TOWN OF BROOKLINE
MASSACHUSETTS

REPORTS OF SELECT BOARD AND ADVISORY COMMITTEE

on the

Articles in the Warrant

for the

SPECIAL TOWN MEETING

to be held in the High School Auditorium

Tuesday, November 13, 2018

at

7:00 P.M.

(Please retain this copy for use at the Town Meeting)

Town of Brookline

SELECT BOARD

Neil A. Wishinsky, Chair

Benjamin J. Franco **Nancy S. Heller**

Bernard W. Greene **Heather Hamilton**

Melvin A. Kleckner, Town Administrator

"The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operation of its programs, services or activities. Persons with disabilities who need auxiliary aids and services for effective communication in programs, services and activities of the Town of Brookline are invited to make their needs and preferences known to Lloyd Gellineau, Town of Brookline, 11 Pierce Street, Brookline, MA 02445, 730-2328 Voice, 730-2327 TDD, or email at lgellineau@brooklinema.gov."

MODERATOR

Edward N. Gadsby, Jr.

ADVISORY COMMITTEE

Sean M. Lynn-Jones, Chair, 53 Monmouth Street..... 738-6228
Carla Benka, Vice-Chair, 26 Circuit Road 277-6102
Benjamin Birnbaum, 15 Feneno Terrace, ... 276-5944
Clifford M. Brown, 9 Hyslop Road 232-5626
Carol Caro, 1264 Beacon Street, #2..... 739-9228
John Doggett, 8 Penniman Place 739-7266
Dennis Doughty, 57 Perry Street…… .. 566-5474
Harry Friedman, 27 Clafin Road BE2-0122
Janet Gelbart 216 St. Paul Street #601..... 566-5616
David-Marc Goldstein, 22 Osborne Road 232-1943
Neil Gordon, 87 Ivy Street.....(508)265-1362
Susan Granoff, 52 Vernon Street #1 731-0822
Kelly Hardebeck, 18 Littell Road 277-2685
Amy Hummel, 226 Clark Road 731-0549
Alisa G. Jonas, 333 Russett Road 469-3927
Janice Kahn, 63 Craftsland Road..... 739-0606
Steve Kanes, 89 Carlton Street ..... ……232-2202
Bobbie M. Knable, 243 Mason Terrace..... 731-2096
David Lescohier, 50 Winchester Street 383-5935
Carol Levin, 61 Blake Road..... 731-0166
Fred Levitan, 1731 Beacon Street..... 734-1986
Pamela Lodish, 195 Fisher Avenue 566-5533
Mariah Nobrega, 33 Bowker Street 935-4985
Michael Sandman, 115 Sewall Ave., No. 4 232-7125
Lee L. Selwyn, 285 Reservoir Road 277-3388
Kim Smith, 22 Brington Road 277-1606
Stanley Spiegel, 39 Stetson Street 739-0448
Claire Stampfer,50 Sargent Crswy. 448-4201
Charles Swartz, 69 Centre Street 731-4399
Christine M. Westphal, 31 Hurd Road..... 738-7981

Lisa Portscher, Executive Assistant, Town Hall..... 730-2115

NOVEMBER 13, 2018
SPECIAL TOWN MEETING
INDEX OF WARRANT ARTICLES

ARTICLE NUMBER	TITLE
1.	Approval of unpaid bills. (Select Board)
2.	Approval of collective bargaining agreements. (Human Resources)
3.	FY2019 budget amendments. (Select Board)
4.	Release of May 2018 Ninth School Schematic Design Special Appropriation. (Select Board)
5.	Legislation authorizing the Select Board to grant additional liquor licenses for the sale of alcoholic beverages. (Planning and Community Development)
6.	Authorization for the granting and acquisition of a temporary construction easement on Town property related to the Carlton Street Footbridge project. (Department of Public Works)
7.	Authorization for the acquisition of a temporary construction easement on Carlton Street related to the Carlton Street Footbridge project. (Department of Public Works)
8.	Authorization for the acquisition of a temporary construction easement on MBTA property related to the Carlton Street Footbridge project. (Department of Public Works)
9.	Authorization for the acquisition of a temporary construction easement on City of Boston property related to the Carlton Street Footbridge project. (Department of Public Works)
10.	Authorization for the Select Board to grant an easement to the Boston Gas Company permitting it to install and maintain a gas line on the Fire Station 6 parcel. (Building Department)
11.	Amend the Zoning By-law to establish a Hancock Village Overlay District (HVOD). (Zuker/Chestnut Hill Realty)
12.	Authorize the Select Board to execute a Development Agreement pertaining to the development of Hancock Village. (Zuker/Chestnut Hill Realty)
13.	Authorize the Select Board to execute a Local Action Unit (LAU) Development Agreement pertaining to Hancock Village. (Zuker/Chestnut Hill Realty)
14.	Authorize the Select Board to accept and enforce a deed restriction pertaining to Hancock Village. (Zuker/Chestnut Hill Realty)

15. Authorize the Select Board to acquire certain real property at Hancock Village by gift or deed. (Zuker/Chestnut Hill Realty)

16. Amend the Town's General By-laws to delete Section 5.10.3(d)(1) and rescind the Hancock Village Neighborhood Conservation District. (Zuker/Chestnut Hill Realty)

17. Amend Section 3.1.3 of the Town's General By-Laws to prohibit Non-Disclosure Agreements. (Brookline Justice League)

18. Amend Article 5.3 of the Town's General By-laws pertaining to Demolition Delay. (Preservation Commission)

19. Amend Article 8.31.3 of the Town's By-laws pertaining to the use of Leaf Blowers. (Gordon TMM1, Fischer. TMM1)

20. Amend Article 5.23 of the Town's Zoning By-laws to establish special rules pertaining to the Transit Parking Overlay District. (Davis, TMM10)

21. Resolution encouraging the donation of unsold merchandise. (Girl Scout Troop 62558, Arado-McDonald, Kamensky)

22. Resolution calling for the reinstatement of State and Local Tax (SALT) deductions. (Silberberg, TMM14)

23. Resolution calling for a Beacon Street Olmsted Bridle Path restoration study. (Milner-Brage, TMM12)

24. Reports of Town Officers and Committees. (Select Board)

2018 SPECIAL TOWN MEETING WARRANT REPORT

The Select Board and Advisory Committee respectfully submit the following report on Articles in the Warrant to be acted upon at the 2018 Special Town Meeting to be held on Tuesday, November 13, 2018 at 7:00 pm.

Note: The following pages of this report are numbered consecutively under each article.

ARTICLE 1

FIRST ARTICLE

Submitted by: Select Board

To see if the Town will, in accordance with General Laws, Chapter 44, Section 64, authorize the payment of one or more of the bills of previous fiscal years, which may be legally unenforceable due to the insufficiency of the appropriations therefor, and appropriate from available funds, a sum or sums of money therefor.

or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

This article is inserted in the Warrant for every Town Meeting in case there are any unpaid bills from a prior fiscal year that are deemed to be legal obligations of the Town. Per Massachusetts General Law, unpaid bills from a prior fiscal year can only be paid from current year appropriations with the specific approval of Town Meeting.

SELECT BOARD'S RECOMMENDATION

State statutes provide that unpaid bills from previous fiscal years may not be paid from the current year's appropriations without the specific approval of Town Meeting. As of the writing of this Recommendation, there are no unpaid bills from a previous fiscal year. Therefore, the Board recommends NO ACTION, by a vote of 4-0 taken on October 16, 2018.

ROLL CALL VOTE:

Aye:	Absent:
Wishinsky	Greene
Franco	
Heller	
Hamilton	

ADVISORY COMMITTEE'S RECOMMENDATION

As there are no known remaining unpaid bills from the previous fiscal year, by a vote of seventeen in favor, one opposed, and with no abstentions, the Advisory Committee recommends NO ACTION on Article 1.

XXX

ARTICLE 2

SECOND ARTICLE

Submitted by: Human Resources

To see if the Town will raise and appropriate, or appropriate from available funds, a sum or sums of money to fund the cost items in collective bargaining agreements between the Town and various employee unions; fund wage and salary increases for employees not included in the collective bargaining agreements; and amend the Classification and Pay Plans of the Town.

or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

This article is inserted in the Warrant for any Town Meeting when there are unsettled labor contracts. Town Meeting must approve the funding for any collective bargaining agreements.

SELECT BOARD'S RECOMMENDATION

A report and recommendation by the Select Board under Article 2 will be provided in the Supplemental Mailing.

ADVISORY COMMITTEE'S RECOMMENDATION

A report and recommendation by the Advisory Committee under Article 2 will be provided in the Supplemental Mailing.

XXX

ARTICLE 2

SELECT BOARD'S SUPPLEMENTAL RECOMMENDATION

There are no collective bargaining agreements to consider at this time. As a result, the Board recommended NO ACTION, by a unanimous vote taken on October 30, 2018.

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

BACKGROUND:
Article 2 provides for funding of the Town's collective bargaining agreements.

RECOMMENDATION:
As there are no collective bargaining agreements to consider at this time, the Advisory Committee by a vote of 18–0–2 recommends NO ACTION on Article 2.

ARTICLE 3

THIRD ARTICLE

To see if the Town will:

A) Appropriate additional funds to the various accounts in the fiscal year 2019 budget or transfer funds between said accounts;

B) And determine whether such appropriations shall be raised by taxation, transferred from available funds, provided by borrowing or provided by any combination of the foregoing; and authorize the Select Board, except in the case of the School Department Budget, and with regard to the School Department, the School Committee, to apply for, accept and expend grants and aid from both federal and state sources and agencies for any of the purposes aforesaid.

C) Appropriate $207,442.50, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over $100,000 to be approved by the Select Board, to address the impact of transportation network services on municipal roads, bridges and other transportation infrastructure.

D) Appropriate $500,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over $100,000 to be approved by the Select Board, for water and sewer related repairs to the Brookline Reservoir.

E) Appropriate $1,500,000 to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Select Board and the School Committee, for the schematic design services to construct or expand a school as determined by the outcome of the 9th School feasibility study.

or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

This article is inserted in the Warrant for any Town Meeting when budget amendments for the current fiscal year are required. For FY2019, the warrant article is necessary to balance the budget based on higher than projected State Aid, appropriate ride-share revenue and funding for schematic design for the 9th School project, re-allocate funds, to amend the cap set for the Recreation Revolving Fund and to amend the Water and Sewer Enterprise Fund.

In addition, the Article will seek funding for the Brookline Reservoir. Repairs are needed to the Brookline Reservoir low level outlets, to bring the facility into compliance with current Massachusetts regulations which require that the dam have a means to drain the impoundment. Repairs include installing new outlet values or gates in the gatehouse and

repairing the intake conduit. This work needs to precede other planned work on the reservoir and gatehouse.

SELECT BOARD'S RECOMMENDATION

Article 3 of the Warrant for the 2018 Fall Town Meeting proposes amendments to the FY2019 budget. The article is required to address five outstanding items:

1. the final State budget contained higher state aid allocations for Brookline than assumed in the budget approved by Town Meeting;
2. adjusting the Water and Sewer budget to reflect the final MWRA Assessment;
3. Appropriate $500,000 for repairs needed to the Brookline Reservoir low level outlets funded from retained earnings of the Water and Sewer Enterprise Fund;
4. Appropriating revenue from the assessment on transportation network companies (TNCs) to fund transportation projects.
5. Appropriating $1,500,000 for the schematic design services for the Driscoll School Renovation and Expansion project

ADDITIONAL NET STATE AID

The final State budget resulted in an additional $509,397 of Net State Aid (without Offsets[1]), bringing the total FY2019 Net State Aid (without Offsets) figure to $14,874,755, an increase of $1,148,649 (8.7%) over FY2018. As a result, $509,397 is available for appropriation. The table on the following page shows how the final State budget results in $509,397 more in Net State Aid (without Offsets):

[1] Offset Aid consists of Library aid which goes directly to the Library, without appropriation. The Library will have $1,517 more available than in FY18.

	FY18 FINAL CHERRY SHEET	FINANCIAL PLAN	FY19 FINAL CHERRY SHEET	Final vs. GOV	% CHANGE FROM GOV	VARIANCE FROM FY18	% CHANGE FROM FY18
RECEIPTS							
Ch. 70	13,229,766	14,298,610	14,774,677	476,067	3.3%	1,544,911	11.7%
Unrestricted General Gov't Aid	6,342,529	6,564,518	6,564,518	0	0.0%	221,989	3.5%
Vets Benefits	93,646	80,681	80,681	0	0.0%	(12,965)	-13.8%
Exemptions	39,720	40,779	40,779	0	0.0%	1,059	2.7%
Charter School Reimbursements	3,572	13,892	6,847	(7,045)	-50.7%	3,275	91.7%
TOTAL RECEIPTS	**19,709,233**	**20,998,480**	**21,467,502**	**469,022**	**2.2%**	**1,289,247**	**6.5%**
CHARGES							
County	948,309	972,017	972,017	0	0.0%	23,708	2.5%
Air Pollution Dist.	31,070	31,755	31,755	0	0.0%	685	2.2%
MAPC	30,499	30,840	30,840	0	0.0%	341	1.1%
RMV Surcharge	233,480	233,480	233,480	0	0.0%	0	0.0%
MBTA	5,146,859	5,219,741	5,219,741	0	0.0%	72,882	1.4%
SPED	1,264	7,957	7,957	0	0.0%	6,693	529.5%
School Choice Sending Tuition	27,059	44,459	25,399	(19,060)	-42.9%	(1,660)	-6.1%
Charter School Sending Tuition	73,984	92,873	71,558	(21,315)	-23.0%	(2,426)	-3.3%
TOTAL CHARGES	**6,492,524**	**6,633,122**	**6,592,747**	**(40,375)**	**-0.6%**	**140,598**	**2.2%**
OFFSETS							
Libraries	86,983	87,355	88,500	1,145	1.3%	1,517	1.7%
TOTAL OFFSETS	**86,983**	**87,355**	**88,500**	**1,145**	**1.3%**	**1,517**	**1.7%**
NET LOCAL AID	**13,303,692**	**14,452,713**	**14,963,255**	**510,542**	**4.2%**	**1,659,563**	**12.5%**
NET LOCAL AID W/O OFFSETS	**13,216,709**	**14,365,358**	**14,874,755**	**509,397**	**3.5%**	**1,148,649**	**8.7%**
GROSS LOCAL AID	**19,796,216**	**21,085,835**	**21,556,002**	**470,167**	**2.2%**	**1,290,764**	**6.5%**

Pursuant to the Town/School Partnership, the $509,397 translates to $254,699 available for the Town and School budgets. The School share is needed to address a deficit that occurred to the School Department's FY2018 General Fund budget. In late August, our office received a letter from a member of the Adult Education Advisory Board asserting that a $475,519.25 transfer from the FY 2018 Adult Education Revolving Fund authorized by the School Committee was not proper. This transfer was effectively a loan to balance the School Department's FY 2018 General Fund budget with an assurance to "repay" the Revolving Fund in FY 2019 from the School Department's operating budget. You committed to having this matter reviewed by the Town's independent auditors. This review was requested and we are awaiting a formal response. However, we anticipate that the Auditors will require a reversal of this transfer, which will necessitate Town Meeting to take more formal action under Article 3 guaranteeing that the School Department's FY 2019 "commitment" to repay the FY 2018 Revolving Fund will instead be used to fund the FY 2018 School budget deficit. The $475,519.25 deficit will be raised on the FY 2019 Tax Recapitulation Sheet, necessitating a reduction in the School Department's FY 2019 budget in that amount. We recently became aware of a grant of $47,396 for FY2018 for displaced students from Puerto Rico that can be used to further offset this amount. After utilizing the School share of additional State Aid and the State grant, an overall reduction of $173,424 to the School Department appropriation is needed to resolve the deficit.

Recommendation for the Town appropriation is as follows:

Finance Department- ***$132,533*** An additional position is recommended in the Comptroller's office in order to provide additional support in the realm of benefit administration. **($62,533)** The Finance Director and Interim HR Director identified areas of benefit administration that would be well suited by additional financial oversight (bill reconciliation, MUNIS deduction maintenance, auditing). The customer service functions would remain in the HR Department with support provided by this new position. Given the expansion of plan offering through the GIC and expanded employee population both Departments feel that this work should be divided between two positions.

In addition, a delay in the implementation of applying the credit card service charge to transactions at the parking meter has created a projected deficit in banking services. **($70,000)** At the time of the budget, it was assumed that implementation would be in effect by July 1. The anticipated implementation has been delayed to October.

Town Counsel- ***$50,813*** The vacancy of the HR Director position has prompted the continuation of the discussion on the model for Labor Counsel Services and the potential to bring a labor attorney in-house. The funding of $50,813 will provide an Associate Town Counsel position for ½ of the year. HR's full legal services budget will still be necessary in FY19 to provide collective bargaining support and labor services during this transition, but I anticipate rebalancing in FY20 to support a full year's worth of funding for this position.

Fire Department - ***$25,000*** The Fire Chief submitted a grant for a SCBA refill station at Station 6. The grant award of $50,000 falls short of the full cost of this project by approximately $25,000.

Health Insurance - ***$20,953*** This funding will support anticipated health insurance benefits for the two benefit-eligible positions described above.

Town Meeting- ***$20,000*** The Town Meeting account needed a reserve fund transfer of $14,000 at the end of the FY2018. This funding recognizes the growth in costs for both personnel and advertising expenses.

Health Department – ***$5,400*** The maintenance contract for AEDs in various public buildings had previously been funded between multiple departments and soft funding sources. The Director of Public Health requests that his departmental budget be increased so that this item is funded properly.

WATER & SEWER ENTERPRISE FUND

When the FY19 Water and Sewer budget was voted on by Town Meeting an estimate was used for the MWRA assessments. This estimate was **$1,759,691** higher than the final numbers voted by the MWRA. The debt service number was also adjusted to reflect the most recent bond sale. The rates voted on by the Select Board in June accounted for these changes, and it is recommended that Town Meeting amend the Enterprise Fund budget accordingly.

Brookline Reservoir project: **$500,000** Repairs are needed to the Brookline Reservoir low level outlets, to bring the facility into compliance with current Massachusetts regulations which require that the dam have a means to drain the impoundment. Repairs include installing new outlet values or gates in the gatehouse and repairing the intake conduit. This work needs to precede other planned work on the reservoir and gatehouse.

APPROPRIATION OF RIDE SHARE REVENUE

The Town has received $207,442 in funds from the State assessment on transportation network companies (TNCs), such as Uber and Lyft. One half of the $0.20 per ride assessment was distributed to the Town and can be appropriated "to address the impact of transportation network services on municipal roads, bridges and other transportation infrastructure or any other public purpose substantially related to the operation of transportation network services in the city or town including, but not limited to, the complete streets program established in [G.L. c. 90I, § 1] and other programs that support alternative modes of transportation." St. 2016, c. 187, § 8(c)(i).

The following projects are recommended by the Transportation Division:

$18,100 Pedestrian in Crosswalk Stanchions and Signage (replacement for every existing plus additional for new locations as programmed by the Transportation Board). These are a popular form of traffic calming that is important to pedestrian safety at high use crosswalk locations.

$26,000 Distracted Driver and Pedestrian in Crosswalk Special Enforcement These types of special enforcement activities frequently requested and are particularly relevant as an overall roadway safety measure to directly address safety concerns created by TNCs vehicles reliance on smart phones. For an idea of what they are: Distracted Driving: https://www.youtube.com/watch?v=_4-6stB0sNs Crosswalk Failing to Yield Enforcement: https://www.youtube.com/watch?v=QPqKZlYYrwo

$60,000 Corey Hill Park Safety Assessment Plan including new crosswalk, pavement markings, Rectangular Rapid Flash Beacon (RRFB), misc. signage as requested by Town Meeting Members, parents, and other park users.

$103,342 Baker School Safe Routes to School Program to install RRFBs at the intersections of Newton Street @ Princeton Street and Lagrange Street @ Princeton Street address safety deficiencies along the walking route for children to and from the Baker School following the elimination of the Baker Bus.

DRISCOLL SCHOOL SCHEMATIC DESIGN APPROPRIATON

Article 3E is an appropriation request for schematic design services for the renovation, repair, and expansion of the Driscoll School. The Board is asking Town Meeting to postpone the vote on this item until December 13, 2018 in order to provide more information to Town Meeting on the scope of the project. Please see the Select Board report under Article 4 for a preliminary update on the work being done during the Design Feasibility Phase for the Driscoll School Project. The Board's vote and recommendation for this item will be provided in a supplemental mailing prior to December 13.

The Select Board unanimously recommend FAVORABLE ACTION, by a vote of 5-0 taken on October 23, 2018, on the following motion:

Recommended Vote:

VOTED: That the Town:

1. Amend the FY2019 budget as shown below and in the attached Amended Tables I and II:

ITEM #	ORIGINAL BUDGET	PROPOSED CHANGE	AMENDED BUDGET
5 a. Comptroller	$621,748	$62,533	$684,281
5 d. Treasurer	$1,136,933	$70,000	$1,206,933
6. Legal Services	$1,011,329	$50,813	$1,062,142
11. Fire Department	$15,377,759	$25,000	$15,402,759
15. Health and Human Services	$1,228,332	$5,400	$1,233,732
21 Schools	$110,831,679	-$173,424	$110,658,255
23 b. Group Health	$30,725,287	$20,952	$30,746,239
32. Town Meeting	$35,000	$20,000	$55,000

2) Amend Section 7 (Water and Sewer Enterprise Fund) of Article 7 of the 2018 Annual Town Meeting so it reads as follows:

> 7.) WATER AND SEWER ENTERPRISE FUND: The following sums, totaling $28,554,309, shall be appropriated into the Water and Sewer Enterprise Fund, and may be expended under the direction of the Commissioner of Public Works for the Water and Sewer purposes as voted below:

	Water	Sewer	Total
Salaries	$2,290,077	$431,104	$2,721,180
Purchase of Services	$190,598	$163,200	$353,798
Supplies	$102,020	$21,000	$123,020
Other	$8,900	$1,680	$10,580
Utilities	$101,865	$0	$101,865
Capital	$671,800	$389,000	$1,060,800
Intergovernmental	$7,037,965	$12,898,264	$19,936,229
Debt Service	$285,413	$1,348,047	$1,633,460
Reserve	$131,732	$167,528	$299,260
Total Appropriations	$10,820,369	$15,419,822	$26,240,192
Indirect Costs	$1,840,322	$473,795	$2,314,117
Total costs	$12,660,691	$15,893,617	$28,554,309

Total costs of $28,554,309 to be funded from water and sewer receipts with $2,314,177 to be reimbursed to the General Fund for indirect costs.

3) Appropriate $500,000 to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over $100,000 to be approved by the Select Board, for water and sewer related repairs to the Brookline Reservoir and to meet the appropriation transfer $500,000 from retained earnings of the Water and Sewer Fund.

4) Appropriate $207,442.50, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts over $100,000 to be approved by the Select Board, to address the impact of transportation network services on municipal roads, bridges and other transportation infrastructure and to meet the appropriation transfer $207,442.50 from the Transportation Network Company special revenue account.

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Article 3 includes multiple amendments to the Fiscal Year (FY) 2019 budget, as well as changes to the budget for the Water and Sewer Enterprise Fund—including a $500,000 appropriation for a Brookline Reservoir repair project, and an appropriation of ride share revenue (Transportation Network Companies Assessment funds) for transportation projects. As the Town's Finance Committee, the Advisory Committee reviewed and voted on each budget amendment separately before voting on the combined budget amendments in Article 3 A–D. The Advisory Committee unanimously recommends Favorable Action on the motion offered by the Select Board, but, as explained in this report, the Committee

has concerns about some of the budget amendments and policies and practices for FY2019 and future years.

Article 3 also includes Article 3E, which requests that Town Meeting appropriate $1.5 million for schematic design services for the renovation, repair, and expansion of the Driscoll School. Because that appropriation is closely related to Article 4, which would release funds for schematic design services for the Baldwin School, Articles 3E and 4 are discussed in the Advisory Committee's report on Article 4.

BACKGROUND:

The Warrant for each November Special Town Meeting typically includes an Article similar to Article 3. Amendments to the budget for the current fiscal year are usually necessary because the amount of aid received from the Commonwealth of Massachusetts often differs from the amount assumed in the budget voted by the Annual Town Meeting in May. The state often does not approve its budget until after Town Meeting has voted on Brookline's budget. For FY2019, Brookline will be receiving an additional $509,397 in state aid above the level projected in its FY2019 budget. This amount thus can be appropriated by Town Meeting. Under the terms of the Town/School Partnership, $254,699 will be available for the Public Schools of Brookline budget, and $254,699 will be available for the Town budget.

The budget for the Water and Sewer Enterprise Fund also generally needs to be amended, because the Annual Town Meeting votes on a budget based on estimates of Massachusetts Water Resources Authority (MWRA) assessments. For FY2019, those estimates were $1,759,691 higher than the final amount voted by the MWRA. Debt service costs for the Enterprise Fund also need to be adjusted to reflect the most recent bond sale.

This year, Article 3 includes a new category of appropriations. As of FY2019, Brookline now receives 1% of the revenue generated from trips originating in Brookline by ride share services (transportation network companies) such as Uber and Lyft. This revenue amounts to $207,442 in FY2019. It must be spent on transportation projects that address the impact of transportation network services or generally support alternative means of transportation.

Article 3, as printed in the Warrant for the November 2018 Special Town Meeting, consists of sections A, B, C, D, and E. Sections A and B are included to cover amendments to the FY2019 Town budget, including the Water and Sewer Enterprise Fund. The details of those amendments are presented in the Select Board's motion under Article 3. Section C covers the appropriate of ride share (Uber and Lyft) revenue for transportation projects. Section D pertains to repairs related to the Brookline Reservoir on Route 9. Section E is for schematic design services for the Driscoll School project.

This report discusses the budget amendments in the order in which they are presented in the Select Board's Article 3 motion. The discussion of 3E appears in the Advisory Committee's report on Article 4.

DISCUSSION:

1. Amending the FY2019 Budget

The Select Board's motion under Article 3 includes the following changes to the FY2019 budget that was voted by the May 2018 Annual Town Meeting. The Advisory Committee discussed each change separately.

ITEM #	ORIGINAL BUDGET	PROPOSED CHANGE	AMENDED BUDGET
5 a. Comptroller	$621,748	$62,533	$684,281
5 d. Treasurer	$1,136,933	$70,000	$1,206,933
6. Legal Services	$1,011,329	$50,813	$1,062,142
11. Fire Department	$15,377,759	$25,000	$15,402,759
15. Health and Human Services	$1,228,332	$5,400	$1,233,732
21 Schools	$110,831,679	-$173,424	$110,658,255
23 b. Group Health	$30,725,287	$20,952	$30,746,239
32. Town Meeting	$35,000	$20,000	$55,000

Finance Department

COMPTROLLER

The budget would increase by $62,533 to fund a new position ("benefits accounting") in the Comptroller's office. The Finance Director and the interim Human Resource Director believe that this new position is necessary because the job requirements of benefits administration have grown considerably since we entered the Group Insurance Commission (GIC). They identified areas of benefit administration that require additional financial oversight—bill reconciliation, MUNIS deduction maintenance, auditing. The proposal is that Human Resources will do onboarding of employees and "customer service" whereas actual benefits accounting and maintenance would now be done in the comptroller's office. Some members of the Advisory Committee expressed concern that this new position is an ongoing expense being paid for out of state aid that might not be available in future years, but the Deputy Town Administrator expects that state aid will continue and that the Town will base its budget on conservative estimates.

TREASURER

The budget amendment appropriates an additional $70,000 to cover a shortfall in parking meter revenue. Brookline's parking meters could not collect convenience fees until a required software upgrade; this upgrade was delayed until October. As a result, the Town had to pay the convenience fee for two extra months; the FY2019 budget had assumed that parking meter users would start paying the fee on July 1, 2018.

The Advisory Committee supported the overall $132, 533 increase in the Finance Department (Comptroller and Treasurer) budget by a vote of 13–1–6.

Legal Services

A portion of the additional state aid the Town has received for FY2019 is designated to support a full-time labor attorney in the Legal Services department at a cost of $50,813 for the final six months of the fiscal year.

For several years, members of the Advisory Committee have suggested that adding the position of in-house labor counsel would be more efficient and effective than utilizing outside counsel. Additionally, they have questioned the allocation of funding for outside counsel to both the Human Resources and Legal Services budgets. Typically, all funding for outside counsel is at the discretion of the legal department. However, since budgetary best practice dictates allocating the funds in accordance with operational control over the expenses, the Human Resources Director has had the discretion to hire outside counsel in the administration of labor contracts and other employment related matters. The vacancy in the Human Resources Director's position presents the opportunity to move to a more traditional model where all legal issues are under the management of Town Counsel.

Bringing a labor attorney onto staff would allow the Town to be more proactive than reactive in dealing with labor issues. Increased accessibility to legal counsel should help department heads deal with issues before they escalate into formal grievances. Under the proposed model, if the need for legal counsel arises, the Human Resources Director would consult with in-house counsel instead of utilizing outside advisors. The extensive grievance procedures delineated in the Town Bylaws prevent department heads from circumventing the Human Resources Department by bringing their labor issues directly to Town Counsel's office.

The funding level requested is to support a full-time labor attorney for six months in fiscal 2019. The intent is to include full funding for the position in the FY2020 budget, most likely by reducing the outside counsel line in the Human Resources budget. Deputy Town Administrator Melissa Goff will track savings in the outside counsel line that result from creation of this position and report back to the Advisory Committee in its annual budget presentations.

By a vote of 20–0–1, the Advisory Committee voted to support increasing the FY2019 Legal Services budget by $50,813.

Fire Department

The proposed $25,000 in additional funding will be used to help fund a SCBA (self-contained breathing apparatus) filling station, capable of servicing six tanks, at Station 6 on Hammond Street. There are currently two other filling stations at Stations 2 and 4. A $45,455 federal grant will cover 60% of the estimated $75,000 total cost of the project, which includes the filling station itself, electrical wiring, and installation. The Department expects that if the total cost should reach $75,000, it will use existing departmental funds to make up the difference.

Having an additional station in the Town contributes to operational efficiency. Advisory Committee members unanimously (21–0–0) supported an increase of $25,000 in the Fire Department budget for the SCBA filling station at Station Six.

Health and Human Services

The Health Department is requesting a budget transfer in the amount of $5,400 to cover the maintenance contract for automated external defibrillators (AEDs) in town buildings. The department, which has been paying for this service contract without a budget line item or appropriation, seeks to have the Town assume fiduciary responsibility for these costs to assure proper funding. The contract does not cover AEDs in school buildings, which have a separate contract with the same vendor, Life Support Systems.

The contract provides on-site routine service to inspect and maintain the AEDs biannually, as well as post-event service when an AED is used. When the AEDs were purchased, trainings were held for staff in the various buildings where they are located. Life Support Systems and Fallon Ambulance provided these trainings, as well as refreshers, and there have been community trainings in cardiopulmonary resuscitation (CPR) and AEDs. The AEDs are designed to be used without training and have mechanical voice prompts that offer instructions in their use. To date, there have been no reported uses of any of the town's AEDs in an emergency.

By a vote of 21–0–0 the Advisory Committee supported an increase of $5,400 in the Health Department budget.

Schools

Article 3 includes a $173,424 *decrease* to the FY2019 Public Schools of Brookline budget. This decrease reflects complex and unusual circumstances.

Toward the end of FY2018, the Deputy Superintendent for Administration and Finance recognized that the school budget would face a deficit at the end of the fiscal year. That deficit was eventually established to be $475,519. A primary cause of the deficit was an unbudgeted increase in payroll expenses, including stipends, overtime for administrative staff at graduation, etc., as well as deficits in fee-supported programs such as athletics, and unbudgeted indirect personnel costs. These expenses amounted to $1,331,982, but were offset by a $698,936 surplus due to unexpended operating funds and a $157,527 overhead offset from Brookline Adult and Community Education, resulting in a deficit of $475,519.

The Public Schools of Brookline initially attempted to address the FY2018 deficit by borrowing—with an assurance to repay—$475,519 from the Brookline Adult Community Education revolving fund. A member of the Adult Education Advisory Board objected to this loan. The Town's independent auditors reviewed the practice and requested a reversal of the transfer.

The $475,519 deficit in the FY2018 school budget is being addressed by using the $254,699 in additional FY2019 state aid allocated to the schools in accordance with the Town/School Partnership, $47,396 in federal funds that the Public Schools of Brookline received for accommodating displaced students from Puerto Rico in the aftermath of Hurricane Florence, and a reduction of $173,424 in the FY2019 school budget, with those funds to come from the health care reserve account.

The Advisory Committee was concerned that unanticipated personnel costs had generated a significant FY2018 school budget deficit, even if the deficit represented only about 0.5% of the total school budget. Deputy Superintendent Dunn assured the School Subcommittee and the full Advisory Committee that she is taking steps to prevent a recurrence of this situation. She is putting in place hiring controls to ensure that every single position is verified and checked to be sure there is funding. All budget managers have been instructed to have staffing lists with budget amounts and FTEs. If a position is on list and it is published in the budget document one can assume it is funded. If it is not on the list, the position will not be funded and it will need to be added in the next budget cycle. She emphasized that it was taking some time to change long-standing fiscal practices and to bring greater discipline to the budget process.

Looking forward, Deputy Superintendent Dunn forecast a school budget structural deficit of up to $2 million, attributable to recurring and one-time shortfalls in operating costs and revolving funds, including the athletics and food services funds. Advisory Committee members expressed concern about this projection. The Committee will revisit this question in the FY2020 budget process.

By a vote of 22 in favor, none opposed and no abstentions the Advisory Committee voted to recommend amending the FY2019 School budget by reducing it by $173,424.

Group Health

The budget amendments include an increase in $20,953 for health insurance costs associated with the new positions in the Comptroller's office and in Town Counsel's office. The Advisory Committee supported this increase by a vote of 21–0–0.

Town Meeting

Article 3 includes an increase of $20,000 in funding for Town Meeting. At the end of FY2018, the Advisory Committee approved a Reserve Fund Transfer request of $14,000 for unanticipated Town Meeting expenses. Costs for personnel, printing, mailing, and advertising continue to rise. Although the Advisory Committee unanimously approved this budget increase, members looked forward to a report on printing and postage policies and requirements and the possibility that Town Meeting members could opt out of receiving hard copies of Town Meeting materials. The Committee also will ask the Town Clerk for more information about staffing for Town Meeting and the possibility of reducing personnel costs.

2. Amending the FY2019 Operating Budget of the Water and Sewer Enterprise Fund

When Town Meeting voted the Water and Sewer budget at the 2018 Annual Town Meeting, that budget was based on an estimate of the MWRA assessment. When the MWRA released its final numbers, they were $1,759,691 lower, consequently the Water and Sewer Enterprise Fund budget approved by Town Meeting in May needs to be adjusted.

Advisory Committee members supported amending the FY2019 Water and Sewer Enterprise budget, recognizing that the November adjustment of budget figures that are approved at the May Town Meeting is an annual event since the MWRA does not vote its final numbers until after Town Meeting adjourns. By a vote of 21–0–0, the Advisory Committee recommends amending Section 7 of Article 7 of the 2018 Annual Town Meeting so that it reads as follows:

> WATER AND SEWER ENTERPRISE FUND: The following sums, totaling $28,554,309, shall be appropriated into the Water and Sewer Enterprise Fund, and may be expended under the direction of the Commissioner of Public Works for the Water and Sewer purposes as voted below:

	Water	Sewer	Total
Salaries	$2,290,077	$431,104	$2,721,180
Purchase of Services	$190,598	$163,200	$353,798
Supplies	$102,020	$21,000	$123,020
Other	$8,900	$1,680	$10,580
Utilities	$101,865	$0	$101,865
Capital	$671,800	$389,000	$1,060,800
Intergovernmental	$7,037,965	$12,898,264	$19,936,229
Debt Service	$285,413	$1,348,047	$1,633,460
Reserve	$131,732	$167,528	$299,260
Total Appropriations	$10,820,369	$15,419,822	$26,240,192
Indirect Costs	$1,840,322	$473,795	$2,314,117
Total costs	$12,660,691	$15,893,617	$28,554,309

> Total costs of $28,554,309 to be funded from water and sewer receipts with $2,314,177 to be reimbursed to the General Fund for indirect costs.

3. Appropriating $500,000 from the Water and Sewer Enterprise Fund for Repairs to the Brookline Reservoir (Listed as Article 3D in the Warrant, and section 3 in the Article 3 motion offered by the Select Board)

The Brookline Reservoir Dam stores over 120 million gallons of water in the Brookline Reservoir, a part of the Town's stormwater management system. The reservoir provides flood storage and thus reduces downstream flooding. The dam is classified as an "intermediate-sized high hazard" since structural failure could release a significant amount of water, likely leading to loss of life and serious damage to homes, essential public utilities, and major roads.

The reservoir, constructed in 1848 to supply water to Boston, was taken offline as a water supply for Brookline in the early 1950s. (It continues to provide emergency backup, primarily for fire protection, in the event of a complete loss of supply from the MWRA.) Its influent gatehouse no longer controls inflow. Its lower gatehouse, which stands near the corner of Warren and Boylston Streets, has not been fully functional since the 1970s. That gatehouse once discharged water through three pipes, ranging in size from 30 to 40 inches in diameter. Each pipe was controlled by two sluice gates. Of the three outlets, only the center one (36 inches in diameter) remains in use, but it is in a permanently open position. It discharges to a 36-inch pipe in Boylston Street that carries flow to the South Branch Village Brook drain, which subsequently empties into Leverett Pond. The sluice gates that had controlled the outlets were cut off in the 1970s when the reservoir had to be drained down to eight feet to repair the riprap. Since at the time the sluice gates were seized in the closed position, thus preventing drainage flow, a hole was burned in one of them to allow the reservoir to drain.

Because the outlets in the lower gatehouse became non-functional, a 12-inch valve in a 36-inch pipe in Boylston Street, located approximately 200 feet south of the lower gatehouse, is currently used to control the discharge from the 36-inch pipe at the Reservoir that is permanently opened. However, the regulations of the Office of Dam Safety require that the Town control the outlet, either to release or to stop flow, at the dam itself, consequently funds are requested to seal the unused pipes and to install a 16-inch pipe and operable valve at the lower gatehouse. Inflow can continue to be controlled at the weir located near Reservoir and Cleveland Roads. The project will be supported with $500,000 from the retained earnings of the Water and Sewer Enterprise Fund and must precede the renovation work planned by the Parks and Recreation Commission for Reservoir Park.

There was no substantive discussion or disagreement regarding this appropriation. By a vote of 21–0–0, the Advisory Committee recommends appropriating $500,000 from the retained earnings of the Water and Sewer Enterprise Fund for repairs to the Brookline Reservoir.

4. Appropriating $207,442 in Transportation Network Companies Assessment Funds to Support Pedestrian Safety (Listed as Article 3C in the Warrant, and section 4 in the Article 3 motion offered by the Select Board)

The Town has received $207,442 from the state assessment on Transportation Network Companies (TNCs) such as Uber and Lyft ("Ride Share" revenue). Per state statute, one half of the $.20 per ride assessment can be appropriated to transportation services-related projects, including Complete Streets or other programs that support alternative modes of

transportation. The Transportation Division of the Department of Public Works (DPW) has requested using these funds for four projects.

1. $18,100 for the purchase 70 In-Street Pedestrian Crossing signs to replace 50 existing ones, which are damaged on a regular basis by passing vehicles, and locate 20 new ones at sites of the Transportation Board's choosing. Funds will also be used to purchase stanchions, such as the ones used around schools to control traffic. These stanchions can be removed for plowing or line-painting purposes.

2. $26,000 to fund the Police Department's overtime costs to enforce the prohibition against using cell phones while driving ("Distracted Driver") and the requirement to stop at crosswalks when pedestrians are crossing. Such efforts have been undertaken in the past and focus on educating drivers, not ticketing them. These funds would support six or seven officers engaged in four-hour shifts.

3. $60,000 to support the Corey Hill Park Safety Assessment Plan recommendations (https://www.brooklinema.gov/DocumentCenter/View/17700/Safety-Assessment-for-Summit-Ave-at-Corey-Hill-Park), which include pavement markings and the installation of two raised sidewalks with accompanying signs. Traffic calming measures are needed to slow down speeding vehicles on Summit Avenue, which bi-sects Corey Hill Park. The raised crosswalks would be located near the east and the west park paths that interest with Summit Avenue.

4. $103,342 to implement the Baker School "Safe Routes to School" Program, which calls for rectangular rapid flash beacons (RRFBs) at the intersection of Newton and Princeton Streets and Lagrange and Princeton Streets. These measures were recommended after the elimination of the Baker Bus, which has resulted in students formerly bused to seek alternative ways, including walking or biking, to get to and from school.)

Advisory Committee members asked how the four programs were selected and whether the Pedestrian Advisory Committee of the Transportation Board had been consulted about its preferences. In response it was noted that the Town was unaware that these funds would be forthcoming (this is the first year of TNC assessment-sharing) and received notification in June regarding the number of ride-shares initiated in Brookline and the actually amount of the funds in August. Initially, there was no request from the state that the funds be appropriated, but subsequent notification to the contrary meant that the Transportation Division had to respond quickly in order to file its requests before the closing of the Fall Town Meeting warrant. Because Transportation Board members often hear complaints about dangers to pedestrians, it decided to use the funds to address pedestrian safety improvements. By next year, a process would be in place that solicited public input for the expenditure of the annual TNC assessment funds.

Advisory Committee members supported the replacement of in-street Pedestrian Crossing signs and traffic stanchions and the proposed raised crosswalks, signage, and pavement markings on Summit Ave, adjacent to Corey Hill Park. In response to a series of questions, they were told that the Friends of Corey Hill Park group were reinvigorated by the renovation of the park and that a recent Clean-Up Day saw 150 people participate. As to

the implementation plan, the "Raised Crosswalk Ahead" signs will be placed at the approach to the crest of the hill, along with "20 Miles Per Hour Safety Zone" signs.

There was considerable discussion regarding the other two programs. Questions about enforcing the law about the use of cell phones and stopping for pedestrians included the following:

1) Why were only warnings issued the last time the Police Department undertook this enforcement program?
2) Why is enforcement of these laws being proposed as a discrete program? In other words, why don't officers enforce the laws as part of their everyday duties?
3) Why isn't enforcement of the regulations prohibiting cyclists riding on sidewalks part of this program?

Because a representative from the Police Department had not been invited to attend the meeting, answers to these questions were only speculative, but it was assumed that the department prefers to undertake an educational approach to certain types of enforcement before implementing punitive measures.

Regarding funds requested for implementing the Baker "Safe Routes to School" program, some Committee members expressed opposition to spending Town funds to address an issue that the school department has created by eliminating the Baker bus. They also questioned the wisdom of spending over $100,000 to benefit, perhaps, 25 children, based on the assumption that not all 50 children who once took the bus would now either walk or bike to school. In the estimation of some, it would be preferable to spread the money around to benefit more children.

Other Advisory Committee noted that the installation of the flashing signs would ensure safer walking in this area for all residents, not just children walking to school. It would also mean a safer walk to Skyline Park or to visiting a neighborhood friend. Further, Town Meeting needs to appropriate the funds by the end of December or risk the state cutting back on the amount that they currently share, and this project is ready to go. One member concluded that this program seems like a good option but that there should be a more comprehensive plan in the future, not just for spending this TNC funding, but also to enhance walkability throughout the Town; it shouldn't be done in reaction to a bus being cancelled.

The Advisory Committee took a separate vote to approve funds for the Baker "Safe Routes to School" program and narrowly recommended that expenditure by a vote of 10–9–0. By a vote of 17–1–1, the Advisory Committee supported the overall appropriation of $207,442 from the Transportation Network Company special revenue account, to be expended on the Transportation Division's four requests to enhance Pedestrian Safety. Further, it strongly encourages the Police Department to issue tickets, not just warnings, for violations, and respectfully requests that at the conclusion of the "Distracted Driver" and stopping at crosswalk enforcement effort, the Police Department report back to the Advisory Committee on its outcomes.

RECOMMENDATION:
By a vote of 22–0–0, the Advisory Committee recommends FAVORABLE ACTION on the motion offered by the Select Board.

