph iv of Section 2 in Article 23 by inserting the following after the second sentence: "Effective July 1, 2018, the rate shall be \$1.75 per hour when such ETD is assigned and performs the work of a Communications Training Officer. Effective July 1, 2019, the rate shall be \$2.00 per hour when such ETD is assigned and performs the work of a Communications Training Officer. Effective July 1, 2020, the rate shall be \$2.25 per hour when such ETD is assigned and performs the work of a Communications Training Officer."

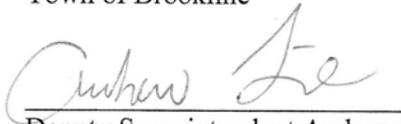
5. Appendix B. II. Night Differential

Amend Appendix B.II (Night Differential) by adding the following sentence to the end of Section II: "Effective with the start of the first full week in Fiscal Year 2020 the night differential shall be increased by \$5.00 per week to \$50 per week."

This Memorandum of Agreement is the result of Fast Track negotiations and shall remain off the record for purposes of bargaining history until it is ratified by the Union membership and approved by the Select Board.

This Memorandum of Agreement is subject to ratification by the Union membership before May 15, 2018, approval by the Select Board and funding by Town meeting at the next regularly scheduled Town meeting. Subject to the above conditions, Memorandum of Agreement is agreed to on this 4th day of May:

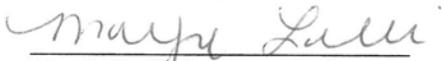
Town of Brookline



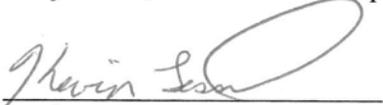
Deputy Superintendent Andrew Lipson



Austin Faison, Assistant Town Administrator

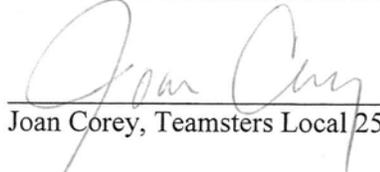


Marjie Lalli, Labor Relations Specialist

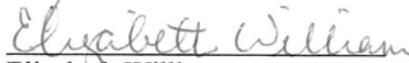


Kevin Lessard, Chief ETD

International Brotherhood of Teamsters Local 25



Joan Corey, Teamsters Local 25



Elizabeth Williams

Jaclyn Carroll

ARTICLE 7

MOTION OFFERED BY BRIAN HOCHLEUTNER, TMM6, SCOTT ENGLANDER, TMM6 and CLAIRE STAMPFER, TMM5

With respect to the Advisory Committee motion starting on page 7-63, modify the referenced special appropriations as follows (changes are in **bold underlined and strikethrough**):

- Item 48: Cypress Playground
Raise and appropriate \$240,000 to be expended under the direction of the Commissioner of Public Works, with any contracts over \$100,000 to be approved by the Select Board, for the design of the renovation of Cypress Playground, **with the condition that no money in any way related to design, procurement, or construction for Cypress Field can be encumbered or expended in furtherance of installing plastic turf on Cypress Field.**
- Item 71: High School Renovation/Expansion
Appropriate, \$189,200,000, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Select Board and the School Committee to renovate and expand Brookline High School, including the acquisition and reconstruction of the property located at 111 Cypress Street and renovations or repairs to Brookline High School, the Evelyn Kirrane Aquatic Center, the Unified Arts Building, the 66 Tappan Street Gym, and Cypress Field with the condition that no money **in any way** related to **the design, procurement, or construction of Cypress Field can be encumbered or expended ~~without a vote of Town Meeting relevant to the material for the field in furtherance of installing plastic turf on Cypress Field~~**; and to meet the appropriation authorize the Treasurer, with approval of the Board of Selectmen, to borrow \$186,800,000, under General Laws, Chapter 44, Section 7(1) and transfer \$2,400,000 from the Town's bond premium account. Any premium received upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount, this appropriation seeks to fund approximately \$189,200,000 for construction of a large project to include renovation of Cypress Field as well as renovation and expansion of Brookline High School);

Explanation:

The intent of the motion is to impose restrictions on expenditure of funds so as to prohibit spending in furtherance of installation of plastic turf at Cypress Field. The motion covers not only construction funds under special appropriation 71, but also the substantial design

funds under special appropriation 48, with the same condition language proposed for each.

ARTICLE 7

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

The Advisory Committee has reviewed the proposed appropriations for FY2019 and is pleased to present this report to Town Meeting. Since February 2018, the Committee and its subcommittees have conducted public hearings with the Town's department heads and the leadership of the Public Schools of Brookline. The Committee recommends FAVORABLE ACTION on the FY2019 budget.

We thank all the people who assisted in this year's complicated budget process, including the Select Board, Town Administrator, Deputy Town Administrator, School Committee, central administration of the Public Schools of Brookline, and Town department heads. A complete list of people who deserve to be thanked appears below, at the end of this report.

OVERVIEW

The FY2019 budget funds several important new initiatives and addresses unmet needs, while also proving the Public Schools of Brookline sufficient funds to keep up with continuing enrollment increases. The operating budget benefits from increased revenue from the May 2018 override, as well as increased state aid and lower-than-expected group health costs. The Capital Improvements Program features a recommended appropriation of \$189.2 million, funded almost entirely by borrowing, to fund most of the cost of the \$205.6 million renovation and expansion of Brookline High School.

DIFFERENCES BETWEEN THE RECOMMENDATIONS OF THE ADVISORY COMMITTEE AND THE SELECT BOARD

The Advisory Committee and the Select Board are recommending the same FY2019 budget levels, with identical appropriation levels in every category. The two bodies differ on the conditions that should be attached to two of the special appropriations (Capital Improvements Program items).

Special Appropriation Item 44

In Special Appropriation 44 (pp. 7-64 – 7-65, with the explanation on pp. 7-42 – 7-43), the Advisory Committee voted to recommend including the condition that the Advisory Committee's Capital Subcommittee be given prior notification when a street rehabilitation project includes changes to traffic patterns or pavement markings. The condition appears in **bold** below:

44) Raise and appropriate \$3,110,000 to be expended under the direction of the Commissioner of Public Works for the rehabilitation of streets, with any contracts over

*\$100,000 to be approved by the Select Board and that when such approval is necessary that there be prior notification to the Select Board **and to the Capital Subcommittee of the Advisory Committee** of any changes to pedestrian, bicycle, or motor vehicle traffic patterns or pavement markings, and to meet the appropriation transfer \$1,400,000 from the Parking Meter Fund.*

The Advisory Committee inserted this language because there have been several instances in which a street rehabilitation project incorporated changes to roadway patterns or pavement marking that were neither anticipated nor approved by Town Meeting or the affected residents of Brookline.

The Capital Subcommittee of the Advisory Committee is already deeply involved in the review of capital and operating expenditures of the Department of Public Works (DPW). Few, if any, other Town bodies have as much knowledge or experience related to reviewing DPW expenditures. In order to properly perform its role as a subcommittee of the Town's Finance Committee, the Capital Subcommittee needs to be informed of the important details of major projects. In exercising this oversight function, the Capital Subcommittee can ensure that roadway projects do not contain unwanted and unexpected features that generate neighborhood opposition and controversy. The Capital Subcommittee will act to ensure that street rehabilitation funds are used for their intended purpose, as described in the CIP, and that funding for traffic calming/public safety is used for its intended purpose—to enhance roadway safety. The Transportation Board plays an important role, but it is not the Town's Finance Committee and it does not track actual costs and how funds are spent.

Special Appropriation Item 71

In Special Appropriation 71, (pp. 7-68 – 7-69, with the explanation on pp. 7-44 – 7-45 and pp. 7-56 – 7-59), the Advisory Committee voted to recommend including the condition that Town Meeting vote on the material (grass or artificial turf) to be used for Cypress Field. The condition appears in **bold** below:

*71) Appropriate \$189,200, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Select Board and the School Committee to renovate and expand Brookline High School, including the acquisition and reconstruction of the property located at 111 Cypress Street and renovations or repairs to Brookline High School, the Evelyn Kirrane Aquatic Center, the Unified Arts Building, the 66 Tappan Street Gym, and Cypress Field **with the condition that no money related to the construction of Cypress Field can be encumbered or expended without a vote of Town Meeting relevant to the material for the field**; and to meet the appropriation authorize the Treasurer, with the approval of the Select Board, to borrow \$186,8000, under General Laws, Chapter 44, Section 7(1) and transfer \$2,4000,00 from the Town's bond premium account. Any premium received upon the sale of any bonds or notes approved by this vote, less any premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter*

44, Section 20 of the General laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.

The debate over installing grass or synthetic turf at a renovated Cypress Field has been intense, with proponents of each alternative offering strong arguments. The debate has raised questions of neighborhood concerns, town-wide athletic needs, and the meaning of green space. The Advisory Committee has not taken a position on which surface should be installed. The Committee, however, thinks that the issue is important enough to justify a Town Meeting vote on whether to expend Town funds on grass or artificial turf.

In its report on item 71, the Select Board claims that Town by-laws give the Park and Recreation Commission the authority to select the surface for an athletic field, but those by-laws only lay out the process. Town Meeting ultimately is the appropriating authority and determines how Town funds should be spent.

Whether Town Meeting votes for the Advisory Committee's motion with the condition attached to item 71 or the Select Board's amendment, it will be Town Meeting's choice of how to resolve the question of which surface to install at Cypress Field.

Note that the Advisory Committee voted to add each of these conditions by an overwhelming vote of twenty-three in favor, none opposed, and one abstention (23–0–1).

BUDGET BASICS: FY2019 REVENUES AND EXPENDITURES

As a result of the May 2018 and other changes in revenues and expenditures, the proposed FY2019 budget differs significantly from what was included in the *FY-2019 Financial Plan*. What follows is a brief overview and explanation of the proposed revenues and expenditures, and how they compare to the FY2018 budget.

Revenues

Projected total revenue for FY2019 will increase by 6.8% over FY2018, compared to an increase of 4.7% from FY2017 to FY2018. The higher percentage increase primarily reflects \$2.9 million in additional property tax revenue due to the May 2018 override, an increase in state aid, and a significant increase in Other Available Funds.

Brookline's revenue from property taxes will increase by 6.2% in FY2019, compared to 3.5% in FY2018. Property taxes remain the greatest contributor to our revenues, representing 77% of total revenue. Property tax revenue increases annually faster than the 2.5% implied by the name of Proposition 2½, because new growth (i.e., new construction) generates additional taxes. New growth is projected to be about \$2.6 million in FY2019.

In FY2019, projected State Aid accounts for \$21.6 million of Brookline's revenue, a 6.3% increase over FY2018. The final total will depend on the state budget, which is in its final legislative stages. After being cut deeply in the years following the 2008 financial crisis

and recession, Brookline's state aid has been climbing in recent years, but this revenue is vulnerable to general economic trends and the health of the state budget.

Local Receipts are projected to increase by 1.1% to \$29.8 million. Revenue in the Local Receipts category comes from parking meter revenue, motor vehicle excise taxes, hotel and meals taxes, building permit fees, fees for other licenses and permits, the refuse fee, payments in lieu of taxes (PILOTs), and parking fines. Revenue in most of these categories has been increasing slowly or not at all in recent years, partly because fees (e.g. the refuse fee) have not been increased. A small amount reflects interest income, which remains low due to continued low interest rates.

Free Cash is the result of previous revenues exceeding estimates and/or expenditures coming in below appropriations. For FY2019, State-certified Free Cash is \$11.1 million, but the amount available for appropriation is only \$8.5 million. Under the fiscal policies that Brookline has followed in recent years, \$2.6 million of the Free Cash will remain unappropriated so Brookline can maintain an unrestricted fund balance of at least 10% of annual revenue, with a goal of 12.5%. In recent years, bond-rating agencies have expressed concern about the low levels (as a percentage of annual revenue) of Brookline's undesignated fund balance. The Town does not want to jeopardize its Aaa/AAA bond rating, which was recently reaffirmed by Moody's and issued for the first time by Standard and Poor's. To ensure that Brookline's bond rating remains high, \$2.6 million of the Free Cash will be left unappropriated, in order to improve the Town's undesignated fund balance. This leaves just under \$8.5 million of Free Cash available for appropriation. In accordance with fiscal policies, some of this Free Cash is allocated to the Liability/Catastrophe Fund (\$456,762), and the Operating Budget Reserve Fund (\$637,218), the Capital Improvements Program (\$5,959,101), and the Affordable Housing Trust Fund (\$545,112). The FY2019 budget also provides for appropriating \$600,000 in Free Cash to post-retiree group health (OPEBs) and \$300,000 to the Pension Fund. In each case, the appropriation is intended to accelerate the Town's progress toward meeting its long-term financial obligations to fully fund these two funds.

The Town's revenues also include a category called "Other Available Funds." This category includes Walnut Hills Cemetery funds, state aid for libraries, Golf Enterprise Fund reimbursement, Recreation Revolving Fund reimbursement, Water and Sewer Enterprise Fund reimbursement, Tax Abatement Reserve surplus, capital project surplus, and the proceeds from the sale of Town-owned land. The reimbursements from the revolving funds are primarily to cover the cost of fringe benefits received by employees whose salaries are charged to those funds.

The FY2019 revenue from Other Available funds will increase 108.9% compared to FY2018, from \$3.5 million to \$7.3 million. This increase is primarily the result of: (1) a \$1.4 million transfer from the Parking Meter Fund (to be used for street rehabilitation); (2) a re-appropriation of \$500,000 in FY2018 CIP funds that were not used for schematic design of a 9th elementary school; and (3) a \$2.4 million transfer from the bond premium account (to be added to the funding for expanding and renovating Brookline High School).

(The Town receives a bond premium when buyers of bonds issued by Brookline pay more than the face value of the bonds. Buyers might pay such a premium to receive a higher interest rate.)

All revenue sources combined produce a projected total of \$291.67 million in FY2019, a 6.8% increase in total revenue, compared to the 4.7% increase from FY2017 to FY2018. Some of this General Fund revenue must be deducted for Non-Appropriated Expenses: State/County charges—primarily the Norfolk County and MBTA assessments—of \$6.6 million, “Cherry Sheet” offsets of \$87,355, and the Tax Abatement Overlay of \$1.75 million. This leaves us with a total of \$283.17 million available for appropriation.

Expenditures

On the expenditure side, departmental expenditures (65% of total general expenditures) increase from a budgeted amount of \$177.9 million in FY2018 to \$186.96 million in FY2019—a 5.1% increase. Almost two-thirds of the increase is in the Schools appropriation, which climbs by 5.8% to \$110,831,679, an increase of about \$6.1 million. (As discussed below, total school spending is higher than this amount, because the schools receive additional funding from grants and other sources that are not appropriated by Town Meeting, and some school-related spending is not reflected in the Schools budget.) Spending for Town departments rises by approximately \$3 million, an increase of 4.1%.

Non-Departmental expenditures increase by 7.5% to \$82.9 million, compared to \$77 million in FY2018. Of the increase, about \$2.6 million reflects the growth in Employee Benefits, which will grow by 4.3 % in FY2019. Most of the rest of the increase is attributable to higher debt service costs, which will increase by just over \$2.9 million from FY2018 to FY2019, reaching a total of \$15.7 million, which reflects higher borrowing to finance capital projects, such as the Devotion School. Additionally, there are revenue-financed Special Appropriations (Capital Improvements Program, generally referred to as the CIP) of \$13.36 million, up by 37.5% compared to FY2018. (The amount budgeted for the CIP only includes revenue-financed projects. The cost of CIP items funded by borrowing is reflected in the amount budgeted for debt service. These large expenses are spread out over many years, even though they are voted on as part of the annual budget.)

There are also the Non-Appropriated expenses of \$8.5 million as mentioned above.

FY2019 Revenues and Expenditures

Revenues

	<u>\$</u>	<u>% change</u>
Property Tax	224,477,804	6.2
Local Receipts	29,778,587	1.1
State Aid	21,642,592	6.3
Free Cash	8,498,193	1.7
Other Available Funds	7,272,679	108.9

Total Revenue \$ 291,669,856 6.8 %

Expenditures

	<u>\$</u>	<u>% change</u>
Departmental	186,955,102	5.1
Non-Departmental	82,857,500	7.5
Special Appropriations (CIP)	13,361,775	37.5*
<u>Non-Appropriated Exp.</u>	<u>8,495,477</u>	<u>2.0</u>
Total Expenditures	\$ 291,669,854	6.8 %

*Reflects use of \$2.4 million in bond premium funds and \$1.4 million from the Parking Meter Fund.

GROUP HEALTH AND BENEFITS

In FY2019, as in previous years, Employee Benefits (including Pensions, Workers’ Compensation, Unemployment, Life Insurance and Health Insurance) are one of Brookline’s largest expenses. In FY2019, these costs represent about 23% of our General Appropriation, roughly the same percentage as in FY2018, even though group health costs increased at a very slow rate (1.8%) this year.

Group Health

Health insurance now represents about 11% of the budget. For FY2019, the recommended appropriation is \$30.73 million, an increase of 1.8% over FY2018’s \$30.67 million. The FY2019 group health appropriation came in \$792,929 under what had been projected in the *FY-2019 Financial Plan*, resulting in a savings of \$349,058 for the town and \$443,871 for the schools. The state Group Insurance Commission (GIC) set this year’s rates at lower-than-expected level.

Total group health enrollment is estimated at 3,297 for FY2019, up from the estimated 3,257 in FY2018, divided almost evenly between active employees and retirees. Of the total, 1,896 (57.5%) are or were school employees, while 1,401 are or were Town employees. As enrollment grows and more teachers are hired, school employees are gradually becoming a larger proportion of group health enrollees.

Healthcare benefits have been a primary source of increases in Brookline’s budget since FY2000. For the third year in a row, Brookline has been fortunate to have a relatively small increase in group health costs. As the number of active and retired enrollees increases, the group health appropriation will consume a larger and larger share of Brookline’s budget.

Some savings in healthcare costs may be possible if Brookline can reduce the share of premium costs it pays on behalf of our employees. Under the current (expiring) negotiated agreement, the Town covers 83% of the cost, while employees cover 17%. The state-wide average is closer to 70% municipality/30% employee. Each 1% reduction in the Town’s share saves about \$300,000.

Any change in these percentages would have to be negotiated with the Town's unions. The Advisory Committee hopes that those negotiations can lead to savings.

- Retiree Health: OPEBs

Brookline has a significant obligation to provide healthcare benefits for its current and future retirees. As employees in the Baby Boomer cohort retire and live longer than previous generations, the number of retirees receiving healthcare benefits will continue to grow. These benefits are referred to as Other Post Retirement Benefits (OPEBs). According to the Segal Group, the unfunded liability for Brookline's retiree health obligation was \$280.7 million as of June 30, 2016, a significant increase since June 30, 2014, when it was \$198.3 million. The calculation of the liability will be updated on June 30, 2018. The increase partly reflects the fact that the actual rate of return on the fund's investments was lower than previous estimates.

After doing little to fund its OPEB obligations for many years, Brookline has been extremely proactive in controlling and funding this obligation. The Town has taken several steps to manage its OPEB obligations. Entering the GIC in FY2010 reduced the overall cost of healthcare benefits and also substantially reduced the unfunded OPEB liability. In the early 1990s, the Town adopted of Chapter 32B Section 18, enabling Brookline to reduce costs by moving retirees into Medicare coverage.

Brookline has established a post-retirement benefits trust fund to defray OPEB costs. As of January 1, 2015, the fund balance was \$25.4 million. Under Brookline's plan for funding its OPEB liabilities, annual trust fund contributions are appropriated from General Fund revenues (\$3.57 million) assessments on grants and special revenue funds (\$311,988), savings redirected from the non-contributory retirement health plan, and one-time revenues. Brookline's OPEB funding plan adds \$250,000 each year to the base contribution. The FY2019 contribution will be \$4.57 million, including an additional contribution of \$600,000 from Free Cash, which offsets the end of availability of Medicare Part D revenue.

After FY2030, when the pension fund is scheduled to be fully funded, Brookline will be able to accelerate OPEB funding by redirecting its pension fund contributions to OPEBs. Those contributions are expected to exceed \$30 million per year by then.

Brookline is among the few communities in Massachusetts that sets aside funds to cover its OPEB liability. We should congratulate ourselves for being fiscally responsible, but we also should bear in mind that Brookline's OPEB obligations are exceptionally large in both absolute and relative terms. After the next calculation, Brookline's unfunded OPEB liability probably will represent more than 100% of annual revenue. Even disciplined adherence to the current funding plan may not reduce our unfunded liability.

- Pensions

Brookline maintains a defined benefit pension system for Town and School employees, with the exception of teachers, who are covered by a state pension system. Many newer positions in the

Schools tend to be aides, and therefore may be eligible for the Town pension system. Currently, there are 3,578 employees (active, inactive, and retired) and their survivors in the Town pension system.

Brookline maintains a pension fund that was valued at approximately \$256 million on December 31, 2015, down from \$260 million on December 31, 2014. The next valuation and calculation of the unfunded liability will be available in 2018. Because returns on the fund's investments have been inconsistent in recent years, the unfunded liability has been increasing. After a 28% loss due to poor investment returns in 2008, the Town increased its annual contributions and extended the funding schedule so that Brookline will reach full funding in 2030 instead of the previous target date of 2028. The Retirement Board, which controls the pension fund, voted to reduce the assumed annual rate of return on investments from 8.15% to 7.75%, to 7.6%, and most recently to 7.4%. As the assumed rate is reduced, Brookline will need to appropriate more for pension fund contributions, which will increase pressure on other areas of the budget.

Brookline's FY2019 pension fund contribution will be \$23.17 million, a 7.8% increase over FY2018. This includes \$300,000 from Free Cash—an addition to the required contribution.

Brookline could mitigate the impact of being required to make larger pension fund contributions by extending its planned schedule for fully funding the pension fund. State law would allow Brookline to take until 2040 to fully fund the pension fund. That strategy, however, would mean that the Town would have to make OPEB contributions for longer than expected. The current fiscal strategy assumes that after Brookline fully funds its pension fund in 2030, the amount annually contributed to the pension fund would be instead be contributed to the Post-Retirement Benefits Trust Fund. At that point, annual pension fund contributions are expected to be approximately \$30 million. Redirecting these contributions toward OPEBs would enable Brookline to rapidly fund its OPEB liability.

THE SCHOOL BUDGET

In FY2019, the General Fund appropriation for the Public Schools of Brookline will be \$110,831,679, a 5.8% increase over the FY2018 appropriation of \$104,851,238. In addition, in order to comply with state law, the Town budget includes a separate appropriation of \$92,895 for vocational education assessments. This appropriation funds the cost of Brookline students' enrollment in out-of-district vocational schools. Combining it with the Schools budget brings the total education appropriation to \$110,924,574. Spending on the Schools, whether in the Schools budget or for school-related expenses in the Town budget, is actually considerably higher and accounts for about 60% of Brookline's appropriations. The Advisory Committee's report on the school budget (see below) offers an analysis of the FY2019 school budget.

THE OPERATING OVERRIDE

The operating override approved by Brookline voters on May 8, 2018, has a significant impact on the FY2019 budget, although the tax increases allowed under the override will

be phased in and will not fully take effect until FY2021. Almost all of the property tax increases will occur in FY2019 and FY2020.

What the Operating Override Will Fund

In FY2019, the operating override will increase property taxes by \$2,846,357, of which \$701,783 will be allocated to Town departments and \$2,144,574 will be allocated to the Public Schools of Brookline. These funds are scheduled to be appropriated as follows, according to the three-year funding plan voted on March 14, 2018:

Town

Repair and maintenance of Town buildings:	\$100,000
Geriatric social worker (part-time):	\$37,179
Library Facilities Position:	\$91,342
Brookline Village children's librarian:	\$62,429
DPW capital equipment replacement:	\$100,000
DPW snow equipment/streets & sidewalks:	\$100,000
Aquatics position:	\$58,049
Park and Open Space staffing:	\$17,119
Diversity and inclusion training:	\$20,000
Preservation position:	\$38,555
Planning Department sustainability position:	\$77,110

Schools

Repair and maintenance of school buildings:	\$200,000
Salary increases:	\$371,415
Classroom staff:	\$347,779
Transportation (in-district SPED students):	\$234,826
Transportation (regular education students):	\$53,560
504 supplies and services:	\$68,000
Response to intervention programs and practices:	\$100,000
Student support staff (Guidance, OT, PT, etc.):	\$237,495
BESA and custodian for BHS expansion:	\$71,165
Administrator support staff:	\$262,330
Financial assistance policy:	\$100,000
BHS transportation—South Brookline bus:	\$132,200

In addition to the increased revenues from higher property taxes, the overall override plan for FY2019 includes appropriating \$792,929 in group health savings, funds that became available when the GIC increased group health rates less than expected. These funds will not be generated by higher property taxes, but they are associated with the override as part of an overall package of funds to address departmental funding needs.

Town departments will receive \$349,058 in GIC savings—the amount estimated to be saved due to lower group health costs for Town employees. The Building Department will receive \$100,000 for the repair and maintenance of Town buildings. The Department of Public Works (DPW) will receive \$100,000 for capital equipment replacement and \$49,058 for snow equipment/streets & sidewalks.

The Public Schools of Brookline will receive \$443,871 in GIC savings—the amount estimated to be saved due to lower group health costs for school employees. Of this amount, \$409,675 will be devoted to classroom staff and \$34,196 will be transferred to the Building Department for the repair and maintenance of school buildings.

Strong Support for the Operating Override

The 2018 operating override passed with "yes" votes from 69.5% of voters who cast ballots (not including blanks). This electoral support for the 2018 override exceeds the level of support for the two most recent operating overrides. In 2015, 61.5% of those who voted (excluding blanks) voted for the operating override. In 2008, the operating override was separated into two tiers, Question 1A and Question 1B. Question 1A passed with 62.6% of the votes, Question 1B with 55.4%. The number of voters participating in the 2018 override was lower than in either 2008 or 2015. In 2008, 9,590 voters cast votes on Question 1A and 9,541 on Question 1B. In 2015, 10,283 cast votes on the operating override. In 2018, however, only 7,767 voters cast a vote on the operation override. (The decline seems even more dramatic when measured in terms of voter turnout, which fell from 33.96% in 2008 to 29.82% in 2015 before falling even further to 22.29% in 2018. This comparison is misleading, however, because the number of registered voters has been increasing even as overall population has remained about the same.)

Overrides and Bond Ratings

During the campaign for the General (operating) Override and the debt exclusion override, it was argued that passage of the overrides would help the Town's bond rating. This is probably true for the vote on the operating override. The most recent reports on the Town's bond rating point to passage of overrides as evidence of Brookline's financial stability and flexibility. Moody's, in its March 5, 2018, report observes: "Maintenance of the town's very stable financial position over the long term will likely require ongoing taxpayer support of general overrides and debt exclusions." The Standard and Poor's report of March 5, 2018, however, focuses on operating overrides, stating, "the town has an ability and willingness to raise taxes when needed, which we view as a positive credit factor...if the town is unable to secure a voter-approved operating override when required to maintain financial balance, we could revise our view of its flexibility..." On the other hand, the Standard and Poor's report expresses concern about Brookline's increasing debt burden: "Negatively affecting our view of the town's debt profile is its significant medium-term debt plans." As Brookline increases its debt as the result of further borrowing financed by further debt exclusions, Standard and Poor's may revise the Town's bond rating.