XXX

FY19 BUDGET - TABLE 1 NOVEMBER, 2018

		FY16 ACTUAL	FY17 ACTUAL	FY18 BUDGET	FY19 BUDGET	PROPOSED AMENDMENTS	FY19 AMENDED BUDGET	$$ CHANGE FROM FY18	% CHANGE FROM FY18
	REVENUES								
	Property Taxes	195,049,924	204,064,199	211,374,488	224,477,804		224,477,804	**13,103,316**	**6.2%**
	Local Receipts	29,377,154	28,627,979	29,456,650	29,778,587		29,778,587	**321,937**	**1.1%**
	State Aid	18,837,306	19,705,394	20,352,973	21,642,592	509,397	22,151,989	**1,799,016**	**8.8%**
	Free Cash	5,016,501	5,311,538	8,354,017	8,498,193		8,498,193	**144,177**	**1.7%**
	Other Available Funds	6,895,644	7,840,067	3,481,070	7,272,679		7,272,679	**3,791,609**	**108.9%**
	TOTAL REVENUE	**255,176,529**	**265,549,177**	**273,019,198**	**291,669,856**	**509,397**	**292,179,253**	**19,160,054**	**7.0%**
	EXPENDITURES								
	DEPARTMENTAL EXPENDITURES								
	1 . Select Board	684,191	710,634	714,335	718,814		718,814	**4,479**	**0.6%**
	2 . Human Resources	728,432	734,670	665,591	673,873		673,873	**8,282**	**1.2%**
	3 . Information Technology	1,843,320	1,953,280	1,926,238	1,997,981		1,997,981	**71,742**	**3.7%**
	4 . Diversity, Inclusion, and Community Relations	202,210	231,634	246,639	268,778		268,778	**22,139**	**9.0%**
	5 . Finance Department	2,985,840	3,174,052	3,431,923	3,170,879	132,533	3,303,412	**(128,511)**	**-3.7%**
	a. Comptroller	*571,910*	*587,376*	*609,295*	*621,748*	*62,533*	*684,281*	***74,986***	***12.3%***
	b. Purchasing	*681,950*	*655,723*	*673,102*	*707,033*		*707,033*	***33,931***	***5.0%***
	c. Assessing	*685,044*	*687,608*	*701,556*	*705,165*		*705,165*	***3,609***	***0.5%***
	d. Treasurer	*1,046,936*	*1,243,344*	*1,447,970*	*1,136,933*	*70,000*	*1,206,933*	***(241,037)***	***-16.6%***
	6 . Legal Services	989,752	1,052,847	1,007,686	1,011,329	50,813	1,062,142	**54,456**	**5.4%**
	7 . Advisory Committee	13,704	21,196	26,232	27,341		27,341	**1,109**	**4.2%**
	8 . Town Clerk	613,440	761,507	559,913	788,467		788,467	**228,554**	**40.8%**
	9 . Planning and Community Development	874,057	975,267	998,191	1,140,547		1,140,547	**142,355**	**14.3%**
	10 . Police	16,732,901	16,478,636	16,871,331	16,730,555		16,730,555	**(140,777)**	**-0.8%**
	11 . Fire	12,961,446	15,007,729	15,256,175	15,377,759	25,000	15,402,759	**146,585**	**1.0%**
	12 . Building	7,321,190	7,554,334	7,751,557	8,294,340		8,294,340	**542,784**	**7.0%**
(1)	13 . Public Works	14,970,796	15,540,196	14,457,331	15,326,363	0	15,326,363	**869,032**	**6.0%**
	a. Administration	*908,138*	*881,248*	*906,455*	*902,453*		*902,453*	***(4,001)***	***-0.4%***
	b. Engineering/Transportation	*1,255,638*	*1,151,132*	*1,205,290*	*1,284,984*		*1,284,984*	***79,693***	***6.6%***
	c. Highway	*4,574,473*	*4,504,869*	*5,018,352*	*5,134,350*		*5,134,350*	***115,998***	***2.3%***
	d. Sanitation	*3,340,207*	*3,245,364*	*3,091,871*	*3,241,568*		*3,241,568*	***149,697***	***4.8%***
	e. Parks and Open Space	*3,701,159*	*3,599,580*	*3,862,818*	*4,031,079*		*4,031,079*	***168,261***	***4.4%***
	f. Snow and Ice	*1,191,182*	*2,158,002*	*487,261*	*731,929*		*731,929*	***244,668***	***50.2%***
	14 . Library	3,993,162	4,129,662	4,045,571	4,155,019		4,155,019	**109,448**	**2.7%**
	15 . Health and Human Services	1,193,045	1,201,816	1,200,237	1,228,332	5,400	1,233,732	**33,495**	**2.8%**
	16 . Veterans' Services	326,172	308,507	338,343	338,654		338,654	**311**	**0.1%**
	17 . Council on Aging	883,926	916,512	929,758	957,812		957,812	**28,054**	**3.0%**
	18 . Recreation	1,124,759	1,020,333	1,009,246	1,063,047		1,063,047	**53,801**	**5.3%**
(2)	19 . Personnel Services Reserve	715,000	715,000	715,000	715,000		715,000	**0**	**0.0%**
(2)	20 . Collective Bargaining - Town	1,596,442	1,148,529	784,317	2,045,639		2,045,639	**1,261,322**	**160.8%**
	Subtotal Town	*68,442,343*	*71,772,811*	*73,050,330*	***76,030,529***	***213,746***	***76,244,275***	***3,193,944***	***4.4%***
	21 . *Schools*	*95,916,094*	*101,118,780*	*104,758,343*	*110,831,679*	*(173,424)*	*110,658,255*	***5,899,912***	***5.6%***
	22. . *Vocational Euducation Assessments*	*0*	*0*	*92,895*	*92,895*		*92,895*	***0***	***-***
	Subtotal Education	*95,916,094*	*101,118,780*	*104,851,238*	*110,924,574*	*(173,424)*	*110,751,150*	***5,899,912***	***5.6%***
	TOTAL DEPARTMENTAL EXPENDITURES	**164,358,438**	**172,891,591**	**177,901,568**	**186,955,102**	**40,322**	**186,995,424**	**9,093,856**	
	NON-DEPARTMENTAL EXPENDITURES								
(1)	23 . Employee Benefits	54,064,860	54,682,308	60,454,518	63,025,067	20,952	63,046,019	**2,591,501**	**4.3%**
(3)	*a. Pensions*	*18,707,021*	*19,720,540*	*21,499,185*	*23,174,765*		*23,174,765*	***1,675,580***	***7.8%***
	b. Group Health	*27,484,720*	*26,821,422*	*30,173,026*	*30,725,287*	*20,952*	*30,746,239*	***573,213***	***1.9%***
	c. Health Reimbursement Account (HRA)	*70,000*	*0*	*0*	*0*		*0*	***0***	
(3)	*d. Retiree Group Health Trust Fund (OPEB's)*	*3,499,119*	*3,774,838*	*4,480,080*	*4,570,465*		*4,570,465*	***90,385***	***2.0%***
	e. Employee Assistance Program (EAP)	*28,000*	*24,900*	*28,000*	*28,000*		*28,000*	***0***	***0.0%***
	f. Group Life	*145,000*	*131,381*	*145,000*	*145,000*		*145,000*	***0***	***0.0%***
	g. Disability Insurance	*16,000*	*11,076*	*16,000*	*46,000*		*46,000*	***30,000***	***187.5%***
(3)	*h. Worker's Compensation*	*1,550,000*	*1,450,000*	*1,450,000*	*1,450,000*		*1,450,000*	***0***	***0.0%***

		FY16 ACTUAL	FY17 ACTUAL	FY18 BUDGET	FY19 BUDGET	PROPOSED AMENDMENTS	FY19 AMENDED BUDGET	$$ CHANGE FROM FY18	% CHANGE FROM FY18
(3)	*i. Public Safety IOD Medical Expenses*	*250,000*	*250,000*	*200,000*	*200,000*		*200,000*	***0***	***0.0%***
(3)	*j. Unemployment Compensation*	*300,000*	*300,000*	*200,000*	*200,000*		*200,000*	***0***	***0.0%***
	k. Medical Disabilities	*40,000*	*19,810*	*40,000*	*40,000*		*40,000*	***0***	***0.0%***
	l. Medicare Coverage	*1,975,000*	*2,178,341*	*2,223,228*	*2,445,551*		*2,445,551*	***222,323***	***10.0%***
(2)	24 . Reserve Fund	2,200,198	3,348,737	2,460,011	2,547,870		2,547,870	**87,860**	**3.6%**
	25 Stabilization Fund	0	0	0	0		0	**0**	
	26 Affordable Housing	163,078	158,539	576,803	545,112		545,112	**(31,691)**	**-5.5%**
	27 . Liability/Catastrophe Fund	78,969	144,322	203,644	456,762		456,762	**253,118**	
	28 . General Insurance	382,645	316,595	405,972	420,830		420,830	**14,858**	**3.7%**
	29 . Audit/Professional Services	130,000	129,632	137,000	137,000		137,000	**0**	**0.0%**
	30 . Contingency Fund	15,000	13,374	15,000	15,000		15,000	**0**	**0.0%**
	31 . Out-of-State Travel	3,000	2,039	3,000	3,000		3,000	**0**	**0.0%**
	32 . Printing of Warrants & Reports	35,000	34,479	35,000	35,000	20,000	55,000	**20,000**	**57.1%**
	33 . MMA Dues	12,278	12,281	12,900	13,222		13,222	**322**	**2.5%**
	Subtotal General	*3,020,169*	*4,159,998*	*3,849,329*	*4,173,796*	*20,000*	*4,193,796*	***344,467***	***8.9%***
(1)	34 . Borrowing	9,276,014	10,255,515	12,766,192	15,658,637		15,658,637	**2,892,445**	**22.7%**
	a. Funded Debt - Principal	*7,188,044*	*7,859,250*	*9,031,750*	*10,219,250*		*10,219,250*	***1,187,500***	***13.1%***
	b. Funded Debt - Interest	*2,082,502*	*2,381,652*	*3,574,442*	*5,242,387*		*5,242,387*	***1,667,945***	***46.7%***
	c. Bond Anticipation Notes	*0*	*3,250*	*100,000*	*137,000*		*137,000*	***37,000***	***37.0%***
	d. Abatement Interest and Refunds	*5,468*	*11,363*	*60,000*	*60,000*		*60,000*	***0***	***0.0%***
	TOTAL NON-DEPARTMENTAL EXPENDITURES	**66,361,043**	**69,097,820**	**77,070,040**	**82,857,500**	**40,952**	**82,898,452**	**5,828,412**	**7.6%**
	TOTAL GENERAL APPROPRIATIONS	**230,719,481**	**241,989,410**	**254,971,608**	**269,812,602**	**81,274**	**269,893,876**	**14,922,268**	**5.9%**
	SPECIAL APPROPRIATIONS								
	35 . Town Building Furniture (revenue financed)				50,000		50,000		
	36 . Public Safety HVAC Modifications (revenue financed)				125,000		125,000		
	37 . Town Building Rehab/Upgrade (revenue financed)				50,000		50,000		
	38 . Zoning By-Law reorganization (revenue financed)				200,000		200,000		
	39 . CAD System Upgrade (revenue financed)				200,000		200,000		
	40 . Fire Station Renovations (revenue financed)				385,000		385,000		
	41 . Putterham Library Bathroom Renovations (revenue financed)				150,000		150,000		
	42 . Traffic Calming / Safety Improvements (revenue financed)				85,000		85,000		
	43 . Bicycle Access Improvements (revenue financed)				176,775		176,775		
	44 . Street Rehabilitation (revenue financed$1.71M, $1.4M tranferred from Parking Meter Fund)				3,110,000		3,110,000		
	45 . Sidewalk Repair/Reconstruction (revenue financed)				320,000		320,000		
	46 . Water Meter MTU Replacement (revenue financed Water and Sewer fund)				265,000		265,000		
	47 . Netherlands Road Facility Improvements (revenue financed Water and Sewer fund)				150,000		150,000		
	48 . Cypress Playground/Athletic Field Design (revenue financed)				240,000		240,000		
	49 . Larz Anderson Park (revenue financed)				425,000		425,000		
	50 . Playground Equipment, Fields, Fencing (revenue financed)				305,000		305,000		
	51 . Town/School Grounds Rehab (revenue financed)				155,000		155,000		
	52 . Tree Removal and Replacement (revenue financed)				230,000		230,000		
	53 . Aquatics Center Pool Filter Replacement (revenue financed)				225,000		225,000		
	54 . School Furniture Upgrades (revenue financed)				100,000		100,000		
	55 . HVAC Equipment (revenue financed)				150,000		150,000		
	56 . Classroom Climate Control (revenue financed)				225,000		225,000		
	57 . Town/School ADA Renovations (revenue financed)				75,000		75,000		
	58 . Town/School Elevator Renovations (revenue financed)				300,000		300,000		
	59 . Town/School Energy Conservation Projects (revenue financed)				180,000		180,000		
	60 . Town/School Energy Management Systems (revenue financed)				125,000		125,000		
	61 . Public Building Fire Alarm upgrades (revenue financed)				250,000		250,000		
	62 . Town/School Bldg Security / Life Safety Systems (revenue financed)				130,000		130,000		
	63 . Town/School Compactor Replacements (revenue financed)				100,000		100,000		
	64 . School Building Rehab/Upgrade (revenue financed)				230,000		230,000		
	65 . 9th School Schematic Design ($1M revenue financed, $500K re-appropriation)				1,500,000		1,500,000		
	66 . Classroom Capacity (revenue financed)				1,165,000		1,165,000		

		FY16 ACTUAL	FY17 ACTUAL	FY18 BUDGET	FY19 BUDGET	PROPOSED AMENDMENTS	FY19 AMENDED BUDGET	$$ CHANGE FROM FY18	% CHANGE FROM FY18
	67 . Wastewater System Improvements (Utility bond)				3,000,000		3,000,000		
	68 Harry Downes Field & Playground/Kraft Family Athl. Field Turf Repl. (bond)				2,450,000		2,450,000		
	69 Larz Anderson Park (bond)				2,700,000		2,700,000		
	70 . Driscoll School Rehabilitation (bond)				4,000,000		4,000,000		
	71 . High School Renovation / Expansion ($186.8M bond, $2.4M transfer from bond premium account)				189,200,000		189,200,000		
(4)	**TOTAL REVENUE-FINANCED SPECIAL APPROPRIATIONS**	**10,113,000**	**8,879,374**	**9,720,862**	**13,361,775**	**0**	**13,361,775**	**3,640,913**	**37.5%**
	TOTAL APPROPRIATED EXPENDITURES	**240,832,481**	**250,868,784**	**264,692,470**	**283,174,377**	**81,274**	**283,255,651**	**18,563,181**	**7.0%**
	NON-APPROPRIATED EXPENDITURES								
	Cherry Sheet Offsets	91,451	89,197	86,983	87,355		87,355		
	State & County Charges	6,319,715	6,393,642	6,492,524	6,633,122		6,633,122		
	Overlay	1,965,726	1,840,902	1,722,221	1,750,000		1,750,000		
	Deficits-Judgments-Tax Titles	25,000	25,000	25,000	25,000	428,123	453,123		
	TOTAL NON-APPROPRIATED EXPEND.	**8,401,892**	**8,348,741**	**8,326,728**	**8,495,477**	**428,123**	**8,923,600**	**596,872**	**7.2%**
	TOTAL EXPENDITURES	**249,234,373**	**259,217,525**	**273,019,198**	**291,669,854**	**509,397**	**292,179,251**	**19,160,053**	**7.0%**
	SURPLUS/(DEFICIT)	**5,942,156**	**6,331,652**	**0**	**0**	**0**	**0**		

(1) Breakdown provided for informational purposes.
(2) Figures provided for informational purposes. Funds were transferred to departmental budgets for expenditure.
(3) Funds are transferred to trust funds for expenditure.
(4) Amounts appropriated. Bonded appropriations are not included in the total amount, as the debt and interest costs associated with them are funded in the Borrowing category (item #34).

FY19 BUDGET - TABLE 2 November 2018

Department/Board/Commission	Personnel Services/ Benefits	Purchase of Services	Supplies	Other Charges/ Expenses	Utilities	Capital Outlay	Inter-Govt'al	Debt Service	Agency Total
Board of Selectmen (Town Administrator)	687,929	7,080	4,000	17,600		2,205			718,814
Human Resources Department (Human Resources Director)	309,024	311,809	20,400	31,000		1,640			673,873
Information Technology Department (Chief Information Officer)	1,156,208	545,773	10,350	17,550		268,100			1,997,981
Diversity, Inclusion, and Community Relations (Director)	218,753	35,000	10,500	3,650		875			268,778
Finance Department (Director of Finance)	2,318,263	886,857	46,960	25,707	1,375	24,250			3,303,412
Legal Services (Town Counsel)	694,633	250,309	3,500	112,000		1,700			1,062,142
Advisory Committee (Chair, Advisory Committee)	23,201		3,275	570		295			27,341
Town Clerk (Town Clerk)	651,815	110,172	22,750	2,450		1,280			788,467
Planning and Community Department (Plan. & Com. Dev. Dir.)	1,078,652	43,633	9,712	4,550		4,000			1,140,547
Police Department (Police Chief)	15,078,231	601,243	259,900	74,000	282,373	434,808			16,730,555
Fire Department (Fire Chief)	14,504,987	166,240	167,488	31,350	185,223	347,471			15,402,759
Public Buildings Department (Building Commissioner)	2,550,206	3,022,378	29,750	10,400	2,586,236	95,370			8,294,340
Public Works Department (Commissioner of Public Works)	8,152,083	3,582,009	970,750	53,500	1,102,000	1,446,021	20,000		15,326,363
Public Library Department (Library Board of Trustees)	3,056,639	204,169	605,225	4,700	266,492	17,794			4,155,019
Health & Human Services Department (Health & Human Svcs Dir)	941,807	214,362	15,100	4,120	36,823	21,520			1,233,732
Veterans' Services (Veterans' Services Director)	171,571	2,388	650	163,535		510			338,654
Council on Aging (Council on Aging Director)	822,520	43,583	19,763	4,250	61,996	5,700			957,812
Recreation Department (Recreation Director)	801,595	23,037	86,480	12,400	135,515	4,020			1,063,047
School Department (School Committee)									110,658,255
Total Departmental Budgets	**53,218,117**	**10,050,042**	**2,286,553**	**573,332**	**4,658,033**	**2,677,559**	**20,000**		**184,141,891**
DEBT SERVICE									
Debt Service (Director of Finance)								15,658,637	15,658,637
Total Debt Service								**15,658,637**	**15,658,637**
EMPLOYEE BENEFITS									
Contributory Pensions Contribution (Director of Finance)	23,144,765								23,144,765
Non-Contributory Pensions Contribution (Director of Finance)	30,000								30,000
Group Health Insurance (Human Resources Director)	30,746,239								30,746,239
Retiree Group Health Insurance - OPEB's (Director of Finance)	4,570,465								4,570,465
Employee Assistance Program (Human Resources Director)	28,000								28,000
Group Life Insurance (Human Resources Director)	145,000								145,000
Disability Insurance	46,000								46,000
Workers' Compensation (Human Resources Director)	1,450,000								1,450,000
Public Safety IOD Medical Expenses (Human Resources Director)	200,000								200,000
Unemployment Insurance (Human Resources Director)	200,000								200,000
Ch. 41, Sec. 100B Medical Benefits (Town Counsel)	40,000								40,000
Medicare Payroll Tax (Director of Finance)	2,445,551								2,445,551
Total Employee Benefits	**63,046,019**								**63,046,019**
GENERAL / UNCLASSIFIED									
Vocational Euducation Assessments									92,895
Reserve Fund (*) (Chair, Advisory Committee)				2,547,870					2,547,870
Liability/Catastrophe Fund (Director of Finance)				456,762					456,762
Housing Trust Fund (Planning & Community Develpoment Dir.)				545,112					545,112
General Insurance (Town Administrator)		420,830							420,830
Audit/Professional Services (Director of Finance)		137,000							137,000
Contingency (Town Administrator)				15,000					15,000
Out of State Travel (Town Administrator)		3,000							3,000
Printing of Warrants (Town Administrator)	25,000	20,000	10,000						55,000
MMA Dues (Town Administrator)				13,222					13,222
Town Salary Reserve (*) (Director of Finance)	2,045,639								2,045,639
Personnel Services Reserve (*) (Director of Finance)	715,000								715,000
Total General / Unclassified	**2,785,639**	**580,830**	**10,000**	**3,577,966**					**7,047,330**
TOTAL GENERAL APPROPRIATIONS	**119,049,775**	**10,630,872**	**2,296,553**	**4,151,298**	**4,658,033**	**2,677,559**	**20,000**	**15,658,637**	**269,893,877**

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

ARTICLE 4

FOURTH ARTICLE

Submitted by: Select Board

To see if the Town will vote to release for expenditure the funds appropriated under Section 13, Special Appropriation No. 65 of Article 7 of the 2018 Annual Town Meeting as provided in said appropriation.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

Under Special Appropriation Article 65 of the 2018 Annual Town Meeting the following language was set by Town Meeting:

Raise and appropriate $1,500,000 to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Select Board and the School Committee, for the schematic design services to construct or expand a school as determined by the outcome of the 9th School feasibility study, and to meet the appropriation transfer $500,000 from the balance remaining in the appropriation voted under Section 13, Special Appropriation No. 66 of Article 9 of the 2017 Annual Town Meeting, provided that the money not be released for expenditure without an affirmative vote of a future Town Meeting, thereby providing Town Meeting with the opportunity to restrict, condition or re-appropriate such funds.

This article allows the Town to move into the schematic design phase for one of the two building projects that are currently in the feasibility study phase.

SELECT BOARD'S RECOMMENDATION

The summary in this report applies to Articles 3E (Driscoll) and Article 4 (Baldwin). Article 3E is an appropriation request for schematic design services for the renovation, repair, and expansion of the Driscoll School. Article 4 is a request that Town Meeting release the funding appropriated under Article 65 of the 2018 Annual Town Meeting which had conditional language seeking a second vote from Town Meeting when more details about the project were available, namely the outcome of the 9th School feasibility study and site evaluations for various school sites.

On June 13th, the Select Board and School Committee approved moving forward with expanding the Baldwin School, expanding and renovating the Driscoll School, and reaffirmed the decision to partner with the Massachusetts School Building Authority to renovate and expand the Pierce School.

Preliminary Update - Driscoll and Baldwin School Building Projects

The following is a preliminary update on the work being done during the Design Feasibility Phase for both the Driscoll and the Baldwin School Building Projects. As this phase is currently underway for both projects, new and updated information will continue to be presented to the building committees and the general public every week. Complete and final information on the Design Feasibility Phase will be available and distributed to Town Meeting Members before the anticipated consideration of these projects by Town Meeting on December 13th, so that members have ample time to review all the information and recommendations of the building committees.

Addressing Brookline's Historic Enrollment Growth and Overcrowded Schools

Since 2005, Brookline has experienced historic enrollment growth in its public schools. The K-8 elementary schools have grown by 40% going from 3,904 students in 2006 to 5,482 students in 2017. In particular, some schools have more than doubled their student population in the past ten years.

The effects of this unprecedented growth are significant and far-reaching. Today, children are crowded into schools without adequately-sized cafeterias, gymnasiums, and auditoriums. They must endure learning spaces carved out of windowless storage spaces, portions of auditoriums, locker rooms, active passageways between buildings, modular classrooms, temporary rentals, and other substandard spaces. Outdated building layouts create unnecessary traffic and remain environmentally inefficient. Dilapidated playspaces and auditoriums limit the extent of extracurricular programming that can be provided outside of school hours. Having added more than 60 classrooms to our existing schools through the "expand-in-place" strategy, schools are now severely overcrowded. Quite simply, the quality of our public school facilities have significantly fallen behind our peer communities.

However, after more than a decade of struggling to absorb students into substandard spaces, the Town has a new way forward. On June 13, 2018, after the completion of the third site selection study, the Select Board, School Committee, and Ad Hoc Subcommittee of the Advisory Committee approved a three-school solution that will add the classroom capacity needed to provide relief across the entire town. These bodies agreed to expand the Baldwin School, renovate and expand the Driscoll School, and reaffirm the decision to partner with the Massachusetts School Building Authority to renovate and expand the Pierce School.

Expanding and renovating Baldwin, Driscoll, and Pierce over time allows the town to address the ongoing projected enrollment increases in the coming years, while not overbuilding in either North Brookline and South Brookline. Taken together, these projects will alleviate overcrowding across all of our schools, provide new and modern facilities

fit for educating our children into the next century and enhance their neighborhoods with new community resources that can be accessed by all.

Overview - The Design Feasibility Phase

At the beginning of the 2018-19 school year, the Baldwin and Driscoll Projects entered the Design Feasibility Phase. During this phase, the architectural firm Jonathan Levi Architects is conducting in-depth studies of the Baldwin and Driscoll sites and working with each building committee to identify the preferred design option that best meets projected education and enrollment needs at their respective building sites.

Mr. Levi and his team are currently developing preliminary design options. These options include basic drawings of the exterior, interior, and the grounds as well as refined project cost estimates. The Design Feasibility phase also includes new or updated reports on traffic and parking impacts, geotechnical engineering, environmental assessment, tree assessment, and a site survey. The cost estimates for this project developed during this phase will be further refined in the upcoming Schematic Design Phase.

This phase also includes the establishment of the Baldwin and Driscoll Building Committees. Community members, town officials, and staff who serve on these committees will advise and support the Building Commission, Select Board, and School Committee, oversee budget and schedules, and coordinate with town agencies.

Finally, the architects and the building committees are gathering input from PSB staff, families, and community members during the Design Feasibility Phase, in order to develop an educational vision and design that best supports learning for all of Brookline's K-8 students. Each building committee is also responsible for engaging with and informing the public about the progress of their respective building projects.

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Baldwin Design Feasibility Phase Schedule

September 27

- Existing Conditions Progress Report
- Building Program and Space Summary Status Report

October 11

- Refined Building Program and Program Diagram
- Alternative Design Strategies

October 25

- Refined Alternative Design Strategies
- Traffic Study - Preliminary Findings
- Cost Estimates

November 8

- Recommend Preferred Design Alternative

November 29

- Final Traffic Study
- Revised Preferred Design Alternative
- Updated Cost Estimate
- Approve Preferred Alternative to proceed to Schematic Design

Baldwin Expansion Preliminary Designs

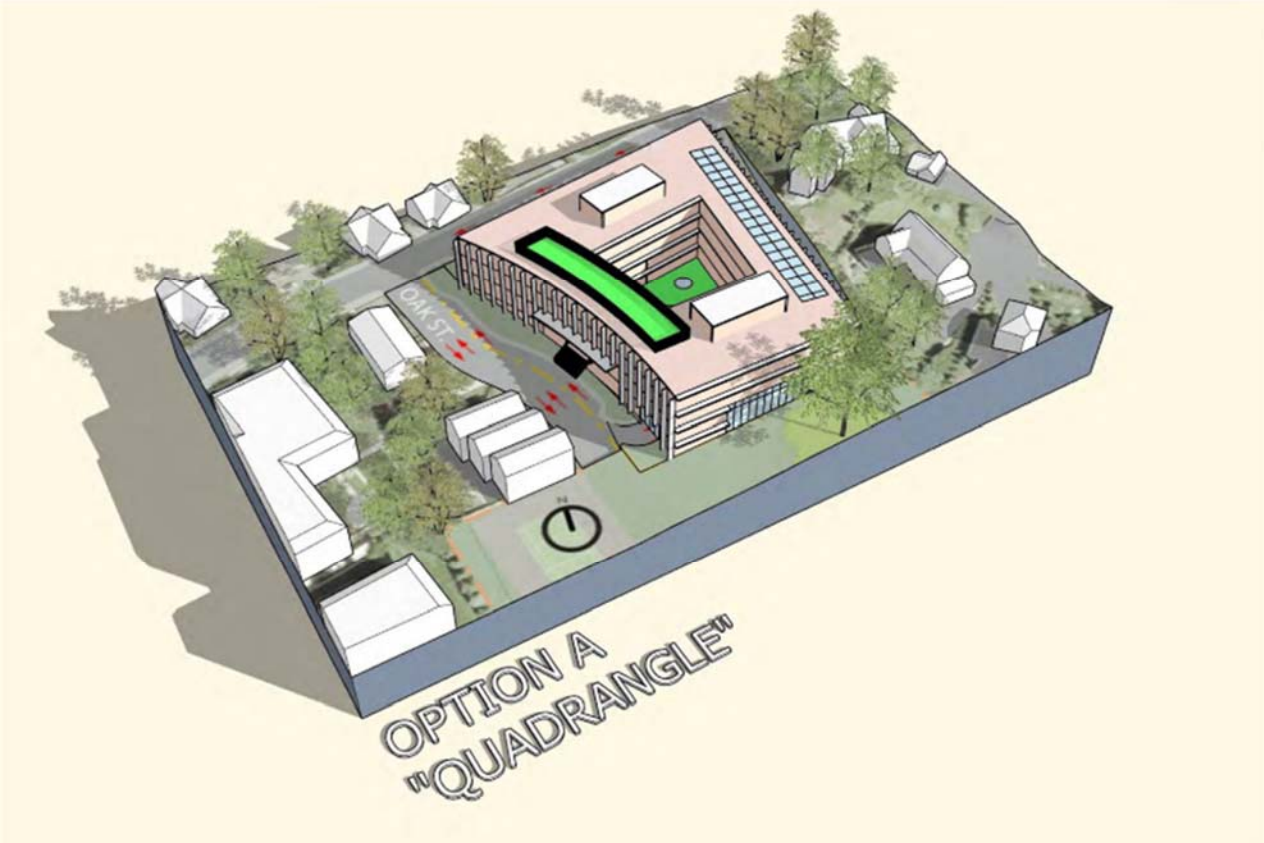
The following design options were presented and reviewed at the Building Committee Meeting on October 11th and at the Neighbor Community Forum on October 17th. The Baldwin School Building Committee will continue to work with Jonathan Levi Architects and incorporate feedback from community members before deciding on a preferred design that will be shared with Town Meeting members well before the December 13th Town Meeting session.

Option A
"Quadrangle"

Option B
"Solar Harvest"

Option C
"Twin Court"

CONCEPT DESIGN THUMBNAIL SITE PLAN



<u>Legal Update – Presented to the Select Board on October 9, 2018:</u>

Report Of The Co-chairs Of The Baldwin Building Committee On The Use Of The Baldwin Playground By Public School Children

1. In connection with previous plans for the wider Baldwin site, the legal issues relative to the use of the Baldwin Playground raised by the 1976 federal Land and Water Conservation Fund (LWCF) grant and Article 97 were previously considered by Town Counsel, the Select Board, the School Committee, Park and Recreation Commission, and other Town agencies, with the assistance of Special Town Counsel.

2. With Counsel, the Town bodies reviewed the LWCF Project Agreement, related documents, National Park Service guidance documents, then relevant cases and, as they became available, subsequently decided cases, and the historical uses of the Baldwin Playground over time, including in 1975-1976 when the LWCF grant was applied for, accepted and used.

3. Based on the previous examination of these issues, updated analyses, and communication with the National Park Service, Town Counsel and Special Town Counsel advised the co-chairs of the Baldwin Building Committee that the National Park Service interpretation of the LWCF Project Agreement and National Park Service guidance documents prohibits anything that would be deemed a "conversion" of the Baldwin Playground from its current public outdoor recreation use to another inconsistent use.

4. Based on that advice, the co-chairs of the Baldwin Building Committee consulted with the design professionals associated with the project and are satisfied that the current plans for the Baldwin School would not result in a "conversion" of the Baldwin Playground.

5. Those plans include (a) using the Baldwin Playground, on a non-exclusive basis, for outdoor recess and physical education while school is in session, (b) maintaining the open grounds of the Baldwin Playground without any additional fencing, building structures, or other impediments to public use for outdoor recreation – similar to the Longwood Park used by the Lawrence School and other parks adjacent to Brookline public schools, (c) preserving existing mature trees on the Baldwin Playground site, (d) replacing certain existing play and other structures with modern and safe structures that are appropriate to a broader range of ages and are accessible to and inclusive for children and adults with disabilities, thereby increasing the opportunity for public outdoor recreational use of the Baldwin Playground, consistent with the LWCF Act, and (e) refurbishing

the tennis court area to make it accessible and usable by a more diverse range of abilities and uses by the public, consistent with the original intention of the LWCF grant that the area be a "multiple-purpose" play area.

6. While we expect that opponents to the Baldwin School project will continue to fight us on this and other issues, the co-chairs of the Baldwin Building Committee are satisfied that the Baldwin School can be built on the designated site and the Baldwin Playground can be utilized by the Baldwin School as contemplated by the Baldwin Building Committee and the School Committee and we will so advise the full Baldwin Building Committee at its next meeting on October 11.

Baldwin Traffic Study and Parking Plan Update

An updated and revised study of traffic in the Baldwin neighborhood began development in September. A preliminary report is expected to be presented to the Baldwin School Building Committee on October 25, with the final report and analysis due in November. This final report and its recommendations will be shared with Town Meeting members well before December 13. There will be sufficient time for members to review the document.

Members of the Baldwin School Building Committee also presented a preliminary Staff Parking Plan at the Transportation Board Meeting on October 15. To view this presentation in its entirety, please click here.

Baldwin School Building Committee Members

- **Bernard Greene,** Co-Chair. Select Board
- **Julie Schreiner-Oldham,** Co-Chair. Vice-Chair of the School Committee
- **Nathan Peck,** Building Commission
- **Suzanne Federspiel,** School Committee
- **Mike Sandman,** Advisory Committee
- **Clara Batchelor,** Parks and Recreation Commission
- **Blair Hines,** Planning Board/Greater Baldwin Community Representative
- **Rebecca Manor,** SEPAC/School Parent Community Representative
- **Michelle Morrissey,** Community Representative
- **Deborah Abner,** Community Representative
- **Mary Weitzel,** Community Representative
- **Mel Kleckner,** Town Administrator
- **Andrew Bott,** Superintendent of Schools
- **Casey Ngo-Miller,** Interim Deputy Superintendent of Student Services
- **Mary Ellen Dunn,** Deputy Superintendent of Schools for Administration and

Finance

- **Dr. Mary Brown,** Senior Director for Teaching and Learning (former Baker School Principal)
- **Ben Lummis,** Project Manager, School Department
- **Ray Masak,** Project Manager, Building Department
- **Daniel Bennett,** Building Commissioner

Schedule of Public Meetings

- **September 27:** Building Committee
- **October 2:** Capital and Schools Subcommittees Joint Hearing
- **October 4:** School Committee Meeting
- **October 9:** Select Board Public Hearing
- **October 11:** Building Committee
- **October 15:** Transportation Board Public Meeting
- **October 16:** Capital and Schools Subcommittees Joint Meeting
- **October 17:** Neighborhood Community Forum
- **October 18:** School Committee Meeting
- **October 25:** Building Committee Meeting
- **November 1:** Neighborhood Community Forum
- **November 8:** Building Committee Meeting
- **November 13:** Special Town Meeting
- **November 20:** Building Committee Meeting
- **November 27:** Neighborhood Community Forum
- **December 13:** Special Town Meeting

Other Important Dates for the Baldwin School Building Project

September - October: Focus Groups with Jonathan Levi Architects and PSB Staff, including curriculum coordinators, administrators, RISE and ELE program directors

October 10 - October 17: Building Committee Co-chairs Julie Schreiner-Oldham and Bernard Greene hosted Coffee and Conversation sessions with Community Members

October 11, October 16: Baldwin School Building Committee Members toured comparable school the Dearborn STEM Academy and Coolidge Corner School

October 12: Focus Groups with Jonathan Levi Architects and RISE families

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Driscoll School Renovation and Expansion Project

Driscoll Program Summary

	Driscoll
School Type	4 Section; Pre-K to 8th Grade
Expanded Services	BEEP, Special Education (LAHB), English Learner Education (ELE)
Projected Number of Students	756 (+140 from SY 2018)
Total Number of Core Classrooms	36 (+7 from SY 2018)
Preliminary Staffing	TBD

Driscoll School Building Committee Projected Timeline and Schedule

October 4

- Existing Conditions Progress Report
- Program Diagram
- Range of Pre-Schematic Alternative Design Strategies
- Traffic Update

October 18

- Refined Space Summary
- Updated Alternative Design Strategies
- Cost Estimates
- Traffic Status Report

November 1

- Refined Alternative Design Strategies
- Traffic Report Preliminary Findings
- Cost Estimates

November 15

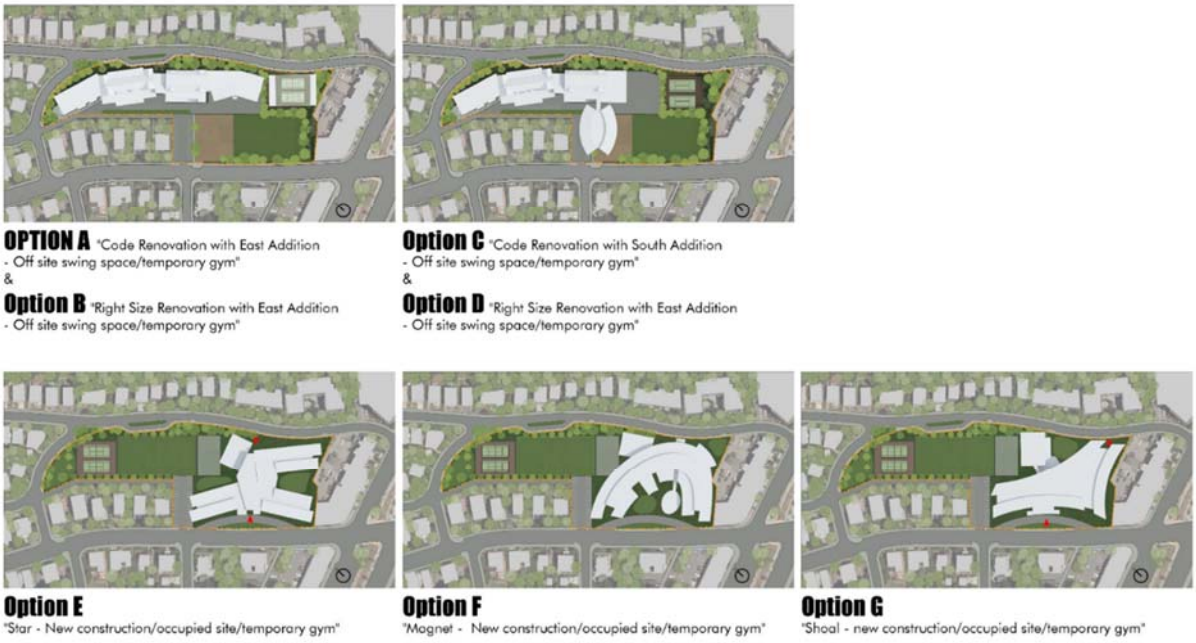
- Recommend Preferred Design Alternative

December 6

- Revised Preferred Design Alternative
- Updated Cost Estimate
- Approve Preferred Alternative to proceed to Schematic Design
- Final Traffic Report

Driscoll - Preliminary Designs

The following design options were presented and reviewed at the Building Committee Meetings on October 4th and October 18th, and will be presented and reviewed at the Neighbor Community Forum on October 29th. The Driscoll School Building Committee will continue to work with Jonathan Levi Architects and incorporate feedback from Driscoll staff, families, and other community members before deciding on a preferred design that will be shared with Town Meeting members well before the December 13th Town Meeting session.



Jonathan Levi Architects **CONCEPT DESIGN THUMBNAIL SITE PLAN**

Preliminary Concept Design Alternatives
Option A.1 – 'Code Renovation with East Addition'
DRISCOLL SCHOOL, BROOKLINE

Preliminary Concept Design Alternatives
Option C.1 – 'Code Renovation with South Addition'

DRISCOLL SCHOOL, BROOKLINE
Preliminary Concept Design Alternatives
Option E – 'Star' with massing

Preliminary Concept Design Alternatives
Option F – 'Magnet' with massing
DRISCOLL SCHOOL, BROOKLINE

Driscoll Traffic Study and Parking Plan Update

An updated and revised study of traffic in the Driscoll neighborhood began development in September. An update was presented to the Driscoll School Building Committee on October 18. A preliminary report is expected on November 1, with the final report and analysis due in late November. This final report and its recommendations will be shared with Town Meeting members prior to December 13. There will be sufficient time for members to review the document.

Members of the Driscoll School Building Committee also presented a preliminary Staff Parking Plan at the Transportation Board Meeting on September 17.

Driscoll School Building Committee Members

- **Neil Wishinsky,** Co-Chair, Select Board (**Heather Hamilton**, Select Board Alternate)
- **Susan Wolf Ditkoff,** Co-Chair, School Committee
- **Karen Breslawski,** Building Commission
- **David Lescohier,** Advisory Committee
- **Nancy O'Connor,** Parks and Recreation Commission
- **Dan Deutsch,** Community Representative
- **Victor Kusmin,** Community Representative
- **Val Frias,** Community Representative/Special Education Parent Advisory

Council

- **Arjun Mande**, Community Representative
- **Lakia Rutherford**, Community Representative/METCO*
- **Sara Stoutland,** Community Representative
- **Mel Kleckner,** Town Administrator
- **Andrew Bott,** Superintendent of Schools
- **Dr. Nicole Gittens,** Deputy Superintendent of Schools for Teaching and Learning
- **Mary Ellen Dunn,** Deputy Superintendent of Schools for Administration and Finance
- **Dr. Suzie Talukdar,** School Principal Representative
- **Ben Lummis,** Project Manager, School Department
- **Ray Masak,** Project Manager, Building Department
- **Daniel Bennett,** Building Commissioner

Driscoll - Schedule of Public Meetings

- **September 25:** Neighborhood Community Forum
- **October 2:** Capital and Schools Subcommittees Joint Hearing
- **October 4:** Building Committee Meeting
- **October 9:** Select Board Public Hearing
- **October 9:** Parks and Recreation Commission Meeting
- **October 16:** Capital and Schools Subcommittees Joint Meeting
- **October 25:** School Committee Meeting
- **October 29:** Neighborhood Community Forum
- **November 1:** Building Committee Meeting
- **November 13:** Special Town Meeting
- **November 15:** Building Committee Meeting
- **November 26:** Neighborhood Community Forum
- **December 6:** Building Committee Meeting
- **December 13:** Special Town Meeting

Driscoll - Other Important Dates

September 22: Educational Visioning Session with Jonathan Levi Architects and Driscoll Staff and Families

October 11, October 16: Driscoll School Building Committee Members toured comparable school the Dearborn STEM Academy and Coolidge Corner School

September 18, November 9: Focus Groups with Jonathan Levi Architects and Driscoll Staff

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Expanded Programs at Baldwin and Driscoll

Reaching for Independence Through Structured Education (RISE)
The Baldwin School will include three RISE classrooms that will support 30 students from all parts of Brookline.

PSB provides comprehensive special education services throughout our schools. While the primary approach is inclusion in general education classes, the schools provide targeted and small group support inside and outside of classrooms, one-to-one services, and also district-wide programs that serve students with particular identified needs. Reaching for Independence Through Structured Education (RISE) is a town-wide, project-based learning program that serves as a base for students on the autism spectrum who may require intensive, individualized instruction and support. Located at Runkle, the RISE programs serves students from across the entire town.

RISE's mission is to help develop the fundamental individuality and potential of children. This includes increasing student independence with a variety of skills including self-help, social skills, behavior management, academics, communication, and executive functioning.

RISE offers a diverse range of services to support students, from substantially separate to full inclusion classrooms. RISE staff work collaboratively with general education staff to ensure students receive individualized services in the setting that is most appropriate for each student.

A typical RISE classrooms is designed to be state-of-the-art, flexible and inclusive spaces. This includes:

- Areas for whole group instruction
- Small adjacent rooms for small group activities including individual/small group therapies/counseling.
- Small breakout rooms for students to access a safe zone, de-escalate and self-regulate.
- Sensory Room with equipment to regulate behavior and sensory needs
- Office areas for teachers and BCBAs (Board Certified Behavior Analysts), allowing for confidential consultations, phone calls, assessment and access to Life Skills Model Apartment.

English Learner Education (ELE)
The Baldwin School will include a ELE program that supports 45 students in their native language support program. The Driscoll School will continue to reinforce the Russian native language support program.