Assessing the Override: An Advisory Committee Perspective

In February 2018, the Advisory Committee by a vote of 16–5–2 adopted a resolution that urged the Select Board to put on the ballot an override question that would raise property taxes by \$3.5 million in FY2019 and to appoint a committee to analyze revenues and expenditures to determine the need for further operating overrides. That resolution was adopted shortly after the Override Study Committee delivered its report with a recommendation for a three-year override that would increase property taxes by up to \$11.7 million.

The Advisory Committee resolution was based on five principles: (1) the need for an override; (2) the need to consider overall capacity to pay; (3) the need for a balance between town and school expenditures; (4) the need for diversified revenue sources; and (5) the need for further analysis before proposing a larger override

How does this actual override as voted in May 2018 compare to the principles underlying the Advisory Committee resolution?

- The need for an override: The override as voted obviously reflects a recognition that an operating override will be necessary to fund the FY2019 budget. Members of the Advisory Committee, many of whom are parents of current and former students in Brookline's schools, understand the need to increase taxes for the schools and for town departments. The override approved by the voters, however, is for a cumulative total of approximately \$6.6 million over three years (with \$2.8 million and \$3.3 million coming in FY2019 and FY2020, respectively.), as opposed to the Advisory Committee's recommendation of a \$3.5 million override in FY2019.
- The need to consider overall capacity to pay: The Advisory Committee was concerned that any override take into account the ability of Brookline's taxpayers to pay the cumulative cost of tax increases associated with the Devotion School debt exclusion (an estimated 1.66%); the Brookline High School debt exclusion (an estimated 5.6%); an operating override; and a debt exclusion for a ninth elementary school or other projects to increase classroom capacity. The Committee also recognized the need to take into account the slow or stagnant growth of household incomes in Brookline since 2010—as documented in the Override Study Committee Report; the rapid growth in the number of Brookline residents who are 65 and older—also documented by the Override Study Committee—and the fact that many elderly residents have incomes well below the median; and the need to limit the size of the May 2018 override in order to ensure that taxpayers will be able to afford the next override, which could be on the ballot in three years. The May 2018 override as voted is considerably smaller than the maximum override recommended by the Override Study Committee: \$6.6 million versus \$11.7 million, which represents a 3.1% increase in real-estate taxes instead of 5.5%. Thus it reflects some recognition that the operating override needs to be considered in the context of the debt exclusions and annual increases that Brookline taxpayers will be asked to pay in the next three years.

- The need for a balance between funding town and school expenditures: The Advisory Committee believes that an operating override should fund the budgets of town departments, as well as the Public Schools of Brookline, for three reasons. First, this is a matter of equity. All Brookline taxpayers will pay the increased taxes. Taxpayers who do not directly benefit from higher spending on the schools may benefit from override-financed spending on recreation or snow removal, for example. Second, some town departments have been under-funded and are overdue for budget increases. For example, the Department of Public Works has had a level-funded equipment budget for many years. Third, it is important to repair and maintain the town's capital stock by, for example, adding to the Building Department budget. The May 2018 override funds town and school programs. In most cases, it funds the town budget expansion requests that the Town Administrator submitted to the Override Study Committee, as well as many of the proposed increases in the school budget. The Advisory Committee welcomes the funding of town departments and, in particular, strongly supports the increased funding for the Building Department, which needs more funds for the repair and maintenance of public buildings.
- The need for diversified revenue sources: Diversifying the overall package of new revenues associated with an override can reduce the tax burden on Brookline property-owners. In its February 2018 resolution, the Advisory Committee resolution thus recommended identifying approximately \$2.1 million of non-real-estate tax revenues. Possible sources include taxes on recreational marijuana sales, increased parking meter rates, and increased parking and refuse fees. Brookline also may be able to tax short-term rentals, such as AirBnB, although that remains uncertain. The May 2018 override includes just under \$2.1 million in revenue from sources other than real-estate taxes, almost exactly the same amount as recommended in the Advisory Committee resolution. All of this revenue would be generated in FY2021, the third year of the proposed financial package. That means that there would be time to identify sources of revenue and to, for example, assess the potential but uncertain revenue from, for example, recreational marijuana.
- The need for further analysis before proposing a larger Override: Although the Advisory Committee called upon the Select Board (then the Board of Selectmen) to appoint an Override Study Committee in February 2017, the Committee was not convened until October 2017. That delay meant the Override Study Committee did not have enough time to consider every issue, and key staff members were focused on developing the FY2019 budgets for the Town and the Public Schools of Brookline. Thus the February 2018 Advisory Committee resolution recommended that the Select Board appoint a committee to further analyze questions that were not addressed by the 2017–2018 Override Study Committee, including but not limited to steps that Brookline could take to reduce or eliminate the projected long-term structural budget deficit through Fiscal Year 2025. So far, the Select Board has not appointed a committee to take a detailed look at Brookline's long-term budget outlook. The Advisory Committee has reiterated its recommendation that such a committee be appointed. This issue is discussed in detail below as part of this report's analysis of the long-term budget outlook.

NEW PROGRAMS AND NEW INITIATIVES IN THE FY2019 BUDGET

The FY2019 budget features several new initiatives and programs by town departments. The increased revenues generated by the May 2018 override, as well as savings due to lower-than-expected group health costs, have enabled the Building Department to devote more resources to the repair and maintenance of public buildings and the Department of Public Works to acquire new equipment. The override revenues also fund positions that directly serve the public at popular community facilities (the library and the pool), as well as a sustainability coordinator who can further Brookline's goals as a Green community.

Street Rehabilitation: The Capital Improvements Program includes \$3.11 million for street rehabilitation, an amount that was increased by \$1.4 million transferred from the Parking Meter Fund. This large increase will help to improve the condition of Brookline's roadways.

Credit Card Processing: Convenience Fees: As more and more payments to the Town are made by credit card, Brookline has had to bear the cost of the fees associated with those transactions. These costs have added to the budget at a time when budgets have been tight. The Town has decided to adopt a policy of imposing convenience fees on credit card and electronic transactions to reduce the cost of such transactions to the Town.

GARE and Diversity Training: Recognizing the need to increase diversity, end discrimination and achieve racial equity, Brookline has become a member of GARE (Government Alliance for Race and Equity) and added funds for diversity training—including \$20,000 in override funds.

School Strategic Initiatives: The May 2018 override funds allocated to the Public Schools of Brookline are largely devoted to addressing enrollment growth, but they also make it possible for the schools to invest in a limited number of strategic initiatives. For South Brookline students attending Brookline High School, the most noticeable will be a bus to the high school. Other initiatives include restorative justice training, Anti-Defamation League training, and training in Response to Intervention practices.

Some requests for new initiatives or new positions were not funded with override or other revenues. For example, the Town Clerk's office requested an archival FTE for retention and storage of records and documents, but this position was not created. Neither the GIC (group health) savings nor the override revenues fund additional firefighter positions. That question may be revisited after the new Fire Chief has set his budgetary priorities.

CAPITAL IMPROVEMENTS PROGRAM (CIP)

Brookline's Capital Improvements Program (CIP) is funded by setting aside 6% of the prior year's net revenue for capital projects and supplementing this amount with Free Cash so that the total CIP funding is 7.5% of the prior year's net revenue. This policy has served Brookline well, enabling the Town to invest consistently in its public facilities. CIP funds

have been used to renovate or expand many of Brookline's public buildings, schools, parks, and other facilities in recent years. CIP funds are also used for the construction of new facilities, such as the Fire Department's training facilities and a potential ninth elementary school. The Town's CIP policies prevent the "shabbification" of Brookline's public assets and protect the Town's investment in its capital stock.

Brookline High School Renovation and Expansion

The most prominent item in the FY2019 CIP is the expansion of Brookline High School (BHS). That project has a total cost of \$205.6 million. Of that total, \$189.2 million will be funded by the FY2019 CIP. Of this amount, \$186.8 will be funded by borrowing in the FY2019 CIP, with an additional \$2.4 million in cash to be transferred from the bond premium account. A total of \$16.4 in borrowing already has been authorized to finance acquisition of the property at 111 Cypress Street. (Funds raised by the May 2018 debt exclusion vote will be used to finance bonds for the \$16.4 million plus an additional \$151.8 million, a total of \$168.2 million.)

The total cost of this project has grown since the Advisory Committee reported in the May 2017 Combined Reports (p. 9-82) that the estimated cost of a new High School building at 111 Cypress Street was \$105,342,903–\$136,612,807. That cost did not, however, include the cost of acquiring 111 Cypress Street, renovating the Tappan Street gym, improving Cypress Field, and other costs that are now included in the overall cost of the BHS project.

In its May 2017 report on the FY2018 budget and the chair's budget speech to the May 2017 Annual Town Meeting, the Advisory Committee estimated that the BHS expansion project would require a debt exclusion override of \$150 million plus the use of \$35 million in available CIP funds. Those estimates are only slightly below the current estimates of \$168.2 million in debt exclusion override funds plus \$35 million in other CIP borrowing and \$2.4 million in bond premium funds. The Advisory Committee also was aware that cost estimates of other options for improving and expanding Brookline High School ranged as high as \$348,352,647 in April 2017 and almost certainly would have grown in the past year. The proposed BHS expansion will be the most expensive CIP project in the Town's history, but the projected cost remains lower than the estimated cost of the alternatives.

Ninth Elementary School/Other Measures to Expand Classroom Capacity

The CIP continues to include funds for feasibility studies and schematic design for a 9th elementary school or a multi-site solution to the problem of classroom capacity. During the past year, Dr. Joseph Connelly has been leading an evaluation of many potential sites. The current timetable calls for presentation of the study's findings on May 17 and selection of a preferred site or sites during the week of June 18.

Other School Projects

- Driscoll School rehabilitation features \$4,000,000 for a new, energy-efficient HVAC system.
- Classroom climate control for parts of New Lincoln, Lawrence, and Heath
- Leased space at various locations to add to classroom capacity

Street Rehabilitation

The CIP includes \$3.11 million for street rehabilitation, an amount that includes an additional \$1.4 million recommended by the Advisory Committee. Brookline will be implementing a Complete Streets policy, which may increase street rehabilitation costs unless grants are available for Complete Streets projects. There is backlog of over \$20 million in roadway repair and maintenance. A recent report by Stantec Consulting Services recommended that funding be increased to \$3 million per year to keep the roads in good condition and the backlog under control. It remains to be seen whether future budgets can sustain this level of funding.

Parks, Open Space, and Recreation

- Larz Anderson Park, including restoration of the lagoon area and emergency repairs to the ice rink
- Aquatics Center—new filtration system
- Cypress Field—to be renovated in conjunction with the BHS expansion project, either with a grass or artificial surface

Public Safety

- HVAC upgrades in data centers
- Updates for the computer aided dispatch (CAD) system
- Renovations at Station 4 (corner of Route 9 and Reservoir Road)

The Advisory Committee has provided detailed descriptions of each of the many projects in the FY2019 CIP (Special Appropriations 35–71) in its report on Article 7. (See pp. 7-36 – 7-59 of the Combined Reports.) Town Meeting may take a separate vote on any one of these items. It must take a separate vote for any bond-financed special appropriation; those appropriations require a two-thirds majority. This year, the Advisory Committee voted on the special appropriations separately and supported funding all of these CIP items by a unanimous vote of 24–0–0.

ADVISORY COMMITTEE REPORT TO TOWN MEETING ON THE PUBLIC SCHOOLS OF BROOKLINE FY2019 BUDGET

This report covers four topics: (1) The Advisory Committee's recommendations to Town meeting and a separate recommendation to the Select Board; (2) A high-level view of how the Schools spend operating funds; (3) the override aspects of the FY2019 School operating budget; and (4) the long-term structural deficit.

Recommendations

When it considered the FY2019 budget for the Public Schools of Brookline, the Advisory Committee voted 13–9–1 to recommend Town Meeting’s approval of the “override” operating budget of \$110,831,679 for FY2019. The recommendation was contingent on approval by the voters of the operating override on the May 8, 2018, ballot. At least some of the “no” votes reflected dissatisfaction with the fact that the override includes funds for FY2020 and FY2021, not just for FY2019. This dissatisfaction is based on concern that there has not been enough work done on studying the need for additional funds in those two years.

The Advisory Committee is very concerned about the prospect of continued requests for operating overrides, and about the long-term structural deficit the Brookline faces. Therefore, at the same time that it voted to recommend the FY2019 school budget, the Advisory Committee also voted to recommend that the Select Board appoint a committee or task force by June 30, 2018 to identify ways to reduce the structural deficit, and that the committee be instructed to provide a preliminary report by November 1, 2018 and a final report by April 1, 2019.

The School Budget and Overall Spending on Schools

The \$110.8 million in operating funds is not the total amount spent on school operations. When grants, receipts from revolving funds, and expenses attributable to the schools but accounted for on the town side of the budget are included, the total amount for FY2019 is \$160.8 million. The table below shows the detail. Eighty-seven percent of the budget is related to personnel costs. Approximately 85% of the budget is related to instruction.

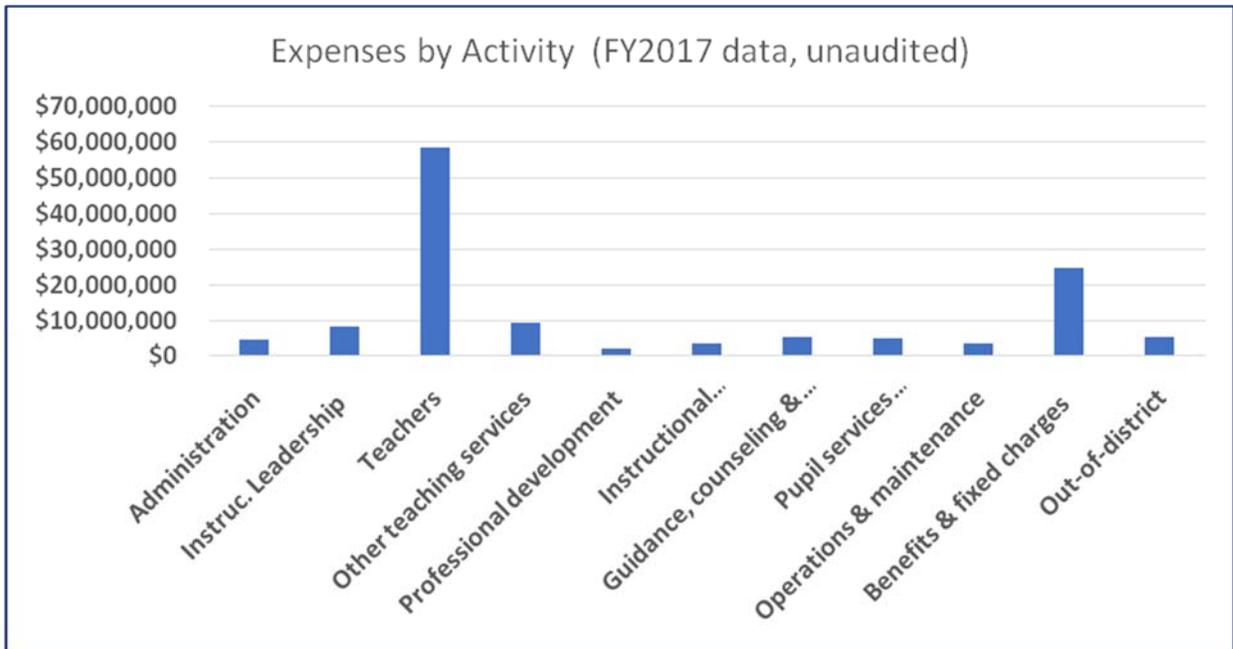
Revenue

The following table lists the revenues from a variety of sources that support this level of school-related expenditure:

Source	Total
Town Meeting appropriation	\$110,831,679
Tuition & fees	\$696,016
Circuit breaker funding	\$1,688,705
Revolving fund reimbursements	\$150,680
Other sources	<u>\$358,680</u>
Subtotal School revenues	\$113,725,760
Grants and revolving funds	\$14,447,760
Benefits attributable to the Schools (Town FY19 Plan, p. IV-139)	<u>\$27,690,841</u>
Building services attributable to the Schools (Town FY2019 Plan, p. IV-59)	\$4,966,632
Subtotal - Non-School sources	\$47,105,233
Total, all sources	\$160,830,993

One factor affecting the size of the operating budget request is a \$1,236,295 drop in the amount of “Circuit Breaker” reimbursement anticipated from the State. Circuit Breaker funds offset the high cost of support for Special Education students, primarily but not exclusively those placed out of district. The Legislature reduced circuit breaker funding from 70% of those costs in FY2018 to 65% for FY2019, well below the promise of 75% that is included in the legislation. As a result, the Public Schools of Brookline have to cover a shortfall of \$1.2 million, an amount that needs to be made up by some combination of cuts and alternative sources of revenue.

Expenses



Meanwhile, the FY2019 budget continues the shift toward better organization and improved transparency that we have seen in FY2017 and FY2018. A close reading of the budget provides a useful and comprehensive picture of what the taxpayers are getting for their money. Each department's activities are explained and the associated costs are listed—with the unfortunate omission of the cost of benefits. (Those benefits are carried on the Town budget, as noted above.)

For example, the description of the Office of Professional Learning's program and budget includes the office's objectives and accomplishments, and in the following pages, the budgets and activities of each of the departments reporting to the Office are explained.

Similarly, Special Education, which accounts for more than 21% of total spending, is explained in detail in its own section.

The Override Budget

Below is a one-page summary of the sources and uses of override funds, including funds for both the Town and Schools, projected out through FY2020 and FY2021. The override budget enables the Schools to avoid cutting programs and positions in order to cover the costs of increased salaries agreed in the labor contracts signed in 2017—with broad public support. The “no-override” budget prepared by the Schools cut \$2,019,574 from the operating budget. Since personnel costs account for 87% of the budget, the major impact of the non-override budget would have been on staffing levels. The second chart shows which programs or line items would have been cut in a no-override budget and which are included or changed in the override budget.

One impact is that the Office of Strategy and Performance would lose three full-time-equivalents (FTEs). Even with passage of the override, one FTE will be cut. That office has been a lightning rod for adverse comments about the cost of administration. Those comments reflect a misunderstanding of what the office does and why it is important.

The Office of Strategy and Performance has the responsibility of answering the question, “How are our students doing?” Importantly, one of the Advisory Committee's recommendations is to ask the Schools to look at the outcomes from the full range of special programs as a way of prioritizing the funding of those programs. The Office is a data analysis operation, and the output it provides to the School Committee, PSB staff, and the community as a whole is a key tool for assessing outcomes and managing a \$160 million enterprise.

If the Select Board accepts the Advisory Committee's recommendation to appoint a committee to identify ways to close the long-term structural budget deficit, the data the office provided by the Office of Strategy and Performance will be very important.

The override funds allocated to the Schools will cover the cost of increased wages as agreed with the Schools' employees, the added cost of increased enrollment, and \$337,200 to fund

new programs and expand existing programs—most notably the addition of buses for Brookline High School students from South Brookline at a net cost of \$117,200. (The \$207,200 cost of busing would be offset by a per student fee equal to 50% of the anticipated per student cost.)

3 Year Override Funding Plan

4/25/18

3 Year Funding Plan by Source of Funds		FY 2019 No Override	FY 2019 Override	FY2020 Override	FY2021 Override	Total Override	New Revenue	3 YR Total
	<i>School Department</i>		\$ 1,944,574	\$ 3,139,505	\$ 389,563	5,473,642	5,873,642	}
	<i>Public Buildings</i>		200,000	200,000	-	400,000		
	<i>Municipal Departments</i>		701,783	-	-	701,783		
Proposed Tax Levy Override			2,846,357	3,339,505	389,563	6,575,425		
	<i>Town GIC Portion</i>		\$ 349,058	-	-	\$ 349,058	443,871	}
	<i>Public Buildings Portion</i>	34,196	34,196	-	-	34,196		
	<i>School Department Portion</i>	409,675	409,675	-	-	409,675		
Employee Health Insurance Savings (GIC)		443,871	792,929	-	-	792,929		8,375,132
	<i>Public Facilities Portion</i>	75,000	75,000	-	-	75,000		
	<i>BHS Busing - Local Receipts</i>		75,000	-	-	75,000		
	<i>School Department Portion</i>	3,534,891	3,644,085	3,399,413	3,634,633	10,678,131		
Town/School Partnership Revenue		3,609,891	3,794,085	3,399,413	3,634,633	10,828,131	2,057,619	
Non Property Tax Revenue							2,057,619	
School Revenue Offset		(1,236,295)	(1,236,295)	21,507	22,152	(1,192,636)		
Totals		2,817,467	6,197,076	6,760,425	6,103,967	19,061,468		
Allocation of 3 Year Funding Plan								
Town Uses Of Funds								
Infrastructure								
	Repair and Maintenance of Buildings		200,000			200,000		
	DPW Capital Equipment Replacement		300,000			300,000		
	Snow Equipment/Streets Sidewalks		149,058			149,058		
	Total Infrastructure		649,058			649,058		
Services								
	Library		153,771			153,771		
	Recreation		58,049			58,049		
	Senior Center		37,179			37,179		
	Planning (Perservation and Sustainability)		115,665			115,665		
	Diversity,Inclusion and Community Relations		20,000			20,000		
	Parks and Open Space		17,119			17,119		
	Total Services		401,783			401,783		
			1,050,841			1,050,841		
Infrastructure: Maintenance of School Buildings								
	Public Buildings Division - Select Board Override Funds		200,000	200,000	-	400,000		
	Public Buildings Division - SC Town/School Partnership	75,000	109,196	-	-	109,196		
		75,000	309,196	200,000	-	509,196		
School Uses of Funds								
Maintenance of Effort								
	Current Staff (+2%COLA, +3%Steps, -Turnover Savings)	3,327,535	3,645,718	4,251,695	4,338,780	12,236,194		
	Reclassifications, Reductions, & Efficiencies	(2,434,724)	(1,203,933)	-	-	(1,203,933)		
	Special- and Regular Ed Transportation Contracts	288,386	288,386	57,886	58,754	405,026		
	504 Services and Supports	68,000	68,000	-	-	68,000		
	Supplies/Misc	44,270	44,270	68,337	36,983	149,590		
	Financial Assistance	175,000	175,000	-	-	175,000		
	Program Review (Math FY19 & FY20)	-	-	371,880	-	371,880		
	Projected Tuition Increase	-	-	300,000	300,000	600,000		
		1,468,467	3,017,441	5,049,798	4,734,517	12,801,756		
Enrollment Growth								
	Classroom Staff, Nurses, Guidance, ELL/Other	884,000	884,000	901,680	1,273,450	3,059,130	8,375,134	
	Maintain Educational Leader Ratio of 250:1	240,000	240,000	120,000	96,000	456,000		
	Overmax Aides BESA and Custodian for BHS (OLS, then move to New Bldg)	60,000	193,400	60,000	-	253,400		
		1,184,000	1,317,400	1,081,680	1,369,450	3,768,530		
Strategic New Investments								
	Sr. Director for Equity and PD for Equity and Restorative Justice	65,000	195,000	280,000	-	475,000		
	BHS Transportation - South Brookline Bus	-	207,200	-	-	207,200		
	Response to Intervention Programs and Practices	100,000	100,000	-	-	100,000		
	Pending Contract Negotiations: Add. Funds for Para Wages	-	-	148,947	-	148,947		
		165,000	502,200	428,947	-	931,147		
	Total Schools Budget Increase	2,817,467	4,837,041	6,560,425	6,103,967	17,501,433		
	Town/School Partnership Revenue	(2,817,467)	(2,482,790)	(3,420,920)	(3,656,785)	(9,635,495)		
	Net New Revenue Required (All Sources)	-	2,354,251	3,139,505	2,447,182	7,865,938		
Town Appropriation								
	School Revenue Offset	108,812,105	110,831,679					
	New School Committee Budget	2,894,081	2,894,081					
		111,706,186	113,725,760					

School Uses of Override Funds		FY 2019	FY2020	FY2021	Totals	
Maintenance of Efforts						
	<i>Portion of Salaries Covered by Override</i>	1,237,926	830,775	681,995	2,750,697	33%
	<i>General Expenses</i>	400,656	498,103	95,737	994,496	12%
	<i>Financial Assistance</i>	175,000	-	-	175,000	2%
	<i>Special Education Tuition Increase</i>	-	300,000	300,000	600,000	7%
Enrollment		1,317,400	1,081,680	1,369,450	3,768,530	45%
Strategic Investments		427,200	428,947	-	856,147	10%
Infrastructure		234,196	200,000	-	434,196	5%
Efficiencies		(1,203,933)	-	-	(1,203,933)	-14%
Total Override Funds		2,588,445	3,339,505	2,447,182	8,375,132	100%

FY19 School Budget - Override vs. Non Override Summary			
Advisory Committee School Subcommittee 4/3/2018			
Edited Deputy Supt Admin & Finance for 4/10/2018			
X = budget cut from base	0 = no funding		✓ = New Funding or Restored Funding
	No override	Override	Notes
Maintenance of effort	\$1,468,467	\$3,017,441	
Contract obligations, net of turnover	✓	✓	Efficiencies include reclassification of positions, moving appropriate charges to revolving funds, reducing for known savings in out of district tuitions, professional development, and program modification
Cuts from efficiencies	✓	✓	
Family Enrollment & Comm. Specialist	X	✓	No override means reduced ability to support families with registration; eliminates paraprofessionals in large classes; eliminated LAHB support at Driscoll; reduces ability to support increased request for student learning data (outcomes data); eliminate. support for fragile adolescents; Only BHS Secy is funded in Non-Override scenario; No override means increased class sizes, reduces student:teacher ratio in several schools; less paraprofessional support; less professional development; postpones technology purchases to replace worn out devices; supplies 2.5% increase not adjusted for Enrollment; funding for targeted support & funding for basic supplies; and reduces ability manage large capital projects, and one time expenses
BEEP Reg. Specialist	X	✓	
Support @ Driscoll for LAHB program (Driscoll Inclusion Specialist)	X	✓	
Mandated in-district special education transportation	✓	✓	
Transportation contract cost increase	✓	✓	
OverMax Aides (unfunded)	0	✓	
Data analyst	X	✓	
10 paraprofessionals (for large classes)	X	✓	
3.0 FTE school-based special education & classroom teachers	X	✓	
3 Instructional Coaches for teachers	X	✓	
Sec'y & custodian for BHS expansion	X	✓	
Funding for financial assistance policy	✓	✓	
Program Review Materials (FY20)	0	✓	
504 services & support	✓	✓	
ADL training for middle grades	0	✓	
Maintain technology investments	X	✓	
Supplies budget increase	✓	✓	
Accreditation process for BHS	0	✓	
Student Services Supports to Regular Education Students: Eliminate 8.0 FTEs (may be updated)	X	✓	
Enrollment Growth	1,184,000	1,317,400	
10 add'l classroom teachers - 3 @ K-8; 7 @ BHS	✓	✓	
3.0 FTE nurses, guidance and ELL	✓	✓	
Maintain leader ratio of 250:1; adds Lawrence VP & BHS Assoc. Dean	✓	✓	
New Programs/Expansions	165,000	502,200	
Equity Leadership and imbedded Professional Development	0	✓	No override eliminates coord. with schools on prof. development & educational equity; busing for S. Brookline; ; eliminates funding for eliminates renewal of BHS accreditation
Restorative Justice program	0	✓	
South Brookline busing	0	✓	Introduces Fee Based Busing for BHS students
Response to Intervention Programs & Practices	✓	✓	Professional Development
Paraprofessional wages	0	✓	
Accreditation process for BHS	0	✓	One Time Expense
	2,817,467	4,837,041	
Public Buildings Div. funding	✓	✓	
	75,000	309,196	
	2,892,467	5,146,237	
GENERAL NOTES:			
1. Remember that the subcommittee and AC will be reporting on the entire school budget request of \$111,815,382 (no override) or \$113,782,256			
2. The budget as presented does not include state aid, grants and revolving funds on the receipts side, and it does not include the aggregate cost of benefits or school building maintenance on the expenses side.			
3. The long-term Town budget does not include a potential increase in state aid to school districts. Changes in the allocation formula would favor Brookline in FY19 and beyond.			
4. The final version of the enrollment projection is due; for the moment the budget includes the preliminary projections that have been widely circulated. Nothing suggests that the current trend will reverse; the students who will drive overcapacity at BHS are already in the K-8 schools.			
5. The proposed override will not eliminate the long-term structural deficit. Possible solutions include a significant increase in non-tax revenue, or an increase in the non-residential tax base; or a re-thinking by the School Committee and residents of priorities such as class size, classroom equity; and increased compensation for the cost of educating non-resident students			

The Schools and the Structural Deficit

Both the Public Schools of Brookline and the Town forecast an ongoing, widening structural deficit. There is nothing new about the forecast of future deficits except for one important distinction: this time, they appear to be real. Looking back twenty years, a steady regime of belt-tightening and occasional bump-ups in revenue from new construction, other sources, and the 2008 operating override, kept budgets in balance for long periods, until the strain resulting from the 2.5% limit on annual increase in the real estate tax levy resulted in operating overrides in 2015 and 2018, with a further override possible in 2021.