Since 2013-2014, the Public Schools of Brookline have experienced a 41% increase in the number of registered students eligible for English Learner Education (ELE) services. It is the district's vision that English learner students understand, speak, read, and write English

fluently and competently in order to succeed academically and socially in their classrooms, schools, and communities at large. Students acquire the linguistic and cultural knowledge to function effectively globally.

ELE instruction develops English language proficiency and supports academic content knowledge. Individual needs are respected and accommodated through the use of various instructional methods fostering high academic achievement. ELE students are proportionately represented in all school programs and services. They become confident learners and are empowered through the development of critical thought, reflection, and action.

Classroom teachers and ELE specialists are prepared to work collaboratively to effectively educate English language learners. Classroom teachers are trained to provide quality sheltered English immersion (SEI) instruction. ELE specialists participate in professional learning that provides them with resources to enhance their instructional delivery of English. All teachers and specialists are able to make meaningful content connections and accurately assess students' performance and educational profiles. They are qualified to and feel confident working with English learners in their classrooms.

ELE students are valued members of a community that embraces the exchange of cultural knowledge, encourages and supports the acquisition of language and appreciation of culture, and ensures that the cultural backgrounds of students are reflected within the curricula. ELE students develop a deeper understanding of both their own cultures and those of the diverse community. Students become increasingly active participants and share their perspectives in all educational and extracurricular settings.

The Public Schools of Brookline provides welcoming opportunities for active ELE family involvement, assures that ELE students and their families have equal access to school and community resources, and embodies the cultural identities of students and families in school environments.

Brookline Early Education Program (BEEP)

The expanded Baldwin School will include 3 BEEP classrooms that will support 45 students from all parts of Brookline. The renovated and expanded Driscoll School will include an additional BEEP classroom that will support over 30 students from all parts of Brookline.

It is the mission of the early childhood programs of the Public Schools of Brookline to provide an inclusive environment where all children from ages three to five can learn social competency, develop cognitive motor and language skills and expand their understanding of themselves and the world in which they live.

The Brookline Early Education Program (BEEP) was founded on the experiences and findings of the Brookline Early Education research project. Conducted from 1972 until 1983, the project was a service program that worked with 300 families and their newborn children until the children's entry into kindergarten. The final results indicated that high

quality early childhood programs make a significant difference in children's future school success.

BEEP Preschools serve children 2.6 – 3.2 years of age for one year. The following year they attend Pre-K. BEEP Pre-K programs serve three to five year old children for one or two years before kindergarten. In particular, the BEEP program offers an educational experience based on developmental theory that supports each child's individual needs and nurtures a sense of confidence and developing independence. A variety of educational materials and equipment, organized in interest centers, provide engaging and challenging choices that spark exploration, creativity and mastery of new skills. Children learn by doing as they interact with the planned environment and with one another. The curriculum is based upon each child's strengths, needs and interests.

All BEEP classrooms are special education inclusive. This means that some of the children enter the program with special needs that have been identified by an evaluation process. As part of the individualized program that all children receive, these children might also participate in speech and language therapy, occupational therapy and/or physical therapy. The therapists typically work in the classroom with small groups of children. The mix of needs, abilities and interests of our students along with the insights and expertise of our interdisciplinary team, results in an enriched environment for all.

The Board is asking Town Meeting to postpone the vote on this item until December 13, 2018 in order to provide more information to Town Meeting on the scope of the project. The Board's vote and recommendation for this item will be provided in a supplemental mailing prior to December 13.

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Article 3(E) has been submitted by the Select Board and requests that Town Meeting appropriate $1.5 million for schematic design services for the renovation, repair, and expansion of the Driscoll School. Plans are currently in the Feasibility Study phase. Funds for the Schematic Design phase are expected to come from a surplus in the Overlay Account or other sources.

Article 4 has been submitted by the Select Board and requests that Town Meeting release the $1.5 million appropriated under Section 13, Special Appropriation 65 of Article 7 of the 2018 Annual Town meeting to fund schematic design services for a new school at 490 Heath Street. Plans for "Baldwin 2+++", a two section preK–8 school with district-wide programs, are also currently in the Feasibility Study phase.

Due to the fact that Town Meeting will have received neither a completed Feasibility Study nor updated cost estimates by the time it convenes on November 13th, by a vote of 24–0–

1, the Advisory Committee recommends that consideration of Article 3(E) be postponed indefinitely.

After a vote for a recommendation of No Action on Article 4 failed by a vote of 12–12–1, the Advisory Committee, by a vote of 16–5–4 recommends that consideration of Article 4 be postponed indefinitely.

Both votes to postpone were taken with the knowledge that Town Meeting would have the option of adjourning after meeting in November and then reconvening on December 13th. The Advisory Committee expects to present updated reports of Article 3(E) and Article 4 prior to Town Meeting's consideration of and votes on those Articles. This report provides an overview of past actions and a discussion of the current status of classroom capacity questions and, in particular, the Baldwin and Driscoll School projects.

BACKGROUND–BALDWIN SCHOOL:

Expand in Place

Since 2005, Brookline has experienced vigorous enrollment growth in its public schools. The K–8 elementary schools have grown by 40% going from 3,904 students in 2006 to 5,482 students in 2017. Preliminary projections anticipate additional growth of more than 10% from FY2018 through FY2022, although recently there has been some discussion as to the accuracy of those projections. (In a future report, the Advisory Committee will present further analysis of enrollment projections.) These enrollment increases, coupled with School Committee policies, have led to the need to expand educational facilities at both the K–8 and high school levels. Nearly 60 classrooms have been added to address the expanded school population by building new classrooms (Coolidge Corner School, Lawrence, Heath, and Runkle), renting space in privately-owned buildings (Pierce and PreK), adding modular classrooms (Baker), and creating new classrooms from existing spaces within the eight K–8 schools. This expand-in-place approach was recommended by the "B-SPACE" Committee in 2013.

Civic Moxie–2016 Site Selection study – 9th School at Baldwin

In 2014 the School Committee and Select Board commissioned an elementary school site identification study. Civic Moxie was selected and asked to research both public and private parcels between three and one-half and six acres in size that would accommodate a K–8 school of approximately 100,000 square feet for 550 students and 100 school staff with onsite parking for 60 vehicles. Civic Moxie's research resulted in an initial list and matrix of 26 properties. That list was eventually reduced to six sites considered to be the most promising. After further investigation and a series of public meetings, three sites were chosen to be the focus of a site selection study: Stop and Shop on Harvard Street, Baker School, and Baldwin School.

Jonathan Levi Architects (JLA) was chosen to undertake the Site Selection Study. In October 2016, the Select Board and School Committee chose the Baldwin School site to be the location of the Town's 9th School. Given its role in the Site Selection Study, JLA

was hired to build on its earlier investigation and preliminary analysis of the Baldwin site and undertake a Feasibility Study. In its efforts, it was guided by a 15-member 9th School at Baldwin Building Committee, whose membership included neighborhood and Heath School community representatives; representatives from the Select Board, School Committee, Building Commission, Advisory Committee, and Park and Recreation Commission; and School Department and Select Board staff. This Committee met approximately ten times between November 2016 and May 2017.

In February 2017, the School Committee voted in favor of a 3-section school at Baldwin, and in the spring the Building Committee voted that "Plan D" be the preferred configuration (although it never took a vote on its feasibility). The decision to move forward with building a school on the Baldwin site was not without controversy. An April 3, 2017 letter from an attorney hired by a group of neighbors noted "fatal flaws" with the site and asserted that numerous legal obligations and encumbrances would subject the town to multiple legal challenges.

Feasibility and Site Evaluations: November 2017–June 2018

In November 2017, Town Meeting voted $300,000 to fund feasibility and site evaluations for the Baldwin School site, the campus of Pine Manor College, Baker School, Pierce School and other potential 9th school locations. A total of 12 sites were eventually investigated and assessed and included three different configurations (new construction and renovation) at both the Baker and Pierce Schools; expansions at the Driscoll and Heath Schools; and new construction on sites at Putterham Woods, Pine Manor College, and the Baldwin School (Baldwin North, to be built on the portion of the Baldwin site under the control of the public schools of Brookline, and the 2017 "Plan D").

HMFH was hired to undertake this work and after a public presentation of its findings in May and a public hearing in June, Baldwin 2+++, a scheme neither investigated nor evaluated by HMFH nor previously discussed in recent public forums, was proposed and approved for further feasibility by a substantial majority of the Select Board, School Committee and Advisory Committee Ad Hoc Subcommittee at their June 18th meeting. In addition, a substantial majority of the three bodies also voted to undertake the feasibility of expanding/renovating the Driscoll School and to reiterate their commitment to partner with the Massachusetts School Building Authority (MSBA) in pursuing the renovation and expansion of the Pierce School.

JLA was awarded both feasibility studies with a contract for Baldwin totaling $269,514, and a contract for Driscoll totaling $318,858. (Of the original $700,000 allocated by Town Meeting, $111,628 currently remains unexpended and unencumbered.) School officials expect to hear from the MSBA regarding their submitted April 2018 Statement of Interest for Pierce in December.

Baldwin 2+++

The work of the 9th School at Baldwin Building Committee was suspended in May 2018, and the Baldwin Building Committee was appointed in September. It held its first meeting

on September 27. Two citizen members of the former 9th School at Baldwin Committee were appointed to the new committee, including one designated as the "greater Baldwin Community" representative. (Two of the other three community representatives live in the Baker School Neighborhood, while one is a Heath School parent and lives near the Baldwin School.)

Baldwin 2+++ calls for the demolition of the existing Baldwin School and the construction of a new building consisting of approximately 120,253 square feet, to house 453 students in Pre K through 8thgrade, including students from three district-wide programs. Current plans call for 27 classrooms to be added to the PSB's inventory, and according to the School Department's October 2nd public hearing presentation, Baldwin 2+++ will address the growth of student enrollment at Baker, provide capacity for the expanding RISE and English Language programs, and offer three BEEP classrooms, adding capacity for PreK and/or reducing the continue reliance on rental space for BEEP classrooms.

Staffing, including food services and administration, is expected to total 86 people, and the possibility of creating 86 on-street parking spaces is being explored by the School Department and Transportation Board. The school building is expected to include a solar-ready roof and qualify for LEED Silver, at a minimum. According to the October 9, 2018 draft of the Baldwin Expansion Program Statement, its preliminarily projected annual operating cost is approximately $7.8 million.

Some of the feasibility work, such as Site Survey, Geotechnical Engineering Data Report, Environmental Site Assessment, and an Asbestos Survey Report had already been undertaken by JLA in its 2016 contract with the Town, however the Educational and Space Plan for Baldwin, developed in 2016 by School Department staff for a 4-section or 3-section school, was revised this fall and submitted to the School Committee for discussion on October 18th. Additionally, the Traffic Study portion of the Feasibility Study will need to update the 2016, 3-section school study and will include a new traffic impact analysis and according to a letter from Vanasse and Associates to JLA, a comparison to three other Brookline K–8s: Driscoll, Runkle, and Lincoln.

According to its schedule, the Baldwin Building Committee would view three design strategies at its October 11th meeting. It is expected that by either October 25th or November 1st, the design strategies will have been refined and will be presented to the Committee, along with cost estimates and the preliminary findings of the traffic report. On November 29th, the Committee is scheduled to discuss and approve the revised preferred design alternative and to be presented with updated cost estimates.

BACKGROUND–DRISCOLL SCHOOL:

One of the 2013 B-SPACE Committee's recommendations was to "Renovate and expand the Driscoll School to the maximum extent that the site, project feasibility, cost (including potential MSBA partnership) and pedagogical considerations allow."

The School Committee proceeded to move forward with the submission of a Statement of Interest to the MSBA, despite objections from some members of the Driscoll community, and in June 2014, Town Meeting appropriated $1 million for feasibility and schematic

design services, subject to an invitation from the MSBA to enter into the Eligibility Period. In December, the MSBA declined to partner with the Town to further explore expansion opportunities.

Like Baldwin 2+++, Driscoll was approved for a Design Feasibility Study in June 2018. JLA was selected to undertake this project, the goals of which are to develop a preliminary design for the renovation and expansion of the school, to produce a site survey and tree and environmental assessment, and to report on traffic and transportation impact. This work is expected to be presented to the Driscoll Building Committee on December 6th.

DISCUSSION:
Superintendent Andrew Bott gave a presentation, "Expanding and Renovating the Baldwin and Driscoll Schools," to the Advisory Committee's Capital and School Subcommittees on October 2nd and gave an update of that presentation to the full Advisory Committee on October 16th. These two projects are part of a three-prong approach to addressing capacity needs: 18 additional classrooms for K–8, and 9 classrooms for expanded services at a new Baldwin School; 7 additional classrooms at a renovated/expanded-to-4-section Driscoll School; and 4 additional classrooms at a renovated Pierce School.

Driscoll School—Expansion/Renovation

Superintendent Bott described the current deficiencies at Driscoll, including an undersized cafeteria, middle grade classrooms, and nursing area; inadequate science classrooms; poorly organized outdoor play space, and lack of community space. He also noted that there were issues pertaining to the Driscoll site, specifically the culverted brook running under the property, that were currently being investigated. He noted that the Driscoll Building Committee had been presented with a set of preliminary concepts, ranging from right sizing the school and bringing it up to current code requirements to demolishing it and constructing a new school. The Committee is scheduled to vote on a Preferred Design alternative on November 15th at which time updated cost estimates will also be discussed. In response to questions regarding the height of the new construction and size of the overall footprint of the expanded school on the site, he responded that the height would be three stories with excavation below ground for the gym. Preserving the existing square footage of outdoor play space per child was a design priority and the thought of building a taller building with a smaller footprint would be brought back to the Driscoll Building Committee.

Baldwin 2+++ —New Construction

Legal issues
During the October 16th Advisory Committee meeting, School Committee member and Baldwin Building Committee co-chair Julie Schreiner Oldham offered an update on the legal issues pertaining to the Baldwin School project. The legality of the siting of the new Baldwin School (there currently are no plans to expand the existing school) have focused on the Land and Water Conservation Fund agreement with the Town regarding the use of the Baldwin Playground. She reported that after examination of the issues, guidance from the National Park Service, and consultation with Town Counsel as well as outside counsel,

she and Baldwin Building Committee co-chair and Select Board member Bernard Greene are satisfied that a new Baldwin School can be built on the proposed site and that the Baldwin Playground can continue to be used for school recess and physical education because members of the general public will not be prohibited from using that space during school hours. Superintendent Bott noted that the Lawrence and Pierce playgrounds are also open to public use during school hours and that the safety of the students is addressed through adults monitoring the space during outdoor classes and recess. He also observed that there is a placeholder for outdoor play space on preliminary plans for a portion of the school's roof.

Notwithstanding the foregoing comments by representatives of the Baldwin Building Committee, some Advisory Committee members still believe that the site would be subject to legal challenge, and unless that challenge were disposed of through expedited summary judgment, the Town could be looking at delays and significant legal costs.

Transportation, Traffic, and Parking

Questions were raised about the impact on the neighborhood and adjoining streets of the traffic generated by a school with 453 students and 86 staff/teachers. Current plans for Baldwin call for three school buses and nine vans to provide transportation for approximately 250 of the students, presumably leaving the remaining 200 students to walk, bike, or be driven in private vehicles to and from the school. JLA's preliminary designs that propose fronting the new school on Oak Street, a short, private way on the west side of the school property, caused some to doubt the adequacy of Oak Street for access and for queuing. Presumably these issues will be evaluated as the design of the building and the site continue to evolve.

Superintendent Bott stated that counts of existing traffic in the area at Boylston at Hammond, Hammond at Heath, Hammond at Woodland, Heath at Woodland, etc. were taken on September 26th and are currently being analyzed and compared with traffic counts taken during the winter of 2017. He also noted that comparables at Lincoln, Runkle and Driscoll were being developed to determine if the projections for Baldwin are consistent with other neighborhoods with schools in their midst. It was pointed out to the superintendent that these three other schools do not have 3 PreK classes on site, and therefore comparing the projected traffic scenario for Baldwin with the situations at the other three schools did not seem relevant since it seems likely that PreK students will be brought to school and picked up from school by car. Preliminary traffic study findings are expected to be presented to the Building Committee on October 25th, with a final report due by November 15th.

Because onsite parking would increase the cost of the school project, parking on neighboring streets (Randolph, Woodland, Pine, Jefferson, Cary, and Glenoe Roads on the south side of Route 9 as well as Norfolk and Dunster Roads on the north side) was been proposed by members of the School Committee and analyzed by Town Transportation staff. Proponents of on-street parking noted that this model already exists for a number of other K–8 schools in the Town.

Residents of these streets voiced their objections to the proposal at the October 15th Transportation Board meeting, noting that parking by MBTA commuters and the Brimmer

and May School already impacts homeowners on Norfolk and Dunster Roads, and that a number of streets in the Baldwin neighborhood lack an adequate number of sidewalks to ensure the safe passage of school staff and others (parents, visitors) who would need to walk from their cars to the school. Special mention was made of parking accommodations for parents and others for school events during the day and at night and for the parents of preK children who often walk their children into school and for whom parking on site seemed to be a necessity. In response, Superintendent Bott indicated that accommodations such as a staggered start time and one level of parking beneath the new structure would be explored. The possibility of renting spaces at Pine Manor College or at "The Street" for staff was mentioned but has not (yet) been investigated.

Cost and a Two-Section School

The "ballpark" figure of $100 million for a 2-section school prompted questions about cost and why, when compared to the cost of other new schools, such as the Brooke Charter School in Boston, Brookline's costs are significantly higher. Superintendent Bott said his research indicated that charter schools are "typically smaller and more crowded"; that they generally "do not provide full services"; and that they typically "don't focus on long term costs." Further research is needed to verify these assumptions. He also noted that although MSBA funds were not being used to construct Baldwin or expand/renovate Driscoll, nevertheless MSBA guidelines were being used in space planning. That is why two art rooms are included in the initial "bubble diagrams" for Baldwin.

Regarding cost, it was also stated that there should be a careful examination of the cost effectiveness of building 27 classrooms for $100 million as opposed to renting private space or exploring other capacity options. Further discussion of this idea led to the observation that there should also be serious consideration given to the total capital investment being sought by the School Committee for K–8 projects and the need for the Town, including the Select Board and Advisory Committee, to make a determination of what Brookline residents and other property owners can afford and then planning how to address enrollment growth. Recent practice has been to plan projects with the assumption the taxpayers will continue to be able to support them. Put succinctly, the issue is whether the Town should take a fiscal planning versus a political approach to an increase in school enrollment.

In addition to cost, it was also noted that building a two-section school with several district-wide programs was counter to the recent trend of building larger schools (the five-section Coolidge Corner School) or physically enlarging ("right-sizing") existing ones (Driscoll and Pierce). Moreover, there did not seem to have been discussions about or consideration of 1) the impact that attending such a small school would have on its students, particularly when they arrive at the High School and 2) the ability to create community when so many families will need to commute from other parts of Brookline.

Enrollment Projections

Included in the Advisory Committee's discussion was concern with the accuracy/magnitude of the enrollment projections. (For example, the incoming Kindergarten class for 2018–2019 was projected to be 704, yet appears to be closer to 610.) Included in the enrollment projections is the belief that there will be 300–400 more K–8

students in the next few years than there were in 2017–2018. These numbers appear to be based on a number of assumptions including the one that 974 units of new housing (nine 40B projects) will be built and occupied by the fall of 2021 or thereabouts. In addition, an apparent double counting of anticipated METCO/Material Fee students seems to have been included in the projections. In response, School Department officials stated that information on the 40Bs would need to be updated annually and that the methodology of projecting the numbers of METCO/Material Fee students would be explained in the December Enrollment Report.

Section 3.7.2 of the Town's By-laws and Advisory Committee Recommendations
Regarding the Advisory Committee's recommendation on the two Articles, it was noted that Section 3.7.2 of the Town's By-laws stipulates that a feasibility study and the projected costs of a project shall be presented to Town Meeting before funding for further design services is requested. Based on the requirements of the Town's By-law as well as the interest of some Advisory Committee members in learning whether the MSBA will vote to partner with the Town on the Pierce project the Advisory Committee voted to support the proposal of the Select Board to adjourn Town Meeting after the completion of its business in November and reconvene on December 13th. This schedule could allow sufficient time for relevant bodies to vet, and Town Meeting members to review, the school projects' studies and cost estimates if they become available during the second half of November, as anticipated. The decision to adjourn and then reconvene at a later date, such as December 13th, rests with Town Meeting.

A motion to recommend No Action on Article 4 failed by a vote of 12–12–1.

RECOMMENDATIONS:

1. By a vote of 24–0–1, the Advisory Committee recommends that Town Meeting postpone indefinitely its consideration of Article 3(E)
2. By a vote of 16–5–4, the Advisory Committee recommends that Town Meeting postpone indefinitely its consideration of Article 4

XXX

ARTICLE 4

ADVISORY COMMITTEE'S CORRECTION AND ADDITIONAL INFORMATION

CORRECTION

In the Advisory Committee's report under Article 4, there is incorrect information on p. 4-25 under the heading *Section 3.7.2 of the Town's By-laws and Advisory Committee Recommendations.*

It is not Section 3.7.2 of the Town By-laws that requires the feasibility study for the 9th school to be presented to Town Meeting before proceeding to schematic design, but rather the vote of the 2018 Annual Town Meeting under Article 9, Special appropriation # 66, that requires the outcome of the feasibility study to be provided to Town Meeting before moving on to schematic design.

This correction does not change the key information reported in the Advisory Committee report on Article 4: Town Meeting must receive the results of a feasibility study for a 9th school prior to voting to appropriate funds for such a school.

ADDITIONAL INFORMATION

Because the subject matter of Articles 3E and 4 will be considered at the December 13 Special Town Meeting instead of at a continuation of the November 13 Special Town Meeting, the Advisory Committee will meet on November 13 to consider changing its recommendations on those two Articles from Postpone Indefinitely to No Action.

ARTICLE 5

FIFTH ARTICLE

Submitted by: Planning and Community Development

To see if the Town will authorize and empower the Board of Selectmen to file a petition, in substantially the following form, with the General Court:

AN ACT AUTHORIZING THE TOWN OF BROOKLINE TO GRANT 12 ADDITIONAL LICENSES FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. (a) Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Brookline may grant 12 additional licenses for the sale of all alcoholic beverages to be drunk on the premises pursuant to section 12 of said chapter 138 to establishments located within the town's four Target Commercial Areas, as those areas are defined by the town's zoning map, as it existed as of January 31, 2018, upon approval of and under conditions set by the licensing authority of the town of Brookline. A license granted pursuant to this act shall be clearly marked on its face "Target Commercial Area, Brookline Village" or "Target Commercial Area, Coolidge Corner" or "Target Commercial Area, JFK Crossing" or "Target Commercial Area, Washington Square" and shall be subject to all of said chapter 138 except said section 17.

(b) The licensing authority shall restrict the 12 licenses authorized in this section to four Target Commercial Areas as follows:

(1) Three licenses for the sale of all alcoholic beverages to be drunk on the premises shall be issued to the entities within the Brookline Village Target Commercial Area, which shall include parcels on and immediately bordering River Road, Brookline Avenue, Pearl Street, White Place, Station Street, Washington Street, Holden Street, Linden Street and intersecting Harvard Street, as the borders and encompassing all property therein, as those areas are shown on the map; provided, however, that for the purposes of this paragraph, map shall mean the parcel specific corridor areas designated as "Brookline Village", dated January 31, 2018, a copy of which is on file in the office of the Brookline town clerk;

(2) Five licenses for the sale of all alcoholic beverages to be drunk on the premises shall be issued to the entities within the Coolidge Corner Target Commercial Area, which shall include parcels on and immediately bordering Waldo Street, Harvard Street, Centre Street, Webster Street, and interesting Beacon Street, as the borders and encompassing all property therein, as those areas are shown on the map; provided, however, that for the purposes of this paragraph, map shall mean the parcel specific corridor areas designated as "Coolidge

Corner", dated January 31, 2018, a copy of which is on file in the office of the Brookline town clerk;

(3) One license for the sale of all alcoholic beverages to be drunk on the premises shall be issued to the entities within the JFK Crossing Target Commercial Area, which shall include parcels on and immediately bordering Columbia Street, Thorndike Street, Coolidge Street, Fuller Street, Clarence Street, Centre Street, and intersecting Harvard Street, as the borders and encompassing all property therein, as those areas are shown on the map; provided, however, that for the purposes of this paragraph, map shall mean the parcel specific corridor areas designated as "JFK Crossing", dated January 31, 2018, a copy of which is on file in the office of the Brookline town clerk; and

(4) Three licenses for the sale of all alcoholic beverages to be drunk on the premises shall be issued to the entities within the Washington Square Target Commercial Area, which shall include parcels on and immediately bordering Salisbury Road, Westbourne Terrace, Washington Street, Winthrop Road, and Tappan Street and intersecting Beacon Street, as the borders and encompassing all property therein, as those areas are shown on the map; provided, however, that for the purposes of this paragraph, map shall mean the parcel specific corridor areas designated as "Washington Square", dated January 31, 2018, a copy of which is on file in the office of the Brookline town clerk.

(c) A license granted under this section shall only be exercised in the dining room of a Common Victualer and in such other public rooms or areas as may be deemed reasonable and appropriate by the licensing authority as certified in writing.

(d) The licensing authority of the town of Brookline shall not approve the transfer of a license granted pursuant to this section to a location outside of the town's four Target Commercial Areas, but it may grant a license to a new applicant within the four Target Commercial Areas if the applicant files with the licensing authority a letter from the department of revenue and a letter from the department of unemployment assistance indicating that the license is in good standing with those departments and that all applicable taxes, fees and contributions have been paid.

(e) The licenses assigned to the four Target Commercial Areas shall not be sold or transferred by the licensee. If a licensee terminates or fails to renew a license granted under this section or if any such license is cancelled, revoked or no longer in use, it shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the licensing authority and the licensing authority may then grant the license to a new applicant in the town's four Target Commercial Areas under the same conditions as specified in this section.

(f) All licenses granted pursuant to this act shall be issued within 2 years after the effective date of this act; provided, however, that a license originally granted within that time period may be granted to a new applicant pursuant to subsection (d) or (e) thereafter.

SECTION 2. This act shall take effect upon its passage.

or act on anything relative thereto. The General Court may make such amendments as are within the scope of the general public objectives of this petition.

PETITIONER'S ARTICLE DESCRIPTION

As of the closing of the warrant, the Town is in receipt of applications for all available on-premises liquor licenses. State law sets the number of a municipalities' maximum number of licenses based on the municipality's population as determined by the census (G.L. c. 138, § 17). The Town is concerned that the unavailability of liquor licenses will negatively impact the economic vibrancy of our commercial areas by significantly reducing the likelihood of redevelopment of underutilized sites as well as limit the prospects for new businesses to occupy vacant storefronts.

Town Meeting voted favorably on a warrant article related to additional licenses in November 2017. Since that time, the state legislature has been changing and moving forward our petition. As of the warrant article submission deadline, the legislature was still discussing minor edits and reporting to us that they thought it would still move forward. By the time of the 2018 Special Town Meeting in November, the legislature may have voted this petition into law, in which case we will recommend no action on this warrant article.

The form of this warrant article is the result of discussions with the legislature, and requests 12 additional on premises liquor licenses in areas of the Town as shown on the maps provided in the warrant article. For further reference, below is a list of all the identified parcels' tax identification block and lot numbers.

Block	**Lot**	**Commercial Area**
92	2	Washington Square
92	1	Washington Square
101	29	Washington Square
101	1	Washington Square
101	9	Washington Square
216	16	Washington Square
101	14	Washington Square
224	31	Washington Square
101	3	Washington Square
92	4	Washington Square
92	6	Washington Square
101	2	Washington Square
101	7	Washington Square
215	13	Washington Square
101	13	Washington Square

Block	Lot	Commercial Area
216	17	Washington Square
92	5	Washington Square
101	4	Washington Square
101	10	Washington Square
215	12	Washington Square
101	11	Washington Square
101	12	Washington Square
216	17	Washington Square
217	24	Washington Square
92	3	Washington Square
101	6	Washington Square
217	21	Washington Square
101	8	Washington Square
216	18	Washington Square
216	15	Washington Square
217	23	Washington Square
165	20	Coolidge Corner
82	9	Coolidge Corner
44	4	Coolidge Corner
45	1	Coolidge Corner
45	3	Coolidge Corner
165	21	Coolidge Corner
163	1	Coolidge Corner
84	4	Coolidge Corner
162	3	Coolidge Corner
90	2	Coolidge Corner
165	14	Coolidge Corner
047A	2	Coolidge Corner
165	13	Coolidge Corner
161	1	Coolidge Corner
047A	3	Coolidge Corner
161	3	Coolidge Corner
45	2	Coolidge Corner
82	5	Coolidge Corner
82	7	Coolidge Corner
45	2	Coolidge Corner
83	14	Coolidge Corner
161	2	Coolidge Corner
161	2	Coolidge Corner
83	10	Coolidge Corner
84	2	Coolidge Corner
163	8	Coolidge Corner
84	1	Coolidge Corner
163	5	Coolidge Corner

Block	Lot	Commercial Area
163	4	Coolidge Corner
162	1	Coolidge Corner
90	1	Coolidge Corner
165	22	Coolidge Corner
165	16	Coolidge Corner
165	15	Coolidge Corner
165	12	Coolidge Corner
165	10	Coolidge Corner
165	11	Coolidge Corner
82	13	Coolidge Corner
48	12	Coolidge Corner
047A	5	Coolidge Corner
84	7	Coolidge Corner
84	8	Coolidge Corner
047A	15	Coolidge Corner
82	6	Coolidge Corner
047A	1	Coolidge Corner
161	3	Coolidge Corner
163	10	Coolidge Corner
163	9	Coolidge Corner
84	5	Coolidge Corner
163	6	Coolidge Corner
163	2	Coolidge Corner
162	2	Coolidge Corner
164	5	Coolidge Corner
047A	6	Coolidge Corner
047A	2	Coolidge Corner
45	4	Coolidge Corner
82	10	Coolidge Corner
82	12	Coolidge Corner
158	11	Coolidge Corner
84	3	Coolidge Corner
163	7	Coolidge Corner
165	18	Coolidge Corner
82	4	Coolidge Corner
83	9	Coolidge Corner
161	4	Coolidge Corner
64	10	JFK Crossing
69	22	JFK Crossing
67	9	JFK Crossing
66	11	JFK Crossing
76	13	JFK Crossing
66	10	JFK Crossing
77	11	JFK Crossing

Block	Lot	Commercial Area
64	9	JFK Crossing
78	1	JFK Crossing
78	3	JFK Crossing
69	23	JFK Crossing
76	12	JFK Crossing
78	4	JFK Crossing
67	8	JFK Crossing
77	10	JFK Crossing
78	2	JFK Crossing
141	6	Brookline Village
140	6	Brookline Village
141	4	Brookline Village
140	18	Brookline Village
140	17	Brookline Village
176	32	Brookline Village
140	10	Brookline Village
183	16	Brookline Village
183	17	Brookline Village
174	3	Brookline Village
140	13	Brookline Village
140	3	Brookline Village
176	29	Brookline Village
140	3	Brookline Village
141	6	Brookline Village
141	3	Brookline Village
176	26	Brookline Village
140	8	Brookline Village
140A	4	Brookline Village
174	7	Brookline Village
140	11	Brookline Village
140	10	Brookline Village
176	34	Brookline Village
176	1	Brookline Village
138	3	Brookline Village
140	8	Brookline Village
174	7	Brookline Village
176	33	Brookline Village
135	17	Brookline Village
141	8	Brookline Village
141	7	Brookline Village
183	11	Brookline Village
141	1	Brookline Village
140	4	Brookline Village
176	2	Brookline Village

Block	Lot	Commercial Area
140	7	Brookline Village
138	1	Brookline Village
183	12	Brookline Village
135	10	Brookline Village
174	8	Brookline Village
141	2	Brookline Village
141	7	Brookline Village
141	5	Brookline Village
174	2	Brookline Village
140A	5	Brookline Village
140	12	Brookline Village
176	30	Brookline Village
139	27	Brookline Village
183	18	Brookline Village
174	8	Brookline Village
140	1	Brookline Village
140	2	Brookline Village
135	19	Brookline Village
140	18	Brookline Village
176	25	Brookline Village
140	15	Brookline Village
176	27	Brookline Village
140	14	Brookline Village
138	2	Brookline Village
135	15	Brookline Village
140	8	Brookline Village
135	14	Brookline Village
135	12	Brookline Village
183	14	Brookline Village
135	1	Brookline Village
139	45	Brookline Village
183	15	Brookline Village

SELECT BOARD'S RECOMMENDATION

As was hoped, the Governor signed the home rule bill increasing Brookline's quota for restaurant liquor licenses into law on October 11, 2018. This bill has been enacted as Chapter 268 of the Acts of 2018. With the Governor's approval, Article 5 will no longer be required. Therefore, the Board voted 4-0 NO ACTION on October 16, 2018.

ROLL CALL VOTE:

Aye:	Absent:
Wishinsky	Greene
Franco	
Heller	
Hamilton	

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Article 5 would authorize the Town to file legislation that would enable Brookline to issue more liquor licenses. On October 11, the governor of Massachusetts signed legislation that increases Brookline's quota of restaurant liquor licenses. Article 5 is no longer necessary. The Advisory Committee thus unanimously recommends No Action.

BACKGROUND:
Any Massachusetts business that intends to sell liquor in its establishment must obtain a license to do so from its municipality's licensing board. In the Town of Brookline, that licensing board is the Select Board. The maximum number of licenses that a municipality can issue is determined by state law. Section 17 of Massachusetts General Laws Ch. 138 sets quotas based on population for various types of liquor licenses, including "pouring" licenses (for liquor served on the premises) for both beer and wine only and for all types of liquor, as well as licenses for the sale of alcohol to be consumed off the premises for both the sale of beer and wine only and for all types of liquor.

The Town of Brookline has quotas of 63 "pouring" licenses for all types of liquor and 12 for beer and wine only, as well as quotas of 12 licenses each for "beer and wine only" and for "all liquor" sold in package stores, for a total quota of 99 liquor licenses. For at least the past seven years, Brookline has had very few liquor licenses available to distribute to restauranteurs interested in setting up establishments in the Town, and at times there have been no available liquor licenses. This lack of available liquor licenses discourages entry into the Brookline market by potential businesses. To alleviate this shortage, the Town has sought to obtain legislative approval to increase its quotas of pouring liquor licenses.

The November 2012 Town Meeting authorized a home rule petition seeking legislative approval for an additional eleven liquor licenses, eight of which were for specific sites expected to undergo redevelopment: one for the Circle Cinema parcel, 2 for the B-2 parcel in Brookline Village, and five for the Durgin-Waldo parcel. The remaining three licenses were to be made available for any location in Town for which a food purveyor had a need for a license. That petition was denied by the Legislature. According to legislative staff, the Legislature's Joint Committee on Consumer Protection and Professional Licensure (Joint Committee), which reviews such legislation for referral to a vote by the Legislature,

is more likely to support a municipality's home rule petition if it has either or both of the following elements: (1) assigning the licenses to specific locations, but only for sites for which a restauranteur has already selected that site to locate its business, subject to the availability of a liquor license; and (2) assigning licenses to target areas that are a focus of economic development for the municipality.

The November 2017 Town Meeting voted to support Warrant Article 14, another home rule petition for additional liquor licenses. This petition sought legislative approval for 40 liquor licenses (35 full liquor pouring licenses and 5 beer and wine), but again the majority of licenses were for specific sites that had yet to be developed and for which there was no identifiable entity ready to establish a particular business. The remainder of the requested liquor licenses were to be assigned to broadly defined "development opportunity areas."

Despite several concerns (see the Advisory Committee Recommendation in the Combined Reports for the November 2017 Town Meeting), and in particular, that the site-specific licenses likely would again be looked upon with disfavor by the Joint Committee, the Advisory Committee supported passage of Warrant Article 14 on the assumption that it would serve as a starting point for negotiations with the Legislature. Indeed, the Joint Committee worked with the Town to restructure the petition to replace the site-specific licenses as well as those for the broadly defined development areas to licenses tied to the following smaller targeted areas for economic development:

- Three licenses for a Brookline Village Target Commercial Area
- Five licenses for a Coolidge Corner Target Commercial Area
- One license for a JFK Crossing Target Commercial Area, and
- Three licenses for a Washington Square Target Commercial Area.

The Joint Committee reduced the total number of licenses from 40 to 12, but noted that the Brookline could reapply for more licenses in future years if the Town could demonstrate need. Next year, Brookline will most likely begin the process of filing a further home rule petition for additional liquor licenses.

Warrant Article 5 comprises the substance of the proposed legislation drafted jointly by the Town and the Joint Committee. The legislation, House Bill 4228, had not yet been voted on by the Legislature by the deadline for submission of Warrant Articles for the November 2018 Town meeting. Brookline's Department of Planning and Community Development decided that it would be prudent to have a home rule petition in place in case the Legislature might require one prior to a vote. As it turns out, the Legislature passed the legislation on October 1, and it was signed by the governor on October 11. In light of passage of House Bill 4228, the need to file another home rule petition became moot.

DISCUSSION:

The Advisory Committee continues to strongly support the Select Board's efforts to increase the quota of pouring liquor licenses for the Town. The Committee has taken a recommendation of No Action on Warrant Article 5 simply because that Article has become moot by virtue of passage of House Bill 4228 and not because of any disagreement regarding the substance of the Article. In fact, the assignment of licenses as provided for

in Article 5–as well as in the new legislation–addresses some of the concerns expressed by the Advisory Committee with regard to the manner in which licenses were to be distributed under Article 14 of the November 2017 Town Meeting. It encourages economic development for targeted areas, but also provides the Town with the flexibility needed to assign licenses as needed within those areas, a flexibility that would not have been available with site-specific licenses and which, moreover, eliminates the conditions that would have given an economic advantage to owners of the properties designated for the site-specific licenses, as compared to owners of neighboring properties.

RECOMMENDATION:
By a vote of 19–0–0, the Advisory Committee recommends NO ACTION on Warrant Article 5.

XXX

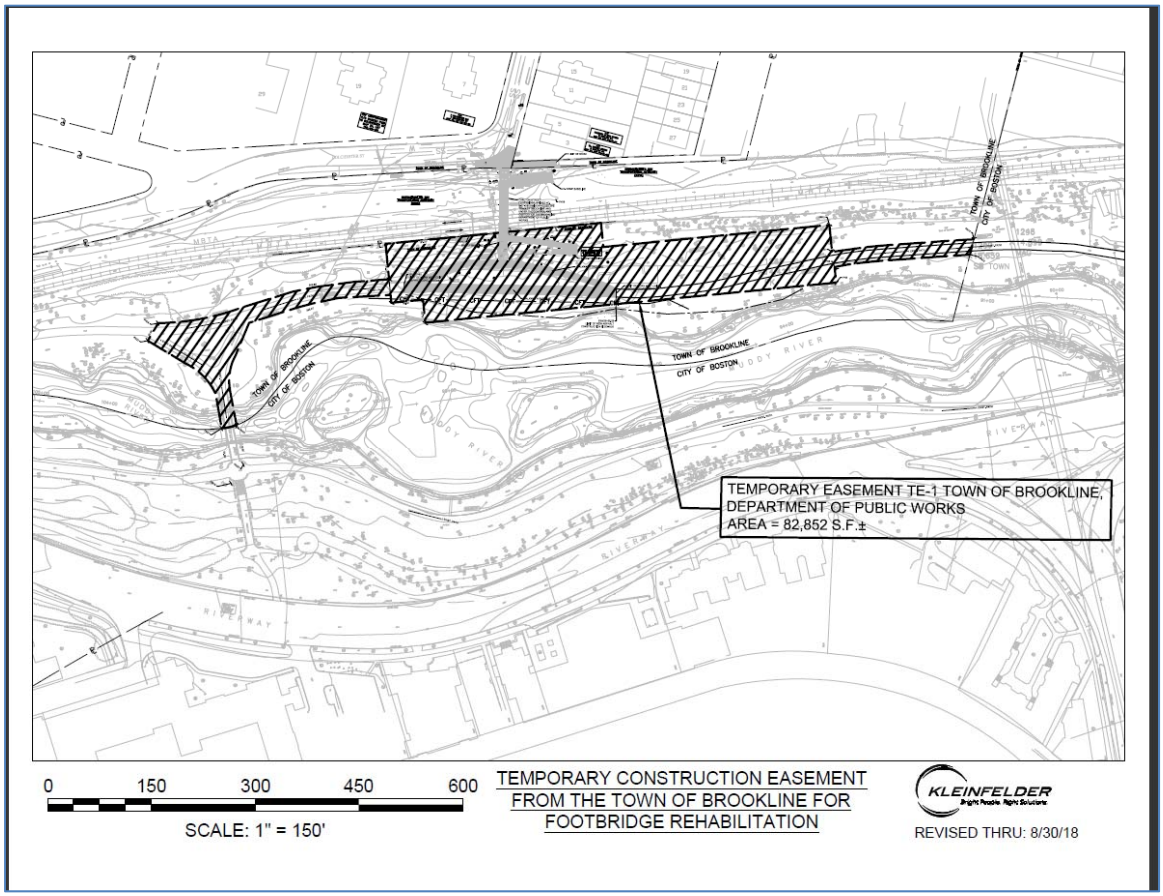
ARTICLE 6

SIXTH ARTICLE

Submitted by: Department of Public Works

Exhibit TE-1: Plan as referenced in the article

To see if the Town will vote to authorize the Select Board to grant and acquire, as necessary, a temporary construction easement on Town of Brookline property for construction activities associated with the Carlton Street Footbridge Rehabilitation Project, as substantially shown on the plan submitted herewith entitled "**TEMPORARY CONSTRUCTION EASEMENT FROM THE TOWN OF BROOKLINE FOR FOOTBRIDGE REHABILITATION**" prepared by Kleinfelder Engineering, revised through 8/30/2018, as may be amended, said plan on file with the Town Clerk. Further, to authorize the Select Board to enter into all agreements and take all related actions necessary or appropriate, including to expend, as needed, a sum or sums of money therefor from existing appropriation(s) for the Carlton Street Footbridge Restoration, to carry out this vote and other acts authorized herein, or act on anything relative thereto.



PETITIONER'S ARTICLE DESCRIPTION

The Carlton Street Footbridge Rehabilitation project is a MassDOT Transportation Improvement Project, with Federal and State funding allocations, and currently scheduled to advertise for construction on or about the 2nd quarter of Federal Fiscal Year 2019 (Jan-March, 2019).

MassDOT, as a final part of design development prior to construction, requires that the Town of Brookline secure temporary construction easements or licenses from the owners of all property parcels on which construction activities, however minimal, might occur.
In this case, significant structural work for the footbridge and accessible ramps, as well as walkways, pathways and landscape are located on the Riverway Park parcel owned by the Town of Brookline, and under the jurisdiction of the Department of Public Works, Parks and Open Space Division. This easement area further allows for construction equipment access, temporary pedestrian detours, and a staging or work zone. A temporary construction easement with the Town of Brookline will facilitate contractor access to the footbridge site in order to complete the projected work.

This Warrant Article seeks Town Meeting authorization for the Select Board to secure this temporary easement, and expend funds, as necessary, from existing appropriations for the Carlton Street Footbridge Restoration.

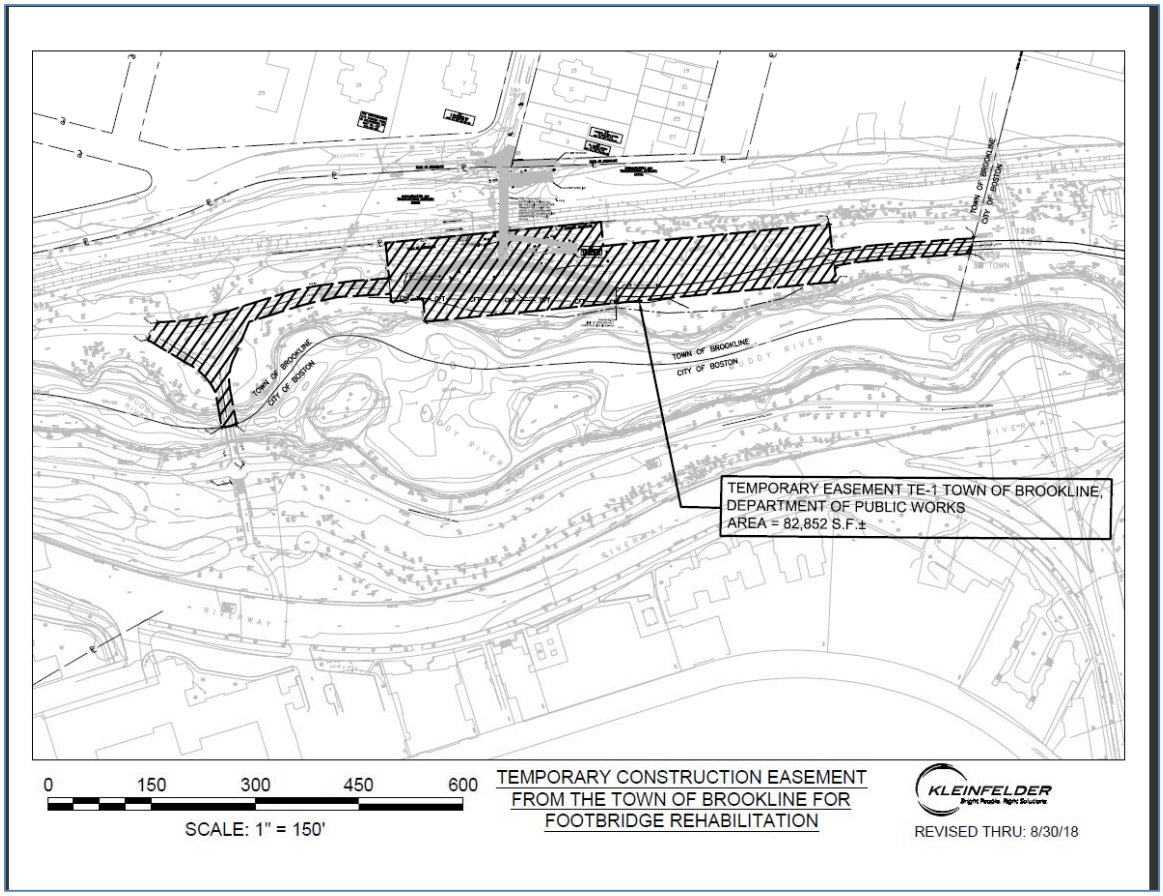
SELECT BOARD'S RECOMMENDATION

Article 6 asks Town Meeting to authorize the Select Board to grant a temporary construction easement to facilitate work for the Carlton Street Footbridge Restoration project which is a MassDOT Transportation Improvement Project, with Federal and State funding allocations, currently scheduled to advertise for construction on or about the second quarter of Federal Fiscal Year 2019 (Jan-March, 2019).. MassDOT, who serves as the project manager for the project, requires these easements as a final part of the design development prior to construction.

On September 20, 2018 a unanimous Board voted FAVORABLE ACTION on the following motion:

VOTED: To authorize the Select Board to grant and acquire, as necessary, a temporary construction easement on Town of Brookline property for construction activities associated with the Carlton Street Footbridge Rehabilitation Project, as substantially shown on the plan submitted herewith entitled "**TEMPORARY CONSTRUCTION EASEMENT FROM THE TOWN OF BROOKLINE FOR FOOTBRIDGE REHABILITATION**" prepared by Kleinfelder Engineering, revised through 8/30/2018, as may be amended, said plan on file with the Town Clerk. Further, to authorize the Select

Board to enter into all agreements and take all related actions necessary or appropriate, including to expend, as needed, a sum or sums of money therefor from existing appropriation(s) for the Carlton Street Footbridge Restoration, to carry out this vote and other acts authorized herein.



ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Warrant Article 6 is accompanied by three additional Articles in the Warrant (7, 8, and 9), each submitted by the Department of Public Works (DPW) and each seeking easements required before work may begin on the Carlton Street Footbridge Rehabilitation Project, which is scheduled to go to bid in early 2019. The Committee discussed the easements together as they related to one another, but voted the language of each one separately. The Advisory Committee unanimously recommends Favorable Action on each of the aforementioned Articles, including Article 6. The background and discussion of Articles 6, 7, 8 and 9 appear below.

BACKGROUND:
The Carlton Street Footbridge crosses the MBTA Green Line Riverside ("D" line) tracks, with one entrance located at the intersection of Carlton Street, Colchester Street, and

Carlton Path, and the opposite entrance in Riverway Park, part of Frederick Law Olmstead's famed "Emerald Necklace." The footbridge, built in 1894, has been closed since approximately 1976 due to its state of disrepair.

During the last fifteen years Town Meeting has passed several Warrant Articles to facilitate reconstruction of the bridge. In May 2003, the Annual Town Meeting voted to appropriate $90,000 for the restoration and reopening of the Carlton Street Footbridge in its current location and with necessary American with Disabilities Act (ADA) compliance (Article 11, Item 73.) The November 2009 Town Meeting voted to raise and appropriate $1.4 million dollars for footbridge reconstruction (Article 5). And in May 2014, the Annual Town Meeting voted to accept an easement grant from the MBTA for land and air rights in order to reconstruct the Carlton Street Footbridge. Accepting the proposed easement in 2014 updated and clarified rights originally granted to the Town by the (former) Boston & Albany Railroad in the form of a Land Lease (Article 24).

The anticipated reconstruction of the bridge will enable Brookline to continue to meet its obligations to the Muddy River Restoration and Flood Control Project, a multi-year, multi-phased project coordinated among federal, state, Boston, and Brookline government agencies.

Articles 6, 7, 8 and 9 in the November 2018 Special Fall Town Meeting seek authority for four additional easements required for a successful bridge reconstruction, which is currently scheduled to advertise for construction in the second quarter (January–March) of the 2019 federal fiscal year.

Project Costs and Funding

The estimated cost for the entire Carlton Street Footbridge Reconstruction project is $3.3 million. The project will be funded with both state and federal monies since the Federal and State Departments of Transportation are responsible for the actual construction costs.

One minor note: the costs for the MBTA's coordination construction efforts for the footbridge are not yet included in the $3.3 million estimate; they are currently being discussed among the Massachusetts Department of Transportation (MassDOT), the MBTA, Town staff, and consulting engineer Kleindfelder. Once finalized those costs will be recorded as a part of the project's entire cost, again, all of which will be covered by Federal and State funds, and at no additional cost to the Town.

To date the Town has appropriated $1,490,000 for the Carlton Street Footbridge Rehabilitation project; however, it has only encumbered the amount required for design engineering and related permitting and consulting, which is the responsibility of the Town as proponent under the MassDOT Transportation Improvement Program (TIP). Specifically the Town has encumbered $393,597 of the $1.49 million appropriated for design engineering and permitting.

As shown in the table below, additional costs to the town for the easements requested in Articles 7 and 8 total an estimated $12,200, though the actual costs may be less. The

easements requested in Articles 6 and 9 will cost the Town nothing. Once the funding for the easements is encumbered the Town will seek a bond rescission for the remainder, which will go unused.

Shared characteristics of Warrant Articles 6, 7, 8, and 9

- Warrant Articles 6, 7, 8, and 9 each concern easements required for the completion of the Carlton Street Footbridge Rehabilitation project.
- The Warrant Articles have all been submitted by the Brookline Department of Public Works (DPW.)
- The estimated cost and duration represented in this report for each easement is for a three-year period.
- Each Warrant Article seeks Town Meeting authorization for the Select Board to secure a specific easement and to expend sums as necessary from existing appropriations.
- Maps related to each of the requested easements appear in each respective Warrant Article.
- The design plans for the project are 100% complete.
- Funds required for the easements, if there are any, have already been appropriated.

Summary of Warrant Articles 6, 7, 8, and 9

Article 6 regards property **owned by the Town** of Brookline. The Warrant Article seeks a **Temporary Construction Access and Occupancy Permit** on Town owned property in the Riverway Park for three (3) years. The Town would incur **no cost** for the permit, which would be issued by the Brookline Department of Public Works (DPW) for construction access.

The Town must grant this easement (Article 6) to itself because the Federal Highway Administration (FHA) and MassDOT Right of Way Compliance require it. Without the easement the project will not proceed to bid out of an abundance of caution.

Article 7 regards property of an abutter, The **Shirley Brown Trust**, which is 5x7 foot area of a driveway (337 square feet). The Warrant Article seeks a **Temporary Construction Easement** and the authorization for the Select Board to expend funds as necessary from an existing appropriation, for the easement. The Trustees have indicated that they would be willing to **donate** the use of the land for the term of the Temporary Construction Easement. In the interest of planning and good government, however, the article provides for expenditure if it is necessary. The appraised value for use of the land over the anticipated three-year period of the project is **$7,200.**

Article 8 regards property owned by the **MBTA**. It seeks authorization for the Select Board to secure a **Temporary Construction Access License** issued by the MBTA, through Greystone/Massachusetts Realty Group. The MBTA will not agree to grant the easement if Warrant Article 8 does not pass. The estimated costs for the easement over

the three-year period are **$2,000 to $5,000.** The amount includes an estimated $1,000 yearly maintenance fee.

Article 9 regards property owned by the **City of Boston**. It seeks Town Meeting authorization for the Select Board to secure a **Temporary Construction Access License** issued by the City of Boston Parks and Recreation Department, and expend funds as necessary from existing appropriations for the project, though there are **no anticipated costs** to the Town.

This easement is for construction equipment access to the footbridge worksite, temporary pedestrian detours, signs and the like intended for pedestrian safety. The City of Boston will not agree to grant the easement if Warrant Article 9 does not pass.

Carlton Street Footbridge Rehabilitation
2018 TM Articles: Construction Easement/License and Cost

10/4/2018

TM ARTICLE	TITLE HOLDER	DESCRIPTION and PARCEL LOCATION	PROPOSED AGREEMENT	ANTICIPATED COST (3-year term) to TOWN OF BROOKLINE
Article 6	**Town of Brookline**	Temporary Construction Easement on **Town of Brookline** property in Riverway Park for Carlton St Footbridge Rehabilitation	**Temporary Construction Access and Occupancy Permit** issued by Town of Brookline, Department of Public Works	**$0.00**
Article 7	**Shirley Brown Trust**	Temporary Construction Easement on limited area of parcel (337 sq ft)at **3 Carlton Street** for Carlton St Footbridge Rehabilitation	**Temporary Construction Easement** taken by Town of Brookline from Shirley Brown Trust (Owner)	**$0.00 if a Donation up to an Appraised Value for 337 Sq Ft of driveway at $7,200.00**
Article 8	**MBTA**	Temporary Construction Easement on **MBTA Track Right-of-Way** for Carlton St Footbridge Rehabilitation	**Temporary Construction Access License** issued by the MBTA via Greystone/Massachusetts Realty Group	**$2,000.00 - $5,000.00 Administrative and Annual License Fees**
Article 9	**City of Boston**	Temporary Construction Easement on **City of Boston** property in Riverway Park for Carlton St Footbridge Rehabilitation	**Temporary Construction Access License** issued by the City of Boston, Parks and Recreation Department	**$0.00**

DISCUSSION:
Most of the Advisory Committee's questions and discussion regarding Warrant Articles 6, 7, 8, and 9 were to clarify details, costs, and the anticipated timeline of the much-anticipated and long-awaited project. Additionally the Committee learned the following:

- Train service on the Riverside (D) Line may be suspended at least four weekends at some point during construction in order to complete the project. This is a conservative estimate and additional weekend downtime may be required. In all cases buses will replace train service.

- The MBTA has an account that covers the cost of busing, flagging, and related shutdown costs.

- Some trees will be felled as part of the project. Of the trees that will be felled, many are invasive species. There are protections for several significant trees near the footbridge or within the Riverway Park construction area.

  In fact, the geometry of the ramps and their locations were influenced by the location of significant oak trees that will not be cut down. Proper tree protection will be in the project specifications, and overseen by the Brookline Tree Warden.

  The committee also learned that the entire plan has been reviewed by agencies with jurisdictional review: the Parks and Open Space Division, Conservation Commission, Preservation Commission, the Town's Tree Warden, as well as that of MassDOT. A full landscape restoration plan has been developed as well and restoration will take place after both the footbridge and Muddy River Restoration Phase 2 projects are complete (time estimate 2022 or 2023.) The restoration plan will be re-visited before implementation and reviewed by those agents such as Parks and Open Space and the Tree Planting Committee.

CONCLUSION:
The Advisory Committee expressed no overarching concerns regarding the easement proposed under Article 6 or any of the accompanying easements requested in Articles 7, 8, and 9. The Carlton Street Footbridge Rehabilitation Project is now generally viewed as a welcome improvement with wide support in the community. The costs for the easements, where there is a cost, have already been appropriated and they are nominal in terms of the overall project cost. Issues with staging and concerns regarding significant trees and landscaping appear to have been well thought out and reviewed.

RECOMMENDATION:
By a vote of 22–0–0, the Advisory Committee recommends FAVORABLE ACTION on the motion offered by the Select Board.

XXX

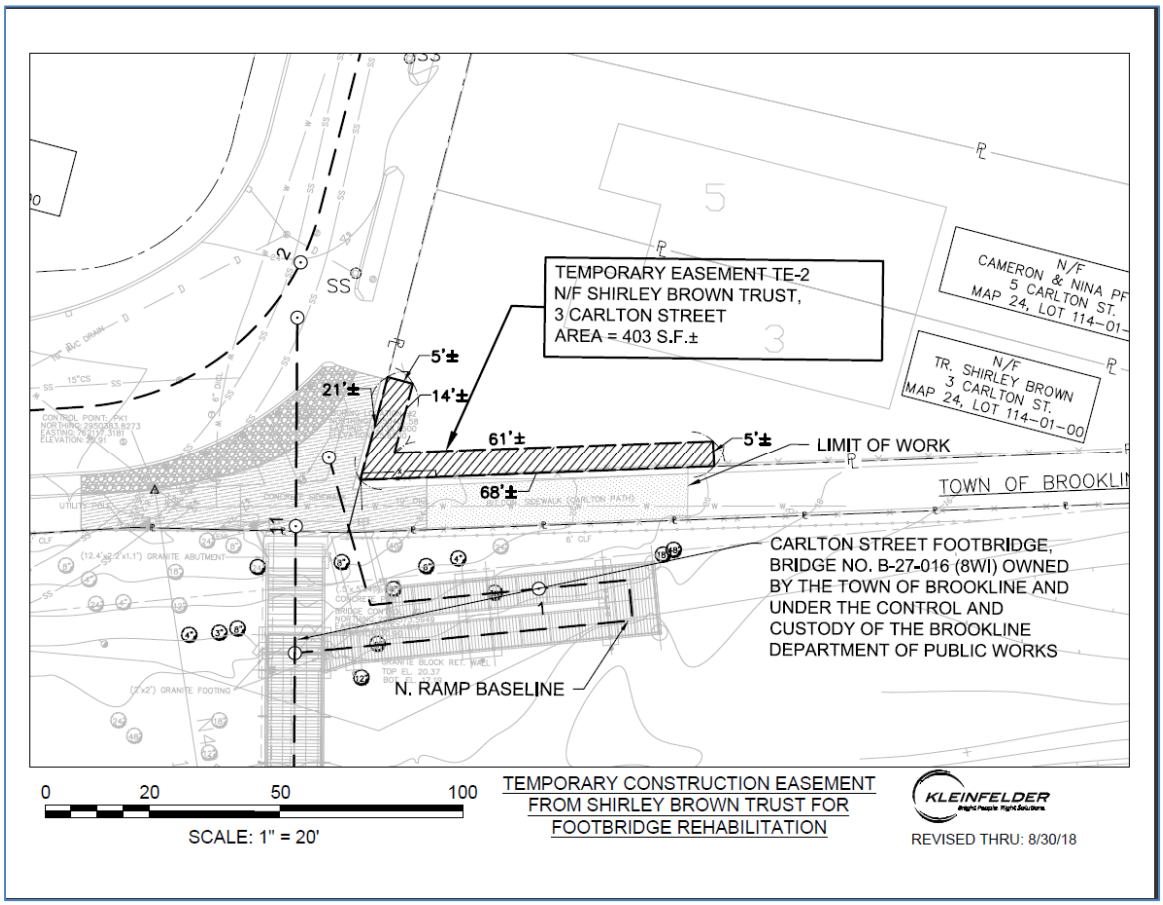
ARTICLE 7

SEVENTH ARTICLE

Submitted by: Department of Public Works

Exhibit TE-2: Plan as referenced in the article

To see if the Town will vote to acquire by gift, purchase, eminent domain or otherwise, on such terms and conditions as the Select Board shall deem to be in the best interests of the Town, a temporary easement on the parcel of land shown on plan entitled "**TEMPORARY CONSTRUCTION EASEMENT FROM SHIRLEY BROWN TRUST FOR FOOTBRIDGE REHABILITATION**" prepared by Kleinfelder Engineering, revised through 8/30/2018, as may be amended, said plan on file with the Town Clerk, for public way and park improvement purposes, including, but not limited to the construction, alteration, maintenance, improvement, repair and/or replacement of pedestrians bridges, roads, sidewalks, driveways, pathways and landscaping; and, further, to authorize the Select Board to enter into all agreements and take all related actions necessary or appropriate, including to expend, if needed, a sum or sums of money therefor from existing appropriation(s) for the Carlton Street Footbridge Restoration, to carry out this vote and other acts authorized herein, or act on anything relative thereto.



PETITIONER'S ARTICLE DESCRIPTION

The Carlton Street Footbridge Rehabilitation project is a MassDOT Transportation Improvement Project, with Federal and State funding allocations, and currently scheduled to advertise for construction on or about the 2nd quarter of Federal Fiscal Year 2019 (Jan-March, 2019).

MassDOT, as a final part of design development prior to construction, requires that the Town of Brookline secure temporary construction easements or licenses from the owners of all property parcels on which construction activities, however minimal, might occur.

In this case, the parcel at 3 Carlton Street abuts projected sidewalk replacement at Carlton Street and Carlton Path, a construction activity that unavoidably requires work on or from a limited area of this parcel (as delineated on the accompanying plan). A temporary construction easement with the Owner will allow the contractor to complete this work.

This Warrant Article seeks Town Meeting authorization for the Select Board to secure this temporary easement, and expend funds, as necessary, from existing appropriations for the Carlton Street Footbridge Restoration.

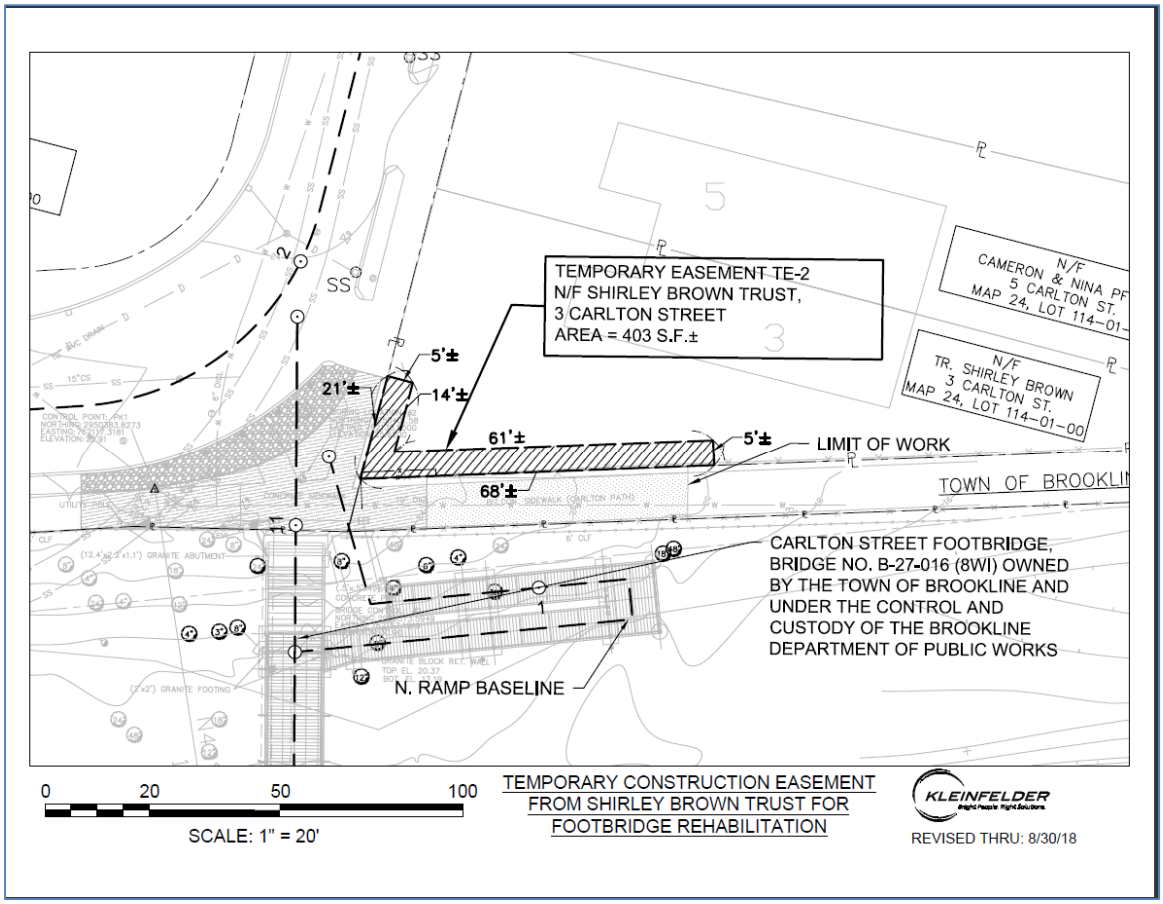
SELECT BOARD'S RECOMMENDATION

Article 7 asks Town Meeting to authorize the Select Board to grant a temporary construction easement to facilitate work for the Carlton Street Footbridge Restoration project which is a MassDOT Transportation Improvement Project, with Federal and State funding allocations, currently scheduled to advertise for construction on or about the second quarter of Federal Fiscal Year 2019 (Jan-March, 2019). MassDOT, who serves as the project manager for the project, requires this easement as a final part of the design development prior to construction. The parcel at 3 Carlton Street abuts a sidewalk which will be replaced as part of the Carlton Street Footbridge Restoration project. The replacement of the sidewalk requires work on or from a portion of the 3 Carlton Street parcel.

On September 20, 2018 a unanimous Board voted FAVORABLE ACTION on the following motion:

VOTED: To acquire by gift, purchase, eminent domain or otherwise, on such terms and conditions as the Select Board shall deem to be in the best interests of the Town, a temporary easement on the parcel of land shown on plan entitled "**TEMPORARY CONSTRUCTION EASEMENT FROM SHIRLEY BROWN TRUST FOR FOOTBRIDGE REHABILITATION**" prepared by Kleinfelder Engineering, revised

through 8/30/2018, as may be amended, said plan on file with the Town Clerk, for public way and park improvement purposes, including, but not limited to the construction, alteration, maintenance, improvement, repair and/or replacement of pedestrians bridges, roads, sidewalks, driveways, pathways and landscaping; and, further, to authorize the Select Board to enter into all agreements and take all related actions necessary or appropriate, including to expend, if needed, a sum or sums of money therefor from existing appropriation(s) for the Carlton Street Footbridge Restoration, to carry out this vote and other acts authorized herein.



ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:

Warrant Article 7 is accompanied by three additional Articles in the Warrant (6, 8, and 9), each submitted by the Department of Public Works (DPW) and each seeking easements required before work may begin on the Carlton Street Footbridge Rehabilitation Project which is scheduled to go to bid in early 2019. The Committee discussed the easements together as they related to one another, but voted the language of each one separately. The

Advisory Committee unanimously recommends Favorable Action on each of the aforementioned Articles, including Article 7.

BACKGROUND:

For more complete background and discussion information see the Advisory Committee's report on Warrant Article 6.

RECOMMENDATION:
By a vote of 22–0–0, the Advisory Committee recommends FAVORABLE ACTION on the motion offered by the Select Board.

XXX

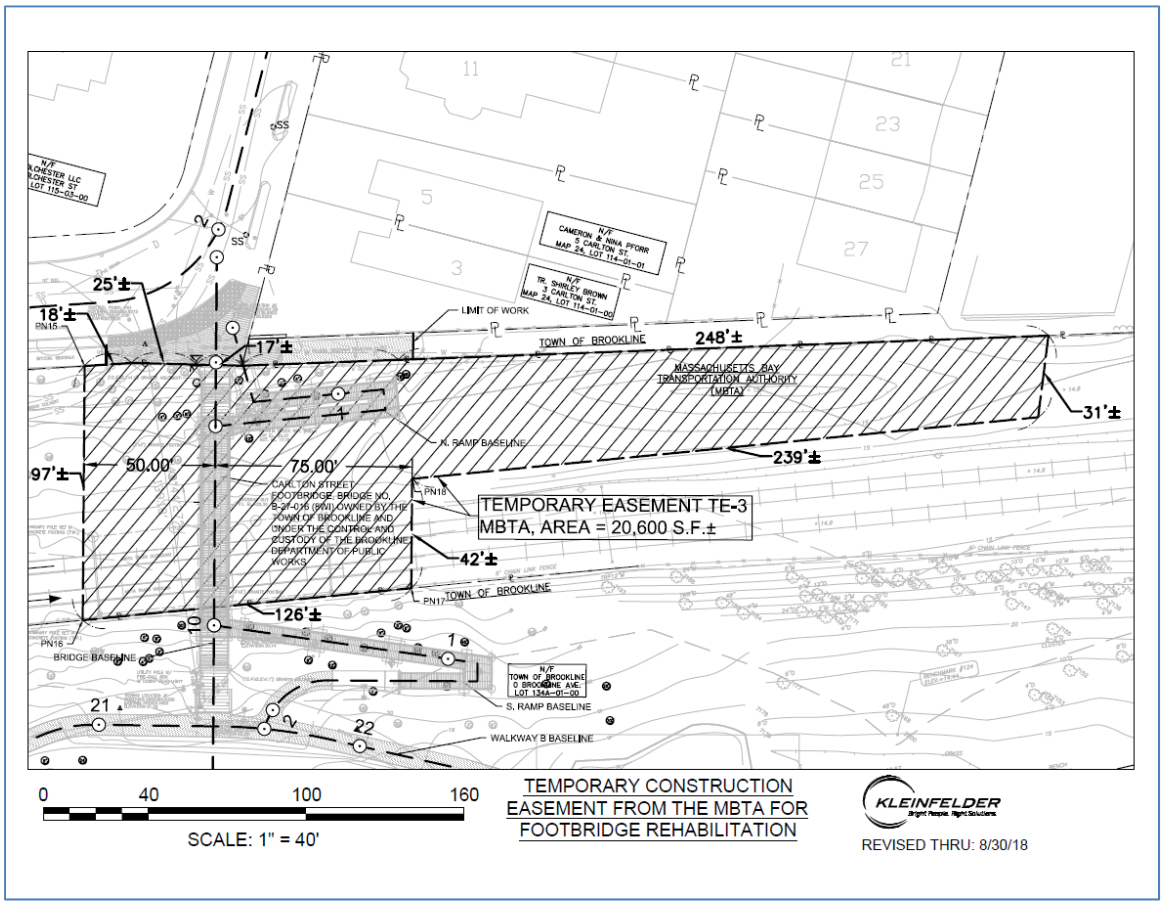
ARTICLE 8

EIGHTH ARTICLE

Submitted by: Department of Public Works

Exhibit TE-3: Plan as referenced in the article

To see if the Town will vote to authorize the Select Board to acquire, if necessary, a temporary construction easement from the Massachusetts Department of Transportation, Rail and Transit Division, under which the Massachusetts Bay Transportation Authority (MBTA) operates, to conduct construction activities associated with the Carlton Street Footbridge Rehabilitation Project, as substantially shown on the plan submitted herewith entitled "**TEMPORARY CONSTRUCTION EASEMENT FROM THE MBTA FOR FOOTBRIDGE REHABILITATION**" prepared by Kleinfelder Engineering, revised through 8/30/2018, as may be amended, said plan on file with the Town Clerk. Further, to authorize the Select Board to enter into all agreements and take all related actions necessary or appropriate, including to expend, as needed, a sum or sums of money therefor from existing appropriation(s) for the Carlton Street Footbridge Restoration, to carry out this vote and other acts authorized herein, or act on anything relative thereto.



PETITIONER'S ARTICLE DESCRIPTION

The Carlton Street Footbridge Rehabilitation project is a MassDOT Transportation Improvement Project, with Federal and State funding allocations, and currently scheduled to advertise for construction on or about the 2nd quarter of Federal Fiscal Year 2019 (Jan-March, 2019).

MassDOT, as a final part of design development prior to construction, requires that the Town of Brookline secure temporary construction easements or licenses from the owners of all property parcels on which construction activities, however minimal, might occur.
In this case, significant structural work for the footbridge and accessible ramps is located on the parcel owned by the MBTA. A temporary construction easement with the MBTA will allow the contractor to both access the MBTA Right-of-Way and complete the projected work.

This Warrant Article seeks Town Meeting authorization for the Select Board to secure this temporary easement, and expend funds, as necessary, from existing appropriations for the Carlton Street Footbridge Restoration.

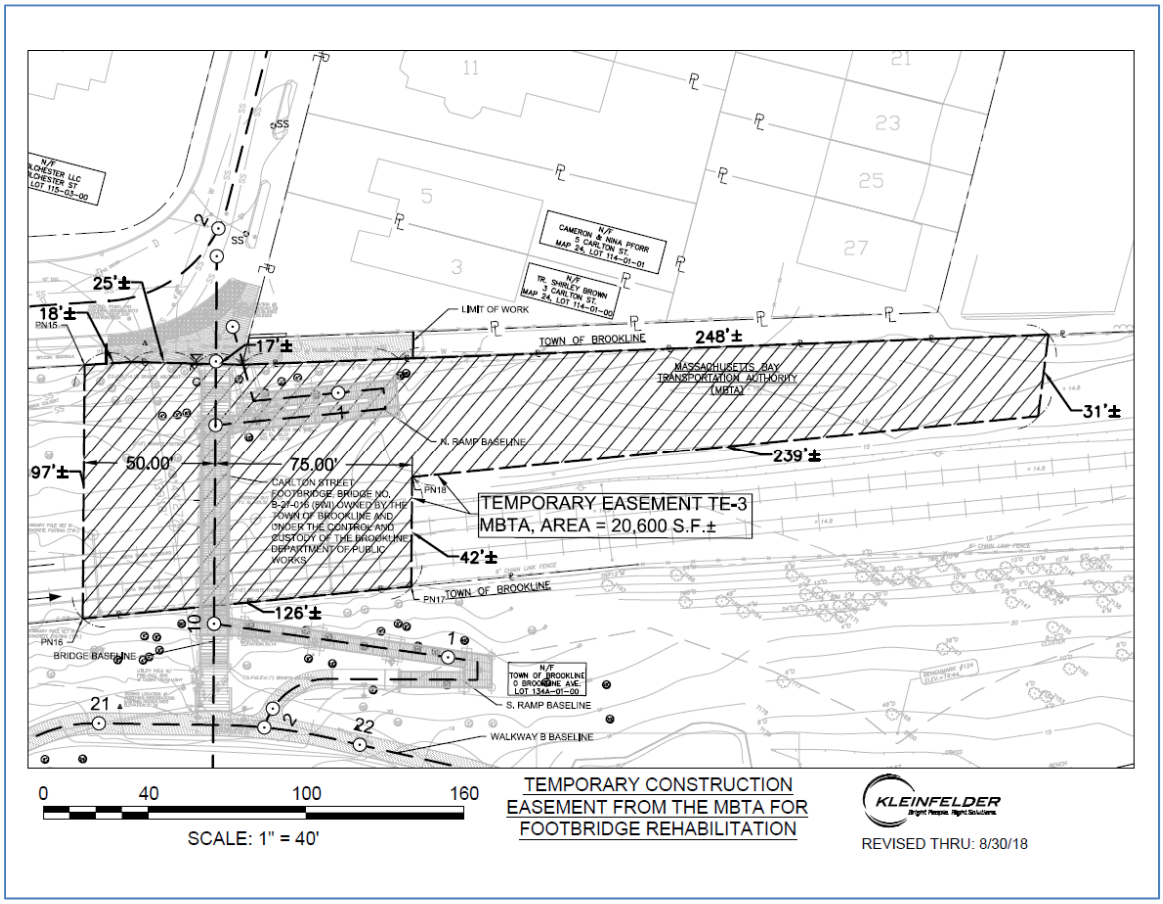
SELECT BOARD'S RECOMMENDATION

Article 8 asks Town Meeting to authorize the Select Board to grant a temporary construction easement to facilitate work for the Carlton Street Footbridge Restoration project which is a MassDOT Transportation Improvement Project, with Federal and State funding allocations, currently scheduled to advertise for construction on or about the second quarter of Federal Fiscal Year 2019 (Jan-March, 2019). MassDOT, who serves as the project manager for the project, requires these easements as a final part of the design development prior to construction. Significant structural work for the footbridge and accessible ramps is located on the parcel owned by the MBTA. A temporary construction easement with the MBTA will allow the contractor to both access the MBTA Right-of-Way and complete the projected work.

On September 20, 2018 a unanimous Board voted FAVORABLE ACTION on the following motion:

VOTED: To authorize the Select Board to acquire, if necessary, a temporary construction easement from the Massachusetts Department of Transportation, Rail and Transit Division, under which the Massachusetts Bay Transportation Authority (MBTA) operates, to conduct construction activities associated with the Carlton Street Footbridge Rehabilitation Project, as substantially shown on the plan submitted herewith entitled

"**TEMPORARY CONSTRUCTION EASEMENT FROM THE MBTA FOR FOOTBRIDGE REHABILITATION**" prepared by Kleinfelder Engineering, revised through 8/30/2018, as may be amended, said plan on file with the Town Clerk. Further, to authorize the Select Board to enter into all agreements and take all related actions necessary or appropriate, including to expend, as needed, a sum or sums of money therefor from existing appropriation(s) for the Carlton Street Footbridge Restoration, to carry out this vote and other acts authorized herein.



ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Warrant Article 8 is accompanied by three additional Articles in the Warrant (6, 7, and 9), each submitted by the Department of Public Works (DPW) and each seeking easements required before work may begin on the Carlton Street Footbridge Rehabilitation Project which is scheduled to go to bid in early 2019. The Committee discussed the easements together as they related to one another, but voted the language of each one separately. The Advisory Committee unanimously recommends Favorable Action on each of the aforementioned Articles, including Article 8.

BACKGROUND:

For more complete background and discussion information see the Advisory Committee's report on Warrant Article 6.

RECOMMENDATION:
By a vote of 22–0–0, the Advisory Committee recommends FAVORABLE ACTION on the motion offered by the Select Board.

XXX

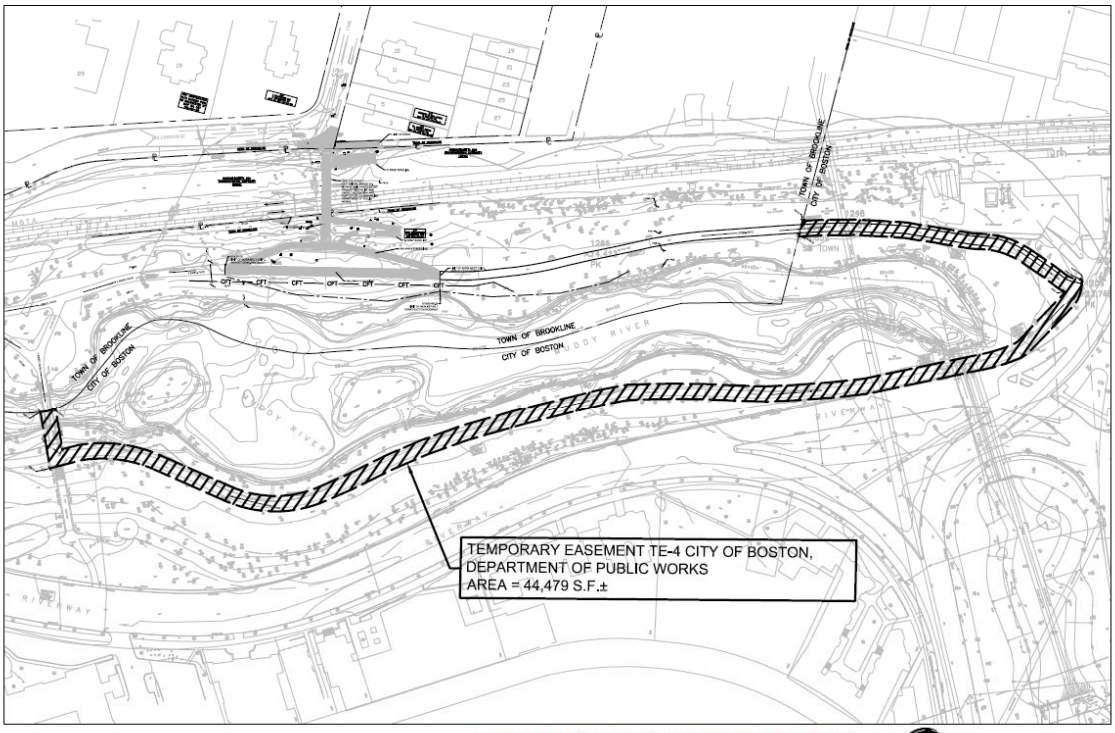
ARTICLE 9

NINETH ARTICLE

Submitted by: Department of Public Works

Exhibit TE-4: Plan as referenced in the article

To see if the Town will vote to authorize the Select Board to acquire, as necessary, a temporary construction easement from the City of Boston, Parks and Recreation Department, on City property comprising a part of Riverway Park, for construction activities associated with the Carlton Street Footbridge Rehabilitation Project, as substantially shown on the plan submitted herewith entitled "**TEMPORARY CONSTRUCTION EASEMENT FROM THE CITY OF BOSTON FOR FOOTBRIDGE REHABILITATION**" prepared by Kleinfelder Engineering, revised through 8/30/2018, as may be amended, said plan on file with the Town Clerk. Further, to authorize the Select Board to enter into all agreements and take all related actions necessary or appropriate, including to expend, as needed, a sum or sums of money therefor from existing appropriation(s) for the Carlton Street Footbridge Restoration, to carry out this vote and other acts authorized herein, or act on anything relative thereto.



PETITIONER'S ARTICLE DESCRIPTION

The Carlton Street Footbridge Rehabilitation project is a MassDOT Transportation Improvement Project, with Federal and State funding allocations, and currently scheduled to advertise for construction on or about the 2nd quarter of Federal Fiscal Year 2019 (Jan-March, 2019).

MassDOT, as a final part of design development prior to construction, requires that the Town of Brookline secure temporary construction easements or licenses from the owners of all property parcels on which construction activities, however minimal, might occur.

In this case, construction equipment access to the footbridge work site is provided at the existing Riverway Park path within the City of Boston, extending from the Town Line easterly to Park Drive, owned by the City of Boston land in Riverway Park. In addition, temporary pedestrian detours, including sign installations, use City of Boston, Riverway Park paths along the southerly bank of the Muddy River, between Park Drive and the Chapel Street Bridge. A temporary construction easement will permit equipment access and facilitate the pedestrian detour when footbridge work zone activities render unsafe the use of Brookline's Riverway Park path between the Chapel Street Bridge and the Brookline/Boston line.

This Warrant Article seeks Town Meeting authorization for the Select Board to secure this temporary easement, and expend funds, as necessary, from existing appropriations for the Carlton Street Footbridge Restoration.

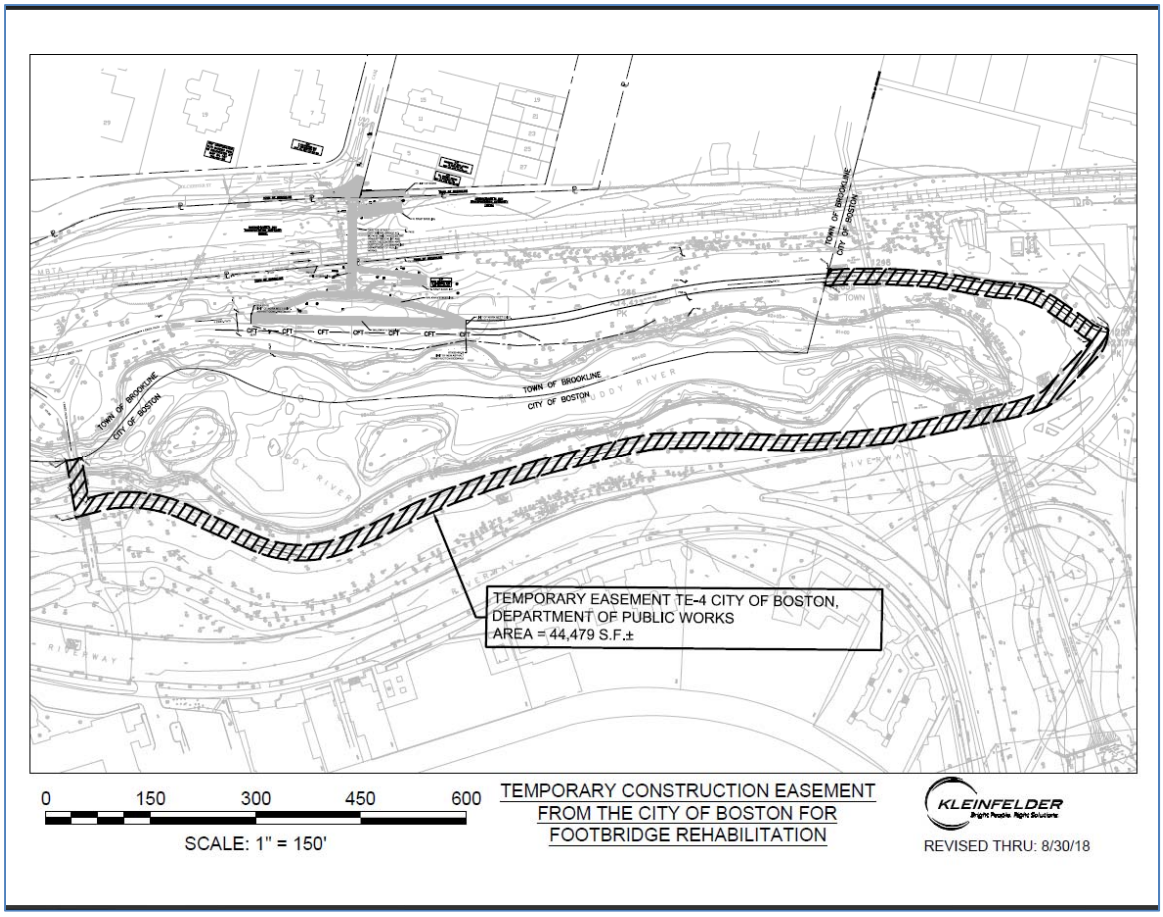
SELECT BOARD'S RECOMMENDATION

Article 9 asks Town Meeting to authorize the Select Board to grant a temporary construction easement to facilitate work for the Carlton Street Footbridge Restoration project which is a MassDOT Transportation Improvement Project, with Federal and State funding allocations, currently scheduled to advertise for construction on or about the second quarter of Federal Fiscal Year 2019 (Jan-March, 2019). MassDOT, who serves as the project manager for the project, requires these easements as a final part of the design development prior to construction. These easements allow for construction equipment to access a portion of the footbridge work site that lies within the City of Boston. In addition, a temporary construction easement will allow a pedestrian detour along the southerly bank of the Muddy River, between Park Drive and the Chapel Street Bridge.

On September 20, 2018 a unanimous Board voted FAVORABLE ACTION on the following motion:

VOTED: To authorize the Select Board to acquire, as necessary, a temporary construction easement from the City of Boston, Parks and Recreation Department, on City

property comprising a part of Riverway Park, for construction activities associated with the Carlton Street Footbridge Rehabilitation Project, as substantially shown on the plan submitted herewith entitled "**TEMPORARY CONSTRUCTION EASEMENT FROM THE CITY OF BOSTON FOR FOOTBRIDGE REHABILITATION**" prepared by Kleinfelder Engineering, revised through 8/30/2018, as may be amended, said plan on file with the Town Clerk. Further, to authorize the Select Board to enter into all agreements and take all related actions necessary or appropriate, including to expend, as needed, a sum or sums of money therefor from existing appropriation(s) for the Carlton Street Footbridge Restoration, to carry out this vote and other acts authorized herein.



ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Warrant Article 9 is accompanied by three additional Articles in the Warrant (6, 7, and 8), each submitted by the Department of Public Works (DPW) and each seeking easements required before work may begin on the Carlton Street Footbridge Rehabilitation Project which is scheduled to go to bid in early 2019. The Committee discussed the easements together as they related to one another, but voted the language of

each one separately. The Advisory Committee unanimously recommends Favorable Action on each of the aforementioned Articles, including Article 9.

BACKGROUND:

For more complete background and discussion information see the Advisory Committee's report on Warrant Article 6.

RECOMMENDATION:
By a vote of 22–0–0, the Advisory Committee recommends FAVORABLE ACTION on the motion offered by the Select Board.

XXX

ARTICLE 10

TENTH ARTICLE

Submitted by: Building Department

To see if the Town will vote to authorize the Select Board to grant, upon terms and conditions in the best interest of the Town, an easement to the Boston Gas Company permitting it to install and maintain a gas line on the Fire Station 6 parcel located at 962 Hammond Street, said parcel being shown as Lot 42 on Town of Brookline Assessor's Map 130 in Block 441, for the purpose of providing gas to the facilities located on the Fire Station 6 parcel.

Or take any other action relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

A new gas service is required for the new Maintenance/ Training Facility at Station 6. During the design phase, the Town asked the gas company if we could extend the existing service to the proposed facility and we were informed a new service would be required. The gas company is responsible for providing the new service from the road to in front of the gas meter. The Town owns all gas piping after the meter. The easement will provide the rights and privileges for both parties.

SELECT BOARD'S RECOMMENDATION

As part of the Fire Station 6 Maintenance/ Training Facility project the Town is looking to extend gas service to the new facility. This article asks Town Meeting to authorize the Select Board to enter into an agreement for an easement with the gas company in order to provide the service. The easement will allow the gas company to repair the line, if needed. The final details will be negotiated by Town Counsel and presented to the Board at a future meeting once Town Meeting authorization has been given.

The Select Board unanimously voted FAVORABLE ACTION on the motion offered by the Advisory Committee.

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Article 10 seeks approval for the Select Board to grant a permanent easement to the Boston Gas Company (National Grid) and its successors to allow the installation and maintenance

of a gas line at the Fire Station 6 parcel on Hammond Street in Chestnut Hill. This second gas line is necessary for the new Maintenance and Training Facility currently under construction at Station 6. The currently existing service at Station 6 was unable to be extended to the new facility.

The Advisory Committee, by a vote of 16–3–0, recommends Favorable Action on Article 10.

BACKGROUND:
In May 2017 Town Meeting approved a request for a $4.5 million bond-funded Fire Fleet Maintenance and Training Facility at Fire Station 6, to replace an outmoded burn building and tower used for firefighter training and to build a much-needed fleet maintenance facility. In mid-April of 2018 the Town broke ground for the maintenance and training facility, which is currently under construction. It is expected that the project will take a total of 12 months and should be operational by spring 2019.

During the design phase the Town asked if the existing gas service to Fire Station 6 could be extended, but was told by Boston Gas Company/National Grid that a new service would be required. The cost to the Town for this new service is $2,600.

The request is for a 10-foot wide easement with rights and privileges for both the Town and the gas company. According to the Town Engineer there will be a 3 foot wide trench within the easement and other utilities (sewer, water and electrical) will also be located in the trench. The work is expected to take 2–3 weeks for installation and that traffic on Hammond Street will see some disruption when the service is brought in from the main conduit under Hammond Street.

The gas company is responsible for providing the new service from the road to the front of the gas meter, located on the outside of the Maintenance Building. The Town owns all gas piping after the meter. The sample boilerplate contract provided to the Town by Boston Gas/National Grid for the easement lays out the rights, privileges and responsibilities of both the Town and the gas company.

The gas company is requesting the right, privilege and authority to construct, reconstruct, relocate, operate, repair, maintain and remove underground and/or grade level gas systems (mains, service lines, pipes and necessary accessories, within the Easement Area, and to maintain ownership of those facilities in perpetuity. The Town agrees not to build any structure, or plant trees and shrubs on the easement.

DISCUSSION:
Advisory Committee members raised numerous concerns about granting the easement to the utility and giving up all rights to land that is owned by the Town. Ray Masak of the Building Department informed the Committee that granting an easement to the utility is a change in practice and something new for the Town. There already is gas service to the existing fire station and the Town has a licensing agreement with the gas company for that service. The difference between a license and the proposed contract is that a license

agreement maintains the Town's control–a license can always be revoked–whereas the contract would grant ownership rights of the easement to the utility.

The Warrant Article language asks Town Meeting "to authorize the Select Board to grant, upon terms and conditions **in the best interest of the Town**" (emphasis added) the easement being requested by Boston Gas Company. The sample grant of easement document submitted by the gas company would require the Town to give up all rights to the 10-foot easement, and that could be problematic for the Town in the future. What if the Town decided it wanted to expand Fire Station 6 to accommodate a ladder truck, for example, and needed to move the easement? The proposed easement crosses the middle of the property near the existing fire station instead of being located on the perimeter.

A basic question was, does the Town have to grant this easement? Associate Town Counsel John Buchheit noted that the gas company could withhold gas service to the fire station, exerting the utility's bargaining power. On the other hand, it is thought that the terms of the easement could be written in a way to protect the Town's interests. Some considerations include:

- Setting a term that expires when gas is no longer needed at the property;
- Establishing a clear process for terminating the easement if and when it is no longer in the Town's interest;
- Maintaining the right to move the easement in case the Fire Department wishes to expand Station 6.

After much discussion, the Advisory Committee voted to recommend Favorable Action on the motion to give the Select Board the authority to grant the easement. Members of the Committee, however, urge the Select Board and Town Counsel to act in the best interests of the Town and to negotiate terms that would protect Brookline's interests.

There is currently a moratorium on all gas line work, and so this new service will not be installed until the National Grid strike is over, and it is not expected to impact the opening of the Maintenance and Training facility next spring. It should be noted that the recent catastrophic events in Lawrence, North Andover and Andover were related to excessive pressure in the gas lines and are unrelated to new service installations.

<u>RECOMMENDATION:</u>
The Advisory Committee recommends, by a vote of 16–3–0, FAVORABLE ACTION on the following motion:

VOTED: That the Town authorize the Select Board to grant, upon terms and conditions in the best interest of the Town, an easement to the Boston Gas Company permitting it to install and maintain a gas line on the Fire Station 6 parcel located at 962 Hammond Street, said parcel being shown as Lot 42 on Town of Brookline Assessor's Map 130 in Block 441, for the purpose of providing gas to the facilities located on that Fire Station 6 parcel.

XXX

ARTICLE 11

ELEVENTH ARTICLE

Submitted by: Robert M. Zuker, on behalf of Chestnut Hill Realty

ARTICLE I

To see if the Town will amend its Zoning By-Law and to approve a Master Development Plan for the Hancock Village redevelopment project, as follows:

(i) Amend the Zoning Map to include a new HVOD overlay district, the boundaries of which are shown on the plan entitled, "Hancock Village Overlay District Boundary Map," prepared by Stantec, dated August 29, 2018, and filed with the Town Clerk as of August 30, 2018;

(ii) Amend Section 3.01.4 to add the following new zoning overlay district to the list of previously identified zoning overlay districts: Hancock Village Overlay District;

(iii) Amend Section 5.06.4 to create Section 5.06.4.k "Hancock Village Overlay District ("HVOD")" as follows:

k. ***Hancock Village Overlay District***

1) The Hancock Village Overlay District (HVOD) is the site of an established residential development in the Garden Village model that has been identified as an appropriate site for a limited amount of new mixed-income housing, coupled with a limited scope of expansion and interior alteration of the existing improvements, all as shown on the Master Development Plan and otherwise specifically addressed herein.

2) As used in this Section 5.06.4.k, the following terms shall have the following meanings, except where the context clearly indicates otherwise:

a) ADDITION — An expansion of an existing building that increases the exterior massing of such building.

b) ADDITION PLANS – Architectural plans and elevations submitted in connection with one or more Additions pursuant to Section 5.06.4.k.4.b.ii.H.

c) AGE-RESTRICTED DWELLING UNIT – An attached Multi-Family Dwelling Unit intended and operated for occupancy by persons 55 years of age or older in which at least 80% of the occupied units within the applicable building are occupied by at least one person who is 55 years of

age or older in accordance with applicable requirements of federal and Massachusetts law.

d) CONFORMANCE REVIEW — The process and standards set forth in Section 5.06.4.k.12 to determine conformance of the HVOD Project or any proposed phase or portion thereof with the Master Development Plan and the standards and requirements set forth in this Section 5.06.4.k.

e) CONSTRUCTION ACTIVITY – The construction of new structures, roadways, driveways, parking areas or Additions, or site work associated with such construction. Construction Activity shall not include: (i) site work not associated with the construction of new structures, roadways, driveways parking areas or Additions; (ii) the installation of utilities; (iii) restoration and improvement of land within the Open Space Areas (HVOD Buffer Areas) depicted on the Master Development Plan; (iv) improvements solely to the interior of structures that do not increase floor area, footprint or bedroom count; or (v) activities involving uses and structures referred to in M.G.L. c.40A §3, to the extent allowed under said section of the General Laws. Construction Activity shall include the reconstruction of any structure within the HVOD voluntarily demolished (wholly or partially) other than in the event of damage or destruction by fire, explosion or other catastrophe.

f) CONVERTED TOWNHOUSE UNIT – One of up to twelve (12) existing one-bedroom townhouse units to be converted to a three-bedroom unit by an Addition that is allowed as part of the HVOD Project pursuant to Footnote 2 in Figure 5.06.4.k.1.

g) DESIGN CERTIFICATE – A certificate issued by the Planning Board pursuant to Section 5.06.4.k.4.b.ii.H, below.

h) DESIGN GUIDELINES – The Design Guidelines set forth in Section 5.06.4.k.4.b.ii.G, below.

i) DINING ROOM EXPANSION – An Addition that expands the dining room area of an existing townhouse unit within the HVOD that is allowed pursuant to and in accordance with Section 5.06.4.k.4.b.ii.

j) DISTRICT FLOOR AREA RATIO (DFAR) — The ratio of the combined gross floor areas of all buildings within the HVOD to the total area of the HVOD.

k) FINAL PLANS — The plans and materials submitted in connection with the Conformance Review pursuant to Section 5.06.4.k.12.

l) GRADE PLANE — The average of finished ground level adjoining a building at the exterior walls. Where finished ground level slopes away from the exterior walls, the grade plane shall be established by the lowest points within the area between the building and a point 6 feet from the building. For purposes of calculating building height within the HVOD, this definition shall be used in place of the level specified in Section 5.30.

m) HANCOCK VILLAGE CONFORMANCE REVIEW COMMITTEE (HVCRC) — The Committee appointed by the Planning Board pursuant to Section 5.06.4.k.12.b to determine conformance of the HVOD Project or any proposed phase or portion thereof with the Master Development Plan and the standards and requirements set forth in this Section 5.06.4.k. The HVCRC shall consist of nine (9) members, and shall include among the membership two (2) members of the Neighborhood Conservation District Commission and one (1) member of the Preservation Commission, allowing for a single person with dual memberships to serve in both roles, if appropriate. Said members of the Neighborhood Conservation District Commission and Preservation Commission shall be appointed to the HVCRC by the Chairs of their respective Commissions. The Planning Board shall establish rules and regulations governing what constitutes a quorum and other matters related to the conduct of the HVCRC.

n) HEIGHT OF BUILDING — The vertical distance of the highest point of the roof beams in the case of a flat roof, or the top of the rafters at the ridge in the case of a sloping roof above the grade plane. For purposes of calculating building height within the HVOD, this definition shall be used in place of the definition specified in Article II of this By-Law, and the provisions of Sections 5.30-5.32 shall not apply; provided, however, that, within the HVOD: (i) structures or facilities normally built or installed so as to extend above a roof and not devoted to human occupancy, such as transmission towers, chimneys, smokestacks, flag poles, masts, aerials, elevator penthouses and water tanks or other structures normally built above the roof and not devoted to human occupancy shall be excluded from the computation of building height as long as they would not if counted cause the applicable maximum Building Height to be exceeded by more than 10 feet, except as authorized by a special permit granted by the Board of Appeals; (ii) any rooftop mechanical feature, heating or air conditioning unit, vent, stack, or mechanical penthouse shall be screened by parapet walls or similar building elements, to the extent necessary to screen such feature from view from properties outside of the HVOD, and shall comply with the provisions of the Noise Control By-Law; and (iii) rooftop structures shall not cause the applicable maximum Building Height to be exceeded by more than 10 feet except as authorized by a special permit granted by the Board of Appeals.

o) HVOD — The Hancock Village Overlay District, the boundaries of which are shown on a map of land entitled "Hancock Village Overlay District Boundary Map" dated August 29, 2018, prepared by Stantec Planning and Landscape Architecture P.C., filed with the Town Clerk, which map, together with all explanatory matter thereon, is hereby incorporated in and made a part of this By-Law. The HVOD has an area of approximately 2,165,545 square feet.

p) HVOD PROJECT — All development within the four "Development Areas" and the two "Open Space Areas" (HVOD Buffer Areas), as shown on the Master Development Plan, including all associated roads and site access features shown thereon, and renovations pursuant to Section 5.06.4.k.4.b.i of this By-Law and the construction of a single additional recycle center as provided for in Section 5.06.4.k.4.v. The HVOD Project does not include any Addition.

q) MASTER DEVELOPMENT PLAN — A plan entitled "Hancock Village Master Development Plan" dated August 29, 2018, prepared by Stantec Planning and Landscape Architecture P.C., a copy of which is on file with the Town Clerk's Office and shall be incorporated into this By-Law and made a part hereof.

r) NEW TOWNHOUSE BEDROOM – One of up to 140 new bedrooms constructed as part of a renovation of, or Addition to, dwelling units within the HVOD existing as of the effective date of this Section 5.06.4.k (excluding any bedrooms included as part of the HVOD Project, including, without limitation, any bedrooms within a Converted Townhouse Unit).

s) PROPONENT — The proponent or developer of the HVOD Project or any proposed phase or portion thereof, or the proponent or developer of any Addition.

t) SIGNAGE PLAN – A plan entitled "HVOD Signage Plan" dated August 29, 2018, prepared by Stantec Planning and Landscape Architecture P.C., a copy of which is on file with the Town Clerk's Office.

u) STRUCTURED PARKING — A parking facility contained entirely within a building or structure.

Other terms used but not defined in this Section 5.06.4.k shall have the meanings set forth in Article II of this By-Law.

3) The HVOD is established as an overlay district superimposed over the underlying zoning districts. The regulations set forth in this Section 5.06.4.k shall apply to the entire HVOD land area in lieu of all other use, bulk and dimensional, parking, landscaping,

screening, setback/radius, signage, affordable housing and other zoning regulations that would otherwise be applicable. Such regulations shall apply to the entire HVOD land area as if it were one lot, even if it is comprised, at any time, of more than one parcel, including parcels separated by a street or way.

4) Land within the HVOD may be developed and used as follows:

a. The HVOD Project shall be allowed in accordance with the Master Development Plan and the standards and guidelines set forth in this Section 5.06.4.k. The following structures and uses shall be allowed as components of the HVOD Project or any proposed phase or portion thereof:

i. Multiple Dwellings (but not including lodging houses, hotels, dormitories, fraternities or sororities) containing, in total, no more than 382 new dwelling units constructed in locations as shown on the Master Development Plan as follows:

Figure 5.06.4.k.1

	Total Units	1 Bedroom Units	2 Bedroom Units	3 Bedroom Units	Total Bedrooms	Affordable Units
Asheville Building	112	84	28	0	140	28 at 80% Adjusted Area Median Income ("AMI")[1]
Gerry Building	36	13[2]	11	12[2]	71[2]	9 at 80% AMI; 18 at 100% AMI[2, 3, 4]
Sherman Building[5]	234	133	101	0	335	0
Total	382[2]	230[2]	140	12	546	37 at 80% AMI; 18 at 100% AMI[2, 3, 4]

Footnotes to Figure 5.06.4.k.1:

[1] For purposes of this Section 5.06.4.k, the designation "at 80% AMI" shall refer to an Affordable Unit that meets the LIP Criteria laid out in the Guidelines for M.G.L. c. 40B Comprehensive Permit Projects, Subsidized Housing Inventory (Updated December 2014) or any subsequent revision or replacement guidelines adopted by the Massachusetts Department of Housing and Community Development (DHCD), available for rent to an Income Eligible Household, as defined said Guidelines.

[2] The Proponent may, at its election, convert 12 three-bedroom units within the Gerry Building to 12 one-bedroom units within the Gerry Building, provided that the Proponent also converts 12 existing one-bedroom townhouse units within the HVOD to become Converted Townhouse Units, all of which shall be three-bedroom units and 3 of which shall be Affordable Units at 80% AMI. If so elected by the Proponent: (i) the number of one-bedroom units within the Gerry Building shall increase to 25; (ii) the total allowed number of three-bedroom units within the Gerry Building shall decrease to 0; and (iii) the total number of bedrooms in the Gerry Building shall be reduced to 48.

[3] For purposes of this Section 5.06.4.k, the designation "at 100% AMI" shall refer to an Affordable Unit (as defined in Section 4.08.2.c), available for rent or sale to an Eligible Household (as defined in Section 4.08.2.d) earning less than or equal to 100% of the AMI.

[4] In lieu of providing 18 Affordable Units at 100% AMI (10 one-bedroom units, 8 two-bedroom units) within the Gerry Building, the Proponent may, at its election, instead provide 18 one-bedroom units and 8 two-bedroom units at 100% AMI (for a total of 26 units containing 34 bedrooms) within townhouse buildings that exist within the HVOD as of the effective date of this Section 5.06.4.k, and shall indicate its decision to make such election on the Affordable Housing Plan for the Gerry Building required by Section 5.06.4.k.4.a.i.I.

[5] Multifamily use within the Sherman Building shall be limited to Age-Restricted Dwelling Units.

All Affordable Units (whether at 80% AMI or 100% AMI) included within the HVOD Project (or included within any townhouse buildings that exist within the HVOD as of the effective date of this Section 5.06.4.k, pursuant to Footnote 4 in Figure 5.06.4.k.1) shall follow the following standards and procedures:

A) Each Affordable Unit shall be indistinguishable in external appearance from market rate units located in the same building as such Affordable Unit. Affordable units shall have the same mechanical systems as market rate units, except that Affordable Units with up to two bedrooms may have only one bathroom, and Affordable Units with three bedrooms shall have at least 1.5 bathrooms. Affordable units shall have the same level of quality of finishes and appliances as the market rate units except where the Director of Planning and Community Development specifically approves, in advance, a request for different finishes and/or appliances. All residents of the HVOD, including residents of the Affordable Units, shall enjoy equal rights to use and access the Community Center Building and related facilities.

B) The Affordable Units shall contain square footage which is no less than (1) the average size of market rate units containing the same number of bedrooms, or (2) the following, whichever is smaller:

1 bedroom:	700 square feet
2 bedrooms:	900 square feet
3 bedrooms:	1100 square feet

For purposes of this subparagraph only, square footage shall be calculated within the interior surfaces of the perimeter surfaces of the walls of the unit.

C) Floor plans for Affordable Units which differ from those of market rate units located within the same building shall not be approved without the recommendation of the Director of Planning and Community Development.

D) Initial rents, and rent increases for the Affordable Units shall be established in accordance with Guidelines established by DHCD and the Town's

Department of Planning and Community Development.

E) The Town may establish a system of priorities for selecting buyers or renters, in accordance with the Town's Affordable Housing Guidelines and any applicable DHCD requirements.

F) All Affordable Units will be monitored on an annual basis by DHCD and the Town of Brookline Planning Department/ Housing Division. The Town may require that lessees of affordable rental units meet income recertification requirements upon renewal of lease terms.

G) Affordability restrictions shall be embodied in DHCD's LIP Rent Regulatory Agreement for the 80% AMI Affordable Units and a similar Town Rental Agreement for the 100% AMI Affordable Units.

H) Covenants and other documents necessary to ensure compliance with this section shall be executed and recorded prior to the issuance of a certificate of occupancy. In addition, the execution and recording of such covenants and other documents prior to issuance of a certificate of occupancy shall be a condition of any building permit issued for an HVOD Project building (or building permit for the renovation of an existing unit intended to be rented at 100% AMI pursuant to Footnote 4 of Figure 5.06.4.k.1) containing Affordable Units.

I) Submittal of Affordable Housing Plan—The Proponent shall submit an Affordable Housing Plan form to the Planning and Community Development Department prior to making an application for a building permit for a particular HVOD Project building. This form shall provide a schedule of all project units by location, square footage, unit types, number and types of rooms, and location of Affordable Units within that building. Locations of all Affordable Units must be approved by the Director of Planning and Community Development.

J) Prior to issuance of any certificate of occupancy for any unit in the HVOD Project including Affordable Units, the Proponent shall submit to the Director of Planning and Community Development for approval a plan for marketing and selection of occupants of the Affordable Units in the building where the certificate of occupancy is sought; said plan to include the initial rents for the units designated as affordable. All Affordable Units (80% AMI and 100% AMI) within a particular building will be marketed at the same time and will follow DHCD Guidelines for Affirmative Marketing and Tenant Selection, as outlined in Section 3 of Guidelines for M.G.L. c. 40B Comprehensive Permit Projects, Subsidized Housing Inventory (Updated December 2014) or any subsequent revision or replacement guidelines adopted by DHCD.

K) The Building Commissioner may limit, restrict or withhold the issuance of a certificate of occupancy for any market rate unit in a particular HVOD Project building until certificates of occupancy also have been issued for a corresponding percentage of Affordable Units in such building as required by this Section 5.06.4.k.a.i (for example purposes only, the Building Commissioner may withhold, limit or restrict a certificate of occupancy for a market rate unit in the Asheville Building if issuance of such certificate of occupancy would result in Affordable Units constituting less than 25% of the total number of units in the Asheville Building for which certificates of occupancy are being, or have been issued).

ii. Leasing, business and professional office uses incidental to and exclusively for the management of buildings within the HVOD; provided, however, that the aggregate gross floor area of all such uses shall not exceed 10,000 square feet. Uses allowed pursuant to this subsection and subject to the limitation on square footage are distinct from those uses described in subsection iv, below;

iii. Parking as shown on the Master Development Plan and otherwise in accordance with Section 5.06.4.k.6;

iv. Social or community facilities, private swimming pools, health and fitness clubs, tennis courts or other amenity space incidental to one or more Multiple Dwellings within the HVOD and identified on the Master Development Plan and intended for the exclusive use of residents of the HVOD; and

v. Recycling facilities incidental to one or more allowed uses within the HVOD, including one additional recycle center not shown on the Master Development Plan. Should the Proponent elect to construct the single additional recycle center not shown on the Master Development Plan, that construction shall conform to the following requirements:

A) The recycle center shall not be located within the area zoned S-7.

B) The total square footage allowed for the recycle center shall not exceed 1,000 sf (excluding any covered areas not enclosed by walls).

C) The height for the additional recycle center shall not exceed 29 feet above grade.

D) The design of the recycle center shall be consistent with the design of recycling centers shown on the Master Development Plan.

E) Should the construction of the recycle center require the relocation of parking spaces, driveways or roadways, such relocation shall not result in an increase in the number of total parking spaces permitted in the HVOD pursuant to Section 5.06.4.k.6, nor an increase in the number of surface parking spaces shown on the Master Development Plan, nor a material reconfiguration of the site circulation. Surface parking relocated due to the construction of the recycle building shall not be relocated to the area zoned S-7.

F) Construction of the recycle center cannot result in any change in the location or footprint of any building shown on the Master Development Plan.

G) Construction of the recycle center shall be subject to Conformance Review pursuant to Section 5.06.4.k.12. With respect to that review, the Final Plans shall be

reviewed for conformance with the conditions of this Section and all other relevant Sections of 5.06.4.k.

b. The residential use of those existing structures shown on the Master Development Plan but not included within the HVOD Project, and the structures themselves, are allowed by right in the manner, form, dwelling unit and bedroom counts and configurations, and with the structural dimensions that exist as of the effective date of this Section 5.06.4.k. The existing residential use and structures shown on the Master Development Plan may be expanded, altered and changed as follows:

   i. The renovation of existing dwelling units within the HVOD by converting laundry or utility rooms to bedrooms, creating up to 13 new bedrooms, is allowed exclusively in the locations shown as "Laundry/Storage Room Conversion" on the Master Development Plan, provided such renovations do not increase the footprint of the existing buildings.

   ii. An Addition shall be allowed by right; provided, however, that the following conditions shall be satisfied:

      A) The DFAR, including the proposed Addition, shall not exceed 0.5. For purposes of this Section 5.06.4.k, the DFAR shall be computed using the entire gross floor area of: (i) the HVOD Project, regardless of whether construction thereof has been completed at the time of such Addition; and (ii) any other building existing within the HVOD at the time of such Addition. The total square footage allowed for Additions pursuant to this section shall not exceed 85,000 square feet, measured from the exterior faces of the walls or from the centerlines of the of the walls for adjoining buildings.

      B) No Addition shall be allowed except for an Addition that includes: (a) a Converted Townhouse Unit; or (b) a New Townhouse Bedroom; or (c) a Dining Room Expansion. A Dining Room Expansion will only be added to units that have half baths on the first floor and modernized, reconfigured kitchens. No such Dining Room Expansion: (i) shall add more than 60 square feet of gross floor area, measured from interior wall to interior wall, to any individual dwelling unit; (ii) include more than 3 exterior walls or include a wall closing it off from the adjacent living space; (iii) extend more than 6 feet from the previously existing footprint of the unit being modified, excluding any

roof overhangs and the thickness of the exterior wall of the Addition; or (iv) have a lateral width of more than 10 feet.

C) Any Dining Room Expansion shall only serve to extend the habitable space of the first story of the existing buildings to which they are attached and shall not extend past the height of the first story except as is necessary to conform to the design guidelines delineated below in Section 5.06.4.k.4.b.ii.G.

D) Any Addition shall not involve the construction of new structures, the addition of new dwelling units, or, except with respect to a Converted Townhouse Unit or New Townhouse Bedroom, the addition of new bedrooms or lofts.

E) No new structures shall be constructed, except as shown on the approved Master Development Plan.

F) An Addition that includes a Converted Townhouse Unit may be constructed at any time as part of the HVOD Project, subject to and in accordance with the terms of this Section 5.06.4.k. Prior to the issuance of a building permit for a Dining Room Expansion or a New Townhouse Bedroom, at least ten (10) years must have passed since the issuance of the first building permit for a building within the HVOD Project.

G) The Planning Board has reviewed the applicable Addition Plans in accordance with the process set forth in Section 5.06.4.k.4.b.ii.H below, and confirmed the Addition conforms to the following Design Guidelines:

i. Additions shall be compatible with the character of the building and earlier Additions in terms of size, scale, massing, material, location and detail. Additions shall be designed so that the primary elevations of the original building remain clearly delineated.

ii. Each Addition shall respect the existing historic streetscape. The historic relationship of buildings to the street, including setbacks and open spaces, shall be maintained.

iii. Building materials shall conform to the requirements of Section 5.06.4.k.10.a, below.

iv. Additions shall maintain the spatial organization between the existing buildings.

H) Prior to submitting an application for a building permit in connection with an Addition, the Proponent shall submit Addition Plans to the Planning Board. Within forty-five (45) days of such submission, the Planning Board shall review the Addition Plans at a regularly scheduled meeting, for the sole purpose of determining whether such Addition Plans conform to the Design Guidelines set forth above in Section 5.06.4.k.4.b.ii.G. Within fourteen (14) days of said meeting, provided the Addition Plans conform to the Design Guidelines, the Planning Board shall issue a Design Certificate, a copy of which shall be filed with each of the Office of the Town Clerk and the Building Department, stating that such Addition Plans conform to the Design Guidelines. In the event the Planning Board does not issue such Design Certificate pursuant to this Section 5.06.4.k.4.b.ii.H, the Planning Board shall specify in writing all of its reasons for determining that the Addition does not conform to the Design Guidelines and the Proponent may, at its option: (x) withdraw the request for such Design Certificate; or (y) modify the Addition Plans to bring them into conformance with the Planning Board's findings, and resubmit the Addition Plans for review in accordance with this Section 5.06.4.k.4.b.ii.H. If, after completion of either of (x) or (y), above, a Design Certificate does not issue, the Proponent may seek review under G.L. c. 249, §4. In the event the Planning Board fails to act within any of the time periods specified in this Section 5.06.4.k.4.b.ii.H, the conformance of the Addition Plans to the Design Guidelines shall be deemed confirmed by the Planning Board. Notwithstanding the foregoing or anything herein to the contrary, any Addition Plans for a Converted Townhouse Unit shall conform to the applicable substantive requirements of Section 5.06.4.k.4.b.ii, but review for conformance with such requirements shall be conducted by the HVCRC as part of a Conformance Review in accordance with Section 5.06.4.k.12 below (and not by the Planning Board pursuant to this Section 5.06.4.k.4.b.ii.H).

c. Prior to the commencement of any Construction Activity for the HVOD Project, or any portion thereof, under this Section 5.06.4.k, the land within

the HVOD shall remain subject to the underlying zoning then in effect. Upon a Proponent's election to pursue development of the HVOD Project, or any portion thereof, as shown on the approved Master Development Plan, a notice to such effect shall be recorded in the Norfolk Registry of Deeds and filed with the Town Clerk and the Building Department prior to issuance of any building permit for the HVOD Project pursuant to this Section 5.06.4.k. From and after the filing of such notice, all Construction Activity within the HVOD shall be in accordance with the approved Master Development Plan or pursuant to Section 5.06.4.k.4.b.ii in the case of an Addition. Activities that do not constitute Construction Activity may be undertaken, if otherwise permitted by applicable provisions of this By-Law, prior to, or following, the filing of the notice described in this Section.

5) The following dimensional regulations shall apply to the HVOD:

a) Building Footprint: All buildings shall be limited to the two-dimensional building footprint shown on the Master Development Plan, with the exception of an Addition satisfying the requirements of Section 5.06.4.k.4.b.ii.

b) Maximum Building Height: Asheville Building: 60 feet above Grade.

Gerry Building: 47 feet above Grade.

Sherman Building: 69 feet above Grade.

Community Center Building: 47 feet above Grade.

Converted Townhouse Units: 35 feet above Grade.

Recycle Center Buildings: 29 feet above Grade.

An existing structure shown on the Master Development Plan but not included within the HVOD Project, and any structure reconstructed on the footprint of such existing structure (whether due to voluntary demolition or due to damage or destruction by fire, explosion or other catastrophe), shall have a maximum Building Height equal to the height of the existing structure as of the effective date of this Section 5.06.4.k.

c) Setbacks: All buildings shall be subject to the setbacks from the boundaries of the HVOD (excluding the boundary line that is also a municipal boundary line) as shown on the Master Development Plan.

d) Maximum DFAR: The DFAR for the entire HVOD shall not exceed 0.5.

6) The parking and traffic circulation requirements set forth in this Section 5.06.4.k.6 shall apply within the HVOD, rather than the requirements set forth in Sections 6.01 through 6.03 and Sections 6.05 through 6.09 or elsewhere in this By-Law; provided, however, that Section 6.04 shall apply to the design of all parking in the HVOD in all respects except for the requirements as to setbacks, interior landscaping, and common driveways. Prior to the issuance of any Conformance Determination pursuant to Section 5.06.4.k.12, the Director of Engineering and Transportation shall find that the HVOD Project has met all applicable standards related to parking and traffic circulation.

a) The Master Development Plan establishes a schedule of total parking spaces to be provided within the HVOD. At no time shall the total number of parking spaces within the HVOD exceed 1,439. If and to the extent construction of the entire HVOD Project is completed, no fewer than 1,375 parking spaces shall be provided within the HVOD. For any phase of the HVOD Project that includes the construction of a new building, as part of the Conformance Review conducted pursuant to Section 5.06.4.k.12, the Proponent shall submit to the HVCRC a phasing schedule describing the number of parking spaces to be constructed as part of such phase.

b) Parking locations shall be as shown on the Master Development Plan; provided that additional parking spaces may be provided in structured parking facilities within the Asheville, Gerry and Sherman Buildings. Such spaces shall count toward the maximum total number of parking spaces allowed within the HVOD in Section 5.06.4.k.6.a.

c) To the extent consistent with the Master Development Plan, parking may be provided through on-street spaces on private roadways within the HVOD, ground-level paved areas, Structured Parking or any combination thereof.

d) Parking spaces within the HVOD shall be used only by HVOD residents and their guests, and employees or agents of the owners or managers of property within the HVOD. The entire HVOD shall be treated as one lot for the purpose of providing the required number of parking spaces, subject to the provisions of this Section 5.06.4.k.6.d. All tenants within the HVOD shall have the right to lease or otherwise license or use parking spaces within the HVOD on such terms and conditions as may be established by the owner or owners from time to time, provided that there shall be no discrimination between tenants within any particular building with respect to their ability to lease or otherwise access and use parking spaces within the HVOD. The owners of adjacent parcels within the HVOD, as applicable, shall establish the rights of such owners and their tenants, guests and invitees to use the parking spaces within the HVOD pursuant to one or more easement agreements, which shall be duly recorded at the Norfolk County Registry of Deeds or filed with the Norfolk County District of the Land Court, as applicable.

e) All parking areas and facilities shall be set back from the boundaries of the HVOD as shown on the Master Development Plan.

f) Sidewalks or multipurpose pedestrian ways and facilities shall connect each parking area or facility to buildings, public spaces, or other destination points within the HVOD as shown on the Master Development Plan. Except as shown on the Master Development Plan, no vehicular access to the HVOD over the frontage sidewalks shall be permitted.

g) All streets within the HVOD shall be designed and maintained so that fire lanes are unimpeded by obstacles and landscaping, as shown on the Master Development Plan.

h) Any of the specific requirements set forth in this Section 5.06.4.k.6 may be waived by the HVCRC in accordance with Section 5.06.4.k.12.g, below, with the exception of the minimum and maximum total number of parking spaces specified in Section 5.06.4.k.6.a.

7) Signs, to the extent visible from public ways, shall conform to the Signage Plan.

8) There shall be a buffer area, delineated as "HVOD Buffer Area" on the Master Development Plan, from the boundary of the HVOD (excluding the boundary line that is also a municipal boundary line). Said buffer may be:

a) Landscaped in accordance with the requirements set forth in Section 5.06.4.k.9 to minimize visual impact on adjacent residential uses through the use of plantings, berms, or fencing; or

b) Developed as open space with play areas as shown on the Master Development Plan.

9) Landscaping and Screening of Parking and Buffer Areas.

a) Landscaping within and around parking areas in the HVOD shall be substantially as shown on the Master Development Plan; provided, however, that a detailed landscaping plan shall be submitted for review and approval by the HVCRC as part of its Conformance Review.

b) In reviewing the landscaping plan, the HVCRC shall consider whether:

i. Proposed plantings include both trees and evergreen shrubs, including those existing within the HVOD.

ii. Trees are proposed to be two and one-half inches (2 ½") caliper four feet (4') above ground level, of a species common to eastern

Massachusetts, and likely to reach an ultimate height of at least thirty feet (30').

iii. Shrubs are at least thirty inches (30") in height at the time of planting, and of an evergreen species common to eastern Massachusetts, and likely to reach an ultimate height of at least four feet (4'), except where a lower height is necessitated for egress visibility as determined by the Building Commissioner.

iv. Plantings are grouped, not evenly spaced, and located or trimmed to avoid blocking egress visibility.

c) Screening shall be required to obscure the visibility of parking areas of seven (7) or more spaces from within fifty feet (50') beyond the boundaries of the HVOD at normal eye level. Such screening shall consist of plantings of species, size and spacing to provide effective screening within three (3) years of planting, and shall be supplemented by an opaque fence or wall at least six feet (6') tall but no higher than seven feet (7') tall.

d) Whenever possible, the landscaping and screening requirements set forth in this Section 5.06.4.k.9 shall be met by retention of existing plants.

e) All plant materials required by this Section 5.06.4.k.9 shall be maintained in a healthful condition. Dead limbs shall be promptly removed and dead plants shall be promptly replaced at the earliest appropriate season. Any fences required for screening shall be properly maintained.

f) Proposed changes to landscaping within the HVOD from the detailed landscaping plan reviewed and approved by the HVCRC pursuant to Section 5.06.4.k.12 shall be submitted to the Planning Department for review and approval by the Assistant Director of Regulatory Planning.

10) The following design and performance standards shall apply to all Construction Activity within the HVOD. These standards shall be reflected in the final plans and materials submitted for review and approval by the HVCRC as part of its Conformance Review:

a) Exterior Finish Materials:

i) Building exteriors shall be compatible with the character, style, materials and details of the existing Hancock Village and constructed of durable and maintainable materials.

ii) Buildings shall include operable windows of metal or vinyl-clad wood and shall meet or exceed the minimum thermal resistant requirements of the State Building Code.

iii) The design, layout and color of doors and windows shall reflect the style and character of existing buildings within the HVOD.

iv) Finish materials shall not be susceptible to rapid staining, fading or other discoloration.

b) The provisions of Section 7.04 shall apply to the HVOD Project. Without limiting the foregoing, all exterior lighting shall be designed and maintained so that no direct light or glare shines on any street or abutting residence located outside the HVOD. No exterior lights shall be mounted higher than fifteen (15) feet.

11) Prior to any Conformance Review for a building within the HVOD, the Proponent shall submit a rubbish and recycling plan and schedule to the Chief of Environmental Health for review and approval. Such approval shall be based on a determination that:

a) All rubbish generated within the HVOD shall be handled and disposed of in compliance with all applicable regulations by the Proponent;

b) The Proponent has provided sizes, number, and location of recycling buildings, dumpsters, trash compactors, and recycling containers;

c) The Proponent has provided a schedule for trash and recycling pick-up demonstrating compliance with applicable Town by-laws;

d) Dumpsters are fully screened on three sides with solid walls of a sufficient height with a solid front gate;

e) Trash compactors are enclosed; and

f) The Proponent has provided a rodent and insect control plan.

12) Development of the HVOD Project or any phase or portion thereof shall be allowed, subject to a Conformance Review by the HVCRC as provided herein.

a) A request for a Conformance Review shall be filed with the Town Clerk, and copies shall be submitted to the Planning Board and the Zoning Coordinator. The application shall include, as applicable, the following Final Plans and related materials:

1. Locus Map showing boundaries of the subject property
2. Existing Conditions Plan
3. General Layout Map
4. Site Development Plans identifying building locations including all accessory structures, site circulation, location of trash receptacles,

location of parking and all other site components. These shall include Landscaping, Utility and Stormwater Plans (which Utility and Stormwater Plans shall be reviewed and approved by the Director of Engineering and Transportation prior to submission to the HVCRC and shall be provided to the HVCRC for informational purposes only)

5. Architectural Floor and Elevations Plans
6. Transportation Access Plan (reviewed and approved by the Director of Engineering and Transportation and provided to the HVCRC for informational purposes only)
7. Exterior Lighting Plan
8. Table of development data, including building height, setbacks, gross floor area, number of dwelling units, number of bedrooms per dwelling, number of affordable housing units, number of parking spaces (including designated handicapped spaces), and number of bicycle parking spaces/racks.
9. A computation, prepared by a licensed professional engineer, of the current DFAR of the HVOD and the impact of construction of the HVOD Project or phase or component thereof on that DFAR.

b) As soon as practicable after receipt of a request for a Conformance Review, the Planning Board shall appoint the HVCRC to conduct the Conformance Review.

c) Within fourteen (14) days of receiving the request, the Director of Planning and Community Development (or her designee), shall send a letter, with a copy to the Town Clerk, notifying the Proponent that its request is either complete or incomplete. Any determination that the request is incomplete shall state what additional information is required to complete the request. If the Director of Planning and Community Development (or designee) does not issue a letter within the 14-day period, the request shall be deemed complete.

d) The Conformance Review shall be completed within sixty (60) days of the determination that the request is complete, presuming that the Proponent has made timely submissions of materials in response to reasonable requests of the HVCRC that are consistent with its powers under this By-Law, except with the written consent of the Proponent. During the Conformance Review period, the HVCRC shall hold one or more public meetings, (i) notice of which shall be posted in accordance with the Open Meeting Law, M.G.L. c. 30A, §§ 18 through 25 and its implementing regulations; and (ii) which shall be conducted in accordance with rules and regulations to be adopted by the Planning Board. The HVCRC may consult with relevant Town boards and departments, which may submit comments or recommendations in writing or at a meeting of the HVCRC. The affirmative vote of a majority of a quorum of the HVCRC shall be required to complete the Conformance Review and issue a Conformance Determination authorizing the HVOD Project, or any phase or portion thereof, to proceed.

Submission of any of the information or materials listed above in Section 5.06.4.k.12.a may be waived by the HVCRC if such information or materials would not be relevant to the phase (or portion thereof) for which Conformance Review has been requested, or is duplicative of information previously provided in connection with the HVOD Project or prior phases thereof.

e) Provided the request for Conformance Review submitted pursuant to Section 5.06.4.k.12.a is complete and the Final Plans for the proposed HVOD Project, or any phase or portion thereof, conform to the Master Development Plan and the requirements set forth in this Section 5.06.4.k, the HVCRC shall issue a Conformance Determination, a copy of which shall be filed with the Office of the Town Clerk within thirty (30) days of the HVCRC vote. In the event that the HVCRC denies a Conformance Determination pursuant to this Section 5.06.4.k.12, the HVCRC shall specify in writing all of its reasons for determining that the HVOD Project, or portion thereof, does not conform to the requirements of this Section 5.06.4.k, and the Proponent may, at its option: (i) withdraw the request for such Conformance Determination or waiver; or (ii) modify its plans to bring them into conformance with the HVCRC's findings, and resubmit the plans in accordance with Section 5.06.4.k.12.a above (provided, however, for any plans resubmitted in accordance with this Section 5.06.4.k.12.e, the time period for completion of Conformance Review specified in Section 5.06.4.k.12.d shall be reduced to thirty (30) days from the date the plans are resubmitted). If, after completion of any of (i) or (ii), above, a Conformance Determination does not issue, the Proponent may seek review under G.L. c. 249, §4.

f) A Conformance Determination and the full plan set associated therewith shall be timely recorded with the Norfolk County Registry of Deeds and shall run with the affected land. The Proponent shall provide evidence of such recording to the HVCRC and to the Building Commissioner, and no building permit shall issue for an applicable component of the HVOD Project prior to receipt of such evidence.

g) As part of its Conformance Review, the HVCRC, in its discretion, may waive minor variations from the site layout and building footprints depicted on the Master Development Plan, if it determines that such waiver is not inconsistent with the intent of this Section 5.06.4.k. In making this determination, the HVCRC shall consider whether:

i) The purposes of this Section 5.06.4.k, will be protected;

ii) Strict application of the requirement to be waived would undermine the public interest;

iii) Specific substitute requirements can be adopted that will result in substantial protection of the public health, safety, convenience and welfare; and

iv) Any building or structure made possible by the waiver will not violate the provisions of any state or federal law or local by-law or be materially inconsistent with the Master Development Plan.

13) The HVOD Project may be constructed in one or more phases, in accordance with an applicable Conformance Determination. Upon the granting of a Conformance Determination for the HVOD Project and any phase or portion thereof, the plan referenced in such Conformance Determination shall be deemed to be in compliance with the requirements of this By-Law at the time such finding is made, notwithstanding the status of any other phase or portion of the HVOD Project or any noncompliance of such other phase or portion with the requirements of this Section 5.06.4.k.

14) The owner of any portion of the land within the HVOD shall be entitled to lawfully divide such portion, including, without limitation, by virtue of plans endorsed by the Planning Board pursuant to M.G.L. c. 41, §81P or by ground lease pursuant to §2.12(5) of this By-Law; and to sell, finance or place under separate non-common ownership any such portion or portions of land, without modifying the approved Master Development Plan and without the need for other approvals or compliance with other provisions of this By-Law, except as set forth in Section 5.06.4.k. To the extent consistent with the Subdivision Control Law, M.G.L. c. 41, §81K, et seq., portions of land within the HVOD may be separated by a public or private way.

15) More than one (1) building shall be allowed on any parcel of land within the HVOD.

16) Prior to issuance of any certificate of occupancy for any building or other improvement, or any portion thereof, within the HVOD, the Proponent shall comply with the Public Works Department's Site Plan Review Checklist and with the Building Department's Certificate of Occupancy Process.