Currently, increasing school enrollment is the main driver of the structural deficit. Just as happened in 2015, today we are looking at an operating override that will cover only three years of future School budget deficits. With such a short interval between going to the voters, we face the prospect of living from override to override, a condition that is as unsatisfactory as living from paycheck to paycheck.

One important question is whether future kindergarten enrollments will continue at the current level of approximately 600 to 625 students. On April 1, the Schools issued the 2017–18 Enrollment Projection Report detailing both the forecast for the next ten years and the method for developing that forecast. The projection is based on actual Brookline birthrates for FY2019–2023 and on future birthrates for the out-years.

Thus, the children who will enroll in kindergarten over the next four years have already been born to mothers living in Brookline. The children who are expected to enroll in FY2024 and beyond are projected to be born at the average Brookline birthrate for the past three years, or 615 births per year. It is hard to argue with the proposition that children who are already born to Brookline mothers are likely to enroll in Brookline schools. Brookline birthrates have been stable and show no signs of declining.

The voters have been strong supporters of their schools, as shown by the high percentage of votes in favor of recent overrides, and the reputation of Brookline schools has been one of the key factors in pushing real estate values up. Based on asset values, Brookline voters can afford to pay for the 2018 override and for overrides beyond, but high appraisals do not pay tax bills. Even if real estate values continue to advance, property owners will see escalating tax bills. At some point, even in Brookline, it will become difficult to sustain the cycle of repeated overrides. It is worth remembering that in 2008, the same year Brookline voters approved a \$6.2 million override, Newton voters turned down a \$12 million override for the school operating budget.

The potential consequences of a steady stream of overrides is an issue that demands our attention. As noted by the bond rating agencies, predictability of revenue is one of the keys to Brookline's financial stability, and it is not rational to assume that voters will continue to approve overrides every few years into the foreseeable future.

Possible solutions include a significant increase in non-tax revenue, commercial development that would result in an increase in the commercial tax base, continued efforts to improve operating efficiency, a re-thinking by the School Committee and residents of how to achieve such priorities such as class size and classroom equity, and increased compensation for the cost of educating non-resident students.

We emphasize that asking the School Committee to consider priorities is not asking for a reconsideration of principles. A principle is not subject to compromise, but priorities may be.

Brookline schools offer a wide range of programs, each of which has a cost and a set of outcomes. Superintendent Bott explained to the subcommittee that the START, whose outcomes were not up to expectations, has been dropped from the FY2019 budget for a reduction of \$177,268. The Advisory Committee recommends that the School Committee and Superintendent continue to look carefully at outcomes to consider which programs merit continued support, and whether budget priorities need to be adjusted as part of the effort to reduce the structural deficit.

Both METCO and the Materials Fee program continue to draw questions about their cost and whether they are appropriate, given the stress on classroom capacity. The 2017–18 Override Study Committee (OSC) estimated that the cost of educating each METCO student exceeded the State's reimbursements by \$9,967 for a total operating cost of \$2,990,128 for 300 students. The OSC estimated that the net cost of educating each Materials Fee student is \$10,712 for a total program operating cost of \$1,713,984 for 160 students. Some Advisory Committee members argue that these estimates do not include capital costs and are too low.

The School Subcommittee of the Advisory Committee has consistently supported the continuation of METCO at its current level. The Advisory Committee accepts the rationale for the Materials Fee Program, although not necessarily the size of the program. However, there may be ways to narrow the substantial gap between the cost of these two programs and the reimbursement the Town receives, including raising tuition for Materials Fee children and working with other municipalities to extract an appropriate rate of reimbursement for the cost of METCO. There are also more complex approaches to study. For example, it may be possible for Brookline to adopt a policy of accepting any non-resident student on a space-available basis and receive statutory reimbursement from that student's home city or town, thereby capturing a substantial portion of the cost of Materials Fee students, and possibly even METCO students.

More generally, it may also be time to have a conversation with the Town and School employees regarding the 83% contribution Brookline makes to medical insurance. Employees and their representatives may need to decide whether protecting that level of contribution is more important than protecting jobs.

LONG-TERM BUDGET OUTLOOK

The May 2018 operating override and associated revenue increases will enable Brookline to balance its budget, cope with increased school enrollment, and add some new programs and initiatives during the next few years. The long-term budget outlook, however, remains a cause for concern. In the not-too-distant future, Brookline will again face potential deficits and the need to make difficult choices.

Every year the Town Administrator's Financial Plan projects a long-term structural deficit. In the presentation of this forecast, there is usually a graph showing expenditures and revenues. The line for expenditures always goes up faster than the line for revenues, suggesting that there is a structural deficit. In the *FY-2019 Financial Plan*, the long-range financial projection shows an "escalating deficit position." The projected deficit emerges in FY2020 at about \$3.6 million and balloons to \$17.2 million in FY2023. These projections do not take into account the increased revenue from the May 2018 operating override, and they are generally based on very conservative assumptions about revenue growth. Nevertheless, even the best-case scenario would probably involve a significant deficit. The May 2018 operating override is projected to enable the Town to balance its budget for only three years. Starting in FY2022, there will probably be a projected budget deficit. Moreover, such projections of the impact of overrides and related revenue increases are often too optimistic. In the third year after passage of the May 2015 override, for example, revenues fell short of expectations and the school budget started to show a likely deficit, requiring some budget cuts and a FY2018 shift of \$770,430 from town departments to the schools via the Town/School Partnership.

Budget Challenges will Remain Even if School Enrollment Growth Slows Down or Stops

It is possible that Brookline's long-term structural budget deficit will be reduced or eliminated if the town's school-age population grows at a slower rate or declines. If that happens, Brookline might face a much better budget outlook. We should not, however, base Brookline's financial plans on an optimistic assumption that may turn out to be wishful thinking. Moreover, even if school enrollment levels off or falls there are many reasons why Brookline may face budget challenges during the next decade.

First, inflation may increase. After remaining at or below 2% for several years, the Boston Consumer Price Index (CPI) rose at a 3.6% rate from March 2017 to March 2018. (These are the latest figures available as of early May 2018.) Even if volatile food and energy prices are excluded, the Boston CPI increased at a 2.6% rate during this period. If inflation continues to accelerate, Brookline will need to spend more on many budget items,

including personnel costs that are determined through collective bargaining. The long-range financial projection in the *FY-2019 Financial Plan* assumes that unions will receive 2% annual wage increases. Higher inflation will also translate into higher bids for capital projects and higher construction costs.

Second, interest rates may continue to go up. Interest rates have been at or near historic lows for almost a decade. They have begun to rise. If this trend continues, Brookline's borrowing costs will increase. Although the town will earn more interest income, such earnings probably will not offset the increased debt service costs of major capital projections such as future school renovations or expansions.

Third, the long period of U.S. and global economic expansion that began after the Great Recession of 2008 will eventually end with another recession of uncertain magnitude. If there is a recession, state aid to Brookline is likely to decline. During the last recession, net state aid to Brookline fell from \$10.81 million in FY2009 to \$6.48 million in FY2012, and did not exceed the FY2009 level until FY2016. The *FY-2019 Financial Plan* assumes that state aid will increase by 2.5% each year. A recession also would reduce many of Brookline's other revenues, including new growth in the property tax levy, building permits, meals and lodging taxes, and parking meter receipts—and maybe even any revenue received from taxes on the sale of recreational marijuana.

Fourth, group health costs could increase more rapidly. The FY2019 increase in insurance rates set by the Group Insurance Commission (GIC) is remarkably low. Future increases are likely to be higher. The *FY-2019 Financial Plan* prudently assumes annual health insurance rate increases of 5%, but a decade ago annual rate increases often exceeded 10%.

Fifth, appropriations for pension obligations, which are already scheduled to increase during the next decade, may have to increase even more if the rate of return on pension fund investments declines. After the significant appreciation in the stock market since 2009, it may be unrealistic to expect high returns for next 5–10 years. Brookline also may need to make much larger contributions for retiree health benefits (OPEBs). In its report on Brookline's bond rating, Standard and Poor's noted that in FY2017, Brookline's contributions to the Town's OPEB trust fund fell about \$8.5 million short of the annual contribution that would put Brookline on track for fully funding its OPEB liability. The annual shortfall between now and FY2026 is estimated at \$7–8 million.

Finally, the Town may need to make a large investment to maintain its physical plant, which includes 45 public buildings valued at an estimated \$135 million. The Building Department's Public Buildings Division reports that the backlog of deferred maintenance for school buildings is now \$16.7 million. Yearly preventative maintenance costs continue to increase as new buildings are added and existing buildings are expanded. When existing and planned school construction projects are completed, the total square footage of school buildings will have increased by 25%. A 2016 report by an outside consultant found that the Public Buildings Division lacked the FTEs to carry out its functions. The Building Department requested an additional \$775,000 for FY2019 for school building repair and

maintenance. Although it did not receive this amount, the allocations from override funds and GIC savings will enable it to perform more repairs and maintenance. Brookline's roadways also will deteriorate unless the Town invests more in repairs and maintenance. A recent Stantec report found that spending more now will pay off in future savings, because it is much more expensive to repair a road that has deteriorated badly. The FY2019 CIP thus includes an additional \$1.4 million for roadway maintenance.

Overall, apart from the severe budget pressures due to increasing school enrollment, Brookline has enjoyed what might be described as "Goldilocks" budget conditions in recent years: low inflation, low interest rates, small increases in labor compensation costs, small increases in healthcare costs, and steady increases in state aid. These conditions may not last.

Can More Operating Overrides be the Solution to Budget Challenges?

For all the reasons outlined above, the Town is likely to face continuing budget challenges that may lead to calls for additional operating overrides. Until 2015, Brookline has infrequently resorted to Proposition 2½ overrides to balance its budget. Starting in 2015, however, it now seems necessary to approve a large override every three years. The 2018 override is projected to produce balanced budgets until FY2021. Although Brookline's voters have been willing to approve operating overrides by a large margin, this support may erode as the cumulative tax impact increases, most likely compounded by at least one more debt exclusion to finance school construction costs. Even if overrides continue to be supported by a majority of Brookline voters, they will impose an increasing financial hardship on many residents, particularly seniors.

The Need for a Long-Range Financial Review Committee

The Advisory Committee believes that a Long-Range Financial Review Committee will be necessary and important as Brookline addresses its revenue and budget issues for the next 5–7 years.

On May 1, 2018, the Advisory Committee voted 22–0–1 for the following motion:

VOTED: That the Advisory Committee ask the Select Board to appoint by June 30, 2018, a committee or task force to make recommendations for closing the long-term structural deficit and to provide a preliminary report to the Advisory Committee no later than April 1, 2019, and a final report by November 1, 2019.

Such a committee should not be called an Override Study Committee. Calling the committee a Long-Range Financial Review Committee would make it clear to prospective members that the committee will not convene only to consider whether to propose an override or not, but to take a broader look at Brookline's finances.

The Advisory Committee previously had voted to recommend the formation of such a committee when it adopted a resolution regarding the May 2018 override. Such a committee would consider some of the long-term revenue and expenditure issues that were not addressed by the 2017–2018 Override Study Committee (OSC).

With a longer lead time than the OSC had, there would be more time to identify a sufficient number of qualified candidates. A Long-Range Financial Review Committee might include residents with finance and management experience from the private, public, and non-profit sectors, veterans of similar previous committees, and former Brookline elected officials. It might even be helpful to give the committee dedicated staff support.

The fundamental reason for such a committee is the need to address Brookline's long-term structural deficit without having to resort to large and frequent operating overrides. Brookline voters approved an operating override in 1994. Fourteen years then passed before another operating override appeared on the ballot, in 2008. The 2015 override came seven years later. Only three years have passed, and another operating override almost certainly will be on the May 2018 ballot. All signs indicate that the next override will be in 2021. This is not a sustainable solution to Brookline's financial problems.

The charge to this committee should focus on analysis of options to address the long-term structural deficit, including options that do not depend on frequent large operating overrides.

The committee might consider the following issues:

Revenues

- Analysis of all potential new non-tax revenues, including those included in the May 2018 override plan and any others. Such an analysis might be particularly useful in FY2021, when the three-year override plan relies almost entirely on non-tax revenues.
- Analysis of the potential and limits of new construction, particularly commercial construction, to add to the tax base. How many hotels, for example, can Brookline support?
- Analysis of potential tax revenues other than property taxes, including a real estate transfer tax and taxes on AirBnB and similar short-term rentals.

Expenditure and Efficiencies

- A review of the benefits and costs of current Town and school policies. Are best practices being used in all cases? Is Brookline adopting new policies that increase costs without identifying funding sources?
- An evaluation of programs to determine if they are meeting their goals.

- Analysis of which potential new expenditures would be most important and cost-beneficial. How much should Brookline invest in repairing and maintaining its public buildings, facilities, and infrastructure?

Capacity to Pay and Potential Tax Relief

- Assessment of Brookline taxpayers' capacity to pay tax increases due to future operating and debt exclusion overrides. Such an assessment would take into account the changes in federal tax law that have eliminated the deduction for state and local taxes.

Fiscal Policies

- Review of Brookline's fiscal policies. Existing fiscal policies have worked well, but some may need to be reconsidered. Should the appropriation of Free Cash for the Housing Trust Fund be changed? Are CIP policies meeting Brookline's capital needs? Should there be a more formal statement of how Free Cash is used to fund the unrestricted fund balance, the Pension Fund, and the OPEB trust fund?

CONCLUSION AND RECOMMENDATION

The Advisory Committee thanks all the individuals, boards, committees, and commissions that have been involved in the FY2019 budget process. Town Administrator Melvin Kleckner has our gratitude for overseeing the production of an award-winning Financial Plan, which always provides a solid basis for developing each year's budget. We owe great thanks to Deputy Town Administrator Melissa Goff, who works closely with the Advisory Committee during its consideration of departmental budgets and is an absolutely invaluable source of information at every stage of the budget process. Assistant Town Administrator Austin Faison is an additional vital liaison between the Advisory Committee and the executive branch of Town government.

We thank all of the Town's department heads for their cooperation during the Advisory Committee's review of each department budget, including their attendance at subcommittee hearings and meetings of the full Advisory Committee. Every Town employee has our gratitude for all they do to carry out their work in difficult fiscal circumstances.

Special thanks go to the Select Board and its chair, Neil Wishinsky. The Select Board, as always, devoted much time to attempting to address the fiscal challenges that Brookline faces as a result of increasing school enrollment. As chair, Neil Wishinsky worked tirelessly to craft an operating override proposal that would be as fiscally responsible as possible. We also thank Select Board Members Ben Franco and Heather Hamilton for chairing the Override Study Committee. We realize it was a difficult task.

The School Committee, particularly its chair, David Pollak, and Superintendent Andrew Bott all have our gratitude for their patience and willingness to meet with Advisory Committee members to hold extensive discussions of budget issues and enrollment trends.

We bid a sad farewell to School Committee member Beth Jackson Stram, who brought keen budget expertise and knowledge to her role as chair of the Finance Committee of the School Committee, and to School Committee member Ben Chang, both of whom decided not to seek re-election to the School Committee this year.

We thank the staff of the Public Schools of Brookline for what they have done to improve the school budget process and the school budget document itself. Deputy Superintendent for Administration and Finance Mary Ellen Dunn has made a major effort to present a clearer and more complete school budget. We appreciate her innovations and her willingness to explain the school budget to the Advisory Committee.

Finally, we extend special thanks to the members of the Override Study Committee, including Brookline residents who had not previously participated extensively in local politics and government. Whether or not one agrees with the Committee's conclusions or its approach, we all owe a debt of gratitude to those who volunteered and devoted so much time and energy to the work of the Committee. We very much hope that citizens who volunteered for the Committee will continue to be engaged in Brookline's civic life. It would be wonderful if they will use what they learned from their experience this time in future discussions of Brookline's budget and finance issues.

As reported in the Advisory Committee's recommendation on Article 7 in the Combined Reports, the Advisory Committee is honored to submit the FY2019 Town Budget with a recommendation of FAVORABLE ACTION, as voted on May 1, 2018. The vote on the non-override budget was 23–0–1. The vote on the override budget, which is now the recommended FY2019 budget, was 9–4–11.

SELECT BOARD'S ADDITIONAL INFORMATION

At their regular meeting on May 15th, the Select Board agreed to include the attached draft Letter of Understanding for reference purposes, as noted in the Combined Reports. The Select Board intends to execute a substantially similar version with Boston Children's Hospital in the coming weeks.

LETTER OF UNDERSTANDING

May __, 2018

Select Board
Town of Brookline
333 Washington Street
Brookline, MA 0 2445

Dear Select Board Members,

Reference is hereby made to that certain Memorandum of Agreement dated May 15, 2014 (the “**MOA**”) by and among CHILDREN’S ONE BROOKLINE PLACE LLC, a Massachusetts limited liability company (“**Children’s 1BP**”), and CHILDREN’S BROOKLINE PLACE LLC, a Massachusetts limited liability company (“**Children’s 2 BP**”) (Children’s 1BP and Children’s 2 BP, together with their respective successors and assigns, are hereinafter collectively referred to as “**BCH**”) and the TOWN OF BROOKLINE, a municipal corporation, acting by and through its Board of Selectmen (the “**Town**”), which MOA was entered into in connection with a project consisting of: (i) an approximately 182,500 SF, eight floor mixed-use building to be known as 2 Brookline Place; (ii) an approximately 47,000 SF expansion of the existing medical office building known as 1 Brookline Place; and (iii) a parking garage (collectively, the “**Project**”). All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the MOA.

BCH has obtained the necessary permits and approvals for the Project, which are consistent with the terms of the MOA. To date, BCH has completed the parking garage and is in process of constructing the building located at 2 Brookline Place and the expansion of the building located at 1 Brookline Place.

This Letter of Understanding confirms the understandings that have been reached between BCH and the Town regarding certain matters set forth below that have arisen in the normal course of finalizing the Project design and commencing construction.

If these terms set forth below are acceptable to the Town, kindly so indicate by countersigning and returning a copy of this Letter of Understanding to us on or before Friday, May 18, 2018, whereupon this Letter of Understanding will be binding upon the Parties, and the Parties shall execute such further documents as they mutually agree are necessary or appropriate to further evidence the understandings set forth below, consistent with the terms and conditions hereof.

For the purposes of this Letter of Understanding, the term “**Parties**” shall mean the Town and BCH. The specific agreement of the Parties is set forth below.

1. Main Entrance Canopy

In connection with the Project, the BCH received zoning approval from the Brookline Planning Board (the “**Planning Board**”) and the Brookline Board of Appeals (the “**BOA**”) for a canopy over the main entrance to the 2 Brookline Place building in the location shown on **Figure 1** attached hereto (the “**Canopy**”). Subject to receiving the necessary authorization from the Brookline Town Meeting, the Select Board shall grant, for full and fair cash value of \$16,000 and upon terms and conditions mutually acceptable to the Parties, an easement, or lease of air rights over a portion of Pearl Street for the construction and maintenance of the Canopy, subject to conditions necessary to protect the Town’s interest in the public way, including but not limited to a condition that any easement or lease shall be terminated at the end of the life of the proposed building or canopy (subject to the right of BCH to reconstruct the Canopy in the event of a casualty).

2. Implementation of the MOA

In connection with the implementation of the MOA (and in accordance with the terms of the Special Permit issued by the BOA for the Project (the “**Special Permit**”), the parties agree as follows:

a. **Pearl Street Reconstruction** - Pursuant to Condition 24(a) of the Special Permit and Section 7(c)(i) of the MOA, the Town hereby notifies BCH that the Town will undertake the “**Pearl Street Reconstruction**” consisting of improvements to the street lighting system on the south side of Pearl Street, reconstruction and installation of pavement and curbing along Pearl Street and landscaping and pedestrian markings and/or pavers that visually connect the Property to the Brookline Village MBTA. Accordingly, on or before August 1, 2018, BCH shall deposit \$335,000 in escrow to be expended by the Town for the reasonable costs of the Pearl Street Reconstruction. To the extent the costs of the Pearl Street Reconstruction exceed \$335,000, such excess costs shall be the sole responsibility of and paid for by the Town. To the extent the costs of the Pearl Street Reconstruction are less than \$335,000, any excess funds remaining after the completion of the Pearl Street Reconstruction by the Town shall be returned to BCH.

In connection with the Project, BCH has proposed the reinstallation of curbing, sidewalks, trees, landscaping and pedestrian lighting at locations along Pearl Street (the “**Pearl Street Southerly Sidewalk Work**”) as shown on Sheets C-3 (revised February 8, 2018), L-201 (revised December 11, 2017), L-202 (revised September 8, 2017) and L-203 (September 8, 2017) (collectively, the “**Project Site Plans**”) of the plan set titled “2 Brookline Place Construction Documents” and attached hereto. BCH shall modify the Pearl Street Southerly Sidewalk Work as shown on the Project Site Plans to conform to the Town’s design plans for the Pearl Street Reconstruction and construct the Pearl Street

Southerly Sidewalk Work in accordance with the revised Project Site Plans if the following conditions are satisfied: (i) the Town delivers its final design plans for the Pearl Street Reconstruction to BCH on or before November 1, 2018; and (ii) the cost of constructing the revised Project Site Plans shall not exceed the cost of constructing the Pearl Street Southerly Sidewalk Work as shown on the Project Site Plans by more than \$50,000. In the event (i) the Town fails to deliver its final design plans for the Pearl Street Reconstruction to BCH on or before November 1, 2018; or (ii) the cost of constructing the revised Project Site Plans exceeds the cost of constructing the Pearl Street Southerly Sidewalk Work as shown on the Project Site Plans by more than \$50,000, BCH shall only be obligated to construct the Pearl Street Southerly Sidewalk Work as shown on the Project Site Plans.

The Town will not seek any reimbursement or other compensation from BCH for damage to the Pearl Street pavement or curbing that may occur in connection with the construction of the Project prior to the Town's completion of the Pearl Street Reconstruction.

b. Pedestrian Lighting at Pearl Street and Brookline Avenue – In connection with the construction of the signalized intersection at Pearl Street and Brookline Avenue in accordance Condition 24(b) of the Special Permit and Section 7(c)(ii) of the MOA, BCH will install the bases and conduit for pedestrian lighting at such intersection in the locations shown on **Figure 3** attached hereto. The cost of installing such bases and conduit will not be credited against funds owed by BCH to the Town pursuant to the terms of the MOA.

c. Future Mitigation Requests – To the extent any Town official or representative desires to request any additional off-site mitigation from BCH not contemplated by the MOA, such request must be submitted to and approved by the Select Board. The Select Board may only approve such request if it determines that funds remain to be paid by BCH to the Town which are not otherwise allocated to a specific mitigation item. In the event that the Board approves such request after making the foregoing determination, such mitigation will be funded only from remaining unpaid amounts that BCH owes the Town pursuant to MOA and to the extent the costs of completing such mitigation matters exceed such unpaid amounts, the excess costs shall be the sole responsibility of and paid for by the Town.

d. Substantial Completion – For the purposes of Section 7(b) of the MOA, the term “substantial completion” shall mean the issuance of the first temporary Certificate of Occupancy for both 2 Brookline Place building and the 1 Brookline Place addition as well as:

- (i) a finished and open pedestrian pathway through the site, running from Route 9 between 1 and 2 Brookline Place to Pearl Street; and

(ii) (a) funding in escrow (or bonding for) to complete any unfinished site work and landscaping, including the on- and off-site tree replacement proposed, and (b) payment of a net tree mitigation fee of \$45,900 as contemplated in the March 20,2017 communication between Mikyoung Kim Design and the Town of Brookline.

Alternatively, the term “substantial completion” can be met with any other such condition as the Select Board may approve. The Parties agree that the parking garage at the Project is complete.

3. Miscellaneous

- a. Binding Agreement. This Letter of Understanding is binding and enforceable against, and inures to the benefit of, the Parties and their respective successors and assigns.
- b. Severability. If any term or provision of this Letter of Understanding, or the application thereof to any person or circumstance, shall to any extent be determined to be invalid and unenforceable, the remainder of this Letter of Understanding, or the application of such terms to persons or circumstances other than those to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Letter of Understanding shall be valid and shall be enforced to the extent permitted by law.
- c. Governing Law. This Letter of Understanding shall be construed in accordance with the laws of The Commonwealth of Massachusetts without regard for conflict of laws principles.
- d. Facsimile Signatures; Counterparts. Electronic copies of signatures appearing hereon shall be deemed an original and this Letter of Understanding may be executed simultaneously in two (2) or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.
- e. Amendments. This Letter of Understanding may be amended only by a written instrument signed by the Parties.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

To indicate your acceptance of this Letter of Understanding, please countersign the enclosed copy of this Letter of Understanding below and return it to the undersigned at the address first set forth above.