17) In the event of any conflict or inconsistency between the other provisions of this By-Law and this Section 5.06.4.k, the provisions of this Section 5.06.4.k shall prevail.

(iv) To approve the Master Development Plan, entitled, "Hancock Village Master Development Plan," dated August 29, 2018, and filed with the Town Clerk as of that date, for the Hancock Village Overlay District;

Or act on anything relative thereto.

This map is presented for informational purposes and is not part of the article. A larger map will be mailed to Town Meeting Members. A copy of the map will also be available in the Town Clerk's Office.

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PETITIONER'S ARTICLE DESCRIPTION

BACKGROUND INFORMATION

The following overview is provided as background information for Warrant Articles (I-VI), which are intended allow for development within Hancock Village, based on a mutually acceptable agreement between the Town and CHR.

Brief History

Chestnut Hill Realty (CHR) purchased Hancock Village in South Brookline in 1986. Over the past several years, CHR has sought to develop new residential buildings as well as additional parking for existing units, in a manner that benefits both CHR and the Town of Brookline.

In 2011, Town Meeting designated the Brookline section of Hancock Village to be its first Neighborhood Conservation District (NCD), requiring that most changes to the existing buildings and landscaping secure prior approval from the Neighborhood Conservation District Commission.

CHR sought relief from both the Town's Zoning By-Law and the NCD regulations by applying for a Comprehensive Permit in 2013. Consistent with Chapter 40B of the Massachusetts General Laws, a Comprehensive Permit allows development that meets State requirements for subsidized housing to essentially override municipal by-laws unless a municipality has met its State-mandated regional share of subsidized housing. The most common method of establishing "regional" share is based on the "Subsidized Housing Inventory" or "SHI". Unless a community's SHI constitutes 10% of its total year-round housing stock, its permitting authority (in Brookline, the Zoning Board of Appeals) is extremely constrained in denying a Comprehensive Permit. The Town of Brookline's SHI is below 10%.

The Zoning Board of Appeals granted a Comprehensive Permit for The Residences of South Brookline (ROSB) consisting of what is referred to as the "Asheville Building" (a multifamily building consisting of 113 units located near the southern end of the property) and 11 additional smaller buildings for a total of 161 units. The Town and a select group of abutters appealed the issuance of the permit by filing suit against the developer, Massachusetts Development Finance Agency (MassDevelopment) – the State agency subsidizing the project, and the Town's Zoning Board of Appeals.

Subsequently, on April 11, 2016, CHR applied for a second, separate Comprehensive Permit to construct "Puddingstone at Chestnut Hill," which, as currently proposed, would consist of 230 units of multifamily rental housing on 5.44 acres within Hancock Village near the Brookline-Boston line. The Comprehensive Permit application provides for a six-story apartment building that would include 218 rental apartment units, and twelve (12) new apartments units in three new 2½-story infill buildings.

In an attempt to reach a mutually beneficial compromise, throughout 2017, CHR worked diligently with members of the Board of Selectmen, the Town Administrator, staff members from of the Building and Planning Departments and representatives of the surrounding neighborhood to explore the creation of a new "Master Development Plan" addressing the property owner's desire to construct new units and parking spaces for the existing units, while at the same time addressing municipal and neighborhood needs to the maximum extent possible.

The efforts culminated in the development of proposed new Hancock Village Overlay District (HVOD), which would allow for development of a new project consisting of 382 total new dwelling units located in three new apartment buildings, together with accessory uses and site improvements, pursuant to and in accordance with a detailed Master Development Plan that would be supported and enforced by a Master Development Agreement between the Town and the property owner. The proposed HVOD zoning amendment and associated documents included several critical controls to provide the Town with clarity on the nature and scope of future development within Hancock Village, including, without limitation:

- Restricting future development of the Brookline component of Hancock Village to what is delineated on the Master Development Plan, plus certain limited additions to existing units that would be subject to specified restrictions.

- The creation of a Hancock Village Conformance Review Committee (HVCRC), to be appointed by the Planning Board and charged with reviewing all components of the project to ensure all final plans conform to the Master Development Plan, following technical review by staff.

- Eliminating the ability of the property owner to utilize the underlying zoning, once a building permit is obtained for the project.

- Capping the maximum Floor Area Ratio (FAR) for all portions of Hancock Village located in Brookline.

- Prohibiting issuance of a building permit for one of the project's larger buildings, the Sherman Building, which contains 234 units, until 148 units are officially added to the Town's SHI Inventory.

In November 2017, a majority of Town Meeting voted in favor of the new HVOD zoning bylaw and several supporting warrant articles related to the proposed project, but narrowly missed the 2/3 favorable vote required for approval.

Current Proposal

Since the November 2017 Town Meeting, the Land Court ruled favorably with respect to the valid issuance of the ROSB Comprehensive Permit, and the Puddingstone at Chestnut Hill application has continued to advance through the approval process before the Zoning Board of Appeals. As a result, CHR will soon have the opportunity to move forward with one or both projects pursuant to Comprehensive Permits. In addition, CHR has filed a lawsuit challenging the validity of the Hancock Village NCD, which could further allow for development of Hancock Village based on the underlying zoning bylaws.

The following Warrant Articles are proposed in an effort to reach a mutually acceptable compromise that would allow CHR to move forward with the development of Hancock Village pursuant to a Master Development Plan and enforceable agreement of the Town, in lieu of development under Comprehensive Permits and further development based on the existing zoning regulations. Approval of these articles will provide clarity for all parties with respect to the nature and scope of development within Hancock Village.

The Master Development Plan proposed in the following articles is similar to the Master Development was nearly approved by Town Meeting in November 2017, and would include all of the critical controls outlined above, with the following changes:

- The 234 units in the Sherman Building will be age-restricted (55+).

- The Hancock Village NCD will be eliminated and the property owner's lawsuit against the HV NCD will be dropped.

- Twelve three-bedroom units in the Gerry building may be replaced with one-bedroom units, twelve existing one-bedroom townhomes will be converted to twelve three-bedroom townhomes.

- After the proposed construction of the project, a 10-year restriction will be placed on any development at the site, after which, in years 11 - 20, fourteen (14) bedrooms will be added per year into third floors of the existing townhomes, limiting the total to 140 new bedrooms.

- The total FAR proposed would be no more than 0.50 (as currently allowed by underlying zoning), versus an FAR limit of 0.48 in the 2017 proposal.

The Town would benefit from development pursuant to the proposed Warrant Articles, as follows:

- In the first ten years, the total number of net new bedrooms in 2-3 bedroom (non-age restricted) units would be limited to 56, versus up to 368 of such bedrooms that could be developed pursuant to the Comprehensive Permits and underlying zoning.

- In total over the next 20 years, the total number of net new bedrooms in 2-3 bedroom units (non-age restricted) would be limited to 196, versus up to 368 of

such bedrooms that could be developed pursuant to the Comprehensive Permits and underlying zoning.

- 3.5 acres of land will remain undeveloped and deeded to the town and maintained by CHR.
- A new playground will be provided for the Baker School.
- CHR would contribute $1,000,000 financial contribution to be used for neighborhood improvements.
- No buildings (including recycling centers) would be developed in the single family (S-7) zoning district.
- Asheville Road will be closed to prevent Hancock Village traffic through the adjacent residential neighborhood.

EXPLANTION SPECIFIC TO THIS ARTICLE I

The Petitioner is proposing the creation of a new zoning overlay district on Hancock Village in order to allow the construction of three residential rental buildings providing for a total of 382 residential units, structured and surface parking, roadway improvements and modifications, a Community Center Building, a Recycling Building, and the conversion of 13 utility/laundry rooms to bedrooms, all as shown on a Master Development Plan. The overlay zoning would also allow for the potential construction of a maximum of 85,000 square feet of additions to existing Hancock Village townhomes. Except with respect to the conversion of 12 existing one-bedroom townhomes to 12 three-bedroom townhomes, no such additions would be permitted until 10 years have elapsed from the issuance of the first building permit issued pursuant to the Master Development Plan. One of the proposed buildings, containing 234 units, would be age-restricted (55 years and older). At least 55 affordable units will be provided for households with incomes ranging from 80% to 100% of Area Median Income (AMI) and at least 148 units will be eligible for inclusion on the Town's Subsidized Housing Inventory (SHI), subject to State approval. The Hancock Village Overlay District (HVOD) establishes a maximum FAR on the property and prohibits the property owner from accessing the underlying zoning once a building permit is issued for a new building or parking. The Master Development Plan together with the HVOD of which it will be a part, will establish the final and complete build-out of the Brookline component of Hancock Village.

Therefore, we, the undersigned, request that Town Meeting approve by a 2/3 vote the Hancock Village Overlay District.

PLANNING BOARD REPORT AND RECOMMENDATION

The Planning Board is charged with reviewing and issuing a report on all warrant articles proposing a change to the Zoning By-Law. With respect to Warrant Article 11, the Board has been informed that both the petitioner and the Office of Town Counsel believe that, pursuant to G.L. c. 40A, §5, Warrant Article 11 is sufficiently similar to Warrant Article 10 of the 2017 November Special Town Meeting as to require a positive recommendation by this Board in its report before reaching Town Meeting because it has been less than two years since last fall's negative vote on Article 10. Finally, and perhaps most importantly, we have been advised that the petitioner does not intend to move forward with Article 11.

Therefore, the Planning Board will take no action with respect to Article 11. The Board recognizes that its decision will bar Article 11 from being considered at the upcoming meeting because it is not the positive recommendation required pursuant to c. 40A, §5 for a zoning amendment less than two years removed from a negative vote at Town Meeting. However, the Planning Board's decision to take no action is not intended as a comment on the merits of Article 11. Article 11 shares many of the positive planning attributes that led the Board to recommend approval of Article 10 last fall. The Board's decision today is a product solely of the petitioner's decision not to continue. If a similar proposal were to come before the Board in the future, the Board would feel free to consider it fully and exercise its discretion in the manner it saw fit, without regard to the decision today.

Therefore, the Planning Board recommends No Action on Article 11.

SELECT BOARD'S RECOMMENDATION

Articles 11-16 are petitioned articles proposed in an effort to reach a mutually acceptable compromise that would allow Chestnut Hill Realty to move forward with the development of Hancock Village. Chestnut Hill Realty has stated publicly it does not intend to move forward with the articles, based on opposition from Town Meeting Members representing Precinct 16.

Because the petitioners elected not to promulgate its articles, the Planning Board voted to take no action on Article 11, stating that its vote was not a comment on the merits of the proposal, but was instead made in response to the petitioner's desire not to move forward. The Select Board is not able to offer a motion under this article because they do not have a positive recommendation from the Planning Board which is required pursuant to c. 40A, §5 for any zoning amendment proposed less than two years removed from a negative vote at Town Meeting.

The Select Board offers no motion under this article.

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
The Petitioner, Chestnut Hill Realty (CHR), has announced its decision not to move forward with Warrant Articles 11–16, relating to the development of Hancock Village. As a result of that decision, and the subsequent vote of No Action by the Planning Board, which legally bars consideration of Article 11, the Advisory Committee is not making a motion under this Article.

BACKGROUND:
Warrant Articles 11 through 16 are an integrated group of Articles that seek a comprehensive solution to an ongoing dispute among the Town, CHR and certain neighbors regarding CHR's proposed 40B development of Hancock Village, located in South Brookline. At the November 2017 Special Town Meeting, a similar set of Articles (Warrant Articles 10–15) were brought forward by the Town, but failed to achieve the necessary favorable votes required for approval.

DISCUSSION:
On September 26, 2018, all 15 Town Meeting Members in Precinct 16 (the location of Hancock Village) issued a joint letter stating their opposition to Warrant Articles 11–16. In response to that letter, CHR announced that it would no longer pursue passage of the Warrant Articles given Precinct 16's opposition, and will instead proceed with its 40B projects. As a consequence, the Town determined to no longer expend any further resources or time vetting these Articles or taking any further preliminary action.

On October 4, 2018, the Planning Board voted No Action on Warrant Article 11 in response to CHR's decision not to move forward with Warrant Articles 11–16. This vote by the Planning Board means that Article 11 cannot be considered by this November 2018 Special Town Meeting. The Article has been determined to be sufficiently similar to Warrant Article 10 of the Fall 2017 Special Town Meeting (a similar proposed amendment to the Zoning By-Law regarding Hancock Village), which failed to receive the necessary two-thirds vote for approval. By law, a zoning amendment cannot be considered again within two years of a negative vote, unless the Planning Board recommends its adoption by Town Meeting.

RECOMMENDATION:
The Advisory Committee has been informed that Town Meeting cannot consider Article 11 and that no motion can be offered under this Article. The Advisory Committee voted unanimously to offer no motion.

XXX

ARTICLE 12

TWELVETH ARTICLE

Submitted by: Robert M. Zuker, on behalf of Chestnut Hill Realty

ARTICLE II

To see if the Town will authorize the Board of Selectmen to enter into any necessary agreement(s) and/or amendments to existing agreements or other action(s) required for the negotiation and execution of a "Development Agreement" related to development within the four "Development Areas" and the two "Open Space Areas," as shown on the plan entitled, "Hancock Village Master Development Plan," prepared by Stantec, dated August 29, 2018, and filed with the Town Clerk as of August 30, 2018, including all associated roads and site access features shown thereon, and to negotiate and execute such other agreements with the proponents of such development as may be deemed necessary or appropriate by the Board of Selectmen, or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The Petitioner is seeking authorization for the Board of Selectmen to enter into a Master Development Agreement with the owner of Hancock Village that details the obligations and restrictions imposed upon the parties. These obligations and restrictions imposed upon the property owner include but are not limited to:

- Establishing the unit mix of the 382 units.
- Providing that Sherman Building, containing 234 units, will be age-restricted (55 +).
- Basing the issuance of a Building Permit for the Sherman Building (a/k/a the Puddingstone Building) in part on State-certification of at least 148 units on the Town's Subsidized Housing Inventory.
- Imposing a series of restrictions on the construction of additions including prohibiting most additions to existing dwelling units prior to 10 years from the issuance of the first Building Permit for a building in the Hancock Village Overlay District, and requiring review by the Planning Board.
- Imposing a maximum buildout based on a 0.5 Floor Area Ratio for the entire Overlay District.
- Requiring traffic improvements and mitigation to be provided by the property owner, including prescribed improvements to Independence Drive plus a traffic

signal at the intersection of Sherman and Thornton Roads and Independence Drive.

- Conveying title to the Town of approximately 155,116 square feet, of "Open Space Areas" identified as "HVOD Buffer Areas" on the Hancock Village Master Development Plan to be used as a park.
- Constructing a public playground on the new Town park, near Baker School.
- Maintaining and landscaping the new Town park for a period of 30 years.
- Imposing strict construction management practices during construction.

It is the intention of the Petitioner to have the Master Development Agreement executed far enough in advance of Town Meeting so as to allow Town Meeting Members to review its terms prior to voting on the series of Hancock Village warrant articles. Copies of the Master Development Agreement, once executed, will be made available to the public at the Selectmen's Office.

Therefore, we, the undersigned, request that Town Meeting vote to authorize the Board of Selectmen to enter into the Master Development Agreement.

SELECT BOARD'S RECOMMENDATION

On October 16, 2018, the Select Board voted the following motion under Article 12:

VOTED: That the Board expects no motion before Town Meeting, if there is a motion before Town Meeting the Board recommends a no action motion.

ROLL CALL VOTE:

Aye:	Absent:
Wishinsky	Greene
Franco	
Heller	
Hamilton	

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
The Petitioner, Chestnut Hill Realty (CHR), has announced that it has determined not to move forward with Warrant Articles 11–16, relating to the development of Hancock Village. As a result of that decision, the Advisory Committee is not making a recommendation under this Article.

BACKGROUND:
Warrant Articles 11 through 16 are an integrated group of Articles that seek a comprehensive solution to an ongoing dispute among the Town, CHR and certain neighbors regarding CHR's proposed 40B development of Hancock Village, located in South Brookline. At the November 2017 Town Meeting, a similar set of Articles (Warrant Articles 10–15) were brought forward by the Town, but failed to achieve the necessary favorable votes required for approval.

DISCUSSION:
On September 26, 2018, all 15 Town Meeting Members in Precinct 16 (the location of Hancock Village) issued a joint letter stating their opposition to Warrant Articles 11–16. In response to that letter, CHR announced that it would no longer pursue passage of the Warrant Articles given Precinct 16's opposition, and will instead proceed with its 40B projects. As a consequence, the Town determined to no longer expend any further resources or time vetting these Articles or taking any further preliminary action.

RECOMMENDATION:
The Advisory Committee expects that no motion will be offered under Article 12. If an affirmative action is offered under the Article, the Advisory Committee by a vote of 17–1–1 recommends that Town Meeting vote no action.

XXX

ARTICLE 13

THIRTEENTH ARTICLE

Submitted by: Robert M. Zuker, on behalf of Chestnut Hill Realty

ARTICLE III

To see if the Town will authorize the Board of Selectmen to enter into any necessary agreement(s) and/or amendments to existing agreements or other action(s) required for the negotiation and execution of a "LAU Development Agreement" related to development of at least 148 units of housing, as shown on the plan entitled, "LAU Development Plan," prepared by Stantec, dated August 29, 2018, and filed with the Town Clerk as of August 30, 2018, which units have been designated for inclusion on the Town's Subsidized Housing Inventory maintained by the Department of Housing and Community Development (DHCD), and to negotiate and execute such other agreements with the proponents of such development and DHCD as may be deemed necessary or appropriate by the Board of Selectmen.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The Petitioner is seeking authorization for the Board of Selectmen to negotiate and subsequently enter into a Local Action Unit (LAU) Development Agreement with the owner of Hancock Village. A duly executed LAU Development Agreement is necessary to secure State-certification of at least 148 units to be placed on the Town's Subsidized Housing Inventory (SHI). The LAU Development Agreement establishes the requirements for number, income levels and basic location of subsidized units. The LAU Development Agreement requires that the parties enter into a Regulatory Agreement, consistent with DHCD standard procedures, to insure that the subsidized units will be available for income-eligible tenants in perpetuity. The LAU Development Agreement relates exclusively to affordable units available for households earning not more than 80% of the Area Median Income (AMI) with 80%. Units dedicated to households with not more than 100% AMI are addressed by the Master Development Agreement.

Conversations with DHCD relative to the LAU Development Agreement will continue with the ultimate goal of securing State-certification of at least 148 units to be placed on the Town's SHI. It is the intention of the Board to have the LAU Development Agreement executed far enough in advance of Town Meeting so as to allow Town Meeting Members to review its terms prior to voting on the series of Hancock Village warrant articles.

Copies of the LAU Development Agreement, once executed will be available at the Selectmen's Office. Therefore, we, the undersigned, request that Town Meeting vote to authorize the Board of Selectmen to enter into the Local Action Unit Development Agreement.

SELECT BOARD'S RECOMMENDATION

On October 16, 2018, the Select Board voted the following motion under Article 13:

VOTED: That the Board expects no motion before Town Meeting, if there is a motion before Town Meeting the Board recommends a no action motion.

ROLL CALL VOTE:

Aye:	Absent:
Wishinsky	Greene
Franco	
Heller	
Hamilton	

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
The Petitioner, Chestnut Hill Realty (CHR), has announced that it has determined not to move forward with Warrant Articles 11–16, relating to the development of Hancock Village. As a result of that decision, the Advisory Committee is not making a recommendation under this Article.

For background and discussion of this Article, see the Advisory Committee's report on Article 12.

RECOMMENDATION:
The Advisory Committee expects that no motion will be offered under Article 13. If an affirmative action is offered under the Article, the Advisory Committee by a vote of 17–1–1 recommends that Town Meeting vote no action.

XXX

ARTICLE 14

FOURTEENTH ARTICLE

Submitted by: Robert M. Zuker, on behalf of Chestnut Hill Realty

ARTICLE IV

To see if the Town will authorize the Board of Selectmen to accept and subsequently enforce a deed restriction from the owners of the parcels known as Hancock Village in a form substantially similar to the draft deed restriction included as an exhibit to this article for the purposes of precluding further use of M.G.L. c. 40B or similar statute by said owners for the purposes of overriding the Zoning By-Law of the Town, for a period of twenty (20) years.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

Town Meeting approval is required to authorize Board of Selectmen to enforce a deed restriction that will prevent current and future owners of Hancock Village to take advantage of Chapter 40B or any other Massachusetts General Law that allows a property owner to override municipal bylaws to develop property in order to meet a State objective. The deed restriction reinforces the "one-and-done" principle that has been and continues to be a critically important objective of the Town. Based on current state policy, the term for any such Deed Restriction is limited to a term of twenty (20) years from its recording.

Therefore, we, the undersigned, request that Town Meeting vote to authorize the Board of Selectmen to enforce the proposed deed restriction.

EXHIBIT TO ARTICLE IV

21, 46, and 101 Independence Drive, and 471 VFW Parkway, Brookline, Massachusetts

DEED RESTRICTION

HANCOCK VILLAGE I LLC, a Massachusetts limited liability company ("Owner"), having an address c/o Chestnut Hill Realty Corp. ("CHR"), 300 Independence Drive, Chestnut Hill, Massachusetts, is the owner of those certain parcels of land with the buildings and improvements thereon, commonly known as Hancock Village I Apartments, consisting of ____ (__) parcels of [registered and unregistered land], situated in Brookline, Norfolk County, Massachusetts, which parcels are more particularly described on the attached Exhibit A (the "Land"). Owner hereby agrees that, solely with respect to the Land, the following deed restriction shall be incorporated into the [Quitclaim Deed recorded with the Norfolk County Registry of Deeds in Book 25555, Page 59]; such restriction to run with the Land:

> Any building hereafter constructed on the Land shall be constructed subject to the regulations of the Zoning By-Law of the Town of Brookline, and the Owner shall not override the provisions of said Zoning By-Law with regard to the development of the Land by means of a comprehensive permit issued under M.G.L. c. 40B, or by another state program which allows such an override of the applicable zoning regulations.

It is agreed that this Deed Restriction: (i) is being executed and recorded pursuant to that certain Development Agreement dated as of November __, 2018, by and between Owner and the Town of Brookline, acting by and through its Board of Selectmen; and (ii) cannot be released by the Owner of the Land without written approval by the Board of Selectmen of the Town of Brookline; provided, however, this Deed Restriction shall automatically terminate and be of no further effect in the event the Town's Zoning By-Law or Zoning Map is amended such that the Land is no longer located within the Hancock Village Overlay District or subject to its regulations, as the same are in effect as of the date hereof. And further, it is agreed that this Deed Restriction shall terminate twenty (20) years from the date of its execution.

[Signature on following page(s)]

Executed this _____ day of _____, 2017.

HANCOCK VILLAGE I LLC,
a Massachusetts limited liability company

By: _____
_____
_____
Hereunto duly authorized

Commonwealth of Massachusetts)

County of _____) ss.

On this __ day of _____, 2018, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which is _____, to be the person whose name is signed on the foregoing instrument; and he acknowledged to me that he signed the foregoing instrument voluntarily for its stated purpose, as the _____ of Hancock Village I LLC, a Massachusetts limited liability company.

NOTARIAL SEAL

_____

Notary Public

My commission expires:

Legal Description

(*To be provided*)

SELECT BOARD'S RECOMMENDATION

On October 16, 2018, the Select Board voted the following motion under Article 14:

VOTED: That the Board expects no motion before Town Meeting, if there is a motion before Town Meeting the Board recommends a no action motion.

ROLL CALL VOTE:

Aye:	Absent:
Wishinsky	Greene
Franco	
Heller	
Hamilton	

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
The Petitioner, Chestnut Hill Realty (CHR), has announced that it has determined not to move forward with Warrant Articles 11–16, relating to the development of Hancock Village. As a result of that decision, the Advisory Committee is not making a recommendation under this Article.

For background and discussion of this Article, see the Advisory Committee's report on Article 12.

RECOMMENDATION:
The Advisory Committee expects that no motion will be offered under Article 14. If an affirmative action is offered under the Article, the Advisory Committee by a vote of 17–1–1 recommends that Town Meeting vote no action.

XXX

ARTICLE 15

FIFTEENTH ARTICLE

Submitted by: Robert M. Zuker, on behalf of Chestnut Hill Realty

ARTICLE V

To see if the Town will authorize the Board of Selectmen to acquire by gift or deed for general municipal purposes the land shown as "HVOD Buffer Area," on the plan entitled "Hancock Village Master Development Plan," prepared by Stantec, dated August 29, 2018, and filed with the Town Clerk as of August 30, 2018, consisting of approximately 155,116 square feet in area, along with any necessary accompanying easements, with a portion of said "HVOD Buffer Area" to be subject to such retained easements as may be reasonable or necessary for the original owners to access and maintain subsurface stormwater drainage and utility systems, and landscaping.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

Town Meeting approval is required for the Town to accept a gift of approximately 3.5 acres of the greenspace or so-called "buffer area" (zoned S-7) from the owner of Hancock Village. The Master Development Agreement provides for conveyance of said property within 30 days of issuance of the final Certificate of Occupancy for the HVOD Project.

Therefore, we, the undersigned, request that Town Meeting vote to authorize the Board of Selectmen to accept approximately 3.5 acres of greenspace, identified on the Hancock Village Master Development Plan as "HVOD Buffer Area" consisting of 155,116 square feet in area from the owner of Hancock Village.

SELECT BOARD'S RECOMMENDATION

On October 16, 2018, the Select Board voted the following motion under Article 15:

VOTED: That the Board expects no motion before Town Meeting, if there is a motion before Town Meeting the Board recommends a no action motion.

ROLL CALL VOTE:

Aye:	Absent:
Wishinsky	Greene
Franco	
Heller	
Hamilton	

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
The Petitioner, Chestnut Hill Realty (CHR), has announced that it has determined not to move forward with Warrant Articles 11–16, relating to the development of Hancock Village. As a result of that decision, the Advisory Committee is not making a recommendation under this Article.

For background and discussion of this Article, see the Advisory Committee's report on Article 12.

RECOMMENDATION:
The Advisory Committee expects that no motion will be offered under Article 15. If an affirmative action is offered under the Article, the Advisory Committee by a vote of 17–1–1 recommends that Town Meeting vote no action.

XXX

ARTICLE 16

SIXTEENTH ARTICLE

Submitted by: Robert M. Zuker, on behalf of Chestnut Hill Realty

ARTICLE VI

To see if the Town will vote to amend the Town's General By-Laws to delete Section 5.10.3(d)(1) thereof, and to rescind the establishment of the "Hancock Village Neighborhood Conservation District" pursuant to Article 6 of the November 15, 2011, Special Town Meeting, or take any other action relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The Hancock Village Master Development Plan, incorporated into the Hancock Village Overlay District By-Law, will establish and define the redevelopment plan for all of Hancock Village. All development within the Development Areas as well as the conversions, both of which are identified on the Hancock Village Master Development Plan, will be subject to review by appropriate Town staff as well as the Hancock Village Conformance Review Committee (HVCRC) consistent with specified guidelines. All contemplated Additions are subject to specific size and aggregate amount limitations in the HVOD By-Law, and will also be individually reviewed by the Planning Board for conformance with design guidelines established in the by-law. Future construction of buildings, accessory structures, roadways or parking areas in all of Hancock Village must conform to the Master Development Plan.

The Hancock Village Master Plan represents significant progress towards the objectives related to planning, conservation, historic preservation, open space and impact mitigation that motivated the imposition of the Neighborhood Conservation District. The need to maintain the oversight authority of the NCDC for Hancock Village is sufficiently reduced to allow for the removal of the Hancock Village NCD.

All other provisions of Section 5.10 relative to Neighborhood Conservation Districts of the General By-Laws shall remain in full force and effect.

Therefore, we, the undersigned, request that Town Meeting vote to repeal Section 5.10.3(d)(1) of the General By-Laws relating to the creation of the Hancock Village Neighborhood Conservation District.

SELECT BOARD'S RECOMMENDATION

On October 16, 2018, the Select Board voted the following motion under Article 16:

VOTED: That the Board expects no motion before Town Meeting, if there is a motion before Town Meeting the Board recommends a no action motion.

ROLL CALL VOTE:

Aye:	Absent:
Wishinsky	Greene
Franco	
Heller	
Hamilton	

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
The Petitioner, Chestnut Hill Realty (CHR), has announced that it has determined not to move forward with Warrant Articles 11–16, relating to the development of Hancock Village. As a result of that decision, the Advisory Committee is not making a recommendation under this Article.

For background and discussion of this Article, see the Advisory Committee's report on Article 12.

RECOMMENDATION:
The Advisory Committee expects that no motion will be offered under Article 16. If an affirmative action is offered under the Article, the Advisory Committee by a vote of 17–1–1 recommends that Town Meeting vote no action.

XXX

ARTICLE 17

SEVENTEENTH ARTICLE

Submitted by: Brookline Justice League (Mariela Ames, Scot Huggins, Brooks Ames)

To see if the Town will amend the General by-laws to prohibit the Select Board from entering into or authorizing nondisclosure agreements, except with respect to agreements protecting the identity of the claimant from disclosure, in connection with claims of discrimination, retaliation, and harassment against the Town, and to require the Town to publicize the amounts paid to defend and settle those claims. This proposal requires amending 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 they deem 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, except with respect to the identity of the claimant. The financial terms of any settlement agreement concerning such a claim and the legal fees associated with defending and settling such a claim shall be published on the Town website within fourteen (14) days of the settlement and in the Annual Town Report.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

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 article permits a claimant to obtain an agreement from the Town not to disclose their identity.

SELECT BOARD'S RECOMMENDATION

Article 17 is a petition to amend the General By-Laws in order to prohibit the Select Board from entering into or authorizing so-called "nondisclosure" agreements relating to claims of discrimination, retaliation, and harassment that may be brought against the Town. This is similar to Article 17 of the 2018 Annual Town Meeting except that the posting requirements have been modified and the proposed amendment permits the identity of the potential claimants to be withheld from disclosure.

The same issues that were raised and discussed under Article 17 exist in the revised article. As was discussed earlier, claims against private employers, such as those that engendered the "Me Too" movement, should be distinguished from claims against public employers, who are required to disclose the financial details of settlements under the Public Records law. The Town regularly discloses these details to the public upon request, and to provide even more public transparency in these matters without prejudicing the Town's ability to resolve claims against the Town without the extraordinary expense of a trial, Town Counsel has offered to publish the number of settlements that are reached in claims of harassment, discrimination and retaliation claims and the sum of such settlements annually.

Town Counsel advised the Board that if passed, the by-law amendment would substantially impair the ability of the Town to resolve claims without expending significant Town resources. She stated that there are several strategic reasons why it may be in the best interest of the claimant and the Town to enter into these kinds of agreements. There are also circumstances where claimants may want to keep not only their identities, but the details of their claims private.

Not all discrimination, retaliation, or harassment claims have facts that are clear and incontrovertible. A claimant may think that they have been harmed and suffered emotionally but without having the level of evidence that would guaranty a positive outcome in a lawsuit. Similarly, the Town's claim that there was no discrimination may have problems related to the way that evidence was handled or was reported or related to other facts that have nothing to do with discriminatory intent. In those situations, the plaintiff may feel that they deserve some recompense even though they have a weak case and the Town may want to avoid the costs and risks of litigation. A nondisclosure agreement in which the Town agrees not to disparage the allegations of the claimant and the claimant agrees not to disparage the Town may be a way for each side to achieve its goals. Taking this tool away from the Town's lawyers would result in unnecessary litigation, and subject a claimant to the stress and hassles of litigation without any assurance that in the end they will get any relief or that they will get relief that is more than what could have been achieved by a settlement.

The exception for nondisclosure agreements that would shield the claimant's identity is an illusory benefit. Except where privacy considerations prevent it, the Town would have no reason to agree to keep a plaintiff's identity a secret in the absence of an agreement that the plaintiff will not secretly disparage the Town either by a "whispering campaign" or

leaking information to an individual or group of individuals bent on disparaging the Town in order to further other goals or other litigation.

The Board voted 4-1 NO ACTION on October 9, 2018 on article 17.

ROLL CALL VOTE:

Aye:	No:
Wishinsky	Hamilton
Franco	
Heller	
Greene	

**The Select Board has not taken a position on the Margolis motion found below and will have a recommendation on that motion in the supplemental mailing.*

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Warrant Article 17 proposes to amend the Town's By-law on Litigation and Claims so as to prohibit the Town from entering into any nondisclosure or nondefamation agreements when settling claims of discrimination, retaliation, or harassment against the Town. It also would require the Town to publish on its website within 14 days of settlement and in the Annual Town Report the financial terms of any settlements of such claims, as well as the legal fees associated with defending and settling these claims.

The Advisory Committee recommends NO ACTION on the motion offered by the petitioner by a vote of 17 to 2, with 2 abstentions.

BACKGROUND:
Section 3.1.3 of Brookline's By-laws gives the Select Board broad powers to enter into settlement agreements on behalf of the Town with respect to any and all claims and lawsuits brought against the Town. The only restriction that it places on that power is a requirement that the Select Board acts with the advice of counsel should the proposed settlement amount exceed $1,000.

Warrant Article 17, if passed, would limit the Town's power to settle claims or lawsuits that charge the Town with discrimination, retaliation, or harassment. It would prohibit the Select Board from entering into or authorizing any nondisclosure or nondefamation agreements as part of the settlement of such claims or lawsuits. It would also require the Town to publish the financial terms of any settlement agreements resolving claims of discrimination, retaliation, or harassment against the Town, as well as the legal fees associated with defending and settling these claims.

Article 17 is a slight modification of the Warrant Article that the petitioner submitted to the 2018 Annual Town Meeting (Article 32), where it was decisively voted down by a vote of 31–157–9. Like its predecessor, it states that: "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," although the petitioner now has added language that would permit the identity of the claimant to be kept from public disclosure. Like its predecessor, it would require that "the financial terms of any settlement agreement concerning such a claim" be published on the Town website, but it no longer requires such information to be published in a newspaper of general circulation or in ten public places in the Town. However, it has added two new requirements: that the Town publish the legal fees it has incurred in defending and settling any such claims and that these costs of settlement and legal fees also be published in the Annual Town Report.

During the past ten years, the Town has entered into a total of ten (10) settlement agreements having to do with discrimination, retaliation, or harassment claims against it. The Town departments against which the ten claims were made are: Police (3), School (2), Parks & Recreation (1), Council on Aging (1), Public Works (1), Fire (1), and Information Technology (1). The settlement amounts ranged from $3,000 to $250,000. Four of the claims settled for less than $50,000. Two of the claims settled for more than $200,000. The average settlement amount was $108,600.

No municipality in Massachusetts, nor in any other state, is known to have a law like what Article 17 proposes. Some states and municipalities have recently passed, or are considering, laws that restrict the use of nondisclosure agreements with respect to charges of sexual harassment or misconduct but do not otherwise prohibit the use of nondisclosure agreements. New York State has recently passed a law that would prevent the inclusion of nondisclosure terms in any settlement of employee-related sexual harassment claims against a private employer. The California state legislature recently passed an act barring, as a condition of employment, an employer's requirement that an employee or prospective employee sign a nondisclosure agreement that would apply to charges of sexual misconduct. These recent legislative enactments appear to focus narrowly on claims related only to sexual harassment or sexual misconduct, but do not otherwise restrict or bar the use of nondisclosure or nondisparagement agreements.

DISCUSSION:

The petitioner believes that passage of its proposed Article would result in the following benefits to the Town and its residents: an increased transparency regarding Town actions and expenditures; a more effective deterrence of individuals who in the future might be more likely to violate existing discrimination, retaliation, or harassment laws if the details of these settlements were not published; and the promotion of sound fiscal management by making the costs of settlement more readily known to the public.

There was considerable opposition to this Warrant Article, both by Town Counsel and by many Advisory Committee members. They noted that nondisclosure and nondisparagement agreements are standard and critical litigation tools that help to encourage the timely settlement of claims and thereby avoid the need for lengthy and costly

discovery and trials. There would be little incentive for the Town to enter into settlements of claims, especially claims of questionable merit, if, even after receiving a settlement check and resolving their dispute with the Town, a claimant could continue to disparage the Town and to go to the media to publicize their claims against the Town–and then use the very fact that the Town was willing to enter into a settlement agreement with them as additional evidence of the merits of their claims (without disclosing that the settlement agreement expressly stated that the settlement was not to be construed as an admission of any wrongdoing). Compounding this imbalance, the Town would be constrained from responding to the claimant's public comments because of limitations imposed on the Town under laws pertaining to privacy and personnel records.

A settlement is a negotiated agreement between the Town and an individual represented by counsel, and the Town cannot compel anyone to accept a settlement agreement containing nondisclosure or nondisparagement clauses. Unlike many private employers, the Town does not require its employees to agree in advance to nondisclosure or nondisparagement agreements as a condition of their being hired. A settlement can benefit the claimant as well as the defendant by saving them the time and expense of protracted litigation, eliminating the uncertainty of a trial, and bringing closure.

If settlement agreements were not permitted to contain nondisclosure and nondisparagement provisions, the Town would be less likely to settle claims, and more claims against the Town would be brought to trial, resulting in additional litigation costs to the Town and the need to hire another in-house attorney and/or additional outside counsel. If there were fewer settlements, both claimants and the Town would be adversely affected. Indeed, claimants might find it more difficult to find qualified legal representation if attorneys, who typically take such claims on a contingency basis, thought that a claim had little or no possibility of being resolved without years of expensive legal work and discovery and a trial with an uncertain outcome.

There was also concern about requiring the Town to post on its website within 14 days of settlement the financial terms of any settlements of such claims. Unlike private employers, governments like Brookline are subject to public records freedom-of-information laws, so the settlement amounts of all settlement agreements entered into by the Town are readily available upon request. Additionally, during the course of the Advisory Committee meeting on this article, Town Counsel offered to publish annually the total number of settlements of discrimination, retaliation, and/or harassment claims that the Town entered into that year and the aggregate sum of said settlement amounts.

RECOMMENDATION:
By a vote of 17–2–2, the Advisory Committee recommends NO ACTION on Warrant Article 17.

**The Advisory Committee has not taken a position on the motion offered below.*

SUBSTITUTE MOTION OFFERED BY JONATHAN MARGOLIS, TMM 7

VOTED: To amend Article 3.1, Section 3.1.3 of the Town's General By-Laws ("LITIGATION AND CLAIMS") by adding the following language at the end of said section:

The Town shall not propose or require, as a condition to resolve any claim for unlawful discrimination, retaliation or violation of civil rights, that the claimant be precluded from disclosing the terms on which the claim has been resolved, or agree to refrain from making public statements concerning the claim, and the Select Board shall not enter into any agreement to resolve any claim in which the Town has sought such an agreement. The Town may enter into such an agreement if it has been sought by the claimant.

The Town shall report on its website all claims described in the preceding paragraph that were above resolved during the previous six months within 15 days of the close of the fiscal year and 15 days of the end of the sixth month of the fiscal year. If a claim has been resolved with an agreement precluding disclosure, as permitted in the preceding paragraph, it shall be reported by specifying only the nature of the claim, the amount (if any) paid by the Town or on its behalf, and the date of resolution.

XXX

ARTICLE 17

SELECT BOARD'S SUPPLEMENTAL RECOMMENDATION

The Select Board discussed the Margolis motion at their October 30, 2018 meeting. The underlying concerns expressed by the Board in their report under article 17 still exist with this motion. The Board is concerned that the presumption being made is that there is a clear assignment of fault in claims made against the Town, but as is often the case there are many grey areas where sometimes a non-disclosure agreement can help facilitate an end to the dispute. Without this tool, the incentive to settle cases of this nature will be greatly diminished and will in most cases force the parties to trial, which will require the use and expenditure of significant Town resources.

The Select Board vote of NO ACTION remains for Article 17.

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

SUMMARY:

The proposed substitute motion (offered by Jonathan Margolis, TMM-7) to Warrant Article 17 seeks to prohibit the Town from proposing or entering into any nondisclosure, nondisparagement, or nondefamation agreement when settling claims of discrimination, retaliation, or violation of civil rights, unless proposed by the claimant. It would require the Town to report on its website every six months all such claims that had been resolved during the designated prior six-month period, with more limited disclosure requirements for any claim that was resolved under a nondisclosure agreement requested by the claimant.

The Advisory Committee recommends No Action on the substitute motion to Article 17 by a vote of 19–1–2.

BACKGROUND:

Section 3.1.3 of Brookline's General By-laws gives the Select Board broad powers to enter into settlement agreements on behalf of the Town with respect to any and all claims and lawsuits brought against the Town. The only restriction that it places on that power is a requirement that the Select Board acts with the advice of counsel should the proposed settlement amount exceed $1,000.

The substitute motion to Warrant Article 17, if passed, would restrict the Town's power to settle any claims or lawsuits that charge the Town with discrimination, retaliation, or civil rights violations. It would prohibit the Select Board from proposing or entering into any nondisclosure, nondisparagement, or nondefamation agreement as part of the settlement of such charges, unless proposed by the claimant. It also would require the Town to report on its website every six months all such claims that had been resolved during the designated prior six-month period, with somewhat more limited disclosure requirements for any such

claim that was resolved under a nondisclosure agreement requested by the claimant.

The substitute motion is very similar to the original Article 17 motion that it seeks to replace. The substitute motion differs in three key respects from the original motion: (1) In the list of claims covered, it has replaced the claim of "harassment" with the much broader claim of "violation of civil rights"; (2) It permits nondisclosure, nondisparagement, and/or nondefamation agreements as part of a settlement if proposed by the claimant; and (3) It has somewhat different Town reporting requirements. The Advisory Committee recommended No Action on the original Article 17 by a vote of 17–2–2. Article 17 is also similar to a Warrant Article that was submitted by the original petitioners to the May 2018 Annual Town Meeting (Article 32), where it was decisively voted down by a vote of 31 in favor, 157 opposed, with 9 abstentions.

No municipality in Massachusetts, nor in any other state, is known to have a law like Article 17 as originally offered or like the proposed substitute motion to it. Some states and municipalities have recently passed, or are considering, laws that restrict the use of nondisclosure agreements with respect solely to charges of sexual harassment, sexual assault, and/or sex discrimination, but they do not otherwise prohibit the use of nondisclosure agreements. New York State, for example, has recently passed a law that would prevent the inclusion of nondisclosure terms in any settlement of employee-related sexual harassment claims against a private employer. The California state legislature recently passed an act barring nondisclosure agreements that would apply to charges of sexual assault, sexual harassment, or sex discrimination. These recent legislative enactments appear to focus narrowly on claims related only to sexual harassment, sexual assault, sexual misconduct, and/or sex discrimination, but do not otherwise restrict or bar the use of nondisclosure or nondisparagement agreements with respect to the settlement of any other type of claim.

DISCUSSION:

The petitioners of Article 17 and its substitute motion believe that passage of their article would result in the following benefits to the Town and its residents: an increased transparency regarding Town actions and expenditures; a more effective deterrence of individuals who might be more likely to violate existing discrimination, retaliation, harassment, or civil rights laws if the details of these settlements were not published; and the promotion of sound fiscal management by making the costs of settlement more readily known to the public.

There was considerable opposition to the substitute motion as there was to the original version of Article 17, both by Town Counsel and by a large majority of Advisory Committee members.

Town Counsel stated that she believes this is a financially irresponsible Article. Town Counsel and many Advisory Committee members noted that nondisclosure and nondisparagement agreements are standard and critical litigation tools that help to encourage the timely settlement of claims and thereby avoid the need for lengthy and costly

discovery and trials. There would be little incentive for the Town to enter into settlements of such claims, especially claims of questionable merit, if, after receiving a settlement check and resolving their dispute with the Town, a claimant could continue to disparage the Town and to go to the media to publicize their claims against the Town—even if their claims had little or no merit. A claimant could use the very fact that the Town had entered into a settlement agreement with them as additional evidence of the merits of their claims (without disclosing that the settlement agreement expressly stated that the settlement was not to be construed as an admission of any wrongdoing). Compounding this imbalance, the Town would be prevented from responding to the claimant's public comments because of limitations imposed on the Town under laws pertaining to privacy and personnel records.

A settlement is a negotiated agreement between the Town and an individual represented by counsel. The Town cannot compel anyone to accept a settlement agreement containing nondisclosure or nondisparagement clauses. As noted above, a settlement can benefit the claimant as well as the defendant by saving them the time and expense of protracted and often ugly discovery and litigation, eliminating the uncertainty of a trial, and bringing closure sooner rather than dragging on for years.