Very truly yours,

BCH:

Witness:

CHILDREN'S ONE BROOKLINE PLACE LLC

Print Name

By: The Children's Hospital Corporation, its sole manager

By: _____
Name:
Title:

Witness:

CHILDREN'S BROOKLINE PLACE LLC

Print Name

By: The Children's Hospital Corporation, its sole manager

By: _____
Name:
Title:

[Signatures continued on next page]

**THE FOREGOING IS AGREED AND ACCEPTED
THIS ____ DAY OF May, 2018, BY:**

TOWN:

TOWN OF BROOKLINE
By its Select Board

Neil Wishinsky

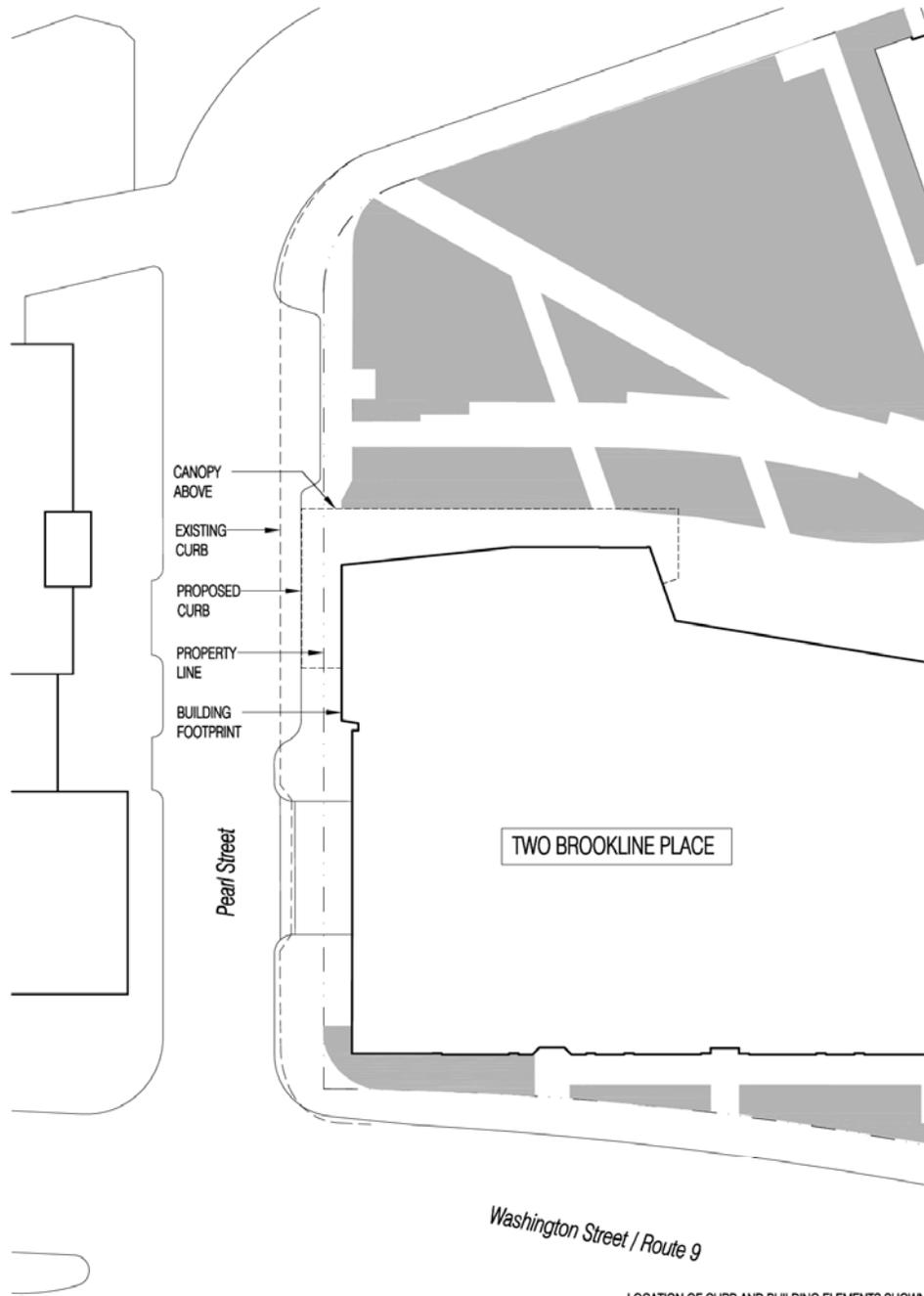
Ben Franco

Nancy Heller

Bernard Greene

Heather Hamilton

Figure 1



CANOPY ABOVE
EXISTING CURB
PROPOSED CURB
PROPERTY LINE
BUILDING FOOTPRINT

TWO BROOKLINE PLACE

Pearl Street

Washington Street / Route 9

LOCATION OF CURB AND BUILDING ELEMENTS SHOWN FOR REFERENCE ONLY; SEE PERMIT SUBMISSION FOR ACTUAL PROPOSED LOCATIONS.

ELKUS | MANFREDI
ARCHITECTS

Label: 25 BRYDOCK AVENUE
BOSTON MASSACHUSETTS 02210
Tel: 617.426.1300

Drawing Name: SITE LAYOUT DIAGRAM
Project Name and Number: BROOKLINE PLACE
Date: 9/28/17 Scale: NOT TO SCALE

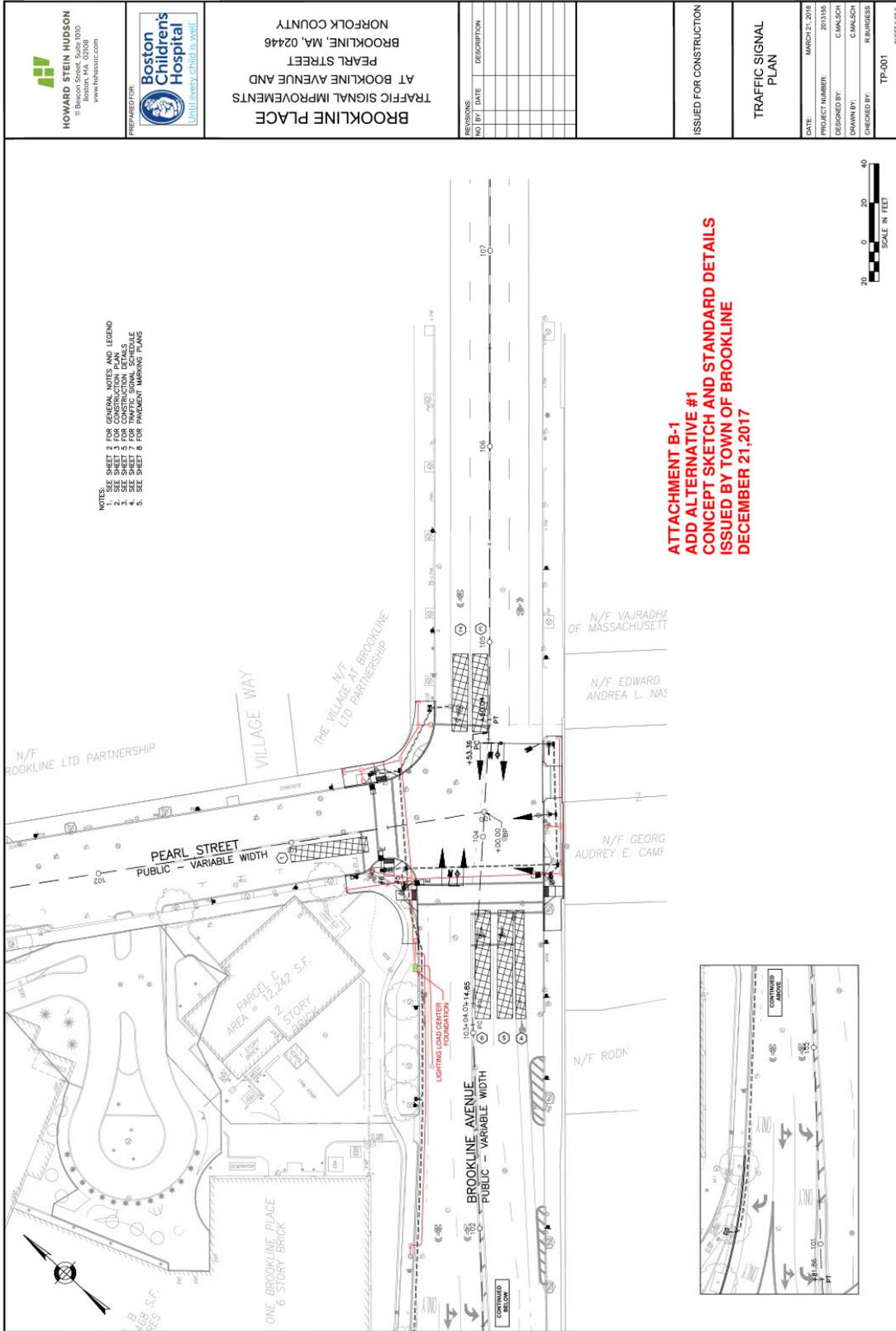
Figure 2



Scale: 1" = 60'
 BROOKLINE ENGINEERING/TRANSPORTATION DIVISION
 100 WASHINGTON ST, 4TH FLOOR, BROOKLINE, MA
 TEL: (617) 736-7128 FAX: (617) 261-8426

Pearl Street One Way Cycle Track And Bike Lane Option
 Revised July 24 2017

Figure 3



Attachment – Project Site Plans

2 Brookline Place Construction Documents, Sheets:

C-3 (revised February 8, 2018)

L-201 (revised December 11, 2017)

L-202 (revised September 8, 2017)

L-203 (September 8, 2017)

**Two Brookline
Place**

BROOKLINE, MASSACHUSETTS

Client: **CH2M HILL**

Project: **Two Brookline Place**

Phase: **Site Plan**

Date: **08/14/13**

Scale: **1/8" = 1'-0"**

Sheet: **L201**

Project No: **13-00000000000000000000**

Revision: **01**

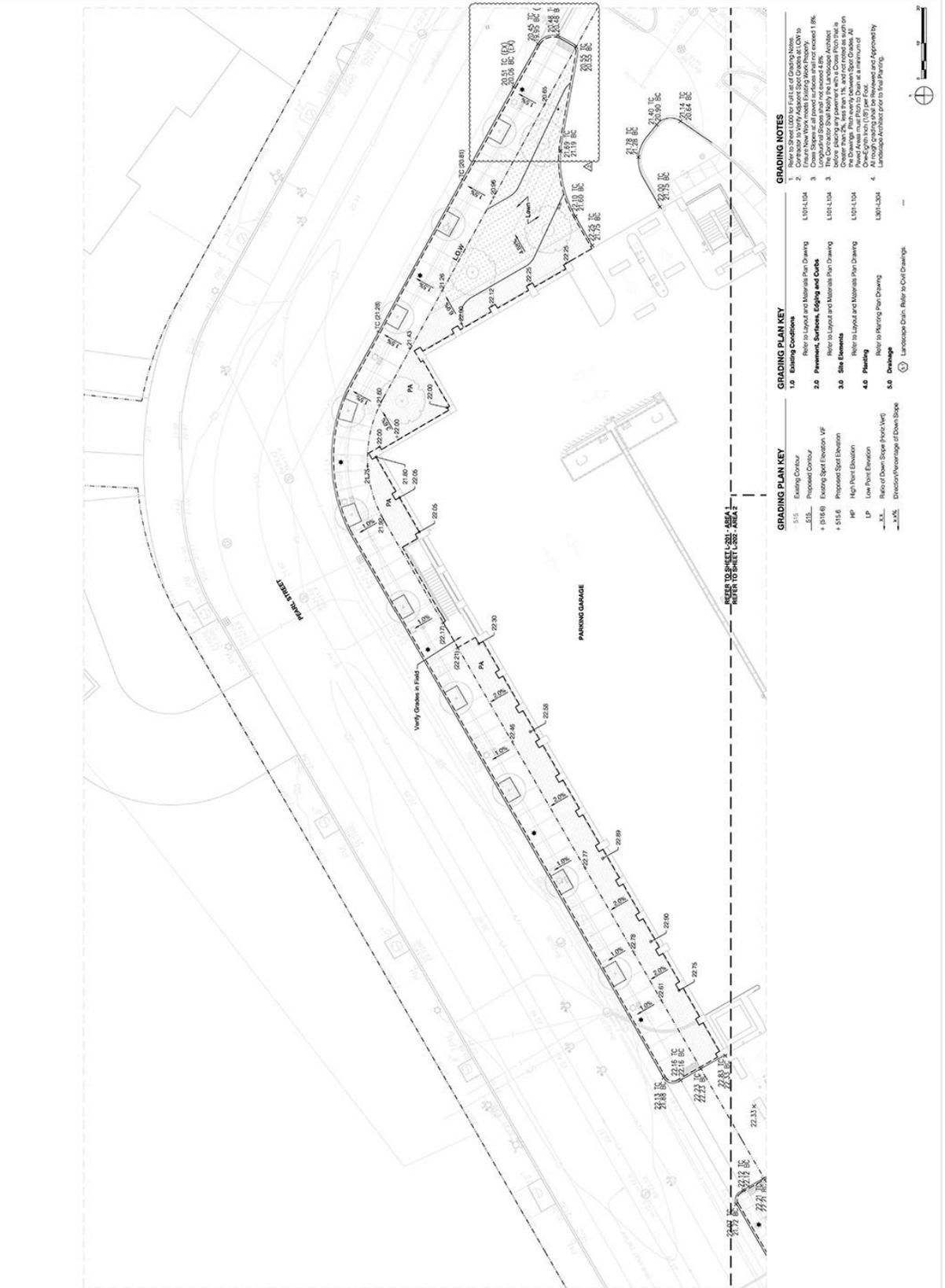
Author: **ELKUS | MANFREDI**

Checker: **ELKUS | MANFREDI**

Approver: **ELKUS | MANFREDI**

Project Manager: **ELKUS | MANFREDI**

Client Representative: **CH2M HILL**



- GRADING PLAN KEY**
- S15 Existing Contour
 - S15 Proposed Contour
 - +P16.6 Existing Spot Elevation
 - +S15.6 Proposed Spot Elevation
 - HP High Point Elevation
 - LP Low Point Elevation
 - X.0% Ratio of Down Slope (Short Vert)
 - X.0% Direction/Percentage of Down Slope
- GRADING PLAN KEY**
- 1.0 Existing Conditions
 - 2.0 Pavement, Surfaces, Edging and Curb
 - 3.0 Site Elements
 - 4.0 Planting
 - 5.0 Drainage

- GRADING NOTES**
1. Refer to Sheet L200 for Full List of Grading Notes.
 2. Erosion Control: Refer to Erosion Control Plan Drawing.
 3. Landscape Drains: Refer to Landscape Drain Plan Drawing.
 4. Planting: Refer to Planting Plan Drawing.
 5. Drainage: Refer to Drainage Plan Drawing.



L201

PROJECT NUMBER: 13000000
DATE: August 14, 2013
SCALE: 1" = 10'-0"

Two Brookline Place

BROOKLINE, MASSACHUSETTS

Owner/Client:
Two Brookline Place
300 West Avenue
Brookline, MA 02146

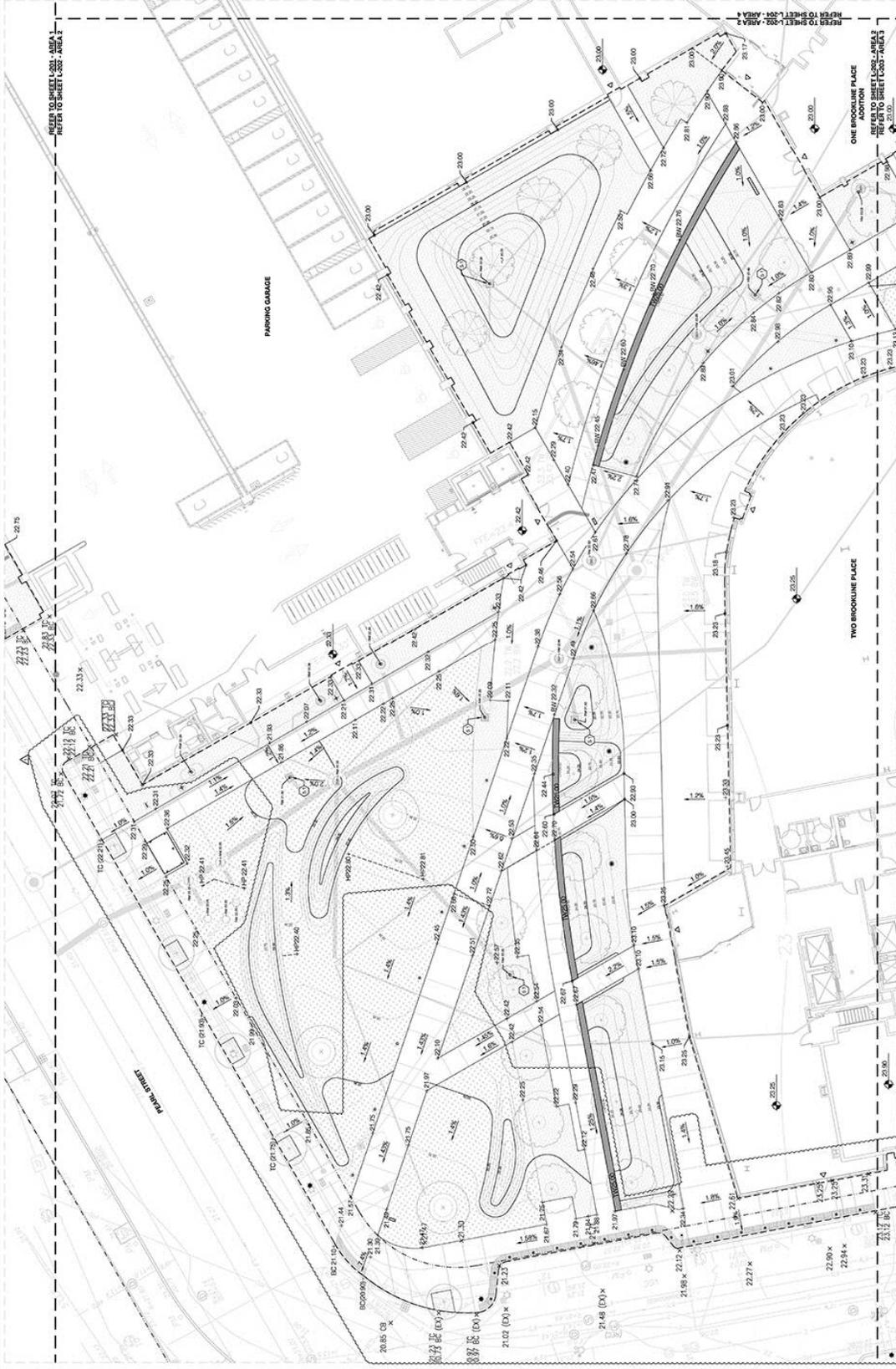
Architect:
Elkus Manfredi Architects
1000 West 22nd Avenue
Suite 1000
Denver, CO 80202

Site/Location:
Two Brookline Place
300 West Avenue
Brookline, MA 02146

Project/Phase:
Site Plan
10/20/2022

Scale:
1" = 10'-0"

Project/Phase:
Site Plan
10/20/2022



- GRADING PLAN KEY**
- S15- Existing Contour
 - S15- Proposed Contour
 - + P14.6- Existing Spot Elevation VP
 - + S15.6- Proposed Spot Elevation
 - HP- High Point Elevation
 - LP- Low Point Elevation
 - X.X- Ratio of Down Slope (None/Vert)
 - X.X- Direction/Average of Down Slope
- GRADING PLAN KEY**
- 1.0 Existing Conditions
 - 2.0 Pavement, Surface, Edging and Curb
 - 3.0 Site Elements
 - 4.0 Planting
 - 5.0 Drainage

- GRADING NOTES**
1. Refer to Sheet L201 for full set of Grading Notes.
 2. Ensure New York Vehicle Elevation Above Property to Allow for 1.0% Slope to Street.
 3. The Contractor shall verify the landscape architect's proposed spot elevations and slopes.
 4. The Contractor shall verify the landscape architect's proposed spot elevations and slopes.
 5. The Contractor shall verify the landscape architect's proposed spot elevations and slopes.
 6. The Contractor shall verify the landscape architect's proposed spot elevations and slopes.
 7. The Contractor shall verify the landscape architect's proposed spot elevations and slopes.
 8. The Contractor shall verify the landscape architect's proposed spot elevations and slopes.
 9. The Contractor shall verify the landscape architect's proposed spot elevations and slopes.
 10. The Contractor shall verify the landscape architect's proposed spot elevations and slopes.



Two Brookline Place

Brookline, Massachusetts

Owner: **CHRYSLER**
100 West 25th Street
New York, NY 10011
Architect: **ELKUS | MANFREDI ARCHITECTS**
100 West 25th Street, Suite 100
New York, NY 10011
Tel: 212.254.1100

Architectural Engineer: **ARCADIS**
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Structural Engineer: **ARCADIS**
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Mechanical Engineer: **ARCADIS**
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Electrical Engineer: **ARCADIS**
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- GRADING PLAN KEY**
- S15 - Existing Contour
 - S15 - Proposed Contour
 - + S15B - Existing Spot Elevation V/S
 - + S15C - Proposed Spot Elevation
 - HP - High Point Elevation
 - LP - Low Point Elevation
 - X.X- - Ratio of Down Slope (Invert/Vert)
 - X.X% - Direction/Percentage of Down Slope
 - ⊙ - Landscape Drain - Refer to Civil Drawings
- GRADING PLAN KEY**
- 1.0 Existing Conditions
 - 2.0 Proposed, Surface, Edging and Curb
 - 3.0 Site Elements
 - 4.0 Paving
 - 5.0 Drainage

- GRADING NOTES**
1. Refer to Sheet L200 for full list of Grading Notes.
 2. Ensure New York models Existing Area Property.
 3. Landscape Slopes shall not exceed 1:8%.
 4. The Contractor shall verify the landscape Architect's design for 2% test run 1% and recorded as such on the final plan. Please refer to the final plan for a record of the final plan.
 5. Landscape Architect prior to final Paving.

GRADING PLAN KEY

Code	Description	Refer to
L201-L204	Existing Conditions	Refer to Layout and Materials Plan Drawing
L201-L204	Proposed, Surface, Edging and Curb	Refer to Layout and Materials Plan Drawing
L201-L204	Site Elements	Refer to Layout and Materials Plan Drawing
L201-L204	Paving	Refer to Paving Plan Drawing
L201-L204	Drainage	Refer to Civil Drawings

GRADING PLAN KEY

1.0 Existing Conditions

2.0 Proposed, Surface, Edging and Curb

3.0 Site Elements

4.0 Paving

5.0 Drainage

GRADING NOTES

1. Refer to Sheet L200 for full list of Grading Notes.
2. Ensure New York models Existing Area Property.
3. Landscape Slopes shall not exceed 1:8%.
4. The Contractor shall verify the landscape Architect's design for 2% test run 1% and recorded as such on the final plan. Please refer to the final plan for a record of the final plan.
5. Landscape Architect prior to final Paving.

GRADING PLAN KEY

1.0 Existing Conditions

2.0 Proposed, Surface, Edging and Curb

3.0 Site Elements

4.0 Paving

5.0 Drainage

ARTICLE 15

CONSERVATION COMMISSION RECOMMENDATION

The Conservation Commission recommends favorable action on Article 15, as revised. This Article, submitted by the Commissioner of Public Works and with input from the Select Board's Committee on Tree Protection, amends the town's Stormwater Management By-Law to provide some protection against the removal of mature trees on private property due to the role such trees have in preventing erosion and sediment runoff.

Not only aesthetically appealing, mature trees have many desirable environmental qualities. In the context of controlling erosion and sediment run-off, the canopy of a mature tree slows the arrival of rain on the ground surface, mitigating the erosive impact of a hard rainfall on permeable ground. The extensive root system of such a tree absorbs large quantities of rainfall, preventing destabilization of the soil and sediment run-off. And in areas where the land is not level, a large, well-established tree root system also plays a role in maintaining the grade of the land, acting as a bulwark against sliding earth and its damaging stormwater impacts.

While there are many environmental reasons to support the preservation of mature trees, the Conservation Commission wholeheartedly agrees with amending the Stormwater Management By-law to specifically acknowledge the value of mature trees in this context. The focus on the size of a tree, established through its DBH and the requirement of a minimum removal of 32', is reasonably related to the environmental goals this bylaw seeks to achieve.

With the triggers it establishes, Article 15 will bring scrutiny to some clear-cutting events which in the past would not have been reviewed by the Town. Nonetheless, the Article does not flat out prevent tree removal. Instead, owners will be required to pause, to consider the location and scope of the removal, and review it with the Town in the context of the work's stormwater impacts. Thus, this Article will not only curtail erosion and sediment runoff, but will also have an educational impact. The Conservation Commission views mature trees as an important component of climate resilience and believes that increased public awareness of their benefits will facilitate the Town's ability to craft and institute additional environmental protections going forward.

For these reasons, the Conservation Commission recommends favorable action on Article 15, as revised.

ARTICLE 17

SELECT BOARD'S SUPPLEMENTAL RECOMMENDATION

The Select Board's printed Recommendation included in the originally published Warrant Article book had inadvertently block-copied an earlier version of a proposed amendment by the Planning and Regulation of the Advisory Committee to the Warrant Article's buffer zone language (Section 5(E)(4)(a) of the proposed new §4.13), instead of the Subcommittee's final buffer zone amendment language that was then voted favorably by both the full Advisory Committee and the Select Board.

The following incorporates corrected buffer zone language as voted by the Select Board. It also corrects the footnote numbers that follow the Table of Uses (*see* § 4.07).

The Select Board's vote differed from the Advisory Committee's vote only in recommending that Social Consumption Marijuana Retailers be prohibited in L Districts. (*See* § 4.07, Use No. 29B.)

VOTED: To amend **Zoning By-law** as follows:

By amending §2.13, "M" Definitions, as follows (additions are denoted in **bold, italicized text**, deletions are denoted in ~~stricken~~ text):

- ~~1. MEDICAL MARIJUANA TREATMENT CENTER — Any medical marijuana treatment center, to be known as a Registered Marijuana Dispensary (RMD), as defined under state law as a Massachusetts not for profit entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supposes, or educational materials to qualifying patients or their personal caregivers, which is properly licenses and registered by the Massachusetts Department of Public Health pursuant to all applicable state laws and regulations.~~
1. ***MARIJUANA — As defined or amended by State regulations, all parts of any plant of the genus Cannabis, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in section 1 of chapter 94C; provided, however, that "Marijuana" shall not include (1) the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt derivative, mixture or preparation of the mature stalks, fiber, oil or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination; (2) hemp;***

or (3) the weight of any other ingredient combined with Marijuana to prepare topical or oral administrations, food, drink or other products. Marijuana also includes Marijuana Products except where the context clearly indicates otherwise.

- a. Marijuana, Hemp — As defined or amended by State regulations, the plant of the genus Cannabis or any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3 per cent on a dry weight basis of any part of the plant of the genus Cannabis, or per volume or weight of Marijuana product, or the combined per cent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus Cannabis regardless of moisture content.*

2. MARIJUANA ESTABLISHMENT – As defined or amended by State regulations, a Marijuana Retailer, Marijuana Product Manufacturer, Marijuana Cultivator, Independent Testing Laboratory, or any other type of Marijuana-related business that has been duly licensed by the Massachusetts Cannabis Control Commission or relevant State agency.

- a. Marijuana Establishment, Craft Marijuana Cultivator Cooperative — As defined or amended by State regulations, a Marijuana Cultivator comprised of residents of Massachusetts organized as a limited liability company or limited liability partnership under Massachusetts law, or an appropriate business structure as determined by the Massachusetts Cannabis Control Commission, and that is licensed by the Cannabis Control Commission to cultivate, obtain, manufacture, process, package, and brand Marijuana and Marijuana Products to deliver Marijuana to Marijuana Establishments but not to consumers. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.*
- b. Marijuana Establishment, Marijuana Cultivator – As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission to cultivate, process, and package Marijuana, to deliver Marijuana to Marijuana Establishments and to transfer Marijuana to other Marijuana Establishments, but not to consumers. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.*
- c. Marijuana Establishment, Delivery-Only Marijuana Retailer — As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission as a Marijuana Retailer that does not provide a retail location accessible to the public, but is authorized to deliver directly from a Marijuana Cultivator facility, Craft*

Marijuana Cultivator Cooperative facility, Marijuana Product Manufacturer facility, or Micro-Business.

- d. Marijuana Establishment, Marijuana Independent Testing Laboratory — As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission that is (i) accredited to the most current International Organization for Standardization 17025 by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation Mutual Recognition Arrangement or that is otherwise approved by the Cannabis Control Commission; (ii) independent financially from any Medical Marijuana Treatment Center or any Cannabis Control Commission licensee or Marijuana Establishment of which it conducts a test; and (iii) qualified to test Marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, § 34. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.*
- e. Marijuana Establishment, Marijuana Micro-Business — As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission to act as a co-located licensed Marijuana Cultivator in an area less than 5,000 square feet, a licensed Marijuana Product Manufacturer, and a licensed Marijuana Delivery Service, in compliance with operating procedures for each such license and siting requirements for each type of licensee.*
- f. Marijuana Establishment, Marijuana Product Manufacturer — As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission to obtain, manufacture, process and package Marijuana and Marijuana Products, to deliver Marijuana and Marijuana Products to Marijuana Establishments and to transfer Marijuana and Marijuana Products to other Marijuana Establishments, but not to consumers. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.*
- g. Marijuana Establishment, Marijuana Research Facility — As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission to engage in research projects, including cultivation, purchase or acquisition otherwise of Marijuana for the purpose of conducting research regarding Marijuana and Marijuana Products or any analogous uses. A Marijuana Research Facility may be academic institutions, non-profit corporations and domestic corporations or entities authorized to do business in Massachusetts. A Marijuana Research Facility may hold a Cannabis Control Commission Marijuana Retailer License to sell Marijuana and Marijuana Products*

other than Marijuana cultivated under its research license. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.

- h. Marijuana Establishment, Marijuana Retailer — As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission to purchase and deliver Marijuana and Marijuana Products from Marijuana Establishments and to deliver, sell or otherwise transfer Marijuana and Marijuana Products to Marijuana Establishments and to consumers. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.*
- i. Marijuana Establishment, Social Consumption Marijuana Retailer — As defined or amended by State regulations, a Marijuana Retailer licensed by the Massachusetts Cannabis Control Commission to purchase Marijuana and Marijuana Products from Marijuana Establishments and to sell Marijuana and Marijuana Products on its premises only to consumers or allow consumers to consume Marijuana and Marijuana Products on its premises only.*
- j. Marijuana Establishment, Marijuana Transporter — As defined or amended by State regulations, an entity, not otherwise licensed by the Massachusetts Cannabis Control Commission, that is licensed by the Cannabis Control Commission to purchase, obtain and possess Marijuana and Marijuana Products solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments, not for sale to consumers. This definition includes the foregoing uses described in this definition when conducted by Marijuana Establishments.*
- k. Marijuana Establishment, Medical Marijuana Treatment Center — As defined of amended by State regulations, an entity that acquires, cultivates, possesses, processes (including development of related products such as edible Marijuana-infused products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers Marijuana, products containing Marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical use, as otherwise defined by State law. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.*
- l. Marijuana Establishment, Standards Laboratory — As defined or amended by State regulations, a laboratory meeting the requirements of the Independent Testing laboratory that is licensed by the Massachusetts*

Cannabis Control Commission as a Standards Laboratory to ensure consistent and compliant testing by the Independent Testing Laboratories.

- m. Marijuana Establishment, Storefront Marijuana Retailer — As defined or amended by State regulations, a Marijuana Retailer providing a retail location accessible to consumers 21 years of age or older or in possession of a registration card demonstrating that the individual is a registered qualifying patient with the Medical Use of Marijuana Program.*
- 3. MARIJUANA ESTABLISHMENT AGENT** — *As defined or amended by State regulations, a board member, director, employee, executive, manager, or volunteer of a Marijuana Establishment, who is 21 years of age or older. Employee includes a consultant who provides on-site services to a Marijuana Establishment related to the cultivation, harvesting, preparation, packaging, storage, testing, dispensing, or any other analogous uses of Marijuana.*
- 4. MARIJUANA PRODUCTS** — *As defined or amended by State regulations, products that have been manufactured and contain Marijuana or an extract from Marijuana, including concentrated forms of Marijuana and products composed of Marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.*
- 5. MARIJUANA, MANUFACTURE** — *As defined or amended by State regulations, to compound, blend, extract, infuse or otherwise make or prepare a Marijuana product.*
- 6. MARIJUANA, MARIJUANA MANUFACTURER RESIDENTIAL USE:** *Residential Marijuana Extraction by Non-licensed Establishments or Individuals utilizing extraction processes that pose an explosive or flammable danger, including solvent-based extraction and any method utilizing liquefied petroleum gas (“LPG”, as may be defined by NFPA1, including propylene, propane, butane, butylenes, and mixtures thereof).*

And further, by amending §4.07, Table of Use Regulations, as follows (all uses are new):

Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
20B. <i>Medical Marijuana Treatment Centers (see</i>	No	No	No	No	No	No	SP* 2	SP* 2	SP*

<p><i>Section 4.13 for applicable definition), and uses analogous to Marijuana Retailer Uses Only Registered Marijuana Dispensary (RMD)*</i></p> <p><i>* To be eligible for a special permit under Use 20B, the requirements under Sec. 4.12, Registered Marijuana Dispensary, and Sec. 4.13, Marijuana Establishments, shall be met, as each may be applicable.</i></p>									
<p>20C. Delivery-Only Marijuana Retailers and Marijuana Transporters</p> <p><i>*To be eligible for a special permit under Use 20C, the requirements under Sec. 4.13, Marijuana Establishments, shall be met.</i></p>	No	No	No	No	No	SP* ¹	SP* ¹	SP* ¹	SP* ¹
<p>29A. Storefront Marijuana Retailers, stores of less than 5,000 square feet of gross floor area per establishment</p> <p><i>* Permitted by special permit pursuant to Section 4.13, Marijuana Establishments</i></p>	No	No	No	No	No	SP* ^{1, 2}	SP* ^{1, 2}	No	SP* ¹
<p>29B. Social Consumption Marijuana Retailers</p> <p><i>* Permitted by special permit pursuant to</i></p>	No	No	No	No	No	No	SP* ^{1, 2}	No	SP* ¹

<i>Section 4.13, Marijuana Establishments, only in the event of a Town-wide vote approving on-site consumption pursuant to M.G.L c.94G, § 3(b).</i>									
36C. Marijuana Independent Testing Laboratories, Marijuana Standards Laboratories, and Marijuana Research Facilities <i>* To be eligible for a special permit under Use 36C, the requirements under Sec. 4.13, Marijuana Establishments, and Use 36A. and 36B., restrictions on Marijuana Research Laboratories, shall be met.</i>	No	No	No	No	No	No	SP* 1, 2	SP* 1, 2	SP* ¹
38D. Marijuana Cultivators <i>* Permitted by special permit pursuant to Section 4.13, Marijuana Establishments</i>	No	No	No	No	No	SP* ^{1, 2}	SP* 1, 2	SP* 1, 2	SP* ¹
46B. Marijuana Product Manufacturers <i>* Permitted by special permit pursuant to Section 4.13, Marijuana Establishments</i>	No	No	No	No	No	No	No	No	SP* ¹
Accessory Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
65A. Marijuana Manufacturer Residential Uses	No	No	No	No	No	No	No	No	No

FOOTNOTES:

1. Allowed use by Special Permit unless a Town-wide vote bans this use.
2. No manufacturing of Marijuana is permitted in these districts.

And further, by creating a new §4.13, Marijuana Establishments with the following requirements:

§4.13 -Marijuana Establishments

1. Purpose

The intent of this section is to permit Marijuana Establishments to operate in locations and pursuant to local requirements that ensure safe and appropriate implementation of Chapter 334 of the Acts of 2016 (Question #4 on the November 8, 2016 ballot), legalizing recreational Marijuana, within the community.

If any provisions of this section shall be held to be invalid, those provisions shall be severable and the remaining sections shall be valid.

2. Definitions

See Massachusetts General Laws Chapter 94G, Section 1, Chapter 94I, Section 1, and the regulations promulgated thereunder, as they may be amended, as well as Section 2, Definitions, of the Zoning By-Law for further definitions of applicable terms.

3. Medical Marijuana Treatment Centers

Medical Marijuana Treatment Centers licensed prior to July 1, 2017 shall be subject to §2.13(1) (“Medical Marijuana Treatment Center”), §4.07, Use 20B, and §4.12 (“Registered Marijuana Dispensary (RMD)”) of the Zoning By-Laws and not this section, subject to the following: In the event that the medical Marijuana licensing process by the Select Board pursuant to Article 8.34 of the General By-Laws is discontinued in whole or in part, a medical Marijuana treatment center not subject to Select Board licensing pursuant to Article 8.34 shall then be subject to the requirements established for Storefront Marijuana Retailers.

4. Cap on the Number of Special Permits for Marijuana Retailers

The Zoning Board of Appeals shall not grant a special permit if doing so would result in a total number of outstanding special permits granted to Marijuana Retailers that exceeds any cap set by a General By-Law on the number of Select Board Marijuana Establishment licenses that can be issued to Marijuana Retailers.

If no such General By-Law is in effect at the time of a vote by the Zoning Board of Appeals on a special permit application, the Zoning Board of Appeals shall not issue a special permit if doing so would result in a total number of outstanding special permits that exceeds the following limitations: The Zoning Board of Appeals shall not issue more special permits in each of the following categories of Marijuana Establishment

licenses than the number that is 20% of the number of liquor licenses for off-premises alcohol consumption that have been issued by the Select Board pursuant to M.G.L. c. 138, § 15, as rounded up to the nearest whole number in the event the number is a fraction: a) Storefront Marijuana Retailers; b) Delivery-Only Marijuana Retailers; and c) Social Consumption Marijuana Retailers.

5. *General Requirements for Marijuana Establishments*

Marijuana Establishments shall comply with the following requirements:

A. General

1. Marijuana Establishments shall comply with applicable State and local laws, regulations, by-laws, codes, conditions and agreements with the Town, including, but not limited to, M.G.L. c. 94G, M.G.L. c. 94I, 935 CMR 500, the Town of Brookline's General By-Laws, the Town of Brookline's Zoning By-Laws, all applicable Town building, fire prevention, police, and health codes, regulations and standards, any conditions imposed on licenses and permits held by the Marijuana Establishment (including, but not limited to, the Town's Zoning Board of Appeals special permit), and agreements between the Marijuana Establishment and the Town, including host community agreements.
2. Marijuana Establishments shall maintain all permits and licenses required by State and local laws. Any laws voiding of the Cannabis Control Commission's license by operation of law (including due to cessation of operations, failure to become operational within the permitted time, or relocation without Cannabis Control Commission approval), and any revocation or suspension of the Marijuana Establishment's Cannabis Control Commission license shall result in an automatic suspension of the special permit pending hearing or the opportunity therefore afforded to the Marijuana Establishment and pending further determination by the Zoning Board of Appeals.
3. All taxes and charges owed to the Town must be paid on a current basis. The Town may place a lien on the property of any person who has an outstanding balance due the Town from any fee, charge or tax, which balance is at least six (6) months past due.

B. Operational Requirements

1. All Marijuana Establishments' licensed operations shall be conducted within a building at a fixed location.
2. No Marijuana Establishment shall allow cultivation, processing, manufacture, sale or display of Marijuana or Marijuana Products to be visible from a public place without the use of binoculars, aircraft, or other optical aids.

3. Marijuana Establishments may cultivate, process, test, store and manufacture Marijuana or Marijuana Products only within an area that is enclosed and secured in a manner that prevents access by persons not permitted by the Marijuana Establishment to access the area.
4. The hours of operation of Marijuana Establishments shall be those that are set by the Marijuana Establishment's host community agreement with the Town or a Select Board-issued license.
5. Marijuana Establishments shall ensure that their hours and methods of transportation of product shall not be a detriment to the surrounding area and nearby uses.
6. Marijuana Establishments shall not permit any disorder, disturbance, or illegality under State or local law of any kind on the premises.
7. Marijuana Establishment operations shall not result in illegal redistribution under State or local law of Marijuana obtained from the Marijuana Establishment, or in use of Marijuana in any manner that violates State or local law.
8. Marijuana Establishment operations shall not create nuisance conditions in parking areas, sidewalks, streets and areas surrounding its premises and adjacent properties. "Nuisance" includes, but is not limited to, disturbances of the peace, open public consumption of Marijuana, excessive pedestrian or vehicular traffic, odors emanating from the Marijuana Establishment's premises, electrical lighting, illegal drug activity under State or local law, harassment of passersby, excessive littering, excessive loitering, illegal parking, excessive loud noises, excessive citation for violations of State traffic laws and regulations and/or Transportation Division Rules and Regulations, queuing of patrons (vehicular or pedestrian) in or other obstructions of the public way (sidewalks and streets), collisions between vehicles, bicyclists, and pedestrians, lewd conduct or police detentions and arrests.
9. Marijuana Establishments shall equip the premises and otherwise conduct their operations in such a manner that (a) no pesticides or other chemicals or products are dispersed into the outside atmosphere, and (b) no odor of Marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the facility or at any adjoining use or property.

10. A Marijuana Establishment shall be required to remove all Marijuana and Marijuana Products by the earlier of:
 - a) prior to surrendering its State-issued license; or
 - b) within six (6) months of ceasing operations.
11. Marijuana Establishments shall comply with 527 CMR and with Chapter 38 of the NFPA 1 (2018), as they may be amended, and as applicable.
12. Marijuana Establishments are prohibited from use of on-site self-service displays. Self-service displays are defined to mean displays from which customers may select Marijuana or Marijuana Products without assistance from an employee or store personnel, and include vending machines.
13. Consumption of Marijuana in the interior or exterior of the premises is not permitted except as follows. Duly-licensed Social Consumption Marijuana Retailers may permit on-premises consumption of Marijuana and Marijuana Products which they are licensed to sell to customers purchasing their products who are aged 21 years and older in the event that on-premises consumption is approved by the Town pursuant to and in the manner provided by M.G.L. c. 94G, § 3(b). In the event that on-premises consumption is approved by the Town in such manner, Social Consumption Marijuana Retailers must abide by all State and local requirements for Marijuana Establishments. Social Consumption Marijuana Retailers shall comply with all legal requirements pertaining to verification that a patron is at least 21 years of age utilizing acceptable forms of proof of age, including any proof-of-age verification requirements established by the Select Board in connection with the local licensing of Marijuana Establishments. In no event shall Social Consumption Marijuana Retailers permit the smoking of Marijuana or Marijuana Products on the premises. Smoking is defined to mean the lighting of, or having in one's possession any lighted cigarette, cigar, pipe or other product designed to be combusted and inhaled. The activation of or inhalation of vapor from an e-cigarette or other similar device shall be considered smoking.

C. Security-Specific Requirements

1. Marijuana Establishments shall maintain compliance with any Town Police Department-approved security and public safety plans as the Police Department may require, which plan may include measures relating to alarms, fencing, gates, limited access areas, delivery procedures, police details, specification of video and lighting locations, notifications to the Police Department in the event of any known or suspected violation of criminal law that has taken place on or near the location of the establishment.
2. Marijuana Establishments shall secure every entrance to the Marijuana Establishment so that access to areas containing the storage of Marijuana

products are restricted to employees and others permitted by the Marijuana Establishment to access the area and to Cannabis Control Commission or state and local law enforcement officers, agents and emergency personnel.

3. Marijuana Establishments shall secure their inventory and equipment during and after operating hours to deter and prevent theft of Marijuana, Marijuana Products and Marijuana accessories.
4. Marijuana Establishments shall file an emergency response plan with the Town's Fire, Police and Health Departments and share with these Departments their security plan and procedures and any updates to them in the event they are modified.

D. Access to Premises and Information/Reporting/Record-Keeping

1. Marijuana Establishments shall consent to unannounced, unscheduled, periodic inspections of its premises by the Building Commissioner or designee, including an agent from the Building, Health, Police and Fire Departments (which, when conducted by the Police Department, shall be by a sworn police officer holding the rank of Sergeant or higher) on week-days during normal business hours to determine the Marijuana Establishment's compliance with the requirements of applicable state and local laws, regulations, codes, license and permit conditions, and this section. In addition, routine inspections may be made on week-days during regular Town business hours by authorized inspectional departments to determine compliance with applicable state and local laws, regulations, codes and license and permit conditions. Inspections by the authorized inspectional departments may be made at other times to investigate complaints or suspected non-compliance issues. Inspections may include all areas occupied, used or controlled by the Marijuana Establishment. Facilities requiring re-inspection are subject to applicable re-inspection fees. Inspections shall be conducted in conformity with applicable federal, state and local law.
2. Marijuana Establishments shall cooperate and comply with requests for information made by the Building Commissioner or designee, including agents from the Planning, Building, Health, Police, Fire and Public Works Departments.
3. Within twenty-four (24) hours of receipt of notice of it, a Marijuana Establishment shall file with the Town Administrator, Director of Public Health and the Building Commissioner any summary cease and desist order, cease and desist order, quarantine order, suspension order, revocation order, order limiting sales, deficiency statement, plan of correction, notice of a hearing, notice of any other administrative process or legal action, denial of a license, denial of a renewal of a license, or final action issued by a state or

federal agency (including, but not limited to, the Cannabis Control Commission and Massachusetts Department of Public Health) regarding the Marijuana Establishment, the Cannabis Control Commission license, or the Department of Public Health Certificate of Registration.

E. Additional Location Requirements for Marijuana Establishments

1. Marijuana Establishments shall not be located in a building that contains a pre-existing daycare center.
2. Marijuana manufacturing or extraction shall not be done in any building containing assembly, educational, health care, ambulatory health care, residential board and care, residential, or detention and correctional facilities.
3. Delivery-Only Marijuana Retailers and Marijuana Transporters shall not occupy street-level space in Local or General Business districts.
4. The required distance from schools that serve Kindergarten through 12th grade, public or private, shall be:
 - a. 500 feet for i) Social Consumption Marijuana Retailers issued a primary use license; and ii) Storefront Marijuana Retailers with the following provisos:
 1. Where the 500-foot buffer intersects a major corridor (as defined in subsection 2 immediately below), the buffer zone shall not include land on the opposite side of the major corridor from where the school is located.
 2. For purposes of this section, “major corridors” are defined as Beacon Street, Commonwealth Avenue, and/or Route 9 (otherwise known as Boylston Street, including a portion of Boylston Street that converts to Washington Street).
 - b. No distance requirement applicable to i) Marijuana Research Facilities that do not hold a Marijuana Retailer license; ii) Marijuana Independent Testing Laboratories; and iii) Marijuana Standards Laboratories.
 - c. 200 feet for all other Marijuana Establishments.
 - d. Measured from lot boundary to lot boundary.
5. Density requirements for Social Consumption Marijuana Retailers issued a primary use license and Storefront Marijuana Retailers shall be:

- a. A minimum of 200 feet from another Social Consumption Marijuana Retailer issued a primary use license or Storefront Marijuana Retailer if any portion of the establishment is located at street-level.
 - b. Allowed within 200 feet from another Social Consumption Marijuana Retailer issued a primary use license or Storefront Marijuana Retailer above or below street-level as long as the Zoning Board of Appeals determines that doing so will not have a detrimental impact on the vibrancy of the streetscape and all other applicable requirements are satisfied (applicable to uses 29A and 29B).
 - c. Measured from lot boundary to lot boundary.
6. Store Size Limitations for Social Consumption Marijuana Retailers issued a primary use license and Storefront Marijuana Retailers shall:
- a. Not exceed a total gross floor area of 5,000 square feet per establishment.
 - b. Not exceed a gross floor area of 3,500 square feet and no more than 5,000 square feet total gross floor area per establishment if any portion of the establishment is located at street-level.
 - c. Not apply to Medical Marijuana Treatment Centers licensed to operate prior to July 1, 2017, who receive a State Storefront Marijuana Retailer license or Delivery-Only Marijuana Retailer license pursuant to M.G.L. c. 94G and the regulations promulgated thereunder, unless a licensed Medical Marijuana Treatment Center expands the licensed premises or building.

6. *Site Plan Review for Marijuana Establishments*

The following describes requirements for a Marijuana Establishment site plan review process to precede the Marijuana Establishment's application for a building permit and a special permit:

- A. Prior to applying for a building permit, the Marijuana Establishment shall have an initial informal meeting with the Planning Director and the Building Commissioner or designees to discuss development plans and relevant Zoning By-Law requirements.
- B. The appropriate site plan review process shall be determined at the initial meeting consistent with the Zoning By-Laws, which may include, but is not limited to, the process for Major Impact Projects and Design Advisory Teams.

- C. In addition, at the discretion of the Planning Director or designee, the Marijuana Establishment Site Plan Review process may entail submission of reports from all relevant departments and divisions, which may include the Health Department, the Police Departments, the Fire Department, the Building Department, the Department of Public Works (*e.g.*, the Transportation Division in the event that a Transportation Demand Management Plan may be contemplated, the Water Division, the Highway and Sanitation Division, as applicable), and/or any other Department that the Planning Director or designee determines to be appropriate to the project.
- D. The applicant is responsible for obtaining any Department report deemed necessary by the Planning Director or designee in connection with Marijuana Establishment Site Plan Review process and submitting the report to the Planning Department. The Planning Department will assist with identifying to the applicant information and documents that Departments may require in connection with issuing their reports. Departments responsible for reports may identify other needed information and documents needed from the applicant.
- E. Each Department designated by the Planning Department to issue a report will make its report available to the applicant no later than forty-five (45) calendar days from the date the applicant has completed submission to the Department of all requested information and documents.
- F. In the event a Department designated by the Planning Department to issue a report does not do so within 45 days of when the applicant submitted all requested information and documents to the Department, the applicant may submit to the Planning Department, in lieu of the report, a letter showing evidence of the applicant's submission of requested information and documents to the Department or stating that no documents or information was requested, as the case may be.
- G. The Marijuana Establishment shall cooperate with requests for information or meetings by the Planning Director and/or by any of the Departments designated by the Planning Director to issue reports as part of the Marijuana Establishment Site Plan Review process, which information may include the Marijuana Establishment's application for a license from the Cannabis Control Commission or relevant State agency.
- H. Marijuana Establishments may not apply for a building permit until the Planning Director and Building Commissioner have issued a written Notice of Completion of Marijuana Establishment Site Plan Review.

7. *Special Permits*

The following apply to special permits to operate a Marijuana Establishment, in addition to the requirements set forth in §9 of the Zoning By-Laws.

A. Application requirements: Marijuana Establishments shall include with their special permit application:

1. Copies of any required licenses and permits relating to the operation of the Marijuana Establishment, or, if an application for a required license or permit is pending, a copy of the application.
2. Evidence of the Marijuana Establishment's right to use the proposed site as a Marijuana Establishment, such as a deed or lease.
3. A copy of the Notice of Completion of Marijuana Establishment Site Plan Review Process for Marijuana Establishments.
4. Any other materials requested by the Special Permit application form, as well as any other additional materials the Planning Department determines is necessary for review, such as Department reports or transportation studies or a license application.

B. Special permit criteria: The Board of Appeals shall not approve any application for a special permit unless it finds that in its judgment all of the following conditions are met:

1. Issuance of the special permit would not contravene the cap on the number of special permits that may be granted (*see* subsection 4, *Cap on the Number of Special Permits for Storefront Marijuana Retailers* of this section) and any applicable density restrictions (*see* subsection 5, *General Requirements for Marijuana Establishments*, of this section). Issuance of a special permit must also comply with applicable State and local laws.
2. The location is compliant with Section 4.13 in its entirety.
3. The Board of Appeals is otherwise satisfied that the Marijuana Establishment has the ability to comply with the General Requirements for Marijuana Establishments set forth in Section 4.13, and 4.12 if applicable.

8. *Submittal Requirements prior to issuance of a Certificate of Occupancy*

The following information shall be provided to the Building Department:

- A. Proof that the Brookline Police Department has been provided with the name, phone numbers and email addresses of all management staff, and with access to the facility when it is closed, to enable contact if operating problems should arise.

- B. Proof that all security measures required by the special permit have been installed or implemented.
- C. Proof that the applicant is compliant with implementing any required transportation mitigation measures.

9. Enforcement

This section of the Zoning By-Law shall be enforced by the Building Commissioner or the Building Commissioner’s designee, as may be consistent with law. This Section, 9. Enforcement, shall supersede any conflicting provision of the Zoning By-Laws that would otherwise be applicable to the enforcement of this section.

10. Implementation

This section shall not be implemented in a manner that conflicts or interferes with the operation of M.G.L. c. 94G, 94I or the regulations promulgated thereunder, including 935 CMR 500,

ADVISORY COMMITTEE’S SUPPLEMENTAL RECOMMENDATION

At its May 10th, 2018 meeting, the Advisory Committee, upon learning that the Select Board’s motion differed from the Advisory Committee’s motion in the Combined Reports, voted 22–0–1 to reconsider its recommended motion under Article 17.

Because the Select Board had adopted the Advisory Committee’s language regarding the “major corridors” with respect to the 500-foot buffer, the only difference between the Advisory Committee and Select Board motions was how they treated Social Consumption Marijuana Retailers in L (Local Business) districts. The Select Board’s recommended motion would allow Storefront Marijuana Retailers in L districts (by special permit), but prohibit Social Consumption Marijuana Retailers in such districts. The Advisory Committee’s previous recommended motion would allow both uses by special permit in L districts.

After the motion to reconsider passed, there was extensive discussion regarding the retail marijuana uses proposed in the original language of Article 17. Some members of the Advisory Committee felt strongly that Storefront Marijuana Retailers and Social Consumption Marijuana Retailers should not be permitted in L districts. This was not only a neighborhood concern expressed during public comment at the subcommittee’s hearing, but also related to concerns about the effect on rents of other businesses in L districts (because of the significantly higher anticipated sales of marijuana businesses) which could drive out small neighborhood businesses, an increase in traffic and a lack of sufficient

parking in these more residential neighborhoods near L districts, a potential increase in crime, and, perhaps most importantly, a belief that we should proceed cautiously in this new frontier, since L districts can always be added later but subsequently removing them could result in nonconforming uses that would be grandfathered.