Over the past decade, only one claim against the Town involving charges of discrimination, retaliation, harassment, or civil rights violations was brought to trial (where the Town won a favorable verdict). During that same time period, ten claims involving charges of discrimination, retaliation, harassment, or civil rights violations against the Town were settled without going to trial. If Article 17 were enacted, in either its original or substitute motion form, almost all of the claims against the Town would go to trial and very few would be settled. If almost all claims went to trial, both the Town and claimants would be adversely affected. Both would have much greater litigation costs. The Town would need to hire an additional in-house attorney as well as additional outside counsel. Claimants might find it more difficult to afford to litigate their claims or to find qualified legal representation if attorneys who typically take such claims on a contingency basis thought that a claim had little or no possibility of being resolved without years of expensive legal work and discovery and a trial with an uncertain outcome.

As to reporting requirements, unlike private employers, governments like Brookline are subject to public records freedom-of-information laws, so the settlement amounts of all settlement agreements entered into by the Town are readily available upon request. Additionally, during the course of Advisory Committee meetings on this article, Town Counsel offered to publish annually the total number of settlements of discrimination, retaliation, and/or civil rights claims that the Town entered into that year and the aggregate sum of said settlement amounts.

RECOMMENDATION:

By a vote of 19–1–2, the Advisory Committee recommends NO ACTION on the substitute motion (Margolis amendment) to Warrant Article 17. (This is in addition to the Advisory Committee's recommendation of NO ACTION by a vote of 17–2–2 on the motion offered by Article 17's original petitioner.)

ARTICLE 18

EIGHTEENTH ARTICLE

Submitted by: Preservation Commission

To see if the Town will vote to amend Article 5.3 of the Town's General By-Laws as follows:

(language to be deleted from a section appears in ~~strikethrough~~, and new language appears in **bold underline**)

1. Amend Section 5.3.2.h of the Town's General By-Laws as follows:

   h. "Demolition" – (a) the act of pulling down, destroying, removing or razing a Building or a significant portion thereof, by **substantially** removing **or substantially covering** one side of the building, or **substantially** removing **or substantially altering** the roof, or removing 25% **or covering 25%** of the **exterior walls** ~~structure~~; (ii) moving a Building from its site with no permitted new location for said Building; (iii) in the case of a Building within Section 5.3.5(b), substantially gutting (as defined by the Preservation Commission per section 5.3.14) an interior space that has generally been open to the public and is integral to the historic character of the building; (iv) in the case of a building within Section 5.3.5(b), the systematic removal, effacement, or destruction of the exterior architectural elements which define or contribute to the historic character of the Building, or (v) commencing any of the foregoing work. "Demolition" as used herein shall be deemed to include Demolition by Neglect.

2. Amend Section 5.3.4 by adding the following new Section 5.3.4.d:

   d. An application for a Demolition Permit is valid only with respect to the owner(s) of record at the time it is delivered to the Preservation Commission Staff, unless otherwise provided for in this section. In the event a transfer of ownership occurs of a Significant Building, no Demolition Permit shall be issued until the new owner files a new application and complies with the procedures set forth in Section 5.3.3 through Section 5.3.12 An applicant for a Demolition Permit shall certify to the satisfaction of Preservation Commission Staff, immediately prior to its issuance, that there has been no change in ownership subsequent to the delivery of the application to the Preservation Commission Staff, and the Building Commissioner shall not issue a Demolition Permit without Preservation Commission Staff certification or evidence that the applicant intends to take advantage of the exemption listed below in this section. Notwithstanding the forgoing, if the Commission has, pursuant to its discretion in Section 5.3.10, voted to lift a stay based on a design submitted by a previous owner, the Building Commissioner, in conjunction with the Preservation Commission Staff, may approve and issue a Demolition Permit without having the new owner file a new Demolition Permit application for that design.

3. Amend Section 5.3.7 of the Town's General By-Laws as follows:

> Within ~~20~~ **30** Business Days of an Initial Determination that the building falls into one or more of the categories in Section 5.3.5, the Commission shall review the Application and Initial Determination, without reference to any proposed replacement use or design, at a public hearing with notice given as provided in Section 5.3.12 to determine whether the building is significant as defined in Section 5.3.2.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

This article is being submitted by the Preservation Commission in an effort to improve Article 5.3 of the Town's General By-Laws: the Demolition Delay By-Law. The Commission is proposing three changes:

Amend Section 5.3.4

Article 5.3 operates to slow the process of demolition of Significant Buildings by imposing a delay on when an owner can demolish all or part of their structure. When demolition is stayed, the owner has an incentive to work with the Commission towards a solution that preserves some of the building. A delay can potentially last as long as a year or in some cases 18 months, but in the 20 cases where owners worked with the Commission last year, 19 were resolved, and had the stay lifted before it expired, allowing the owners to proceed with their planned work.

In recent years, however, the Preservation Commission has seen an increase in full demolition applications for buildings that are for sale or about to be put on the market, in which the applicant has no plans to demolish the building. In these cases, the applicant has decided that starting the clock of a possible demolition delay will make the property more saleable by eliminating or reducing the requirement for a future owner to wait out the delay. This practice removes any incentive to work with the Commission to reduce the delay. The current owner has no incentive to work with the Commission, because they intend to sell the building, not demolish it. Any future buyer also has no incentive to work with the Commission, because the original applicant has already run out the clock on the delay period. In 2017, 12 full demolition applications followed this pattern. These cases take up a significant amount of time and effort, and the Commission and staff feel they could better serve the public and the town if applicants did not approach the demolition by-law in this way. Therefore, the Commission is proposing to add a new section making applications for demolition permits non-transferable. If a building is sold, the new owner would have to reapply for a demolition permit, and the delay period would restart.

The Commission has provided exceptions to this situation, as when an owner applies for a demolition permit and then works with the Commission to develop an approved design before selling the project. Similarly, a prospective buyer with a plan for a full or partial demolition can have the original owner apply and utilize that plan. If the Commission approves the design, the prospective buyer may purchase the property and commence with the agreed-upon project without having to file for a new demolition permit.

Amend Section 5.3.2
In addition, this article seeks to clarify the definition of partial demolition, and to codify existing practice. Current lack of clarity has led to different interpretations of whether a project constitutes demolition, by applicants, staff, the Preservation Commission, and the Building Department, making it difficult to interpret and apply the By-Law consistently.

Amend Section 5.3.7
Currently, staff and the Preservation Commission are required to hold a scheduled public hearing, and make a determination of significance of a building, within 20 business days of an initial finding of significance by staff. The Preservation Commission regularly meets the second Tuesday of the month, though due to legal notice requirements, and the variations by month of the yearly calendar, there are instances when an application is received and cannot properly be publicly noticed and heard within the 20 business day window. This article proposes to extend that window to 30 business days. This change will only affect those rare applications whose timing would have forced the Commission to schedule a special meeting to avoid running out of time due to a quirk of the calendar. As the Commission intends to maintain its current meeting schedule, most applications will be heard just as promptly as they would have been absent the amendment.

PLANNING BOARD REPORT AND RECOMMENDATION

This warrant article, submitted by the Preservation Commission, proposes three revisions to improve the existing Demolition Delay By-Law (Article 5.3 of the Town General By-Laws): 1) eliminate the transferability of demolition stays from one property owner to another, 2) clarify the definition of partial demolition, and 3) extend the amount of time the Commission has to hold a public hearing on applications for demolition from twenty to thirty days after a determination of initial significance.

Although this is not a zoning amendment, the Planning Board has had a chance to meet with the Preservation Commission and staff to discuss these proposed changes. It is fully supportive of the revisions. There is frequent overlap in cases that the Planning Board and Preservation Commission review because many that need zoning relief also need Preservation Commission approval for lifting demolition stays or, if located in a local historic district, approval for design changes to the exterior of buildings visible from a public way. The Planning Board agrees that demolition delays should be tied to the current owner of record of a building to prevent owners, who plan to sell their house, from starting the time clock on demolition applications in anticipation that a future owner may want to demolish the house. If the number of demolition cases can be reduced by limiting the occurrence of property sellers

applying for demolition permits prior to sale, the incentive for purchasers to tear down a house before exploring alternatives with the Preservation Commission will be reduced. The Preservation Commission's review process on new designs, including modifications and additions, significantly improves the quality of new construction throughout Brookline.

The Planning Board understands the importance of having clear, understandable and consistent regulations and guidelines because many citizens who come before the Planning Board with proposals that need zoning relief do not understand the complex and often complicated set of zoning rules. The Preservation Commission's proposed revisions to its Demolition By-Law will codify existing practices, clarify definitions of what qualifies as partial demolition and make it easier for applicants to navigate the demolition process. It will also reduce time constraints on staff. The Planning Board, like the Preservation Commission, seeks to maintain and enhance the character of Brookline's built environment and therefore supports this warrant article and believes the recommended changes to procedures and protocols will benefit the Town.

Therefore, the Planning Board recommends **FAVORABLE ACTION** on Article XVIII as proposed.

SELECT BOARD'S RECOMMENDATION

Article 18 is By-Law amendment submitted by the Preservation Commission, which proposes amendments to the Demolition Delay By-Law. The Article looks to add a new section making applications for demolition permits non-transferable. This section would address a current practice where demolition applications for buildings that are for sale or about to be put on the market are done to start the clock of a possible demolition delay in order to make the property more saleable by eliminating or reducing the requirement for a future owner to wait out the delay. The article also proposes to clarify the definition of partial demolition and extend the amount of time the Commission has to hold a public hearing on applications for demolition from twenty to thirty days.

The Board is supportive of these changes as they provide more clarity for the Demolition Delay process and provides some efficiency and relief to staff.

A unanimous Select Board voted FAVORABLE ACTION on the motion offered by the Advisory Committee.

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Article 18 has been placed on the Warrant by the Preservation Commission. Favorable Action on this Article would modify Section 5.3 of the General By-law, which provides for delaying the demolition of "Significant Buildings"–buildings that "reflect distinctive features of the architectural, cultural, political, economic or social history of the Town

and/or Commonwealth." The by-law calls for an applicant desiring to demolish a building to apply for a permit. The amendment would clarify how "demolition" is defined. This amendment is a general by-law, not a zoning by-law, so it requires a majority vote by Town Meeting, not a two-thirds vote. The Advisory Committee unanimously recommends Favorable Action on a slightly amended version of the Article as it appears in the Warrant.

BACKGROUND:
Article 18 has been proposed by the Preservation Commission as a way to clarify the term "demolition," because that term has been defined differently by different Town departments and agencies. Moreover, the definition used by the Preservation Commission has shifted as a result of staff changes. Working from a clear, common definition will reduce the number of cases that need to be reviewed in depth by the Preservation Commission staff.

The Preservation Commission staff follows a set procedure to determine whether the building falls in to one of several categories of buildings for which a demolition permit may be withheld for either 12 or 18 months, depending on the category. The procedure entails a review in depth of the significance of the building and the impact of the proposed changes, whether an addition, an alteration such as a change to the façade, or complete demolition. Reviews take staff significant time. Staff expect that the number of cases that need to be reviewed will be reduced if the by-law change is approved.

The proposed change also gives the Preservation Commission staff 30 days to make a determination rather than the current 20 days, which allows reviews to be scheduled for the regular monthly meetings of the Preservation Commission. That will eliminate the need for the Commission to hold two meetings in any given month, a possibility that arises when an application arrives less than 10 after a Commission meeting.

DISCUSSION:
The Preservation Commission worked with Town Counsel, the Building and Planning staffs and with attorneys active in the Brookline real estate market to develop language that clarifies the term "demolition." Subsequently, the Commission staff worked with the Advisory Committee to make the language somewhat more straightforward.

The proposed language for Section 5.3.2.h:, with additions in **bold** and deletions in ~~strikethrough~~:

h. "Demolition" – (~~a~~ **i**) the act of pulling down, destroying, removing or razing a Building or a significant portion thereof, by **substantially** removing **or substantially covering** one side **or removing 25% or covering 25% of the exterior walls** of the building, or **substantially** removing **or substantially altering** the roof~~, or removing 25% of the structure~~; (ii) moving a Building from its site with no permitted new location for said Building; (iii) in the case of a Building within Section 5.3.5(b), substantially gutting (as defined by the Preservation Commission per section 5.3.14) an interior space that has generally been open to the public and is integral to the historic character of the building;

(iv) in the case of a building within Section 5.3.5(b), the systemic removal, effacement, or destruction of the exterior architectural elements which define or contribute to the historic character of the Building, or (v) commencing any of the foregoing work. "Demolition" as used herein shall be deemed to include Demolition by Neglect.

> ***Explanation:*** By specifying that removing or covering 25% of the exterior walls is demolition, the amended by-law would give the Commission and property owners alike a clear metric. The term "substantially" is not similarly exact, but it is used extensively in the zoning bylaw, and it gives the Commission and property owners a guideline when less than total removal, covering, or alteration of a building is proposed.

Add a new Section 5.3.4.d:

d. An application for a Demolition Permit is valid only with respect to the owner(s) of record at the time it is delivered to the Preservation Commission Staff, unless otherwise provided for in this section. In the event of an arm's length transfer of ownership and control of a Significant Building, no Demolition Permit shall be issued until the new owner files a new application and complies with the procedures set forth in Section 5.3.3 through Section 5.3.12. An applicant for a Demolition Permit shall certify to the satisfaction of Preservation Commission Staff, immediately prior to its issuance, that there has been no change as the result of an arm's length transfer of ownership and control subsequent to the delivery of the application to the Preservation Commission Staff, and the Building Commissioner shall not issue a Demolition Permit without Preservation Commission Staff certification or evidence that the applicant intends to take advantage of the exemption listed below in this section. Notwithstanding the foregoing, if the Commission has, pursuant to its discretion in Section 5.3.10, voted to lift a stay based on a design submitted by a previous owner, the Building Commissioner, in conjunction with the Preservation Commission Staff, may approve and issue a Demolition Permit without having the new owner file a new Demolition Permit application for that design.

> ***Explanation:*** Many of the cases reviewed by the Commission are the result of an application for demolition that is submitted by an owner who plans to put the property on the market. Under the current by-law, if the property is subsequently sold, the demolition delay previous imposed by the Commission continues to count down from the initial date of the delay. The proposed new Section 5.3.4.d. means that a permit issued to one owner would not carry over to a new owner who has come into possession as a result of an arms-length transfer without a new application and review. But a transfer to an immediate family member or a family trust would be exempted, and the existing delay would continue to count down.

And modify Section 5.3.7:

Within ~~20~~ **30** Business Days of an Initial Determination that the building falls into one or more of the categories in Section 5.3.5, the Commission shall review the Application and

Initial Determination, without reference to any proposed replacement use or design, at a public hearing with notice given as provided in Section 5.3.12 to determine whether the building is significant as defined in Section 5.3.2.

> ***Explanation:*** This change simply synchronizes the Commission's monthly meeting routine with its consideration of applications for demolition permits. As noted above, the Commission meets every month, but it has only 20 days to rule on a demolition application. If an application arrives less than 10 days after the Commission has met, the Commission would have to meet within 20 days to act on the application, since the 20-day period would expire before the Commission's regularly scheduled meeting. The change does not seriously delay action for property owners, but it does alleviate the need for extra Commission meetings.

RECOMMENDATION:
By a vote of 24–0–0 the Advisory Committee recommends FAVORABLE ACTION on the following motion:

VOTED: That the Town amend the Section 5.3 of the Town's General By-Laws as follows:

(language to be deleted from a section appears in ~~strikethrough~~; new language appears in **bold**)

1. Amend Section 5.3.2.h of the Town's General By-Laws as follows:

h. "Demolition" – (~~a~~ **i**) the act of pulling down, destroying, removing or razing a Building or a significant portion thereof, by **substantially** removing **or substantially covering** one side **or removing 25% or covering 25% of the exterior walls** of the building, or **substantially** removing **or substantially altering** the roof~~, or removing 25% of the structure~~; (ii) moving a Building from its site with no permitted new location for said Building; (iii) in the case of a Building within Section 5.3.5(b), substantially gutting (as defined by the Preservation Commission per section 5.3.14) an interior space that has generally been open to the public and is integral to the historic character of the building; (iv) in the case of a building within Section 5.3.5(b), the systemic removal, effacement, or destruction of the exterior architectural elements which define or contribute to the historic character of the Building, or (v) commencing any of the foregoing work. "Demolition" as used herein shall be deemed to include Demolition by Neglect.

2. To amend Section 5.3.4 of the Town's General By-Laws by adding the following new Section 5.3.4.d:

d. An application for a Demolition Permit is valid only with respect to the owner(s) of record at the time it is delivered to the Preservation Commission Staff, unless otherwise provided for in this section. In the event of an arm's length transfer of ownership and control of a Significant Building, no Demolition Permit shall be issued until the new owner files a new application and complies with the procedures set forth in Section 5.3.3 through Section 5.3.12. An applicant for a Demolition

Permit shall certify to the satisfaction of Preservation Commission Staff, immediately prior to its issuance, that there has been no change as the result of an arm's length transfer of ownership and control subsequent to the delivery of the application to the Preservation Commission Staff, and the Building Commissioner shall not issue a Demolition Permit without Preservation Commission Staff certification or evidence that the applicant intends to take advantage of the exemption listed below in this section. Notwithstanding the foregoing, if the Commission has, pursuant to its discretion in Section 5.3.10, voted to lift a stay based on a design submitted by a previous owner, the Building Commissioner, in conjunction with the Preservation Commission Staff, may approve and issue a Demolition Permit without having the new owner file a new Demolition Permit application for that design.

3. To amend Section 5.3.7 of the Town's General By-Laws as follows:

Within ~~20~~ **30** Business Days of an Initial Determination that the building falls into one or more of the categories in Section 5.3.5, the Commission shall review the Application and Initial Determination, without reference to any proposed replacement use or design, at a public hearing with notice given as provided in Section 5.3.12 to determine whether the building is significant as defined in Section 5.3.2.

The amended sections of the General By-Law would thus read as follows (clean copy):

<u>Section 5.3.2.h.</u> "Demolition" – (i) the act of pulling down, destroying, removing or razing a Building or a significant portion thereof, by substantially removing or substantially covering one side or removing 25% or covering 25% of the exterior walls of the building, or substantially removing or substantially altering the roof; (ii) moving a Building from its site with no permitted new location for said Building; (iii) in the case of a Building within Section 5.3.5(b), substantially gutting (as defined by the Preservation Commission per section 5.3.14) an interior space that has generally been open to the public and is integral to the historic character of the building; (iv) in the case of a building within Section 5.3.5(b), the systemic removal, effacement, or destruction of the exterior architectural elements which define or contribute to the historic character of the Building, or (v) commencing any of the foregoing work. "Demolition" as used herein shall be deemed to include Demolition by Neglect.

<u>Section 5.3.4.d:</u> An application for a Demolition Permit is valid only with respect to the owner(s) of record at the time it is delivered to the Preservation Commission Staff, unless otherwise provided for in this section. In the event of an arm's length transfer of ownership and control of a Significant Building, no Demolition Permit shall be issued until the new owner files a new application and complies with the procedures set forth in Section 5.3.3 through Section 5.3.12. An applicant for a Demolition Permit shall certify to the satisfaction of Preservation Commission Staff, immediately prior to its issuance, that there has been no change as the result of an arm's length transfer of ownership and control subsequent to the delivery of the application to the Preservation Commission Staff, and the Building Commissioner shall not issue a Demolition Permit without

Preservation Commission Staff certification or evidence that the applicant intends to take advantage of the exemption listed below in this section. Notwithstanding the foregoing, if the Commission has, pursuant to its discretion in Section 5.3.10, voted to lift a stay based on a design submitted by a previous owner, the Building Commissioner, in conjunction with the Preservation Commission Staff, may approve and issue a Demolition Permit without having the new owner file a new Demolition Permit application for that design.

Section 5.3.7: Within 30 Business Days of an Initial Determination that the building falls into one or more of the categories in Section 5.3.5, the Commission shall review the Application and Initial Determination, without reference to any proposed replacement use or design, at a public hearing with notice given as provided in Section 5.3.12 to determine whether the building is significant as defined in Section 5.3.2.

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ARTICLE 19

NINETEENTH ARTICLE

Submitted by: Neil Gordon, TMM1, Andrew Fischer, TMM13

Subject: Restricting Leafblower Use on Sidewalks and Ways

To see if the Town will vote to amend Section 8.31.3 of the Town's General by-laws, LIMITATIONS ON USE, as follows (language to be deleted from Section 8.31.3 appearing in ~~strikethrough~~, and new language appearing in **bold underline**):

SECTION 8.31.3: LIMITATIONS ON USE

a. No Property Owner or Property Manager shall authorize or permit the operation of leaf blowers on property under their control, ~~or on the sidewalks or ways contiguous to such property,~~ nor shall any person operate a leaf blower, except between March 15th and May 15th and between October 1st and December 31st in each year, and except for leaf blowers powered by electricity which are exempt from this seasonal usage limitation. The provisions of this Section 3.a. shall not apply to nonresidential property owners but only with respect to parcels of land that contain at least five acres of open space.

b. No Property Owner or Property Manager shall authorize or permit the operation of leaf blowers on property under their control, ~~or on the sidewalks or ways contiguous to such property,~~ nor shall any person operate a leaf blower, except between the hours of 8 (eight) A.M. to 8 (eight) P.M. Monday through Friday, and from 9 (nine) A.M. to 6 (six) P.M. on Saturdays, Sundays and legal holidays.

c. On land parcels equal to or less than 7,500 (seven thousand five hundred) square feet in size, no Property Owner or Property Manager or User shall operate or authorize the operation of more than 2 (two) leaf blowers on such property simultaneously. ~~This limitation shall also apply to sidewalks and roadways contiguous to such parcel.~~

d. No Property Owner or Manager shall authorize the operation of any leaf blower and no person shall operate a leaf blower which does not bear an affixed manufacturer's label or a label from the Town indicating the model number of the leaf blower and designating a noise level not in excess of sixty-seven (67) dBA when measured from a distance of fifty feet utilizing American National Standard Institute (ANSI) methodology on their property. Any leaf blower bearing such a manufacturer's label or Town label shall be presumed to comply with the approved ANSI Noise Level limit under this By-law. However, Leaf Blowers must be operated as per the operating instructions provided by the manufacturer. Any modifications to the equipment or label are prohibited. However, any leaf blower(s) that have been modified or damaged, as determined visually by anyone who has enforcement authority for this By-law, may be required to have the unit tested by the Town as provided for in this section, even if the unit has an affixed manufacturer's ANSI or Town

label. The Controller of any leaf blower without a manufacturer's ANSI label on such equipment may obtain a label from the Town by bringing the equipment to the town's municipal vehicle service center or such other facility designated by the Town for testing. Such testing will be provided by the Town's designated person for no more than a nominal fee (which shall be nonrefundable) and by appointment only at the Town's discretion. If the equipment passes, a Town label will be affixed to the equipment indicating Decibel Level. In the event that the label has been destroyed, the Town may replace it after verifying the specifications listed in the Controller's manual that it meets the requirements of this By-law.

e. No Property Owner or Property Manager shall authorize or permit the operation of leaf blowers on property not under their control, including but not limited to the sidewalks and ways contiguous to such properties, and no person shall operate a leaf blower except on private property with the authorization or permission of the Property Owner or Property Manager.

f. No Property Owner or Property Manager shall authorize or permit the operation of leaf blowers in a manner that intentionally distributes leaves or other debris beyond the property under their control, without the express consent of the owner of such property.

The provisions of this Article 8.31.3 shall not apply to the use of leaf blowers by the Town, its employees or contractors while performing work for the Town.

Or take any other action relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

Brookline's Bylaws currently provide for a number of limitations on leafblower use. This warrant article proposes two additional restrictions: (i) prohibiting the use (other than by the Town) of leafblowers on public sidewalks and ways, and (ii) prohibiting the blowing of leaves and other debris from private property onto public sidewalks and ways.

Rationale for expanding the Bylaw's restrictions:

Town Meeting has debated leafblower restrictions before, and the arguments, both pro and con, regarding leafblower use and regulation are well known to most Town Meeting Members. The petitioners see no need to rehash those arguments here, and believe that the issue being addressed by this warrant article is straightforward.

Sidewalks and ways are easily swept with a broom. The proposed restrictions on leafblower use do not impose any significant added burden or cost. Let's let pedestrians and others use our sidewalks and ways as intended, without the disruption and annoyance of unnecessary leafblower use.

ADDITIONAL EXPLANATION FROM THE PETITIONERS

The filing of a warrant article proposing a bylaw amendment that would ban leaf blower use on our sidewalks has, predictably, precipitated renewed and often contentious discussions that have gone well beyond the scope of the warrant article. In a more positive light, it has also renewed a healthy conversation between the petitioners and the landscaper community, particularly Faith Michaels (TMM5), a leader in educating that community regarding best practices and compliance with Brookline's current leaf blower and noise bylaws.

Faith has recently begun an effort to further educate and inform the landscaper community regarding best practices for treating our Brookline neighbors fairly and with respect, and especially in those close encounters between leaf blowers and pedestrians. Faith is also continuing her conversations with Town staff regarding improved compliance and enforcement. The petitioners appreciate these efforts, and hope that they will be matched by the Town, in showing the kind of commitment to compliance and enforcement as Faith has shown with respect to education.

With fall leaf season upon us, the proposed bylaw amendment would not have a significant effect until after the Spring town meeting. Thus, the petitioners believe that stronger enforcement by the Town, added to the added outreach and education, would be more effective than a change in the law at this time.

Accordingly, petitioners look forward to a more civil fall cleanup period, and do not intend on moving warrant article 19 at Town Meeting.

SELECT BOARD'S RECOMMENDATION

The petitioners for Article 19 have decided to withdraw their article. The Board unanimously recommends NO ACTION under this article.

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:

Article 19 seeks to amend Section 8.31.3 of the Town's General By-Laws, which deals with limitations on the use of leaf blowers. The Article would prohibit the operation of any leaf blowers on public sidewalks and public streets and on other than private property. It would also ban the operation of leaf blowers in a manner that intentionally blows leaves or other debris onto Brookline sidewalks and public ways and from one property onto another property without the express consent of the owner of the property onto which the leaves or debris are being blown. None of these provisions would apply to the use of leaf blowers by the Town, or its employees or contractors while performing work for the Town.

The Advisory Committee has been informed that no motion will be offered under Article 19. The Committee therefore makes no recommendation.

BACKGROUND:
Since 2008 the question of whether, and to what degree, the use of leaf blowers in Brookline should be restricted or banned has been considered repeatedly by Town Meeting, the Select Board, the Advisory Committee, and multiple Town departments and commissions (including the Department of Public Works, Parks and Recreation, the Police Department, the Advisory Council on Public Health, and the Selectmen's Noise By-Law Committee). Extensive data has been collected on the subject, and detailed reports and recommendations have been issued.

The November 2008 Special Town Meeting approved Warrant Article 9 on leaf blowers, resulting in new Noise Control By-Laws restrictions. The November 2011 Special Town Meeting (Article 9) created a separate Leaf Blower By-Laws section (Article 8.31). At the November 2015 Special Town Meeting, there were two competing proposals for new leaf blower regulations on the Warrant, which resulted in the creation of a seven-member Moderator's Committee on Leaf Blowers. The committee issued a final report on October 27, 2016 and submitted Articles 23 and 24 to the November 2016 Special Town Meeting, which modified existing by-laws (Article 23) and created a leaf control officer (Article 24). An ad hoc Advisory Committee Subcommittee was formed to make recommendations on these articles, which were accepted by the petitioners. Both articles passed by wide margins at the November 2016 Special Town Meeting (Article 23 by a vote of 114–68–3 and Article 24 by a vote of 115–65–5).

After the Public Safety Subcommittee of the Advisory Committee had held a public hearing on Article 19, the petitioners informed the Advisory Committee that they had decided not to offer a motion under Article 19.

RECOMMENDATION:
The Advisory Committee has been informed that no motion will be offered under Article 19. The Committee therefore makes no recommendation.

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ARTICLE 20

TWENTIETH ARTICLE

Submitted by: Jonathan Davis, TMM10

To see if the Town will amend the Zoning By-Law by adding the following Section 5.23:

"5.23 – SPECIAL RULES WITH RESPECT TO THE TRANSIT PARKING OVERLAY DISTRICT

1.a. With respect to any lot that is in whole or in part located within the Transit Parking Overlay District, the term "EXCESS" means the amount (if any) by which (a) exceeds (b) – wherein (a) is the off-street parking space requirements under Section 6.02, Paragraph 1, Table Of Off-Street Parking Space Requirements for the building or group of buildings located in whole or in part upon such lot as if the Transit Parking Overlay District did not exist, and (b) is the aggregate number of lawful off-street parking spaces actually provided by the building or group of buildings located in whole or in part upon such lot. In determining the EXCESS: the number of off-street parking spaces not actually provided due to variance shall nevertheless be added to (b); the number of off-street parking spaces not actually provided due to a lawful non-conforming structure or use shall nevertheless not be included in (a); and the number of off-street parking spaces not actually provided due to a previous payment under 1.c, below, with respect to the same structure shall nevertheless be added to (b).

b. Notwithstanding the requirements of Section 5.00 and the Table of Dimensional Requirements Table 5.01, the maximum Floor Area Ratio under the Table of Dimensional Requirements for residential use on any lot that is, in whole or in part, located within the Transit Parking Overlay District shall be reduced by reducing the maximum Gross Floor Area that would result in the aforementioned maximum Floor Area Ratio for such lot, such reduction to be the product of Three Hundred Forty Nine (349) square feet multiplied by the EXCESS (if there is an EXCESS). The maximum Floor Area Ratio as so reduced shall be rounded down or up to the nearest one hundredth. Such reduction of the lot's maximum Floor Area Ratio shall not cause the lot to be removed from its zoning district.

c. In lieu of the foregoing reductions in maximum Gross Floor Area and maximum Floor Area Ratio there may instead be contributed to the Town's Housing Trust the product of $31,000 multiplied by the EXCESS as hereabove determined. Upon such contribution the maximum Gross Floor Area and the maximum Floor Area Ratio shall not be reduced as hereabove set forth. Such contribution shall be independent of any action or contribution required or allowed under Section 4.08."

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

In 2016 Town Meeting enacted a zoning provision that gave developers an offer they would find hard to refuse: "If you build non-40B residential developments in one of the most densely populated parts of Massachusetts, in a place where you would already want to build because it is so desirable, then Brookline will allow you to build in a way that will lower your costs and increase your profits, just for doing what you would want to do anyway. If you build outside this part of Brookline you will not receive the economic benefit." The petitioner believes that the zoning provision encourages non-40B residential development in a part of Brookline that is already extraordinarily developed, and that encouraging further development is an unintended consequence of the provision. The article now being offered is a modest effort to require something back from non-40B residential developers in return for the economic benefit afforded them. Perhaps, too, it may push developers to provide more green space and push developers to make additional contributions to the Town's Housing Trust for affordable housing.

Zoning By-Law Section 3.01 Paragraph 4e establishes a "Transit Parking Overlay District" ("TPOD"), within which the off-street parking space requirements are lower than the off-street parking space requirements in the rest of Brookline. The TPOD is essentially North Brookline.

It is well known that North Brookline is the site of many new and planned "chapter 40B" (20% affordable 80% market rate) multifamily residential developments. But, since the advent of the TPOD, North Brookline has also been the site of many new and planned "chapter 40A" (that is, non-40B) multifamily residential developments. These are market rate developments (although developments of 6 units or greater – whether located outside the TPOD or within the TPOD – are subject to the Town's affordable housing requirements under Zoning By-Law Sec. 4.08). [1]

The TPOD's off-street parking requirements benefit 40A residential developers by reducing their costs. (See, Combined Reports, Special Town Meeting November, 2016, pp. 19-7; 19-14). In exchange for reducing 40A residential developers' costs for building within the TPOD and building less off-street parking the zoning by-law requires nothing. There is no requirement that those developers pass along their cost savings to their tenants or condo unit purchasers: instead, developers – who are in business to make money – are free to pocket the cost savings and price their products at whatever the market will bear. There is no requirement that 40A residential developers within the TPOD provide better design, occupy less FAR, provide more green space, lower height, increase setbacks, or do anything else. The TPOD is a gift to 40A residential developers who build in the TPOD, wrapped in the hope that they will voluntarily return the favor.

Meanwhile, data from Brookline's GIS Department is that the TPOD has a density of .005626 persons per square foot. Using the GIS' Department's figures, if the TPOD were its own municipality the TPOD would be the fourth most densely populated municipality in Massachusetts. (See attached spreadsheet, which uses the GIS Department's

numbers). The TPOD would be less densely populated than only Somerville, Cambridge and Chelsea, but it would be more densely populated than all other municipalities, including Boston, Everett, Malden, Worcester, Springfield, Lawrence and Lowell.

> Including the TPOD in Brookline makes Brookline the tenth densest municipality in Massachusetts. Without the TPOD, the rest of Brookline would drop to forty third most dense, between Braintree and Reading.

The article would take a modest step towards requiring something back from developers of 40A residential developments in the TPOD - one of the most densely populated parts of the state and by far the most densely populated part of Brookline - in exchange for lowering their costs and increasing their profits when they build in what is already one of the state's most desirable locations.

The article consists of two parts.

The first part would reduce the computation of the maximum Floor Area Ratio (FAR) permitted for new residential development located wholly or partly within the TPOD to the extent residential development makes use of the TPOD's lower off-street parking requirements rather than the regular residential off-street parking requirements that apply in the rest of Brookline. It is hoped that a reduction in maximum FAR may lead to more green space, or a lower height, or wider setbacks, or fewer units, or some combination that the developer puts together.

The maximum Floor Area Ratio (FAR) for a zoning district is set by the Zoning By-Law. Somewhat simplified, FAR is the ratio (or quotient) of the greatest amount of Gross Floor Area that is permitted to be built divided by lot size. (Gross Floor Area is defined in Zoning By-Law sec. 2.07). For example, if a lot is located in a zoning district with a 2.0 FAR, and if the lot consists of 6,000 sq. feet, the maximum Gross Floor Area that can be built in the development (without special permit, variance or other special rule) is 12,000 sq. feet. 6,000 sq. ft. lot x 2.0 maximum FAR = 12,000 sq. ft. maximum Gross Floor Area. Put another way, 12,000 sq. ft. Gross Floor Area / 6,000 sq. ft. lot size = 2.0 FAR.

For residential buildings located in whole or in part on lots that are in whole or in part within the TPOD, the article reduces maximum Gross Floor Area (that is, reduces the numerator of the fraction) by 349 square feet for each parking space that the development does not lawfully provide because the building benefits from its lot being located, in whole or in part, within the TPOD. The effect is to reduce the maximum FAR for the building. The article rounds the quotient (the maximum FAR for the building) up or down to the nearest one hundredth. In the language of the article, the aggregate of off-street parking spaces that the development does not provide because of the TPOD is called the "EXCESS".

349 square feet is derived as follows. Zoning By-Law Sec. 6.04 Par. 2a provides that the standard parking stall minimum width shall be 8.5 feet. Then, Sec. 6.04 . Par. 2b provides that standard stall minimum depth shall be 18 feet for angle parking. Then, Sec. 6.04 Par. 2c Table 6.01 provides the minimum aisle width for 90 degree angle parking for

the standard stall shall be 23 feet. Using the above minimum requirements, the size of a standard stall is 8.5 ft. x 18 ft. = 153 sq. ft.; and, imagining a car backing out of the standard stall, the amount of space required for the car in the aisle is 8.5 ft. x 23 ft. = 195.5 sq. ft. The total of the stall and aisle square footage is 153 sq. ft. + 195.5 sq. ft. = 348.5 sq. ft. rounded up = 349 sq. ft.

Here is an illustration of how the article would apply:

Assume a developer wishes to build a non-40B residential building to be located in whole or in part on a lot that is located in whole or in part within the Transit Parking Overlay District (the TPOD). Assume that the maximum Floor Area Ratio (FAR) for the lot is 2.0 – for example, in an M-2 district. If the lot is 6,000 sq. ft., then, applying the maximum FAR for the lot, the maximum Gross Floor Area would be 12,000 sq. ft. (FAR of 2.0 x 6,000 sq. ft. lot size = 12,000 sq, ft). If the developer has designed the building to provide only 10 lawful off-street parking spaces and this is permitted in the TPOD; but if the TPOD did not exist Zoning By-Law Section 6.02 Paragraph 1 Table Of Off-Street Parking Space Requirements would require the building to provide at least 13 off-street parking spaces, then the EXCESS is 3 – and, as a consequence, the maximum Gross Floor Area for the lot shall be reduced by the product of 3 multiplied by 349 sq. ft. = 1,047 sq. ft.; and the maximum Floor Area Ratio for the lot shall be reduced to 1.83, which is the quotient of (12,000 sq. ft. maximum Gross Floor Area – 1,047 sq. ft. reduction for utilizing the TPOD benefit) / 6,000 sq. ft. lot size = 1.8255 = 1.83.

If the developer has designed the building so that it will have an FAR of 1.83 or less, then the article would have no practical effect on the development (except, perhaps, to have influenced the developer to build a smaller building). But, if the developer has designed the building to have an FAR of greater than 1.83 and also to benefit from the TPOD off-street parking requirements then either the building will have to be redesigned to reduce its FAR to at least 1.83, or, instead, there would have to be a contribution to the Town's Housing Trust, as will be described below. The alternative of making a contribution to the Town's Housing Trust is the second part of the article.

[At this point, it should be mentioned that the article requires that certain adjustments be made in determining the EXCESS. The adjustments are to try to isolate the benefit provided to the developer by the TPOD. The adjustments occur in the following situations:

> if the Zoning Board of Appeals orders a variance that reduces off-street parking spaces;
>
> if off-street parking spaces are not required to be provided due to nonconforming structure or use; or
>
> if – as will be discussed below – a payment was previously made to the Town's Housing Trust to previously avoid reduction in maximum Gross Floor Area and maximum FAR.

In these cases, the effect of the adjustment is to reduce the EXCESS by the number of off-street parking spaces not required due to variance, non-conformity, or payment on a previous occasion to the Housing Trust. The language in the article to implement this concept is more complicated, but that is the intention.]

Turning to the second part of the article, in lieu of having to reduce maximum FAR a developer may, instead, contribute to the Town's Housing Trust the product of $31,000 for each parking space that is not provided because the building benefits from the lot being located, in whole or in part, within the TPOD – that is, $31,000 multiplied by the EXCESS. If such a contribution is made, the maximum Gross Floor Area and maximum FAR do not have to be reduced. For example, in the previous illustration, if the development benefits from the TPOD off-street parking requirements by 3 parking spaces (that is, there is a 3 parking space EXCESS), a contribution of $93,000 – that is, 3 x $31,000 per parking space - may be made to the Town's Housing Trust in order to avoid the reduction of maximum FAR. (If the development was designed to have an FAR of 1.83 or less the FAR reduction would have no practical effect on the development; and, similarly, the contribution to the Housing Trust would be unnecessary).

Note that 40A residential developments of between 6 and 15 units – whether located within the TPOD or outside the TPOD - are required under Zoning By-Law Section 4.08 to include affordable units or make a contribution to the Town's Housing Trust. And, 40A residential developments of greater than 15 units must provide affordable units (on site or elsewhere). Under the article, the $31,000 per off-street parking space contribution would be independent of any affordable unit or monetary contribution under Section 4.08.

> Also, under the article, once a $31,000 contribution is made, if there is future development of the same structure the structure is considered to provide an additional off-street parking space because of the prior contribution. This is one of the previously mentioned adjustments to the determination of the EXCESS.

Where does $31,000 per off-street parking space come from? It is on the low end of industry and academic studies of the cost of building underground parking spaces in the Boston area. (See, for example, Victoria Transport Policy Institute/www.vtpl.org "Transportation Costs and Benefit Analysis II – Parking Costs" at pp 5.4-7; Donald Shoup "The High Cost of Minimum Parking Requirements" at Table I, in shoup.bol.ucla.edu/HighCost).

In summary, the TPOD is one of the most densely populated parts of the Commonwealth and also one of the most desirable places to build multifamily developments. The TPOD is an area that is already beset with not only an unprecedented number of 40B residential developments but, also, a large and increasing number of 40A residential developments. The TPOD off-street parking rules benefit 40A residential developers by encouraging them to reduce their costs.

The article does not increase off-street parking requirements above the TPOD requirements. Under the article TPOD off-street parking requirements are unchanged. Developments within the TPOD will still be subject to the TPOD parking requirements.

Under the article, if developers plan and build within the reduced maximum FAR the physically smaller developments would benefit the community, perhaps by increasing setbacks and thereby increasing green space, reducing density, or reducing height. Or, instead, if developers plan and build in excess of the reduced maximum FAR the article would bring more money into the Town's Housing Trust.

Either way, the Town (and North Brookline – which has a target on its back) would turn a giveaway to developers into a public benefit that is tied to the economic benefit that the TPOD bestows on developers.

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1 Some of the 40A developments in North Brookline since the advent of the TPOD are 54 Auburn Street, 54 Harvard Avenue, 71 Winchester Street, 20 Marion Street, 24-26 Fuller Street, and 20 Boylston Street. Another development, 111 Marion Street, is a special case that required variances. Another property, 75 Greenough Street, has been demolished, pending plans for denser development.

ADDITIONAL EXPLANATION PROVIDED BY THE PETITIONER

Introduction To Additional Explanation

This Additional Explanation of Article 20 consists of this Introduction and, also, the following three parts.

Part I - This is an expansion of a paragraph that appears in the original Explanation. That paragraph begins with the words: "Where does $31,000 per off-street parking space come from?"

Why is This Expansion Important? The expansion clarifies that the $31,000 figure is based on a 2012 survey. As such, the $31,000 is already less, due to inflation, than the current cost of actually building additional parking. This demonstrates that it would usually be less expensive for a TPOD developer who wishes to build larger than the article's "reduced maximum FAR" and build closer to the true maximum FAR to make a contribution to the affordable Housing Trust of $31,000 per EXCESS (per unbuilt) parking space rather than actually building an additional parking space at a higher cost. Given inflation, over time the incentive to contribute to the Housing Trust rather than actually building additional parking would tilt ever more heavily towards the advantage of contributing to the Housing Trust.

Part II - This is a revision of the first page of the density chart that is towards the back of the Explanation of article 20. The revised first page contains Brookline GIS Department figures for the land area of the TPOD and the population of the TPOD.

Why Is This Revision Important? The revision demonstrates, using GIS Department figures, that the land area of the TPOD is larger than the land area of entire Massachusetts cities (Chelsea, Everett and Winthrop) and larger than the land area of entire Massachusetts towns (Swampscott, Hull and Nahant). Also, that the population of the TPOD is larger than the population of these entire cities and towns. This supports the idea that the density of the TPOD is appropriately compared to entire municipalities, even though the TPOD lacks its own state charter and lacks its own municipal government.

The concept of comparing the density of the TPOD against Massachusetts municipalities is further supported by considering that the TPOD contains just about everything one would expect in a municipality - 3 K-8 schools, 1 high school, 2 libraries, 3 fire stations, 1 police station, several parks, and 4 shopping areas. The only thing the TPOD lacks is a state charter to be its own town or city.

Part III - This is a Q&A about article 20.

Part I – an expansion of one of the paragraphs in the original Explanation

"Where does $31,000 per off-street parking space come from? It comes from a **2012 survey** of the cost of building underground parking spaces in the Boston area. (See, for example, Victoria Transport Policy Institute/www.vtpl.org "Transportation Costs and Benefit Analysis II – Parking Costs" at pp 5.4-7; Donald Shoup "The High Cost of Minimum Parking Requirements" at Table I, in shoup.bol.ucla.edu/HighCost).

The US Bureau of Labor Statistics reports that between 2012 and August of 2018 there has been aggregate inflation in the national all urban consumers index of over 11%. Given that $31,000 is a 2012 figure, it would usually be less expensive for a TPOD developer who wishes to build closer to the true maximum FAR to make a contribution to the affordable Housing Trust of $31,000 per EXCESS (unbuilt) parking space rather than actually build an additional parking space at a higher cost. For those developers who want to build larger than the reduced maximum FAR future inflation will further tilt the incentive towards contributing to the Housing Trust rather than building additional parking.