The primary opposition to prohibiting marijuana establishments in L districts was that it would reduce the number of potential sites in Town, concentrate potential sites in specific areas rather than disperse them more widely throughout town, and prevent some neighborhoods from having a marijuana retail store. An amendment to ban all retail marijuana uses in L districts failed with 7 in favor and 16 opposed. By the same margin, the Advisory Committee also voted against recommending the Select Board's recommended motion, which would allow Storefront Marijuana Retailers in L districts by special permit, but ban Social Consumption Marijuana Retailers in such districts.

A vote was then taken on the motion that the Advisory Committee had recommended previously in the Combined Reports, which includes the amended language regarding the 500-foot buffer zones but does not change the original language of the Warrant with respect to retail marijuana uses in L districts. This motion passed overwhelmingly.

RECOMMENDATION:

By a vote of 20–0–3, the Advisory Committee recommends FAVORABLE ACTION on its motion under Article 17 as printed in its previous report in the Combined Reports.

ARTICLE 17

**MOTION OFFERED BY NEIL WISHINSKY, SCOTT GLADSTONE TMM-16,
 ANGELA HYATT TMM-5, KATE SILBAUGH TMM-1,
 BETSY DEWITT TMM-5, AND CYNTHIA DRAKE TMM-5**

VOTED: To amend Section 4.07, Table of Uses, for Local Districts (“L”) by changing the allowed use by Special Permit (“SP”) to “No” for use 29A. Storefront Marijuana Retailers, as follows:

Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
29A. Storefront Marijuana Retailers, stores of less than 5,000 square feet of gross floor area per establishment * Permitted by special permit pursuant to Section 4.13, Marijuana Establishments	No	No	No	No	No	SP* +2 <i>No</i>	SP*1, 2	No	SP*1

Explanation:

There has been much discussion about where various categories of newly licensed marijuana related establishments can be located. The Licensing Review Committee along with the Town Counsel and the Planning Department has done an admirable job crafting this zoning article along with the broader regulatory scheme that is before Town Meeting. The general rule they have put forth is to allow marijuana establishments in districts where alcohols sales are permitted. While that rule, on its face, sounds reasonable we must recognize that the sale of recreational marijuana is new, and we can’t anticipate all the impacts and unintended consequences.

The one area that we believe Town Meeting should be permitted to explicitly vote on is whether to allow the most impactful uses in Local Business (L) Districts. Brookline’s Zoning Bylaw states that establishments in Local Business districts “primarily serve the local retail business needs of the residents of the vicinity” or “primarily serve local needs.” Examples of Local Business Districts are:

- (1) The stretch of single story storefronts on Harvard Street known as Kennedy Crossing

- (2) The commercial strip on Beacon St near St. Mary's Street
- (3) Cypress Street by Kurkman's Market including the parcel known as Kendall Crescent extending to the former Sewall School, which is now a residential condominium
- (4) The CVS at the Washington/Cypress intersection
- (5) The shops at Putterham Circle
- (6) Stop and Shop on Harvard Street

While some of these districts are on busy commercial thoroughfares and may serve more than local retail needs (for example, the Stop and Shop parcel), others are embedded in residential neighborhoods.

The two most impactful uses are uses 29A (Storefront retailers) and 29B (Social Consumption Retailers). The Select Board motion excludes 29B (Social Consumption Retailers). This motion would give Town Meeting the option of excluding use 29A (Storefront retailers) from L Districts. Both motions combined would exclude uses 29A and 29B from L Districts.

Lastly, no matter how you feel about whether these establishments should be allowed in L Districts, it is important for Town Meeting to pass a version of Article 17. Without the zoning in Article 17, the Town would be subject to the default of allowing marijuana establishments anywhere in Town. That, clearly, is an undesirable outcome.

FAQs on Marijuana-related Warrant Articles 17-22

This pamphlet was created by the Brookline Planning and Community Development Department to answer the most frequently asked questions (FAQs) regarding Warrant Articles 17-22. For more information or information regarding any legal questions, please see the Warrant Explanation Section of the respective Warrant Article.

These are not suggestions on the way in which you should vote.

I'VE HEARD BROOKLINE IS A "YES" COMMUNITY- WHAT IS A "YES" COMMUNITY, AND HOW DOES LIVING IN A "YES" COMMUNITY IMPACT ME?

A majority (59.98%) of Brookline residents voted "Yes" to Question 4 during the 2016 election to legalize adult-use Marijuana, making Brookline a "Yes" community. "Yes" communities are required to follow processes in order to limit adult-use Marijuana that are, in some respects, different than "No" communities. "No" communities are where a majority of residents voted "No" to Question 4. **Brookline is a "Yes" community.**

In a "Yes" community, certain limitations cannot be placed on Marijuana Retailers (businesses that sell Marijuana directly to the consumer) unless they are approved BOTH by Town Meeting AND in a Town-wide referendum.

In preparation for the July 1st deadline, Town Boards, Committees, and Departments worked proactively to introduce a series of Warrant Articles to create a regulatory process for these Establishments, known as Warrant Articles 17-22, for consideration at the upcoming May 2018 Annual Town Meeting. Without the adoption of these regulations, there will be no local oversight and Marijuana Establishments will be subject only to the rules of the State of Massachusetts.

WHY DOESN'T THE TOWN IMPOSE A MORATORIUM?

The Town currently has a temporary moratorium that runs until December 31, 2018 or when the Town adopts by-laws in light of the marijuana regulations established by the CCC. The Marijuana Warrant Articles would effectively replace the moratorium, should they be adopted.

WHY DOESN'T THE TOWN EXTEND THE MORATORIUM?

Town Meeting of May 2017 attempted to extend the moratorium, but the Attorney General's Office denied the request. Please visit the Town's Marijuana Information website for more information: www.brooklinema.gov/marijuana.

WHAT ARE THE RULES FOR MARIJUANA ESTABLISHMENTS?

The State regulations are extensive and complex, compiled in an 88-page document that governs various use types (grow, sell, etc.). State regulations do not give much local control over Marijuana Establishments, which is why we've proposed the regulatory scheme included in Warrant Articles 17-22. You can find a copy of the regulations by the Cannabis Control Commission (known as the "CCC," the agency responsible for creating the State regulations) on its website: <https://mass-cannabis-control.com/>

HOW WAS THE BY-LAW DRAFTED?

Feedback and recommendations from various public safety departments, including Police, Fire, and Health, were instrumental in informing all of the proposed warrant articles, which were vetted through the Select Board's Licensing Review Committee. A combination of public meetings, hearings, surveys, and other tools were utilized to understand the pulse of the community when drafting regulatory proposals. For a complete archive of meeting agendas and minutes, please visit the Marijuana Information website: www.brooklinema.gov/marijuana

WHY ARE THERE 6 WARRANT ARTICLES FOR MARIJUANA?

Each Warrant Article accomplishes a specific goal. A brief summary is included here:

WA 17: Amend the Zoning By-law to add Marijuana regulations (including pertaining to siting and density) and introduces a default cap on the number of Special Permits to be issued to Marijuana Retailers (which sunsets when Article 18 is approved).

WA 18: Accomplishes three things: (1) creates a licensing scheme to allow the Select Board to issue annual licenses and review Marijuana Establishments; (2) sets a cap for the total number of licenses for Marijuana Retailers by type; and (3) regulates Marijuana through the use of our General By-Laws.

WA 19: Allows for a motion at Town Meeting to decrease the number of Select Board licenses (see WA-18) to a number that is 1, 2, or 3.

WA 20: Regulates personal Marijuana use (*e.g.*, no public consumption or cultivation within the public view, no at-home extraction using combustible materials).

WA 21: Assigns enforcement authority for WAs 18 and 20 to specific Departments (in addition to the Police Department, which can enforce any General By-Law).

WA 22: Adopts a sales tax of 3% on Marijuana and Marijuana products, similar to a local meals tax.

Warrant Article 17: Marijuana Zoning By-Law

Function of the Article: Amends the Town’s Zoning By-law to add Marijuana regulations and regulates zoning characteristics like allowable location sites, appropriate districts, and retail store size restrictions.

WHAT IS THE CAP PROPOSED IN WARRANT ARTICLE 17?

The cap included in Warrant Article 17 applies to Marijuana Retailers and is the maximum number of Special Permits to be issued by the Zoning Board of Appeals. This cap is set to mirror the number of Select Board licenses (see Articles 18 and 19).

WHY IS THERE ANOTHER CAP INCLUDED IN THE GENERAL BY-LAW (WARRANT ARTICLE 18)?

The Zoning By-law references the cap in the General By-law. A default cap was included in the zoning by-law to have something in place in case the CCC does not honor the Town’s moratorium. Zoning By-laws are effective the day of the vote (potentially at Town Meeting). We do expect the CCC to honor the moratorium based on its recent guidance, therefore, the cap will be as Town Meeting votes in connection with Articles 18 and 19 (see above)

Reminder: A different cap can be proposed at Town Meeting, including a whole number (instead of a percentage, except that a whole number that rounds down from the 20% number will require a Town-wide vote) or elimination of the cap (this means we would allow an unlimited number of Marijuana Retailers), but if we adopt a cap on the number of Marijuana Retailers fewer than 20% of our package store licenses **issued** (we currently have 19 package store licenses issued, but can issue as many as 24), we must go to a Town-wide vote.

WHERE CAN MARIJUANA ESTABLISHMENTS LOCATE?

Marijuana Establishments will be subject to several layers of regulations proposed in WA-17. These include distance from schools, distance from one another, limitations on having space in a building with a daycare, store size limitations, and siting in appropriate business districts depending on the type of use

WHAT DOES A “NO” VOTE ON WARRANT ARTICLE 17 MEAN?

A “No” vote on Warrant Article 17 **DOES NOT** mean no Marijuana in Brookline. You would actually be voting to reject the proposed local regulations. If a “No” vote passes at Town Meeting, there will be no local zoning regulations in place specific to Marijuana and Marijuana Establishments would be subject to State laws, which have fewer regulations and no cap on the number of licenses.

FAQs about Warrant Article 18: Marijuana General By-Laws

Function of the Article: Accomplishes three things: (1) creates a licensing scheme for the Select Board to issue licenses and *review Marijuana Establishments on an annual basis*; (2) *sets a cap for the total number of Marijuana Retailer licenses the Select Board can issue*; and (3) *regulates Marijuana through the use of our General By-Laws*.

WHAT DOES A LICENSING SCHEME DO?

A licensing scheme allows the Select Board to issue licenses and review Marijuana Establishments on an annual basis similar to the way we do with alcohol establishments, like restaurants and package stores. This adds local control under the Select Board. A license may also be revoked or not renewed under certain conditions, and requires the Marijuana Establishment to appear before the Select Board on a yearly basis for license renewal.

WHAT IS THE CAP FOR MARIJUANA RETAILERS?

The cap proposed in WA-18 is for a number equal to 20% of package store licenses issued (rounded up) as to each category of Marijuana Retailers, namely, Storefront retailers (“take-out”, which the CCC will begin licensing this summer), Social Consumption retailers (on-site consumption, which the CCC has said it will begin licensing early next year), and Delivery-Only retailers (an Amazon.com-type model, which the CCC has said it will begin licensing early next year). Currently, the Town has 19 package store licenses issued and can issue up to 24 in total. That means, if the cap of 20% is approved, we could issue 4 or 5 licenses to each type of Marijuana Retailers.

Note: The number of package store licenses is decided by the census and based on the Town’s population. This means the number of package store licenses can vary.

WHY SET A CAP OF 20% FOR MARIJUANA RETAILERS?

Setting a cap at 20% allows for the integration of the industry, while avoiding a proliferation of these business types so that the Town can better adapt to them and respond with any additional needed regulations over time. By law, the municipality has the authority to establish a cap, and we may increase or decrease the cap of Marijuana licenses accordingly (subject to limitations applicable to “Yes” communities, see above).

Increasing or eliminating the cap requires favorable approval (50% plus 1 vote) of this Warrant Article at Town Meeting.

Decreasing the cap below 20% of package stores licenses issued would require a favorable vote (50% plus 1 vote) on this Warrant Article AND a favorable vote I (50% plus 1 vote) on Warrant Article 19. Note: any cap on Marijuana Retailers below 20% of package store licenses issued also requires approval by the voters in a Town-wide referendum, as required by State law for “Yes” communities (see above).

Once adopted, the cap can be changed at a future Town Meeting by amending the General By-Laws.

FAQs about Warrant Article 19:
Motion to Reduce the Cap to a number lower than 20%

Function of the Article: Allows for a motion to go below the 20% of package store licenses issued as to each category of Marijuana Retailers (Storefront, Social Consumption, Delivery only, see above), to a number that is 1, 2, or 3 and within each category (e.g., 2 Storefront Marijuana Retailer licenses, and 1 in each of the remaining two categories). Again, a cap on the number of Marijuana Retailers below 20% of outstanding package store licenses would also require approval from the voters in a Town-wide referendum (because this is a “Yes” community, see above).

WHY CAN'T WE BAN ALL MARIJUANA ESTABLISHMENTS?

The articles do not propose a ban given that 60% of Brookline voters voted in favor of Question 4. In addition, the law is gray about whether a community with an existing medical marijuana dispensary can ban its expansion into retail marijuana sales.

FAQs about Warrant Article 20:
Marijuana General By-Law

Function of the Article: This article regulates personal marijuana use and includes a ban on home extraction using dangerous combustible materials.

CAN PEOPLE CONSUME MARIJUANA IN PUBLIC?

No. The General By-law proposed in Article 20 clearly states “no person shall smoke, ingest, consume...Marijuana or Marijuana Products while in or upon any public street, sidewalk... playground...” and other locations. This is consistent with the State law and provides a local by-law enforcement mechanism. For a complete list and additional definitions, please see WA-20.

WILL THIS BAN MY USE OF MARIJUANA IN MY HOME?

No, Article 18 only bans consumption of Marijuana in public places and cultivation of Marijuana and Hemp (which look the same) in public view. In addition, it restricts residential personal manufacture and extraction at home to non-solvent based extraction methods, since methods which use combustible materials can be dangerous. With these exceptions, the proposed Articles are generally aimed to regulate businesses, not residents.

FAQs about Warrant Article 21:
Prosecution and Enforcement

Function of the Article: This article assigns the Town Departments that will be enforcing the by-laws proposed by Warrant Articles 18 and 20. These are in addition to the Police Department (which has general enforcement authority for General By-Law enforcement).

FAQs about Warrant Article 22:
Local Tax Option

Function of the Article: Adopts a sales tax of 3% on Marijuana and Marijuana products.

CAN PEOPLE CONSUME MARIJUANA IN RESTAURANTS?

Not with the Warrant Articles proposed here. The CCC will not begin licensing “Social Consumption” Marijuana Retailers (businesses selling marijuana for on-site consumption) until early next year. In addition, under State law, a community must “opt in” before the CCC will license Social Consumption establishments there, through a Town-wide referendum. The law details the procedures for this. We include this Use by Special Permit now in anticipation of CCC licensing of these establishments beginning in 2019, in order to have measures in place.

CAN AN EXISTING STORE ALSO SELL MARIJUANA?

If an existing store is compliant with all the zoning regulations and able to obtain a license from the Select Board and the CCC, then yes. However, there are additional State laws that regulate how this will look in practice. For example, alcohol and Marijuana cannot be sold together per State laws; Marijuana products must be separated from other non-Marijuana products and not accessible to those under the age of 21; other rules apply.

CAN I JUST WALK IN AND BUY RECREATIONAL MARIJUANA?

Recreational Marijuana will not be available to consumers until July 1, 2018, at the earliest, and not before Retailers have obtained all necessary State and local licenses and permits. The State regulations have requirements for checking ID’s at the door and other measures, which the Town proposals have incorporated.

WILL MARIJUANA ESTABLISHMENTS FACILITIES BE SECURE?

Marijuana facilities, regardless of the type of use, are required to be secured by State law. For example, the Marijuana product must be kept separate from consumers and even certain employees in a secure location. To read all the State regulations, please visit the Cannabis Control Commission’s website.

WHAT WILL BE THE TOWN APPLICATION PROCESS TO OBTAIN A LICENSE TO OPEN A MARIJUANA ESTABLISHMENT?

All Marijuana Establishments will go through a two-step process with multiple opportunities for public comment.

- 1) If WA-18 is approved, the Select Board license application process will follow current practices (similar to that for liquor licenses) to determine whether an applicant should be issued a license.
- 2) If WA-17 is approved, as part of the application process for a special permit, the applicant will obtain reports from Fire, Health, and other necessary departments with any specified conditions for that particular Marijuana Establishment and its specific location. The Departments will generate reports to the Zoning Board of Appeals based on their expertise and any pertinent public feedback. The Zoning Board of Appeals will consider the reports in determining whether or not to issue a special permit.

If Articles 17 and 18 are approved, the applicant cannot open for business without a Select Board license, a Special Permit from the Zoning Board of Appeals, and a State license.

WHAT DO WE KNOW ABOUT CRIME RELATED TO THE LEGALIZATION OF MARIJUANA?

Based on research and communication with communities in Colorado, data is limited and not easily trackable. We understand that due to its Federal designation as a narcotic, data on Marijuana is bundled with other narcotics. So, researchers are left to sift through a large amount of data to identify Marijuana crimes. We also understand that Marijuana crimes are not consistently recorded as isolated reports and are often bundled with other crimes for a given “Marijuana-related incident,” which is to say the crime cannot be attributed to Marijuana use alone. We have found significant bodies of work that support arguments both in support of and against the impacts of Marijuana on crime, but many of these reports seem biased based on the perspective of the writer or funder, and therefore may not be reliable for making policy or data decisions.

Relevant to Brookline are the proactive steps our local law enforcement are undertaking to prepare for the introduction of this industry, which includes anticipated training for officers to better identify when an individual is under the influence of Marijuana.

ARE THERE TESTS TO SEE IF PEOPLE ARE DRIVING UNDER THE INFLUENCE OF MARIJUANA?

We understand that technology to measure whether an individual is Operating Under the Influence (OUI) of alcohol is being worked on to measure an individual’s use of Marijuana. Other tests include specific training programs for law enforcement to better identify signs of Marijuana use.

HOW DO I STAY INFORMED THROUGH THE PUBLIC PROCESS IN RESPECT TO FUTURE MARIJUANA LICENSES?

Sign up for notifications by utilizing the “Notify Me” notification system. You should consider signing up for notifications from the Planning Board, Advisory Council of Public Health, or others.

ARTICLE 23

SELECT BOARD'S SUPPLEMENTAL RECOMMENDATION

Article 23 is a petitioned article that, as revised, asks Town Meeting to rename the Edward Devotion School to a name chosen by the School Committee after a thorough public process has garnered community input to choose a permanent name for the school. In the interim this article asks Town Meeting to name the School the Coolidge Corner School until that process has been completed and a permanent name can be presented to Town Meeting. At such time the Naming Committee would also be asked for input on the name and make a recommendation in time for the 2019 Annual Town Meeting.

Although the School Committee has formed an Ad Hoc subcommittee on School Names to begin working on the effort to rename the School the Board is appreciative that the revised motion allows a more formal process to inform the name. The Naming Committee reviewed the original article at the beginning of April and recommended referral to the School Committee, via their newly established Ad Hoc Subcommittee on School Names. The Naming Committee guidelines call for a vote from the School Committee before they make a recommendation on such any proposal for the name of a school.

The Board is supportive of this article and notes that the effort to bring the history of Edward Devotion to light has been part of the ongoing efforts of Hidden Brookline, which seeks to acknowledge Brookline's history with slavery and freedom. Hidden Brookline hosts walking tours and has sponsored resolutions at Town Meeting to acknowledge this history. A plaque was installed at the Old Burial Ground to celebrate the African-American enslaved men, women and child buried there. The Board sees this proposal as a continuation of that effort.

The Board supports the revised motion and unanimously voted FAVORABLE ACTION on the motion offered by the Advisory Committee.

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

SUMMARY:

Warrant Article 23 asks Town Meeting to adopt a resolution that removes the name "Edward Devotion School" from the school currently bearing that name and asks for a robust public process to choose a new permanent name for the school. The Article is based on the premise that a school should not be named after a man who was a slaveholder.

By a vote of 12 in favor, 2 opposed, with 9 abstentions, the Advisory Committee recommends FAVORABLE ACTION on the petitioners' revised Article 23 motion.

BACKGROUND:

In 1744, Edward Devotion, a Brookline resident and slave owner, bequeathed property to the Town for the building of a new school. In 1892 the Edward Devotion School was named in his honor.

It has not been widely known that Edward Devotion was a slaveholder. Despite the proximity of the Edward Devotion House to the school, it appears as if very little attention was paid to him over the years as part of the school's curriculum. (This is often contrasted with the attention shown to Amos A. Lawrence, namesake of the Lawrence School. Many graduates of the Lawrence School cite Lawrence's affiliation with the abolitionist movement as something they know about the history of their school.)

In recent years the Town has begun to pay more attention to the history of slavery in Brookline, establishing the Hidden Brookline Committee in 2006 to examine and bring to light the "hidden histories of slavery and freedom in Brookline." The May 2012 Annual Town Meeting by an overwhelming margin voted Favorable Action on Warrant Article 27, which acknowledged Brookline's history with slavery, called upon the people of Brookline to recognize contributions of Native-Americans and African-Americans, and pledged vigilance against practices and institutions that dehumanize and discriminate against people. It was through the work of the Hidden Brookline Committee that Devotion's slaveholding past came to light.

DISCUSSION:

There was strong support on the Advisory Committee for the spirit of this Warrant Article. Members of the Committee commented on both the ugly quality of slaveholding and the unique roles that schools and school names play in the lives of their students. Although there were members who expressed concern that the totality of Edward Devotion's life was being reduced to that of "slaveholder," most agreed from the supplied testimony that other than making a significant donation to the Town, Devotion was not a particularly distinguished resident and would not likely have qualified under our contemporary criteria for naming.

Opposition to the idea that history was somehow "being rewritten" was expressed, with Committee members pointing out that if this Article passes, there would still be an Edward Devotion House and a Devotion Street in Brookline.

Concerns were raised regarding whether the Article properly followed the process for changing the name of the school. For example, the Article, as submitted, instructed the Naming Committee to hold public hearings to select a name, failing to recognize that school names come from the School Committee. The responsibility of the Naming Committee is to review and report its recommendations on proposals for naming public facilities. It does not have the staff or the resources to organize a process for changing the

name of a school. The School Committee was consulted and has embraced this process, and the Advisory Committee amended the Article accordingly. The revised motion took the form of a resolution that included multiple “whereas” clauses and called upon the School Committee to hold public hearings, obtain public input, and recommend a new school name to the Naming Committee, which would then report to Town Meeting. The proposed resolution, particularly its “whereas” clauses was considered to be an expansion of scope of the Article and an inappropriate hybrid of a motion and a resolution. Thus, with the support of the Moderator, the petitioners are offering a new motion to reflect the Advisory Committee feedback, the Moderator’s ruling, and input from the School Committee. The revised motion has been recommended by the Advisory Committee.

RECOMMENDATION:

By a vote of 12–2–9, the Advisory Committee recommends FAVORABLE ACTION on the following motion:

VOTED: That the Town change the name of the Edward Devotion School to a name to be selected by the School Committee after receiving public input through a process to be determined by the School Committee. Town Meeting hereby requests the Naming Committee to consider the name so selected by the School Committee and make a recommendation to Town Meeting with respect thereto at the 2019 Annual Town Meeting. In the interim, the name of the School shall be Coolidge Corner School.

ARTICLE 24

CONSERVATION COMMISSION RECOMMENDATION

The Conservation Commission supports referral of Article 24 to a Moderators Committee.

The Town of Brookline is the steward of exceptional open space resources—from grand historic parks to small public gathering spaces in commercial areas, from natural sanctuaries which are home to native wildlife and plants to parks managed for active and passive recreation, from pedestrian pathways to wildlife corridors, and from ponds and wetlands to a vital urban forest.

But, because most land in Brookline has already been developed, it is very difficult to acquire new open space. And, when remaining areas of private open space are lost, it often happens in increments so small as to go largely unnoticed. The Conservation Commission has been aware of this problem for decades, noting, for instance, in its 1994 Open Space Plan (p. 98) that answers were needed to questions about how the Town might acquire sites for conservation and recreation. Central among these questions has been how funds for acquisition can be obtained.

The Conservation Commission has advocated for identifying a source of revenue that would be used to build a fund exclusively for open space acquisition. Article 24 as originally drafted falls short of this goal, and yet, because it creates a mechanism that includes open space acquisition among other worthy public objectives, it is a positive step in that direction. The Commission therefore supports referral of Article 24 to a Moderators Committee for further review and refinement.

ARTICLE 24

SELECT BOARD'S SUPPLEMENTAL RECOMMENDATION

Article 24 proposes to implement a new real estate tax of up to 1% on the purchase of property to be received into a Transfer Tax Revolving Fund (a Brookline Land Bank). The money in the fund could then be appropriated by Town Meeting to the Housing Trust Fund, a Conservation Commission Fund or for the purchase of land for parks or public use.

The Select Board agrees with the notion that the Town should always be exploring new avenues to raise additional funds. Due to the pressures of overrides and debt exclusions, the Select Board is fully aware that there is a need to explore all potential funding sources, but the land bank would not be an alternative to overrides because it would produce an unknown amount of money. Earmarking those funds for open space or a school site is also commendable. However, the Board noted the complexity of the article as originally constructed, and agrees with the Advisory Committee's position that further study is needed.

The Board is supportive of the resolution proposed by the Advisory Committee. The Board's motion under this article is similar to the Advisory Committee's except for the following modification to the second to last whereas clause:

WHEREAS: A Brookline Real Estate Transfer Tax could be **an additional revenue source** ~~a preferable alternative revenue source to future Proposition 2½ overrides;~~

The Board did not want to draw the conclusion that the transfer tax could take the place of override funds and in case, that suggestion would jeopardize the reception of any proposed legislation that could come out of the study committee.

A unanimous Select Board offers the following motion under Article 24:

VOTED: That the Town adopt the following resolution:

A RESOLUTION CALLING FOR REFERRAL TO A SELECT BOARD COMMITTEE TO CONSIDER A GENERAL COURT HOME RULE PETITION THAT WOULD AUTHORIZE THE TOWN OF BROOKLINE TO IMPOSE A REAL ESTATE TRANSFER TAX AND ESTABLISH A BROOKLINE LAND BANK

WHEREAS: There is evidence that Brookline's 2010 population will increase 12%–17% by 2030;

WHEREAS: In view of limits on Brookline’s revenue growth and projected expense increases to serve a growing population, there is unlikely to be sufficient funding from existing sources;

WHEREAS: Authorities on municipal taxation point out that a well-designed real estate transfer tax can be equitable, low impact, inexpensive to administer, and therefore could be an appropriate form of taxation to address currently underfunded needs of the Town;

WHEREAS: Currently underfunded needs of the Town include public land devoted to schools, parks, open space, recreational facilities, playgrounds, and conservation areas; also real estate that is suitable for affordable housing and for economic development to expand the Town’s commercial tax base;

WHEREAS: A Brookline Real Estate Transfer Tax could be an additional revenue source;

WHEREAS: A Brookline Land Bank could be well suited to operate within the Town’s organizational structure and financial policies and could be specifically adapted to and compatible with the unique combination of long established urban and suburban neighborhoods and commercial districts in Brookline.

NOW THEREFORE BE IT RESOLVED AS FOLLOWS: That the Select Board appoint a committee to study the value to the Town of seeking State approval for the adoption of a municipal level real estate transfer tax and for establishing a multipurpose Brookline Land Bank, the specifics of funding and operating the Land Bank, and other topics which the committee may determine to be relevant. The committee shall issue a report and make recommendations on or before March 1, 2019, accompanied by a possible warrant article.

ADVISORY COMMITTEE’S SUPPLEMENTAL RECOMMENDATION

SUMMARY:

Article 24, as published in the Warrant, proposed a Home Rule petition that would enable Brookline to establish a Land Bank to be funded by a real estate transfer tax. After discussions with the Advisory Committee, the petitioner, with the Moderator’s agreement, decided to offer a resolution to urge the Select Board to establish a committee to study the implementation of a Land Bank in Brookline and report back with a possible warrant article by March 1st, 2019. The Advisory Committee voted to recommend Favorable Action on that resolution.

On May 10th, the Advisory Committee reconsidered its recommendation on the petitioner’s resolution of March 19th, and, with agreement of the petitioner, voted to recommend an amended substitute resolution, which has been approved by the Moderator.

By a vote of 18–3–2 the Advisory Committee recommends FAVORABLE ACTION on the amended resolution, which appears below.

BACKGROUND:

As published in the Warrant, Article 24 proposes that the Town submit a Home Rule Petition to the Massachusetts General Court that would authorize the Town of Brookline to impose a real estate transfer tax and to establish a Brookline Land Bank with revenues to be earmarked for four designated uses. The four proposed earmarked uses include:

1. Public land devoted to schools;
2. Parks, open space, recreational facilities, playgrounds, and conservation areas;
3. Real estate that is suitable for affordable housing; and for
4. Real estate for economic development to expand the Town’s commercial tax base;

For more details, and a summary of previous discussion, see the Advisory Committee’s initial report in the Combined Reports.

DISCUSSION:

The Advisory Committee moved to reconsider the previous Article 24 resolution and to recommend an amended resolution that is clearer and simpler, as well as providing a more detailed explanation to guide the charge to the proposed Select Board Committee.

One key reason for amending the previous resolution is that it presupposes the answer to several distinct and significant policy questions that should be first addressed by a study committee prior to addressing the specifics of how to structure a transfer tax and how a hybrid multi-purpose Land Bank might work. Such policy questions include:

1. Do the inherent advantages of a municipal transfer tax justify its adoption in Brookline?
2. What are the optimal range of uses for revenues to be generated from a transfer tax?
3. Should a real estate transfer tax be permanently earmarked for certain designated uses?
4. What are the relative merits of the four proposed uses vs. other alternative needs?
5. Is a Land Bank the optimal vehicle for administering the revenues of a transfer tax?

More detailed investigation leading to specific recommendations by the committee will depend upon the results of its initial attention to these broad policy questions.

The Advisory Committee expects that the study committee will include individuals with skillsets and experience suitable to the committee’s charge, including but not necessarily limited to: municipal budgeting and finance; real estate finance; real estate law; municipal land banking; public policy; and strategic planning.

The Advisory Committee members concurred that the revised resolution did provide clearer guidance to setting the charge to the proposed Select Board Committee and did not

presume to answer the questions that the proposed committee would study. The Advisory Committee noted that the changes to the “whereas” clauses were not material and were to provide for greater clarity and simplicity.

The Advisory Committee therefore reconsidered its previous recommendation and voted to recommend a revised resolution.

RECOMMENDATION:

By a vote of 18–3–2, the Advisory Committee recommends FAVORABLE ACTION on the following motion:

VOTED: That the Town adopt the following resolution:

A RESOLUTION CALLING FOR REFERRAL TO A SELECT BOARD COMMITTEE TO CONSIDER A GENERAL COURT HOME RULE PETITION THAT WOULD AUTHORIZE THE TOWN OF BROOKLINE TO IMPOSE A REAL ESTATE TRANSFER TAX AND ESTABLISH A BROOKLINE LAND BANK

WHEREAS: There is evidence that Brookline’s 2010 population will increase 12%–17% by 2030;

WHEREAS: In view of limits on Brookline’s revenue growth and projected expense increases to serve a growing population, there is unlikely to be sufficient funding from existing sources;

WHEREAS: Authorities on municipal taxation point out that a well-designed real estate transfer tax can be equitable, low impact, inexpensive to administer, and therefore could be an appropriate form of taxation to address currently underfunded needs of the Town;

WHEREAS: Currently underfunded needs of the Town include public land devoted to schools, parks, open space, recreational facilities, playgrounds, and conservation areas; also real estate that is suitable for affordable housing and for economic development to expand the Town’s commercial tax base;

WHEREAS: A Brookline Real Estate Transfer Tax could be a preferable alternative revenue source to future Proposition 2½ overrides;

WHEREAS: A Brookline Land Bank could be well suited to operate within the Town’s organizational structure and financial policies and could be specifically adapted to and compatible with the unique combination of long established urban and suburban neighborhoods and commercial districts in Brookline.

NOW THEREFORE BE IT RESOLVED AS FOLLOWS: That the Select Board appoint a committee to study the value to the Town of seeking State approval for the adoption of a municipal level real estate transfer tax and for establishing a multipurpose Brookline Land

Bank, the specifics of funding and operating the Land Bank, and other topics which the committee may determine to be relevant. The committee shall issue a report and make recommendations on or before March 1, 2019, accompanied by a possible warrant article.

For informational purposes, the changes to the Advisory Committee's previous recommended motion are shown below. Additions are underlined. Deletions are denoted by ~~strikethrough~~.

WHEREAS, there is evidence that Brookline's 2010 population will increase 12% – 17% by 2030;

~~WHEREAS, Town officials have pointed out that Brookline public land devoted to schools, parks, open space, recreational facilities, playgrounds, and conservation areas, is already insufficient to meet Brookline's current needs;~~

~~WHEREAS, Town officials have pointed out that there is a shortage of affordable housing in Brookline;~~

~~WHEREAS, Town officials have pointed out that it could be in the best interest of the Town to consider creative uses of acquired public land for economic development;~~

~~WHEREAS, if forecasted population growth materializes, it would be in the best interest of Brookline to establish a means for acquiring additional public land for these municipal purposes;~~

WHEREAS, in view of limits on Brookline's revenue growth and projected expense increases to serve a growing population, the Town needs to identify potential new revenue ~~there is unlikely to be sufficient funding from existing sources available for such land purchases;~~

WHEREAS, authorities on municipal taxation point out that a well-designed real estate transfer tax can be equitable, ~~very~~ low impact, inexpensive to administer, and therefore could be an appropriate form of taxation to address fund currently underfunded needs of the Town public land acquisition;

WHEREAS, currently underfunded needs of the Town include public land devoted to schools, parks, open space, recreational facilities, playgrounds, and conservation areas; also real estate that is suitable for affordable housing and for economic development to expand the Town's commercial tax base;

WHEREAS, a Brookline ~~Land Bank, funded with a Real Estate Transfer Tax,~~ could be a preferable alternative revenue source to future Proposition 2½ overrides;

WHEREAS, a Brookline Land Bank would be well suited to operate within the Town's organizational structure and financial policies and could be specifically adapted to and compatible with the unique combination of long established urban and suburban neighborhoods and commercial districts in Brookline.

NOW THEREFORE BE IT RESOLVED AS FOLLOWS: That the Select Board appoint a committee to study the value to the Town of seeking State approval for the adoption of a municipal level real estate transfer tax and for establishing a multipurpose Brookline Land Bank, the specifics of funding and operating the Land Bank, and other topics which the committee may determine to be relevant. The committee shall issue a report and make recommendations on or before March 1, 2019, accompanied by a possible warrant article.

ARTICLE 26

ADVISORY COMMITTEE’S SUPPLEMENTAL RECOMMENDATION

After the Advisory Committee had voted to recommend NO ACTION on Article 26, the petitioners offered a revised motion, which would “refer the subject matter of Article 26 to a committee to be appointed by the Moderation, with a request that such committee report back to Town Meeting at or prior to the 2018 Fall Town Meeting.”

On May 3, 2018, the Advisory Committee met to reconsider Article 26 and discussed the proposed referral motion.

The petitioners reminded the Advisory Committee of the rationale for Article 26, which was placed on the Warrant as a home rule petition. Brookline seniors who are 70 years or older (the petitioners increased the age cut-off from 65 to 70) often do not qualify for means-tested tax relief programs. Exempting such seniors from future Proposition 2½ overrides and debt exclusions would reduce the tax burden on these Brookline residents and might enable them to “age in place.” A Moderator’s Committee could study the issues and answer questions about the cost and administration of any such program.

Although Advisory Committee members were generally sympathetic to the idea of offering tax relief to Brookline’s seniors and appreciated the petitioners’ efforts to address this issue, many members felt that it was not clear what another study committee would do or how it would add to the work of the Selectmen’s Committee on Senior Tax Policy. The Selectmen’s Committee studied issues of senior tax relief in depth, held many meetings, and issued its report in October 2017. Town Meeting voted to implement the Committee’s recommendations. What will the proposed committee do that the Selectmen’s Committee did not do? Moreover, the Assessor is committed to publicizing the existing tax relief programs; the Town is already working to address the petitioners’ concerns.

In addition, some Advisory Committee members pointed out that Article 25 already would send one senior tax relief home rule petition to the state legislature. Article 26 contemplated another home rule petition and such a recommendation might emerge from a Moderator’s Committee. It might be wise to wait to see if the Article 25 home rule petition is approved before initiating a process that could generate another home rule petition on a related topic.

Finally, it was noted that it may be unwise to convene too many Moderator’s or Select Board Committees to study the issues raised by Warrant Articles. Every such committee requires an investment of time and resources, and there are limited supplies of each.

RECOMMENDATION:

By a vote of 11–5–5 the Advisory Committee recommends NO ACTION on the petitioners' referral motion under Article 26.

ARTICLE 28

SELECT BOARD'S SUPPLEMENTAL RECOMMENDATION

The following report and motion is intended to cover the Board's position on articles 28-30:

Articles 28-30 are petitioned articles from Town Meeting Member Scott Ananian seeking regulation of the Town's acquisition and use of "military and surveillance" equipment. Article 28 proposes a lengthy by-law that requires the Select Board's approval of any application for funding, acquisition, deployment and use, or solicitation of a third party on behalf of the Town, to use military or surveillance equipment. The by-law would require the submission of an "impact report" and "use policy" for such equipment and would require the Board to conduct a public hearing. Article 29 would establish a committee to advise the Select Board about the acquisition and use of such military and surveillance equipment. Article 30 is a proposed non-binding resolution covering the goals in Articles 28 and 29 in the event that these binding by-law proposals are defeated or have technical and/or legal problems.

For most of the reasons that are effectively communicated in the Advisory Committee and the Committee on Town Organization and Structure (CTOS) reports, the Select Board does not support these articles. The Board considers the by-law proposal under Article 28, taking up ten pages of single spaced text within the Warrant, overly complicated, impractical and detached from the realities of how Town departments use standard and modern technology to meet their responsibilities in the 21st century. The permitted use of technologies by the Police Department is already outlined in its Policies and Procedures which were reviewed and approved just last year by the Select Board and are available to the general public on its website. In addition, the Brookline Police Department is an MPAC accredited agency, and as such has been found to be in compliance with all standards regarding surveillance transparency as mandated by the Massachusetts Police Accreditation Commission, as well as all laws and regulations including, but not limited to, the Massachusetts Public Records Laws, the Massachusetts Municipal Records Retention schedule, the Massachusetts Declaration of Rights, 28 CFR 23 and, most importantly, the Constitution of the United States.

However, in the spirit of acknowledging that the use of military and surveillance equipment is a legitimate concern in our society, we will support a referral of this general matter to a Select Board appointed study committee. Led by Board Member Bernard Greene, the scope of this committee would be consistent with the approach identified by CTOS. This referral should start with a "clean slate" rather than an assumption that the flawed proposal under Article 28 be a starting point to "tweak".

The Board unanimously offers the following motion under articles 28-30:

RESOLVED: That the Select Board appoint a committee to study and report to it on the acquisition, deployment and use of surveillance equipment, and military equipment if any, by Town Departments and by the School Department, and on the policies, procedures and oversight regulating such acquisition, deployment and use and regulating the acquisition, retention, use and dissemination of surveillance data by Town Departments and the School Department. Further, that the Select Board consider including a representative of the CIMS Oversight Committee, the Commission for Diversity Inclusion & Community Relations, the Advisory Committee, Public Safety Departments of the Town, and members of the public and/or Town or School Departments with relevant technical expertise. The work product should include, but not be limited to, inventories of all surveillance equipment and military equipment and, after at least one public hearing, recommendations for any improvements and best practices to be adopted.

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

After the Advisory Committee had voted to recommend NO ACTION on Article 28 (and Articles 29 and 30), the Committee on Town Organization and Structure (CTO&S) issued a report on Articles 28, 29, and 30, and offered a resolution to refer the issues raised by the three Articles to a committee to be appointed by the Select Board. Marty Rosenthal, a member of CTO&S, dissented from that Committee's referral motion and offered an alternative motion that would refer the subject matter of Articles 28–30 to the Commission for Diversity, Inclusion, and Community Relations. The Commission would consult with the Select Board and form a working group that would assist the Select Board in preparing proposals for a future Town Meeting

On May 10, 2018, the Advisory Committee met to possibly reconsider Article 28 (and Articles 29 and 30), and discussed the proposed referral motions.

Like the Advisory Committee, CTO&S had serious concerns about the language and unintended legal issues in Articles 28–30. The Advisory Committee discussed many serious concerns about the proposed CTO&S referral motion. That motion would have the Select Board appoint a committee to study, among other things, the issue of military equipment use, even though the Town of Brookline apparently is not using military equipment. The Advisory Committee noted that the report of CTO&S on Articles 28–30 raises questions about whether referral is necessary or appropriate. For example, the CTO&S report argues that Articles 28–30 include “accusatory terminology and burdensome requirements that are inapplicable to Brookline and that could jeopardize public safety.”

The motion filed by a single member of CTO&S would have the Commission for Diversity, Inclusion, and Community Relations form a working group to study the issues raised by

the three Warrant Articles. The Advisory Committee had already expressed concern about the limited resources the Commission has to work with. Most members of the Advisory Committee did not think the Commission for Diversity, Inclusion, and Community Relations should take the lead in studying, for example, the issues of the Town's use of static cameras or acquisition of military equipment (of which we have none). One Advisory Committee member expressed the hope that the petitioner would not move the Articles and come back in the future with a proposal more suited to Brookline's actual situation.

Many members of the Advisory Committee questioned whether every Article that does not receive a Favorable Action vote needs to be referred to a Moderator's or Select Board committee.

It also was noted that the Commission for Diversity, Inclusion, and Community Relations does not need a referral motion in order to consider the subject matter of Articles 28, 29, and 30. The Commission, which has an important perspective, could take up these questions, study the issues, and, potentially, offer its own Warrant Article(s) for a future Town Meeting.

RECOMMENDATION:

By a vote of 3–18–2, a motion to reconsider Article 28 failed. The Advisory Committee therefore continues to recommend NO ACTION on Article 28.

ARTICLE 28-30

MOTION OFFERED BY MARTIN ROSENTHAL, TMM9¹

RESOLVED: to refer the general subject matters of arts. 28-30, including inventory of and prospective policies for the acquisition and use of surveillance and military equipment, as they pertain to all Town and School Departments -- including related policies, such as existing or future surveillance cameras, and the future use of body and cruiser cameras -- to the Commission on Diversity, Inclusion, & Community Relations to consult with the Select Board and form a working group -- including appropriate technical expertise, departmental members, and community representatives -- to hold at least one public hearing, to assist the Select Board in reporting back proposal(s) as soon as reasonably feasible for a future Town Meeting warrant.

Explanation:

First, and respectfully, the long too conservative Advisory Committee should be ashamed for voting, 1st, that 28-30 need to simply go back to the petitioners' drawing board, and 2nd, essentially/implicitly (a) that the petitioners alone should bear that entire onus, and (b) not explicitly disputing, but implicitly minimizing, art. 28-30's important issues.

I have, since March, promoted referral of these articles, which in fact raise some important issues, but are too complex for constructive TM debate, and contain much that's indeed not pertinent here. As the dissenter to the thoughtful CTOS proposal, my reasons - - for both referral and the above alternative approach -- follow.

Going back to the unanimously adopted 1987 *Selectmen's Report On Police And Community Relations* (that I co-authored), the most important overall issue is that BPD "policy" issues need not only (and obviously) BPD input, but also -- for effective civilian control by the S/Bd (now officially "police commissioners" by my 2010 by-law amendment) -- more ongoing and institutionalized procedures for *public input*, which has sometimes been unfortunately neglected. See from the 1987 Report, e.g. (emphasis now added):

By [a 1921] vote of T/M, Brookline adopted c. 41, § 97, mandating that "the Selectmen may make suitable regulations governing the police department and the officers thereof" -- as opposed to [§97A] wherein a chief makes regulations, subject only to approval by the Selectmen. We have, and wish to have, a Chief who is "strong" in many ways, e.g., energy, professionalism, managerial and administrative initiative; but by law it is the selectmen who should make significant policy decisions. It is important that [they] not meddle in the daily

¹ Co-Chair of Brookline PAX and a member of CTOS, but dissenting from their referral motion. *The Diversity Commission, after a May 9th hearing, considered CTOS' motion, and voted to recommend this one instead.*

administrative and managerial activities of the Department. For “policy” issues, it is important not only that the Selectmen invite, receive, and accord some deference to the advice of the Chief but also that *the community have an opportunity to provide input*. ... Law enforcement in America is premised on the theory that police derive their authority from, and are part of, the people. Not only should community input be institutionalized, but police policies and activities must be explained to the public. The [S/B & BPD] must earn the trust and support of the community through, in part, positive and open communication to citizens directly and through the media. ... The Selectmen and the Chief should make efforts, including those made pursuant to our other recommendations, to identify all unwritten practices which should be codified as written policies. All such policy issues should be docketed for preliminary discussion by the Selectmen after input and recommendations from the Chief relative to background and alternative strategies. After further research or investigation, *such issues should generally be decided only after a public hearing*. Broad community input should be solicited, particularly from groups, agencies, or individuals known to have interest or knowledge in such issues.

As for the specifics of 28-30, yes, it has many details that are merely hypothetical -- or irrelevant -- for Brookline. Yet there *are* several very serious issues that are either existing, imminent, or proliferating in many communities. For example, now needing attention are: (a) use of body and cruiser cameras, which is (fortunately) proliferating elsewhere, but raises some tricky -- and surmountable-- issues (e.g. funding, privacy, bargaining, public access); (b) proliferating use of license plate scanners, also raising various issues²; and (c) a better & more expanded focus on townwide surveillance issues, broader than the Camera Oversight Committee has been doing.

As usual, *CTOS'* [May 1st draft] *MOTION*, is thoughtful, raising some valid issues. BUT it:

- has a too restrictive/specific subject matter , saying “the Articles should not form a starting point, because they could compromise public safety... [and] ‘military equipment’ may not even be at issue in Brookline, but a reference is included for the sake of completeness.” Such over-generalizations (a) are premature; (b) like the A/C, implicitly denigrate the seriousness of the most pertinent issues; and (c) should not preempt -- or color -- the referral study. The scope and topics should be discussed by the study committee as an early discussion item, including both lots of narrowing and some clarifying. For instance, we have urged that both *body/cruiser cameras* and also *taser/stun guns* -- the latter (thankfully) rejected by our two recent Chiefs -- should be included in the study.³;
- is also too specific in naming various entities as members, maybe unprecedented. With only T/M’s more general guidance, the appointing officials should -- and will -- decide what expertise and entities should be on it;

² See <http://www.bostonglobe.com/metro/2018/05/06/boston-police-resume-using-license-plate-readers-after-accidental-release-data/gZrC8ozxad9GxcymIxtLfO/story.html>.

³ See Globe editorial, 4/29/18, “Hey, Beacon Hill: Stun guns too lethal to ignore.”; see also Globe, March 14th, “Taser use rising fast.” The Supreme Court says tasers are “arms” within the 2nd Amendment. They’re used by the Army; & art 28 includes “tactical equipment ... used by the US military, including, but not limited to: ... (g) firearms ... other than service weapons... issued to local police officers”

- proposes an unnecessary, wholly new committee -- presumably with either no, new, or re-assigned staff. Goodness knows Brookline has (too) many already. Instead, we propose a working group supervised by the (staffed) Diversity Comm'n; and
- does *not mandate any public hearing*.

The Diversity Commission did great work with a similar working group, collaborating with the BPD & Select Board on *sanctuary* policies that may be the state's best. Petitioners, Brookline PAX, and I are confident the Commission has both the appropriate mission and now-proven priorities -- including *both* safety of the public *and* of our police officers. Their by-law, which I & S/B/M Greene helped draft, includes numerous references to "*human and civil rights*," which includes both privacy rights and preventing (excessive) "militarization." And, fears that the Commission would downplay safety or BPD concerns are clearly misplaced. Conversely, we trust them more than a totally unknown new committee to take seriously arts. 28-30.

ARTICLES 28-30

**REPORT OF THE COMMITTEE ON TOWN
ORGANIZATION AND STRUCTURE**

Despite the deeply flawed nature of Articles 28, 29 and 30, CTO&S recognizes that a number of Town Meeting Members and citizens, including some CTO&S members, may believe that the time has come to reexamine (or, in some cases, examine for the first time) the actual deployment and use of surveillance equipment by the Town and the Schools as well as Town and School procedures regarding surveillance. **If** these articles are to be referred, CTO&S by a 5-1 vote recommends the following referral motion:

RESOLVED: That the Select Board appoint a committee to study and report to it on the acquisition, deployment and use of surveillance equipment, and military equipment if any, by Town Departments and by the School Department, and on the policies, procedures and oversight regulating such acquisition, deployment and use and regulating the acquisition, use and dissemination of surveillance data by Town Departments and the School Department. Further, that the Select Board consider including a representative of the CIMS Oversight Committee, the Commission for Diversity Inclusion & Community Relations, the Advisory Committee, Public Safety Departments of the Town, and members of the public and/or Town or School Departments with relevant technical expertise. The work product should include, but not be limited to, inventories of all surveillance equipment and military equipment and recommendations for any improvements and best practices to be adopted.

Member Rosenthal dissented, presenting the draft of an alternative referral motion that he is planning to finalize and offer to Town Meeting.

CTO&S recommends that the study committee be appointed by the Select Board and that the report be made to the Select Board, for the following reasons:

- It has been argued that the Commission for Diversity Inclusion & Community Relations (“CDICR”) should form a “working group” (with some ill-defined “consultation” with the Select Board) because this is a civil rights issue.
- The best interests of the Town, however, require that surveillance not be viewed through a single lens. There is a difficult balancing act between the recognition that surveillance can be used for the wrong purposes -- most notably invading privacy and creating racial, religious or other injustice -- and the recognition that it also can be used to deter, to thwart and, if all else fails, to find and apprehend criminals.
- There is no set formula to achieve this balance between civil rights and public safety, but it requires judgment responsive to both sides of the issue. The Select

Board is the single Town entity equipped to achieve this balance by its position, duties, breadth of responsibilities and direct accountability to the citizens of Brookline.

- The Select Board, as the Town’s Police Commissioners, is obligated not only to protect civil rights but also charged with protecting public safety. It is, moreover, the entity vested with authority to implement any changes with regard to the Police and other Town departments.
- The elected Select Board is the entity that must answer to Town voters for the way competing concerns are balanced.
- While the CTO&S motion suggests some committee members, the Select Board has the authority and the visibility to cast a wider net seeking the most qualified individuals to serve on a study committee. If these issues are important enough to study, they should be studied by a committee with the greatest breadth of experience and expertise.

CTO&S also believes that the appointed committee should start with a clean slate. These matters should have a robust local study and discussion with recommendations based on local conditions and concerns. The provisions of Articles 28, 29 and 30 should not be a starting point for any consideration of “military equipment,” surveillance equipment or surveillance data in Brookline, because those Articles cannot simply be “tweaked” to form the basis of action in Brookline. The Articles appropriate language from a national campaign highlighting abuses in other communities, incorporating accusatory terminology and burdensome requirements that are inapplicable to Brookline and that could jeopardize public safety. For example,

- So-called “military equipment” may not even be at issue in Brookline, yet “military equipment” is referred to in section after section of the Articles.
- Even the resolution (Article 30) copies language from a national campaign and thoughtlessly pastes it into a Brookline resolution: “throughout history, military and surveillance equipment has been used to intimidate and oppress ... those that are defined by a common race, ethnicity, religion, national origin, income level, sexual orientation, or political perspective.” No example has been given of any such conduct by Town or School Departments.
- Article 29 likewise repeatedly refers to the “disparate impacts” of military and surveillance equipment on “individual(s) having any traits, characteristics, or status as to which discrimination is prohibited,” calling for “research [on] local issues” with regard to such “disparate impacts” and “mechanisms to report disparate impacts,” as well creating a complicated committee structure and annual reporting to deal with any such impacts. Again, there was no example of any such disparate treatment in the use of surveillance equipment (to say nothing of military equipment) by Brookline Town Departments or the Brookline Schools.

Moreover, the Articles should not form a starting point because they could compromise public safety. Under Article 28, for example,

- The Police Department would be prohibited from “using ... surveillance equipment for a purpose ... not previously approved by the Select Board,” and the Article requires a “mandatory ... public Board hearing” prior to such approval. By its terms, there is no exception even when a court has issued a warrant for surveillance – the Department would then also have to reveal the anticipated surveillance in a public Select Board hearing. The reporting requirements of the Article make clear that it is indeed intended to encompass surveillance even when there has been a warrant or non-warrant form of court approval.
- Similarly, the Police Department would be prohibited from “entering into an agreement with any other person or entity to acquire ... surveillance data” without the “mandatory ... public Board hearing” and approval. During the public hearings on these Articles, the Department provided an example of its ability to quickly arrest suspects in a robbery and stabbing through the use of information received from private cameras, phone records and the MBTA. Article 28 would by its terms foreclose such quick and effective investigatory work.
- The Article cites 28 C.F.R. Part 20e with approval, but then ignores exemptions included in that federal regulation. The federal regulation includes broad exemptions for the dissemination of information for law enforcement activity and for imminent danger to life and property. 28 C.F.R. §§23.20(e), (f)(2). The warrant articles contain no such exemptions.
- The Article would undermine judicial process. It provides that “any citizen of the Town may institute proceedings for injunctive relief, declaratory relief, writ of mandate or evidence suppression in any court of competent jurisdiction to enforce this article.” This suggests that even if electronic surveillance were conducted pursuant to a valid search warrant, a defendant – or, indeed, any citizen (including even one not the object of surveillance) – could bring an action to suppress evidence for violation of any of the myriad technical requirements of the Article.

There is also a significant question of the authority of Town Meeting and the Select Board over the School Department. Article 28 would require Select Board approval before any “Town entity” either “deploy[s] or us[es] new or existing ... surveillance equipment for a purpose or in a manner not previously approved by the Select Board in accordance with this Article, including the sharing of surveillance data therefrom.” The term “Town entity” is defined to mean any department or unit of the Town of Brookline, which would include the School Department. In fact, petitioners made clear in a PowerPoint presentation their intent to focus these Articles on the School Department as well as Town Departments, because they believe that the Schools (and libraries) lack the good practices of the Police Department with regard to surveillance:

- “This does not single out the police. Community members are equally concerned about surveillance cameras in the libraries and schools.”
- “If anything, the oversight provided by this bill [sic] is more critical on these non-police technologies, since the other departments lack the good prior practices demonstrated by BPD for CIMS audits, etc.”

The Select Board, which would have to implement any recommendations with the guidance of Town Counsel, is best equipped to deal with the question of its legal authority vis-à-vis the School Committee.

If Town Meeting is inclined to refer Articles 28, 29 and 30, CTO&S therefore recommends that the referral be in the form set forth above.

ARTICLE 29

SELECT BOARD'S SUPPLEMENTAL RECOMMENDATION

Please see the Board's report and recommendation under Article 28, which also applies to the subject matter of this article.

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

After the Advisory Committee had voted to recommend NO ACTION on Article 29 (and Articles 28 and 30), the Committee on Town Organization and Structure (CTO&S) issued a report on Articles 28, 29, and 30, and offered a resolution to refer the issues raised by the three Articles to a committee to be appointed by the Select Board. Marty Rosenthal, a member of CTO&S, dissented from that Committee's referral motion and offered an alternative motion that would refer the subject matter of Articles 28–30 to the Commission for Diversity, Inclusion, and Community Relations. The Commission would consult with the Select Board and form a working group that would assist the Select Board in preparing proposals for a future Town Meeting

On May 10, 2018, the Advisory Committee met to possibly reconsider Article 29 (and Articles 28 and 30), and discussed the proposed referral motions.

Like the Advisory Committee, CTO&S had serious concerns about the language and unintended legal issues in Articles 28–30. The Advisory Committee discussed many serious concerns about the proposed CTO&S referral motion. That motion would have the Select Board appoint a committee to study, among other things, the issue of military equipment use, even though the Town of Brookline apparently is not using military equipment. The Advisory Committee noted that the report of CTO&S on Articles 28–30 raises questions about whether referral is necessary or appropriate. For example, the CTO&S report argues that Articles 28–30 include “accusatory terminology and burdensome requirements that are inapplicable to Brookline and that could jeopardize public safety.”

The motion filed by a single member of CTO&S would have the Commission for Diversity, Inclusion, and Community Relations form a working group to study the issues raised by the three Warrant Articles. The Advisory Committee had already expressed concern about the limited resources the Commission has to work with. Most members of the Advisory Committee did not think the Commission for Diversity, Inclusion, and Community Relations should take the lead in studying, for example, the issues of the Town's use of static cameras or acquisition of military equipment (of which we have none). One Advisory

Committee member expressed the hope that the petitioner would not move the Articles and come back in the future with a proposal more suited to Brookline's actual situation.

Many members of the Advisory Committee questioned whether every Article that does not receive a Favorable Action vote needs to be referred to a Moderator's or Select Board committee.

It also was noted that the Commission for Diversity, Inclusion, and Community Relations does not need a referral motion in order to consider the subject matter of Articles 28, 29, and 30. The Commission, which has an important perspective, could take up these questions, study the issues, and, potentially, offer its own Warrant Article(s) for a future Town Meeting.

RECOMMENDATION:

By a vote of 3–18–2, a motion to reconsider Article 29 failed. The Advisory Committee therefore continues to recommend NO ACTION on Article 29.

ARTICLE 30

SELECT BOARD'S SUPPLEMENTAL RECOMMENDATION

Please see the Board's report and recommendation under Article 28, which also applies to the subject matter of this article.

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

After the Advisory Committee had voted to recommend NO ACTION on Article 30 (and Articles 28 and 29), the Committee on Town Organization and Structure (CTO&S) issued a report on Articles 28, 29, and 30, and offered a resolution to refer the issues raised by the three Articles to a committee to be appointed by the Select Board. Marty Rosenthal, a member of CTO&S, dissented from that Committee's referral motion and offered an alternative motion that would refer the subject matter of Articles 28–30 to the Commission for Diversity, Inclusion, and Community Relations. The Commission would consult with the Select Board and form a working group that would assist the Select Board in preparing proposals for a future Town Meeting

On May 10, 2018, the Advisory Committee met to possibly reconsider Article 30 (and Articles 28 and 29), and discussed the proposed referral motions.

Like the Advisory Committee, CTO&S had serious concerns about the language and unintended legal issues in Articles 28–30. The Advisory Committee discussed many serious concerns about the proposed CTO&S referral motion. That motion would have the Select Board appoint a committee to study, among other things, the issue of military equipment use, even though the Town of Brookline apparently is not using military equipment. The Advisory Committee noted that the report of CTO&S on Articles 28–30 raises questions about whether referral is necessary or appropriate. For example, the CTO&S report argues that Articles 28–30 include “accusatory terminology and burdensome requirements that are inapplicable to Brookline and that could jeopardize public safety.”

The motion filed by a single member of CTO&S would have the Commission for Diversity, Inclusion, and Community Relations form a working group to study the issues raised by the three Warrant Articles. The Advisory Committee had already expressed concern about the limited resources the Commission has to work with. Most members of the Advisory Committee did not think the Commission for Diversity, Inclusion, and Community Relations should take the lead in studying, for example, the issues of the Town's use of static cameras or acquisition of military equipment (of which we have none). One Advisory

Committee member expressed the hope that the petitioner would not move the Articles and come back in the future with a proposal more suited to Brookline's actual situation.

Many members of the Advisory Committee questioned whether every Article that does not receive a Favorable Action vote needs to be referred to a Moderator's or Select Board committee.

It also was noted that the Commission for Diversity, Inclusion, and Community Relations does not need a referral motion in order to consider the subject matter of Articles 28, 29, and 30. The Commission, which has an important perspective, could take up these questions, study the issues, and, potentially, offer its own Warrant Article(s) for a future Town Meeting.

RECOMMENDATION:

By a vote of 3–18–2, a motion to reconsider Article 30 failed. The Advisory Committee therefore continues to recommend NO ACTION on Article 30.

ARTICLE 31

SELECT BOARD'S SUPPLEMENTAL RECOMMENDATION

Article 31 is a motion to amend Article 8.32 of the General By-Laws by deleting Article 8.32 in its entirety and replacing it with new language. The amended language focuses on the requirement that food and retail establishments are prohibited from using polystyrene, polyvinyl, foam polystyrene, or polyethylene terephthalate containers, and instead shall use biodegradable, compostable, reusable or recyclable materials or containers. There is an exemption for caterers and the Health Director may waive specific requirements for demonstrated hardships.

The Select Board is in favor of implementing thoughtful requirements of the business community concerning the waste produced by one-time packaging associated with the businesses. As a longtime leader in solid waste reduction, there has been a gradual enactment of rules that pertain to materials that will remain in the waste stream for years. Plastic bags, polystyrene cups and packaging, and plastic bottles have all been studied. In this case, the by-law would be revised to continue to push the high standards that the community has placed on becoming sustainable.

There were multiple discussions about caterers and the proposed exemptions. The Board heard from the local business community, which has expressed their concern that the proposed requirements would put them in a disadvantageous position by absorbing the higher costs of the sustainable packaging. The Board considered the amendments proposed by the Advisory Committee and rejected all changes except for those proposed in section 3 (c). The Board was not unanimous on the amendment which defined caterer (with Greene dissenting). In addition, there was a split vote concerning the exemption of medical facilities proposed by the Advisory Committee under section 3 (d) (with Wishinsky and Franco voting against that language).

Although this change cannot impact the materials of food packaged outside of the Town, it will still lead to a reduction of solid waste that will not biodegrade. Multiple businesses in Town already utilize containers that are biodegradable, compostable, reusable or recyclable; therefore, it is an attainable standard to set on all food and retail establishments.

After the Board took action on the amendments proposed by the Advisory Committee they unanimously voted FAVORABLE ACTION on the following motion:

VOTED: That the Town shall amend Article 8.32 of the General By-Laws by deleting Article 8.32 in its entirety and replacing it with the following:

Article 8.32
Sustainable Food Containers and Packaging

Section 1: DEFINITIONS

The following words and phrases shall, unless context clearly indicates otherwise, have the following meanings:

BIODEGRADABLE Entirely made of organic materials such as wood, paper, bagasse or cellulose; or bioplastics that meet the American Society for Testing and Materials (ASTM) D7081 standard for Biodegradable Plastics in the Marine Environment or any other standard that may be developed specifically for an aquatic environment and are clearly labeled with the applicable standard.

CATERER Refers to a food establishment with a catering license issued by the Town that derives at least 50% of its revenues from catering orders.

COMPOSTABLE Refers to bioplastic materials certified to meet the American Society for Testing and Materials International Standards D6400 or D6868, as those standards may be amended. ASTM D6400 is the specification for plastics designed for compostability in municipal or industrial aerobic composting facilities. D6868 is the specification for aerobic compostability of plastics used as coatings on a compostable substrate. Compostable materials shall also include products that conform to ASTM or other third-party standards (such as Vinçotte) for home composting. Any compostable product must be clearly labeled with the applicable standard on the product.

DISPOSABLE FOOD SERVICE WARE All food and beverage containers, bowls, plates, trays, cartons, cups, lids, straws, stirrers, forks, spoons, knives, film wrap, and other items designed for one-time or non-durable uses on or in which any food vendor directly places or packages prepared foods or which are used to consume foods. This includes, but is not limited to, service ware for takeout foods and leftover food from partially consumed meals prepared at food establishments.

DIRECTOR refers to the Director of the Department of Public Health or the Director's designee.

FOOD ESTABLISHMENT An operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption. This includes, without limitation, restaurants and food trucks.

PACKING MATERIAL Polystyrene foam used to hold, cushion, or protect items packed in a container for shipping, transport, or storage. This includes, without limitation, packing "peanuts"; and shipping boxes, coolers, ice chests, or similar containers made, in whole or in part, from polystyrene foam that is not wholly encapsulated or encased within a more durable material.

POLYSTYRENE There are two basic forms, Foam and Rigid Polystyrene. Foam includes without limitation blown, expanded (EPS), and extruded foams such as "Styrofoam," a

Dow Chemical Co. trademarked form of insulation. Foam Polystyrene is generally used to make opaque cups, bowls, plates, trays, clamshell containers, meat trays and egg cartons. Rigid or oriented polystyrene is generally used to make clear clamshell containers, cups, plates, straws, lids and utensils.

PREPARED FOOD Food or beverages, which are served, packaged, cooked, chopped, sliced, mixed, bottled, frozen, squeezed or otherwise prepared on the food establishment's premises within the Town, regardless of whether it is consumed on or off the premises.

RECYCLABLE Material that can be sorted, cleansed, and reconstituted using the Brookline curbside municipal collection programs for the purpose of using the altered form in the manufacture of a new product. "Recycling" does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

RETAIL ESTABLISHMENT Any commercial business facility that sells goods directly to the consumer including but not limited to grocery stores, pharmacies, liquor stores, convenience stores, restaurants, retail stores and vendors selling clothing, food, and personal items, and dry cleaning services.

REUSABLE Products that will be used more than once in its same form by a food establishment. Reusable food service ware includes: tableware, flatware, food or beverage containers, packages or trays, such as, but not limited to, soft drink bottles and milk containers that are designed to be returned to the distributor and customer that is provided take-out containers. Reusable materials include aluminum and glass. Reusable also includes cleanable durable containers, packages, or trays used on-premises or returnable containers brought back to the food establishment.

Section 2. PROHIBITED USE AND DISTRIBUTION OF FOOD WARE AND PACKAGING

(a) Effective January 1, 2020, Food establishments are prohibited from providing prepared food to customers using polystyrene or polyvinyl chloride food service ware. Catering orders provided by Caterers shall be exempt from the provisions of this paragraph (a).

(b) Effective January 1, 2020, Food establishments using any disposable food service ware shall use biodegradable, compostable, reusable or recyclable food service ware. Catering orders provided by Caterers shall be exempt from the provisions of this paragraph (b). All food establishments are strongly encouraged to use reusable food service ware in place of using disposable food service ware for all food served on premises.

(c) Retail establishments and caterers are prohibited from selling or distributing foam polystyrene food service ware to customers.

(d) Retail establishments are prohibited from selling or distributing polystyrene foam packing material to customers.

(e) Effective January 1, 2020, Food Establishments are prohibited from providing prepared food to customers using any food service ware made of polyethylene terephthalate. Catering orders provided by Caterers shall be exempt from the provisions of this paragraph (e).

Section 3. EXEMPTIONS

(a) Foods prepared or packaged outside the Town are exempt from the provisions of this chapter.

(b) Food establishments and retail establishments will be exempted from the provisions of this Article for specific items or types of disposable food service ware if the Department of Health Director or designee finds that a suitable biodegradable, compostable, reusable, or recyclable alternative does not exist for a specific application and/or that imposing the requirements of this chapter on that item or type of disposable food service ware would cause undue hardship to the establishment.

(c) Any establishment may seek an exemption from the requirements of this chapter by filing a request in writing with the Department of Health Director or designee. The Department of Health Director or designee may waive any specific requirement of this chapter for a period of not more than one year if the establishment seeking the exemption has demonstrated that strict application of the specific requirement would cause undue hardship. For purposes of this chapter, an “undue hardship” is a situation unique to the food establishment where there are no reasonable alternatives to the use of disposable food service ware and compliance with this provision would cause significant economic hardship to that food establishment. An establishment granted an exemption must re-apply prior to the end of the one-year exemption period and demonstrate continued undue hardship if the establishment wishes to have the exemption extended. The Health Department Director’s decision to grant or deny an exemption or to grant or deny an extension of a previously issued exemption shall be in writing and shall be final.

Section 4. PENALTIES AND ENFORCEMENT

(a) Each Food or Retail establishment as defined above, operating in the Town of Brookline shall comply with this by-law.

(1) If it is determined that a violation has occurred the Department of Health Director shall issue a warning notice to the Food or Retail establishment for the initial violation.

(2) If an additional violation of this by-law has occurred within one year after a warning notice has been issued for an initial violation, the Department of Health Director shall issue a notice of violation and shall impose a penalty against the Food or Retail establishment.

(3) The penalty for each violation that occurs after the issuance of the warning notice shall be no more than:

A) \$50 for the first offense

B) \$100 for the second offense and all subsequent offenses. Payment of such fines may be enforced through civil action in the Brookline District Court as provided in Article 10.3 of the Town's General By-laws.

(4) No more than one (1) penalty shall be imposed upon a Food or Retail establishment within a seven (7) calendar day period.

(5) A Food or Retail establishment shall have fifteen (15) calendar days after the date that a notice of violation is issued to pay the penalty.

Section 5. SEVERABILITY

If any provision or section of this By-law shall be held to be invalid, then such provision or section shall be considered separately and apart from the remaining provisions or sections of this by-law, which shall remain in full force and effect.

Section 6. EFFECTIVE DATE

The provisions of this By-law shall take effect on January 1, 2019, except the provisions of Section 2(a), 2(b) and 2(e), which shall take effect on January 1, 2020.

ARTICLE 32

MOTION OFFERED BY THE PETITIONERS

VOTED: That the Town amend the General by-laws, Section 3.1.3, to include the following language in bold:

SECTION 3.1.3 LITIGATION AND CLAIMS

The Select Board may institute, prosecute, defend, compromise and settle claims, actions, suits or other proceedings brought by, on behalf of, or against the town, provided, however, that it shall act upon advice of counsel when the amount to be paid in any settlement exceeds one thousand dollars (\$1,000). It may employ special counsel in suits by or against the town whenever it deems it necessary.

The Select Board shall not enter into or authorize any agreement which has the purpose or effect of concealing the details relating to a claim of discrimination, retaliation, or harassment against the Town. The financial terms of any settlement agreement concerning such a claim shall be published in a newspaper of general circulation within the Town, shall be posted on the Town website, and shall be posted in ten public places in the Town within seven (7) days of the settlement.

Explanation:

This article would bar the Select Board from using various legal devices (e.g. gag orders, nondisclosure agreements, confidentiality agreements) to prevent people from speaking publicly about discrimination, retaliation, and harassment claims against the Town. The article would require the Town to promptly publicize the settlement of any discrimination, retaliation, or harassment claim.

The following spreadsheet, which was provided by the Town, identifies the claims and settlements that would have been covered by the article over the past ten years.

DATE SETTLED	AMOUNT DISBURSED	ALLEGATIONS	CASE NAME	DEPARTMENT
2009-03-03	\$5,000.00	Harassment	Citizen v Town of Brookline, et al	Police
2011-02-17	\$250,000.00	Harassment	Citizen v Town of Brookline, et al	School
2011-10-14	\$15,000.00	Discrimination/Retaliation	Employee v Town of Brookline	Parks & Recreation
2012-01-04	\$3,000.00	Discrimination/Harassment	Employee v Town of Brookline, et al	Council on Aging
2012-08-31	\$80,000.00	Discrimination/Retaliation	Employee v Public Schools of Brookline, et al	School & School Superintendant
2013-07-17	\$122,500.00	Discrimination	Employee v Town of Brookline	Fire / HR
2015-12-24	\$49,500.00	Discrimination/Retaliation	Employee v Town of Brookline	Information Technology
2017-02-01	\$231,000.00	Discrimination/Retaliation	Employee v Town of Brookline, et al	Public Works
2017-10-31	\$180,000.00	Discrimination/Retaliation	Employee v Town of Brookline, et al	Police

ARTICLE 32

ADVISORY COMMITTEE’S SUPPLEMENTAL RECOMMENDATION

SUMMARY:

Warrant Article 32 would add the following language to section 3.1.3 of the Town’s General Bylaws: “The Select Board shall not enter into or authorize any agreement which has the purpose or effect of concealing the details relating to a claim of discrimination, retaliation, or harassment against the Town. The financial terms of any settlement agreement concerning such a claim shall be published in a newspaper of general circulation within the Town, shall be posted on the Town website, and shall be posted in ten public places in the Town within seven (7) days of the settlement.”

The petitioners described a two-fold purpose to their amendment: to provide more transparency about the use of public funds and to deter future acts of discrimination, retaliation or harassment through exposure of the details. In response to privacy concerns expressed by the Select Board, the petitioners suggested the language could be amended to allow such clauses if proposed by the claimant.

Town Counsel raised concerns about the need to retain non-disclosure as a litigation strategy which can be advantageous to both parties because it avoids the time and expense of a trial. The Town cannot compel anyone to settle or to enter into a non-disclosure agreement as part of a settlement. Publication of settlement amounts can lead to claimants overvaluing cases, or to copycat suits.

The Advisory Committee made a distinction between the proposed by-law amendment in Warrant Article 32 and the “Me Too” movement and related cases in which plaintiffs were silenced to prevent the incidents from ever being made public. The Town does not pursue non-disclosure agreements to prevent investigations from going forward. Claimants can and do publicize their experiences at any time prior to agreeing to a settlement which contains a non-disclosure clause.

By a vote of 23 in favor, 1 opposed, and no abstentions, the Advisory Committee recommends NO ACTION on Warrant Article 32.

DISCUSSION:

The petitioners feel that their proposed amendment allows the Town leeway in the administration of financial disclosure. The level of financial information to be published could be as de minimis as stating that the town entered into a financial settlement of X dollars to resolve a case of (type of case to be specified). Non-disclosure of the details of a settlement protect a serial harasser or particular Town department and paper over the underlying issues. Exposure acts as a deterrent to future bad acts. To address the Select Board’s concerns about protecting privacy, the language could be changed to give only complainants the right to propose non-disclosure.

Town Counsel disagreed with the petitioners about the level of disclosure required by the language of the Warrant Article. Non-disclosure can benefit the complainant as well as the defendant by saving the time and expense of litigation and eliminating the uncertainty of a trial. A settlement is a negotiated agreement between the Town and an individual, and the Town cannot compel anyone to accept a non-disclosure clause. Complainants may prefer to do so to avoid embarrassment and reputational damage, or just to put the matter to rest. Eliminating the Town's ability to enter into these agreements would allow only the claimant's side of an issue to be told if the claimant chose to publicize it. The Town would be unable to respond because of limitations imposed under laws pertaining to privacy and personnel records.

The Town also has concerns that disclosure of settlement amounts could generate copycat lawsuits or provide a baseline for future litigants to try to reach. Some cases are without merit but would cost more to defend than to settle.

Non-disclosure and non-disparagement provisions are standard boilerplate in many types of agreements. Typically, both sides are represented by counsel which equalizes the power dynamic. Many cases are publicized while legal action is being considered which brings a degree of exposure to both parties.

The petitioners indicated that they had requested a list of discrimination, harassment or retaliation cases settled by the Town in the past ten years and the amounts of the settlements. Town Counsel responded that there had been nine settlements in that time period, and indicated that she believes that all plaintiffs in those cases were represented by counsel. The Town is in the process of responding to a public records request from the petitioners as to whether the Town or complainant had requested the non-disclosure terms. Some cases were handled by outside counsel and it is not clear whether the requested information is included in the case records.

Settlements are never reached before the facts are fully known, and Town Counsel stated that all nine of the reported settlements involved cases which had been filed at the Massachusetts Commission Against Discrimination (MCAD) and/or in court. The Advisory Committee would not approve the use of funds without understanding the underlying facts. Although the use of settlements can be abused, the Advisory Committee does not believe the Town has done so.

The Town has made great strides in dealing with discrimination complaints but can strive to do better. The Human Resources and Diversity, Inclusion and Community Relations Departments are working together to achieve change through training and by joining the Government Alliance on Race and Equity (GARE). Often the parties involved do not agree on what happened, and the ability to reach settlements which protect the privacy of all parties involved can be useful. Agreed-upon settlement amounts can be obtained upon request under the public records laws.

An amendment was proposed to include a line in the Town's annual Financial Plan that disclosed the total dollar amount of settlements reached in the prior year. Settlements can be funded either through the "claims and settlements" line in Town Counsel's budget or the Town's Liability/Catastrophe Fund. Some settlements also include non-monetary items. The amendment failed by a vote of 22-1-1.

In light of the "Me Too" movement, a second amendment was proposed to refer the subject matter of the Article to a Moderator's Committee to explore the pros and cons of non-disclosure and its effect on the injured party. A majority of the Advisory Committee felt that this would not lead to a productive result. The Town is not using non-disclosure to silence plaintiffs or to pretend that they don't exist. Plaintiffs can and do publicize their cases long before settlement is broached by either party. The amendment failed by a vote of 23-1-0.

RECOMMENDATION:

By a vote of 23-1-0, the Advisory Committee recommends NO ACTION on Warrant Article 32.

ARTICLE 36

SELECT BOARD'S SUPPLEMENTAL RECOMMENDATION

Article 36 is a petitioned resolution that asks the Town to direct the Naming Committee to consider renaming all or parts of Washington street given the George Washington's history as a slaveholder.

While the Board appreciates the question posed by the petitioner it was felt that the Devotion renaming process should have time to unfold before considering this type of proposal. The Board would like to see the community response to that article before posing a larger question. The Board also shares some of the concerns expressed by the Advisory Committee including the role of the Naming Committee and staff support needed to undertake this effort and what else might this lead to for other streets.

The Board voted 4-1 NO ACTION on Article 36.

Roll Call Vote:

Aye:	Nay:
Wishinsky	Heller
Franco	
Greene	
Hamilton	

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

SUMMARY:

Warrant Article 36 as initially filed asked the Naming Committee to consider the renaming of Washington Street due to George Washington's history as a slaveholder.

The Advisory Committee first recommended Favorable Action on a revised motion that asked for consideration of renaming public features currently named after individuals whose actions could be considered unacceptable by current standards. After the Moderator ruled that this motion was beyond the scope of the Article, which is limited to Washington Street, the Committee reconsidered the original motion and, by a vote of 12-6-5, the Advisory Committee recommends NO ACTION.

BACKGROUND:

In recent years the Town has begun to pay special attention to the history of slavery in Brookline, establishing the Hidden Brookline Committee in 2006 to examine and bring to

light the “hidden histories of slavery and freedom in Brookline.” In May 2012, Town Meeting by an overwhelming margin passed Warrant Article 27 which acknowledged Brookline’s history with slavery, called upon the people of Brookline to recognize contributions of Native Americans and African-Americans, and pledged vigilance against practices and institutions that dehumanize and discriminate against people. Warrant Article 23 filed for this Town Meeting similarly seeks to strip the name of a slaveholder from an elementary school.

Brookline’s Naming Committee follows a very specific process. When it is time for a street or public feature to be named, a proposal is submitted to the Naming Committee, which carefully considers the name (or names) according to a set of guidelines that were established, approved by the Select Board, and most recently updated in 2013. Specifically, these guidelines state:

Before making a recommendation on a proposal for the naming or renaming of a Public Facility, the Committee will take into consideration the following naming criteria:

- A. A person/organization of excellent reputation and character who/which has set an example of outstanding citizenship and/or has made an exemplary contribution of time, service, or resources to or on behalf of the community.
- B. A national noteworthy public figure or official.
- C. An event of historical or cultural significance.
- D. A significant donation or bequest, establishment of a trust, or other similar action.

The Naming Committee does not proactively recommend names, nor does it—or any other Town board or committee—publish a list of buildings or other features that should be considered candidates for renaming.

DISCUSSION:

There was a great deal of concern over the scope of work being proposed by Article 36. Several Advisory Committee members remarked that the Naming Committee, as mentioned above, does not conduct proactive research and that given its lack of staff and other resources, it would be unrealistic and misdirected to place such a burden onto it. Other members expressed concerns about the practicality, cost, and public safety hazards of renaming streets. And a significant minority objected to the idea that names should be stripped simply because standards have changed. However, there was considerable public support at the subcommittee public hearing for Article 36, and it should be noted that the Advisory Committee recommended Favorable Action on Article 23, which proposes to rename the Edward Devotion School for reasons that are substantially similar to the rationale offered in Article 36.

During deliberations, the Advisory Committee initially revised the language of the resolution to remove its narrow singling out of slaveholding as the sole negative criterion and to clarify that this Article is in no way instructing any Town Committee to perform

an exhaustive proactive study. Rather, the amended resolution recommended that the Naming Committee use additional criteria when it receives a renaming request. In other words, if information brought forward reveals that the actions of the person memorialized in the naming of a public feature are “unacceptable by current standards,” the Naming Committee would take this into consideration when making its recommendation on the name change.

The above changes were ultimately ruled by the Moderator to be an expansion of scope of the Article and thus rejected. Upon reconsideration of the original language, the objections that had been originally raised prevailed and the Petitioner’s motion—a resolution based on the original language of Article 36—failed.

RECOMMENDATION:

By a vote of 12–6–5, the Advisory Committee recommends NO ACTION.