For example, under the article, if a development has an EXCESS of 4 unbuilt parking spaces and if the current actual cost of building a space for that development is $50,000 (not the 2012 survey figure), and if the developer is not content with building within the reduced maximum FAR but, instead, wants to build above the reduced maximum FAR

and closer to the true maximum FAR - the developer has a choice of actually building four additional parking spaces at a total cost of $200,000 or, instead, making a contribution to the Housing Trust of $124,000 – either of which would reduce the EXCESS to 0, but the contribution to the Housing Trust would clearly be a smaller expense.

It should also be mentioned that, without article 20, the TPOD zoning by-law, by itself, already permits the developer to build additional parking if the developer thinks that is in his/her interest. The article does not change that part of the TPOD zoning by-law (or any other part of the TPOD zoning by-law).”

PART II

REALTOWN	TownID	Sum_ALAND10	Sum_AWATER10	Ave_TOWN_ID	Sum_POP100_RE	Sum_HU100_RE	Sum_Area	AvgPopDensitySqFt	AvgPopDensitySqFtLand
Somerville	783	10660871	36234	274	75754	33720	10696455.38	0.007082159	0.007105798
Cambridge	1095	16538139	747985	49	105162	47291	17285046.88	0.006083987	0.006358757
Chelsea	391	5729500	3874	57	35177	12621	5733024.057	0.006135854	0.006139628
TPOD(per GIS Dept)		8980429.5			50529				0.005626
Boston	7412	125037462	1655118	35	617594	272481	126684205.8	0.004875067	0.004939272
Everett	555	8871165	12719	93	41667	16715	8883375.524	0.004690447	0.004696903
Malden	766	13061735	99890	165	59450	25161	13160889.18	0.004517172	0.004551463
Lawrence	1038	17937604	1242740	149	76377	27137	19180442.56	0.003982025	0.004257927
Revere	754	14737359	92835	248	51755	22100	14829365.61	0.003490035	0.003511823
Winthrop	284	5114573	127607	346	17497	8320	5241865.639	0.003337934	0.003421009
Brookline (including TPOD. Without TPOD=43)	680	17482396	163083	46	58732	26448	17644319.63	0.003328663	0.003359494
Lynn	1052	27819875	1912965	163	90329	35776	29731426.59	0.003038166	0.003246923
Arlington	779	13328023	898396	10	42844	19974	14225617.89	0.00301175	0.00321458
Watertown	603	10342579	200795	314	31915	15584	10542720.47	0.003027207	0.003085787
Lowell	1845	35179716	2441990	160	106519	41431	37621231.04	0.002831353	0.003027853
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Brockton	1533	55239732	508602	44	93810	35552	55744651.24	0.001682852	0.001698234
Hull	372	7251208	49916	142	10293	5762	7300623.696	0.00140988	0.001419488
Stoneham	396	15589590	1631902	284	21437	9458	17220666.86	0.001244841	0.001375084
Winchester	461	15613420	818634	344	21374	7986	16431209.36	0.001300817	0.001368951
Wakefield	479	19051072	1554839	305	24932	10500	20605033.85	0.001209996	0.001308693
Randolph	512	25462926	1516040	244	32112	12008	26977053.74	0.001190345	0.001261128
Nahant	98	2708929	8612	196	3410	1677	2717385.743	0.001254883	0.0012588
Weymouth	853	43491751	2400723	336	53743	23480	45889239.97	0.001171146	0.001235706
Peabody	850	41988071	1424061	229	51251	22220	43410525.17	0.001180612	0.001220609
Woburn	765	32724500	806847	347	38120	16309	33529811.01	0.001136899	0.001164876
Wellesley	633	25944646	1303193	317	27982	9189	27245992.94	0.001027013	0.001078527
Norwood	661	26854021	419990	220	28602	12479	27272083.08	0.001048765	0.001065092
Framingham	1145	64848330	3788671	100	68318	27529	68632382.27	0.000995419	0.001053504
Fall River	1772	85811381	14139352	95	88857	42750	99950874.85	0.000889007	0.001035492
Beverly	672	39091336	861552	30	39502	16641	39951701.36	0.000988744	0.001010505
Braintree	816	35608882	1727504	40	35744	14302	37333760.8	0.000957418	0.001003795
Reading	405	25780217	47893	246	24747	9617	25827154.4	0.000958178	0.000959922
Saugus	639	27955747	1411381	262	26628	10775	29365684.27	0.000906773	0.000952505

Part III – Q & A

What's The Short Version of Article 20?

The TPOD by-law provides a cost saving and profit increase to residential developers who build within the TPOD (North Brookline) and use the TPOD minimum parking. But the TPOD is one of the most densely developed parts of the state and developers are already so eager to build in North Brookline that they don't need incentives. Meanwhile, the Nov. 2016 Combined Reports (CR) said that the TPOD by-law was supposed to create open space around new construction, and was supposed to induce developers to pass on their cost savings to tenants and buyers. But, there's nothing in the TPOD by-law that requires developers to do that, even though they are receiving a financial benefit.

Article 20 seeks to **identify the benefit** that developers receive from building in the TPOD, and then use this benefit to push developers to build smaller – what the article calls the reduced maximum GFA (Gross Floor Area) leading to the reduced maximum FAR (Floor Area Ratio) – and, by building smaller, allowing more open space; or, if developers for reasons of their own, want to build larger, closer to the true maximum GFA and true maximum FAR, they can do so by making a contribution to the Housing Trust for affordable housing.

In doing this the article tries to do more to accomplish what were supposed to be benefits of the TPOD – more open space around developments and an assist for affordable housing. And the article does this without making any changes to the TPOD parking rules or the TPOD footprint.

Doesn't the TPOD create a benefit by reducing parking?

Yes … **but**. If that's the TPOD's benefit – what the Town gets back for handing a cost saving and profit increase to developers to build in one of the most densely developed parts of the state, and in a place where developers are already scrambling to build because North Brookline is so desirable – then that's selling North Brookline cheap. For the benefit being given to developers more should be required. Article 20 tries to do that, and in a way that is consistent with what were supposed to be other TPOD benefits.

Doesn't the article penalize developers for doing the right thing?

If in 2016 the TPOD by-law had originally included something like article 20 there would be no question about a "penalty"; it would just be a way of adjusting the financial benefit being given to developers to try to move developers to **also do the right thing** in terms of open space and affordable housing. The TPOD by-law didn't foresee the unintended consequence of incentivizing developers to build in a place where development does not have to be incentivized, and article 20 is simply trying to correct that oversight – and correct it in a way that's consistent with other benefits that the Combined Reports in November 2016 said that the TPOD was supposed to produce.

There is no "penalty" for developers who are content to build within the "reduced maximum GFA" and "reduced maximum FAR". The article assumes that these smaller developments will provide more open space (which the TPOD was supposed to lead to).

For developers who, for reasons of their own, choose to build larger – closer to the true maximum GFA and the true maximum FAR – the article does try to take back some of the benefit, but it does so in a way that gives the developer the ability to make a contribution to the Housing Trust. (This option is consistent with the supposed TPOD benefit of developers passing on their cost savings, rather than just pocketing the increased profits).

Does article 20 encourage building more parking?

If you read article 20, its explanation, and Part I of this additional explanation you'll see that, to the contrary, article 20 gives developers who have decided, for their own reasons, to build larger – build beyond the reduced maximum FAR and closer to the true maximum FAR – the option of either spending more money to build additional parking or, instead, spending less money and making a contribution to the Housing Trust. The $31,000 contribution is already six years out of date and is lower than current actual costs to build parking. Here's a numerical example:

> If a development has an EXCESS of 4 unbuilt parking spaces and if the current actual cost of building a space for that development is $50,000 (not the 2012 survey figure), and if the developer is not content with building within the reduced maximum FAR but, instead, wants to build above the reduced maximum FAR and closer to the true maximum FAR - the developer has a choice of actually building four additional parking spaces at a total cost of $200,000 or, instead, making a contribution to the Housing Trust of $124,000 – either of which would reduce the EXCESS to 0, but the contribution to the Housing Trust would clearly be a smaller expense.

Isn't more density in North Brookline a good thing?

That depends on the kind of density. **What is your vision for North Brookline?** Do you want density with more open space around new buildings? Art. 20 at least induces developers in the TPOD to build smaller; and smaller is considered to create more open space.

Do you want density with more affordable housing? Art. 20 at least pushes developers in the TPOD who want to build larger – beyond the "reduced maximum FAR" – to make contributions for affordable housing. (In contrast, the TPOD by-law makes no demands on developers to do anything for affordability.)

Won't article 20 destroy the "streetscape" because developers will build more parking and stuff it onto the first floors of new buildings?

No. The article clearly encourages developers to build smaller – within the reduced maximum GFA and the reduced maximum FAR. That's good for the "streetscape" – more lawn, or more porch, or just better looking in general. But even if developers, for their own reasons, want to build larger – which the TPOD by-law allows them to do - under article 20 they don't have to build more parking spaces beyond the TPOD minimums if they make a lower cost contribution to the Housing Trust rather than building higher cost additional parking.

Also – if streetscape is an issue, the TPOD by-law itself doesn't restrict developers to preserving streetscape. Perhaps the TPOD by-law should be amended in the future to restrict that (and perhaps that is another unintended consequence of the TPOD by-law).

The objection also overlooks the zoning by-law's existing snout-nose restriction. (Sec. 6.04(14))

Won't developers pass their TPOD cost savings on to their (tenants and condo buyers)?

That may be conventional thinking but it's contrary to the logic of the November 2016 Combined Reports, when the TPOD was being considered. There, the CR said that tenants and condo buyers did not need and did not want additional parking spaces but they were willing to pay inflated prices to rent or buy apartments with the unwanted extra parking. But, if tenants and buyers are willing to pay for something they don't want and don't need, developers know that they can charge the top dollar, even for unwanted parking. The rents and prices won't go down – the developers and their customers have been conditioned, and developers are in business to make money.

Is Article 20 a bad thing because it is a minimum parking by-law?

The TPOD by-law, itself, is a minimum parking by-law; and the parking by-law for the rest of Brookline is a minimum parking by-law. Article 20 makes no changes to any parking by-law, so if Article 20 is a "bad thing" because it is a minimum parking by-law, then the TPOD and the regular parking by-laws are also bad. (For his part, the petitioner believes that minimum parking by-laws are not inherently bad; but, in any event, both the TPOD and the regular parking by-laws are, themselves, minimum parking by-laws).

Does Art. 20 encourage residents to drive rather than walk, take public transit, or bike?

There's nothing in article 20 that talks about that.

Why should the density of the TPOD (North Brookline) be compared to the density of entire Massachusetts cities and towns?

As shown in the Part II of this Additional Explanation, the TPOD's land area is larger than the land area of three entire Massachusetts cities and three entire Massachusetts towns. Similarly, the TPOD's population is greater than the population of each of those three cities and three towns. Also, the TPOD contains the amenities one would expect from entire cities and towns – K-8 schools (3), libraries (2), fire stations (3), parks, shopping areas (4), a high school and a police station. All the TPOD lacks is a state charter to be its own municipality.

Is Article 20 too soft? Shouldn't it do more for open space and affordable housing in North Brookline?

That's a variation of "the perfect being the enemy of the good". If you think the article should demand more for open space and affordable housing in exchange for the financial benefit given to developers then the article should be passed and, if it makes sense to do so in the future, it can be made tougher at a later time.

PLANNING BOARD REPORT AND RECOMMENDATION

This warrant article, submitted by citizen petitioner Jonathan Davis, proposes to create new rules for developments within the Transit Parking Overlay District (TPOD) which would require proposals that qualify for allowed reduced parking to reduce their gross floor area by a corresponding formulaic amount, or otherwise make a payment to the Brookline Housing Trust.

The Planning Board strongly supports and advocates for reduced parking in Brookline. In 2016, the creation of the TPOD was brought to Town Meeting through a citizen petition to reduce required parking minimums for any parcel in Town located within ½ mile of an MBTA Green Line station. At that time, the Planning Board submitted a report and voted to recommend favorable action on this warrant article, expressing that "promoting growth near rapid transit is considered one of the main tenets of smart growth … the Planning Board believes that less parking can have important benefits – a reduction in traffic and reliance on different transportation options, including public transit, walking, biking, short term car rentals (Zipcars), and ride sharing (Uber/Lyft) and the opportunity to provide more green space. The Board notes that there is a growing trend, especially among younger adults, to be less car-dependent".

The TPOD was passed by Town Meeting by a two-thirds majority vote in 2016, indicating that Brookline residents do support less required off-street parking in areas of town well-served by public transit. Thus, this currently proposed article appears to counter the 2016 vote by now sending a message to developers that reduced parking is only available if they

are willing to give up something in return in the form of reduced gross floor area or a payment to the Housing Trust Fund. The Planning Board feels that this message is confusing and counterintuitive. However, the Planning Board believes that the two options proposed in the warrant article have different implications, and should be considered individually.

Unlike the density bonus allowed by special permit in Sections 5.21 and 5.32 of the Zoning By-law, where an applicant may receive a bonus floor area or bonus height in exchange for a Public Benefit to the Town, developers are not requesting reduced parking – the Town is encouraging it. Therefore, it is not a sound practice to require a reduction in density in exchange for utilizing the Town's allowed reduced parking near transit, which promotes smart growth principles. Applicants should not be required to give up gross floor area in order to help the Town achieve the goal of less off-street parking and less traffic.

The Planning Board believes that the density reduction option of this article is misguided and could be more effectively addressed by tackling the underlying issue the article attempts to address: Floor Area Ratio (FAR). To reduce FAR in Brookline, changes should be made to the Zoning By-law's FAR requirements, rather than a roundabout approach to reducing density through changes to the parking minimums. Additionally, there is no guarantee that reducing the GFA of a building will automatically lead to lower density or create more green open space at the first floor. This square footage can easily be removed from the building in any number of configurations that do not ultimately lead to a smaller footprint. Allowable FARs of .75 and 1.0 in T-districts, for example, appear to be much more responsible for added density in north Brookline than the reduction of the parking minimum from 2 to 1.6, or 2.3 to 2, parking spaces per unit, based on the weekly cases the Planning Board reviews.

The administration of this type of regulation would be onerous and burdensome on the Building and Planning Departments – the proposed calculations required for each development within the TPOD (all of North Brookline) to calculate excess square footage and subtract the excess from the parking area in the review of each set of plans received will require additional staff time that is already at a premium. Furthermore, strict application of the formula appears to result in a repetitive cycle of reduction: once FAR is reduced, the number of units may also be reduced, leading to a further reduction in parking required, and thus a further reduction in FAR, etc. It is also unclear what types of projects this requirement is proposed to apply to – new construction, additions of any size, conversions, existing structures, etc. and this lack of clarity would make the article's provisions difficult to apply.

With respect to the other option proposed in the warrant article, however, the Planning Board believes that ways for developers to contribute to the Housing Trust Fund should be explored further. A cash contribution that represents some proportion of the cost of building a parking space that is no longer required might be a reasonable offset to the reduction in cost – and typically an enhancement in overall feasibility on the tight sites typically found within the TPOD – that developers would benefit from under the TPOD's reduced parking ratios. The $31,000 per space contribution proposed in the Article is at the low end of the cost of structured above-grade parking, and well below the cost of

underground parking. It is also about 1/3 of the current per-unit payment required under the town's Inclusionary Zoning bylaw where cash contributions are involved.

The Planning Board would like to see future discussion of possible options for developers to contribute to the Housing Trust Fund but believes before anything is proposed more public discussion is warranted.

Therefore, the Planning Board recommends **NO ACTION** on Article XX as proposed.

TRANSPORTATION BOARD REPORT AND RECOMMENDATION

Per the request of the Town Moderator, the Transportation Board held a public meeting on Monday, September 17, 2018 to discuss the issuance of a letter of recommendation regarding Warrant Article 20: Amending the Zoning By-Law by adding the following Section 5.23 as related to the Transit Parking Overlay District as submitted by petitioner Jonathan Davis. On October 15, 2018 the Transportation Board approved the following motion:

WHEREAS The Transportation Board for the Town of Brookline, under Chapter 317 of the Acts of 1974 as amended, are charged with the "authority to adopt, alter or repeal rules and regulations not inconsistent with general law…relative to pedestrian movement, vehicular and bicycle traffic in the streets and in the town-controlled public off-street parking areas in the town, and to the movement, stopping, standing or parking of vehicles and bicycles on, and their exclusion from, all or any streets, ways, highways, roads, parkways and public off-street parking areas under the control of the town";

WHEREAS The Brookline Board of Selectmen convened the Brookline Parking Committee (BPC) in 2008 "in order to maximize the effective and efficient use of Brookline's on- and off-street parking resources for the mutual benefit of local businesses, residents, and visitors. This committee was charged with conducting a comprehensive review of policies and regulations related to parking (other than the year-round ban on overnight on-street parking)." Furthermore two members of The Transportation Board were members of the Committee, including then Transportation Board Member William Schwartz who presided as Co-Chair;

WHEREAS the Selectmen's Parking Committee, following a study of overnight residential usage of onsite parking at 20 properties, supported "a reduction in off-street parking requirements within multi-family residential land uses, particularly near transit and in areas served by car sharing organizations, provided that neighborhood concerns are taken into account. The BPC does not recommend a specific number or ratio of parking spaces per unit";

WHEREAS the Moderator's Committee on Parking, following a study of overnight residential usage of overnight spaces, concluded "downwardly adjusting the minimums for

studios and 1-bedroom units makes sense, as the Committee's survey shows that car ownership in these units is considerably less than the current minimum requirements. In addition, the Committee believes that the minimum off-street parking requirements for 2-bedroom units can be lowered slightly";

WHEREAS the Transportation Board, in response to the demands of our citizenry and in recognition that our community has both an urban and suburban mixture, has worked hard to enact regulations and support programs which lead to a strong multi-modal transportation system that encourages the use of public transportation, walking, and cycling as alternatives to single car commuting;

WHEREAS the Transportation Board drafted a letter in support of the creation of the Transit Parking Overlay District to reduce the residential parking requirements within this district to 1 space for studio units, 1.4 spaces for one bedroom units, 2 spaces for two bedroom units, and 2 spaces for three bedroom units in November 2016 as a way to further support the creation of a multi-modal transportation network and promote alternative transportation modes;

WHEREAS the Transportation Board believes that development in North Brookline is an important issue for the entire Town and in recognition that because parking minimums within our zoning bylaws have 1) unintended negative consequences to the public way, including additional curb cuts, removal of public shade trees, tree lawns, potential for street furniture, 2) Dis-incentivizes transit, walking, and biking use by requiring the costly construction of parking spaces, and 3) Adds to overall traffic congestion the Transportation Board generally opposes zoning by-laws which negatively affect the public way;

THEREFORE, the Transportation Board, by a unanimous vote, recommends NO ACTION on Warrant Article 20 by Town Meeting.

SELECT BOARD'S RECOMMENDATION

Article 20 is a petitioned article, which looks to amend the rules for zoning in the Transit Parking Overlay District (TPOD), which was voted by Town Meeting in 2016 to reduce required parking minimums for any parcel in Town located within ½ mile of an MBTA Green Line station. Article 20 proposes a requirement that proposals that qualify for allowed reduced parking reduce their gross floor area by a corresponding formulaic amount, or otherwise make a payment to the Brookline Housing Trust.

Members of the Board noted that the underlying assumption in this article is that density is a bad thing and the proposed changes provide a remedy. The Board does not subscribe to that assumption, and notes that the Planning Board's recommendation suggests that density concerns should be addressed through Floor Area Ratio (FAR) reductions. The Board also noted the recently formed Land Bank Study Committee could address the goals expressed by the petitioner for affordable housing.

The Board considered the referral motion offered by the Advisory Committee and had concerns about the workload of the Zoning By-Law Committee given the recently funded CIP item for reorganization of the Zoning by-law.

A unanimous Select Board voted NO ACTION under Article 20.

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Article 20 proposes to modify certain provisions of the "Transit Parking Overlay District" ("TPOD") as adopted by Article 19 of the November 2016 Special Town Meeting to impose certain "give-backs" upon developers who avail themselves of the reduced off-street parking minimums that had been established.

The Advisory Committee did not support the Article, but felt that some of the issues it raised deserver further attention. The Committee recommends that the subject matter of the Article and related questions about parking in Brookline be referred to the Zoning By-Law Review Committee.

BACKGROUND:
At the November 2016 Special Town Meeting, Town Meeting adopted Article 19 to address what some had perceived to be an overly excessive minimum off-street parking requirement in those portions of Brookline where convenient access to mass transit (i.e., the Green Line) was available. A new "Transit Parking Overlay District" ("TPOD") was defined that included substantially all of Brookline north of Route 9. Minimum off-street parking requirements within the TPOD were reduced for studio apartments (going from 2.0 to 1.0), one-bedroom apartments (going from 2.0 to 1.4) and larger units with three or more bedrooms (going from 2.3 to 2.0). Minimums for two-bedroom units remained at 2.0.

The Petitioner explained that the TPOD's off-street parking requirements benefit 40A residential developers by reducing their costs, but argues that obtaining this cost-reducing benefit requires nothing from developers in exchange. The petitioner notes that "[t]here is no requirement that those developers pass along their cost savings to their tenants or condo unit purchasers … [or] that … developers within the TPOD provide better design, occupy less FAR [Floor Area Ratio], provide more green space, lower height, increase setbacks, or do anything else."

DISCUSSION:
This Article would impose one of two alternate requirements upon developers who avail themselves of the reduced minimum off-street parking requirements within the TPOD:

(1) For each parking space that would be avoided relative to the non-TPOD minimums, the developer would be required to reduce the maximum allowed gross floor area (GFA) by

349 square feet. Thus, if 13 parking spaces would have been required without the TPOD but only 10 are now required, the allowed GFA would be reduced by 3 x 349 square feet – i.e., by 1,047 square feet.

(2) Alternatively, the developer could avoid having to accept a reduced GFA by "contribut[ing] to the Town's Housing Trust the product of $31,000 for each parking space that is not provided because the building benefits from the lot being located, in whole or in part, within the TPOD." Thus, in the above example, instead of accepting a reduction of 1,047 square feet of GFA, the developer could pay $93,000 [3 x $31,000] to the Housing Trust.

The Petitioner believes that "[u]nder the article, if developers plan and build within the reduced maximum FAR the physically smaller developments would benefit the community, perhaps by increasing setbacks and thereby increasing green space, reducing density, or reducing height. Or, instead, if developers plan and build in excess of the reduced maximum FAR the article would bring more money into the Town's Housing Trust."

While the Advisory Committee commends the Petitioner for pursuing a goal of smaller buildings and increased green space, the Committee does not believe that the specific proposal contained in the warrant article should be pursued. Required minimum off-street parking spaces are not included in GFA for purposes of applying the Floor Area Ratio (FAR). Thus, in the above example, if one assumes that the developer has built out to the maximum allowed GFA (which is almost always the case), the reduction of three parking spaces has the potential to reduce the overall size and mass of the building, which is in itself a benefit apparently not recognized by the Petitioner. It seems unlikely that Alternative (1) above would ever be accepted, since the $31,000 per-space "penalty" that the Article would impose is so small a fraction of the value of the space that could otherwise be developed that it would never make sense for a developer to pay it rather than obtain increased GFA. By paying $93,000, the developer would gain 1,047 square feet, which would be sufficient for two (2) studio apartments or one two-bedroom unit. At current market prices, these alternative uses of GFA could command upwards of $2– to $3 million in additional value for the developer.

The Committee believes that a potential approach to addressing the Petitioner's concerns, if they need to be addressed at all, is to create specific concessions that a developer would have to accept in order to take advantage of the TPOD's reduced parking space requirements. These might be in the form of increased green space, smaller footprints overall, or other direct measures. It was also suggested that as part of the current overall review of the Brookline zoning by-law, consideration could be given to redefining FAR so as to eliminate exempt uses, such as garages and off-street parking, so that the overall bulk and mass of buildings could be directly addressed and fewer opportunities for developers to "game" the zoning by-law would be available.

Despite its skepticism about the specific zoning changes proposed by Article 20, a majority of the Advisory Committee concluded that the Article called attention to some important parking issues that deserved further analysis in the context of a more general review of

whether the TPOD was achieving its objectives. The Committee thus voted to recommend that these topics be referred to the Zoning By-Law Review Committee.

RECOMMENDATION:
By a VOTE of 12–8–0, the Advisory Committee recommends referral of the subject matter of Article 20 to the Zoning By-Law Review Committee and requests that it consider specifically the objectives of increasing green space, increasing contributions to the Housing Trust Fund, as well as the objectives of Article 19 as articulated in the Combined Reports of the Special Town Meeting of November 2016 and to report back to Town Meeting no later than November 2019.

XXX

REALTOWN	TownID	Sum_ALAND10	Sum_AWATER10	Ave_TOWN_ID	Sum_POP100_RE	Sum_HU100_RE	Sum_Area	AvgPopDensitySqFt	AvgPopDensitySqFtLand
Somerville	783	10660871	36234	274	75754	33720	10696455.38	0.007082159	0.007105798
Cambridge	1095	16538139	747985	49	105162	47291	17285046.88	0.006083987	0.006358757
Chelsea	391	5729500	3874	57	35177	12621	5733024.057	0.006135854	0.006139628
TPOD(per GIS Dept)									0.005626
Boston	7412	125037462	1655118	35	617594	272481	126684205.8	0.004875067	0.004939272
Everett	555	8871165	12719	93	41667	16715	8883375.524	0.004690447	0.004696903
Malden	766	13061735	99890	165	59450	25161	13160889.18	0.004517172	0.004551463
Lawrence	1038	17937604	1242740	149	76377	27137	19180442.56	0.003982025	0.004257927
Revere	754	14737359	92835	248	51755	22100	14829365.61	0.003490035	0.003511823
Winthrop	284	5114573	127607	346	17497	8320	5241865.639	0.003337934	0.003421009
Brookline (including TPOD. Without TPOD=43)	680	17482396	163083	46	58732	26448	17644319.63	0.003328663	0.003359494
Lynn	1052	27819875	1912965	163	90329	35776	29731426.59	0.003038166	0.003246923
Arlington	779	13328023	898396	10	42844	19974	14225617.89	0.00301175	0.00321458
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Marblehead	439	11361478	60614	168	19808	8838	11421592.14	0.001734259	0.001743435
Brockton	1533	55239732	508602	44	93810	35552	55744651.24	0.001682852	0.001698234
Hull	372	7251208	49916	142	10293	5762	7300623.696	0.00140988	0.001419488
Stoneham	396	15589590	1631902	284	21437	9458	17220666.86	0.001244841	0.001375084
Winchester	461	15613420	818634	344	21374	7986	16431209.36	0.001300817	0.001368951
Wakefield	479	19051072	1554839	305	24932	10500	20605033.85	0.001209996	0.001308693
Randolph	512	25462926	1516040	244	32112	12008	26977053.74	0.001190345	0.001261128
Nahant	98	2708929	8612	196	3410	1677	2717385.743	0.001254883	0.0012588
Weymouth	853	43491751	2400723	336	53743	23480	45889239.97	0.001171146	0.001235706
Peabody	850	41988071	1424061	229	51251	22220	43410525.17	0.001180612	0.001220609
Woburn	765	32724500	806847	347	38120	16309	33529811.01	0.001136899	0.001164876
Wellesley	633	25944646	1303193	317	27982	9189	27245992.94	0.001027013	0.001078527
Norwood	661	26854021	419990	220	28602	12479	27272083.08	0.001048765	0.001065092
Framingham	1145	64848330	3788671	100	68318	27529	68632382.27	0.000995419	0.001053504
Fall River	1772	85811381	14139352	95	88857	42750	99950874.85	0.000889007	0.001035492
Beverly	672	39091336	861552	30	39502	16641	39951701.36	0.000988744	0.001010505
Braintree	816	35608882	1727504	40	35744	14302	37333760.8	0.000957418	0.001003795

Reading	405	25780217	47893	246	24747	9617	25827154.4	0.000958178	0.000959922
Saugus	639	27955747	1411381	262	26628	10775	29365684.27	0.000906773	0.000952505
Chicopee	1439	59131111	2698863	61	55298	25140	61825611.24	0.000894419	0.000935176
Dedham	648	26539404	1037912	73	24729	10191	27575384.04	0.000896778	0.000931784
Clinton	310	14645926	4178501	64	13606	6397	18823341.38	0.000722826	0.000928996
Needham	630	31821567	1117192	199	28886	11122	32936493.54	0.000877021	0.000907749
Somerset	434	20460317	877802	273	18165	7394	21337924.23	0.000851301	0.000887816
Natick	681	38728075	2608190	198	33006	14121	41333406.12	0.000798531	0.00085225
Methuen	936	57622807	2042287	181	47255	18340	59666043.84	0.000791992	0.000820075
Whitman	225	17974070	59307	338	14489	5522	18032176.81	0.000803508	0.000806106
Burlington	478	30391205	324832	48	24498	9668	30714725.18	0.000797598	0.000806088
Newburyport	390	21621666	325081	206	17416	8264	21947711.71	0.000793522	0.000805488
Milton	651	33683860	446847	189	27003	9700	34128314.55	0.00079122	0.00080166
Danvers	599	34383775	1319812	71	26493	11135	35702574.5	0.000742047	0.000770509
Maynard	305	13502214	407075	174	10106	4447	13908516.3	0.000726605	0.00074847
Lexington	692	42563361	543894	155	31394	12019	43104992.77	0.000728315	0.000737583
Milford	598	38204407	711615	185	27999	11412	38913289.12	0.000719523	0.000732874
Holyoke	944	55116741	4025645	137	39880	16384	59138209.05	0.000674353	0.000723555
Haverhill	1264	85392111	6888976	128	60879	25657	92284112.31	0.000659691	0.000712935
Marlborough	645	54041301	3200938	170	38499	16416	57238578.17	0.000672606	0.0007124
Longmeadow	397	23619285	1331605	159	15784	5948	24949298.5	0.000632643	0.000668267
Shrewsbury	696	53684777	2643937	271	35608	13987	56324837.8	0.00063219	0.000663279
West Springfield	714	43286505	2094117	325	28391	12697	45377484.96	0.000625663	0.000655886
Rockland	298	26739893	217611	251	17489	7051	26955633.46	0.000648807	0.000654042
Stoughton	547	41672102	969279	285	26962	10787	42638443.29	0.00063234	0.000647004
Abington	262	24997470	617669	1	15985	6377	25613380.96	0.000624088	0.000639465
Hudson	474	29841347	890275	141	19063	7998	30729762.89	0.000620343	0.000638812
Attleboro	885	69435458	2583322	16	43593	18022	72015263.68	0.00060533	0.00062782
Billerica	974	66215791	1929713	31	40243	14481	68143329.1	0.000590564	0.000607755
North Attleborough	569	48881279	1364615	211	28712	11596	50243145.35	0.000571461	0.000587382
Chelmsford	898	57938372	1849871	56	33802	13807	59786911.53	0.000565375	0.000583413
Holbrook	203	18780277	282438	133	10791	4274	19061371.15	0.000566119	0.000574592
Fitchburg	957	72073649	745618	97	40318	17117	72817494.03	0.000553686	0.0005594
Dracut	549	53443073	1951890	79	29457	11351	55394967.12	0.000531763	0.000551185
Leominster	808	74629556	2233725	153	40759	17873	76860245.83	0.0005303	0.000546151
Tewksbury	673	53610158	1108043	295	28961	10848	54717142.09	0.000529286	0.000540215
Amherst	545	71494783	342496	8	37819	9711	71832800.66	0.000526487	0.000528976
Webster	469	32048670	5780810	316	16767	8011	37827060.19	0.000443254	0.000523173
Ashland	312	31933385	1395841	14	16593	6609	33326894.76	0.000497886	0.000519613
Westwood	355	28182837	740388	335	14618	5431	28921180.28	0.000505443	0.000518684
Amesbury	463	31761151	2821253	7	16283	7110	34584442.2	0.000470819	0.00051267
Wilmington	411	43971880	464398	342	22325	7808	44434890.51	0.000502421	0.000507711
Fairhaven	454	31947040	160097	94	15873	7475	32107918.02	0.000494364	0.000496854
Agawam	581	60372107	2699488	5	28438	12139	63067484.01	0.000450914	0.000471045
East Longmeadow	303	33686035	181933	85	15720	6106	33865788.56	0.000464185	0.000466662
Easthampton	379	34522770	711311	87	16053	7615	35231638.7	0.000455642	0.000464997
Taunton	1027	120958685	4430469	293	55874	23896	125383647.8	0.000445624	0.000461926

Franklin	532	68961360	1038205	101	31635	11394	69994893.96	0.000451962	0.000458735
Walpole	545	52927821	1604132	307	24070	9040	54528140.36	0.000441423	0.00045477
Lynnfield	281	25595989	1512382	164	11596	4354	27107359.71	0.000427781	0.00045304
Mansfield	535	52040205	851508	167	23184	8746	52888510.65	0.000438356	0.000445502
Canton	493	48682844	2114286	50	21561	8762	50793545.95	0.000424483	0.000442887
Hopedale	128	13392801	443995	138	5911	2285	13835846.15	0.000427224	0.000441357
North Reading	211	34032377	923752	213	14892	5633	34955190.61	0.000426031	0.000437583
Pittsfield	1247	104814308	5169969	236	44737	21487	109978632.6	0.000406779	0.000426821
Medway	281	29895562	335626	177	12752	4613	30229069.61	0.000421846	0.000426552
Acton	509	51451512	1114531	2	21924	8530	52563605.73	0.000417095	0.00042611
Gloucester	700	67847425	1726849	107	28789	14557	69573173.71	0.000413795	0.00042432
North Andover	563	68133522	3720537	210	28352	10964	71853825.08	0.000394579	0.000416124
Andover	788	79897507	3425223	9	33201	12423	83321855.57	0.000398467	0.000415545
Auburn	522	40084196	2423591	17	16188	6840	42504775.24	0.000380851	0.00040385
Scituate	423	45664836	752401	264	18133	8035	46413965.93	0.00039068	0.000397089
Avon	137	11112284	639902	18	4356	1769	11751368.52	0.00037068	0.000391999
Hingham	554	57530976	1050449	131	22157	8953	58577292.07	0.000378252	0.000385132
Rockport	213	18106523	421459	252	6952	4223	18527836.86	0.000375219	0.00038395
South Hadley	373	45877607	1773571	275	17514	7156	47647848.36	0.000367572	0.000381755
Yarmouth	1387	62544091	2951575	351	23793	17464	65496388.57	0.000363272	0.00038042
Bedford	328	35375281	460820	23	13320	5368	35834524.03	0.000371709	0.000376534
Bridgewater	375	70749309	2834816	42	26563	8336	73580084.29	0.000361008	0.000375452
Gardner	541	57192390	2443909	103	20228	9126	59634755.72	0.000339198	0.000353683
Northbridge	341	44715084	2049250	216	15707	6172	46761093.89	0.000335899	0.000351268
Bellingham	353	47523223	1424298	25	16332	6365	48944283.27	0.000333686	0.000343664
Hanover	338	40427614	218489	122	13879	4852	40643291.6	0.000341483	0.000343305
Westborough	456	53293736	2229292	328	18272	7350	55519170.08	0.000329112	0.000342855
Westfield	951	119971598	2753973	329	41094	16075	122717052.7	0.000334868	0.000342531
Marshfield	609	74127588	1150680	171	25132	10940	75096291.84	0.000334664	0.000339037
Wayland	330	38967002	2071079	315	12994	5021	41035477.88	0.000316653	0.000333462
Foxborough	421	51406167	2593185	99	16865	6895	53995835.58	0.000312339	0.000328073
Millbury	378	40684061	1884818	186	13261	5627	42565879.21	0.000311541	0.000325951
Medfield	312	37301542	605144	175	12024	4237	37903999.74	0.000317222	0.000322346
Northampton	745	88686375	3910437	214	28549	12728	92590695.12	0.000308336	0.00032191
Ayer	310	23113532	1445821	19	7427	3462	24558591.53	0.00030242	0.000321327
Southbridge	374	52512755	1627401	278	16719	7527	54136650.79	0.00030883	0.00031838
Pembroke	317	56403939	4410938	231	17837	6552	60810911.62	0.000293319	0.000316237
Blackstone	243	28685128	819182	32	9026	3628	29502449.99	0.000305941	0.000314658
Greenfield	592	55496664	1180553	114	17456	8377	56676154.15	0.000307995	0.000314541
Easton	416	74468685	1241437	88	23112	8155	75705401.51	0.000305289	0.000310359
East Bridgewater	246	44570841	842755	83	13794	4906	45410762.33	0.000303761	0.000309485
Grafton	435	59086130	1305046	110	17765	7177	60386903.43	0.000294186	0.000300663
Ludlow	459	70460584	2836425	161	21103	8383	73291826.4	0.000287931	0.000299501
Cohasset	227	25353993	809215	65	7542	2980	26161369.87	0.000288288	0.000297468
Northborough	356	47852201	705487	215	14155	5314	48554487.56	0.000291528	0.000295807
Barnstable	2033	154893072	6983724	20	45193	26343	161879072.7	0.000279178	0.000291769
Norfolk	256	38600960	1290280	208	11227	3121	39888489.59	0.00028146	0.000290848
Plainville	199	28482636	1350192	238	8264	3482	29831013.15	0.000277027	0.000290142

Sharon	437	60702824	2474014	266	17612	6456	63172533.38	0.000278792	0.000290135
Merrimac	168	21907317	1027094	180	6338	2555	22935633.47	0.000276339	0.00028931
Seekonk	380	47581986	644150	265	13722	5297	48224667	0.000284543	0.000288386
Sudbury	433	62863532	1244383	288	17659	5951	64104033.13	0.000275474	0.00028091
Groveland	150	23008816	1330583	116	6459	2439	24339935.29	0.000265366	0.000280718
Holliston	307	48288456	1071734	136	13547	5087	49356693.35	0.000274471	0.000280543
Westford	563	78391449	2854186	330	21951	7876	81243557.35	0.000270188	0.000280018
Concord	520	63497910	3435423	67	17668	6947	66929981.85	0.000263977	0.000278245
Falmouth	1401	114142266	4267475	96	31531	21970	118414559.6	0.000266276	0.000276243
Swansea	413	58774185	815942	292	15865	6343	59589401.31	0.000266239	0.000269931
Southborough	291	36317483	3921396	277	9767	3460	40236151.6	0.000242742	0.000268934
Dennis	1000	53121286	2027173	75	14207	15586	55148631.9	0.000257613	0.000267445
Norton	415	72033187	3886006	218	19031	6741	75915095.94	0.000250688	0.000264198
Hanson	206	38990146	1801806	123	10209	3589	40789326.26	0.000250286	0.000261835
Kingston	323	48321362	1018900	145	12629	5010	49337449	0.000255972	0.000261354
North Adams	408	52690936	697430	209	13708	6752	53388394.48	0.00025676	0.000260159
Tyngsborough	347	43446613	3394563	301	11292	4206	46840948.62	0.000241071	0.000259905
Weston	403	43574801	1316917	333	11261	4008	44888887.62	0.000250864	0.000258429
Middleton	177	34849382	2665532	184	8987	3045	37514125.4	0.000239563	0.000257881
Millis	202	31135982	602483	187	7891	3158	31736229.65	0.000248643	0.000253437
Raynham	309	53065461	773358	245	13383	5066	53836197.91	0.000248587	0.000252198
Millville	64	12706301	151536	188	3190	1162	12857028.47	0.000248113	0.000251057
Wilbraham	295	57404697	581247	339	14219	5497	57981947.92	0.000245231	0.000247698
Wenham	109	19841456	1246967	320	4875	1430	21087954.73	0.000231175	0.000245698
Georgetown	184	33307258	750803	105	8183	3044	34058484.75	0.000240263	0.000245682
Duxbury	363	61481268	1139733	82	15059	5875	62617011.98	0.000240494	0.000244936
Oak Bluffs	429	18927106	299213	221	4527	4346	19228344.61	0.000235434	0.000239181
Wareham	1191	92876781	3926821	310	21822	12256	96802191.01	0.000225429	0.000234956
Tisbury	277	16929465	91032	296	3949	3094	17022167.41	0.000231992	0.000233262
Mashpee	655	60590105	5937381	172	14006	9882	66529555.63	0.000210523	0.00023116
West Boylston	252	33530020	2357877	321	7669	2746	35885674.73	0.000213706	0.00022872
Harwich	779	54090384	4286346	126	12243	10284	58377089.77	0.000209723	0.000226343
Plymouth	1864	249820671	16178144	239	56468	24800	265988574.2	0.000212295	0.000226034
Hopkinton	352	68016796	4215056	139	14925	5128	72226743.23	0.000206641	0.000219431
Acushnet	244	47721023	1157475	3	10303	4118	48878557.7	0.000210788	0.000215901
Dartmouth	709	157794874	2107123	72	34032	12435	159907352	0.000212823	0.000215672
Manchester	166	23902799	229088	166	5136	2394	20293488.61	0.000253086	0.00021487
Hamilton	215	36737604	1888109	119	7764	2880	38625115.63	0.000201009	0.000211337
Dudley	296	53915863	2717076	80	11390	4403	56629300.37	0.000201133	0.000211255
Littleton	351	42791669	2583059	158	8924	3477	45373048.05	0.000196681	0.000208545
Salisbury	237	39960063	270975	259	8283	4550	40233337.27	0.000205874	0.000207282
Oxford	407	68710205	2350570	226	13709	5541	71055843.92	0.000192933	0.000199519
Topsfield	185	30877196	2324542	298	6085	2175	33201318.46	0.000183276	0.000197071
Pepperell	270	58533407	1546295	232	11497	4348	60079506.24	0.000191363	0.000196418
Wrentham	256	56218838	2344453	350	10955	3869	58559545.8	0.000187075	0.000194864
Norwell	199	54198766	816474	219	10506	3675	55011373.66	0.000190979	0.000193842
Holden	341	90866333	3195065	134	17346	6646	94055445.25	0.000184423	0.000190896
Bourne	1174	105268832	813430	36	19754	10805	106082112.8	0.000186214	0.000187653

Boxborough	108	26640078	316293	37	4996	2073	26955135.01	0.000185345	0.000187537
Sandwich	1003	110702676	2703785	261	20675	9476	113406616.6	0.000182309	0.000186762
Leicester	310	60221038	3572339	151	10970	4270	63788903.06	0.000171973	0.000182162
Halifax	203	41448333	3604915	118	7518	3014	45050641.82	0.000166879	0.000181382
Uxbridge	407	76630062	1754275	304	13457	5302	78379268.32	0.000171691	0.00017561
Shirley	253	41066837	204034	270	7211	2427	41269690.86	0.000174729	0.000175592
West Bridgewater	233	39681845	913634	322	6916	2669	40592999.73	0.000170374	0.000174286
Lincoln	244	36844050	1951877	157	6362	2617	38793778	0.000163995	0.000172674
Brewster	561	59267198	6564579	41	9820	7948	65831232.84	0.000149169	0.00016569
Orleans	379	36604329	695917	224	5890	5344	37299666.65	0.00015791	0.00016091
Ipswich	387	83162052	1846438	144	13175	6007	85008516.27	0.000154984	0.000158426
Berkley	135	42768262	318355	27	6411	2187	43085295.06	0.000148798	0.000149901
Palmer	371	81786671	1019997	227	12140	5534	82800835.96	0.000146617	0.000148435
Lunenburg	240	68580831	3269933	162	10086	4133	71848987.74	0.000140378	0.000147067
Stow	202	44839702	1739781	286	6590	2526	46576928.74	0.000141486	0.000146968
Chatham	431	41776404	1380677	55	6125	7343	43157773.32	0.000141921	0.000146614
Adams	274	59280742	197762	4	8485	4371	59477579.1	0.000142659	0.000143132
Dover	203	39156781	816021	78	5589	1969	39969982.88	0.00013983	0.000142734
Athol	488	83641348	2745000	15	11584	5231	86384098.65	0.000134099	0.000138496
Lakeville	296	76554827	16999813	146	10602	4177	93551916.88	0.000113327	0.000138489
Spencer	357	85038323	3036877	280	11688	5295	88069054.07	0.000132714	0.000137444
Eastham	346	36152442	963456	86	4956	5960	37114721.84	0.000133532	0.000137086
Marion	230	36242423	85089	169	4907	2445	36327602.16	0.000135076	0.000135394
Upton	203	55863673	593264	303	7542	2832	56452954.21	0.000133598	0.000135007
Mattapoisett	296	44952120	77061	173	6045	3262	45029839.31	0.000134244	0.000134476
Boxford	227	61013964	2188501	38	7965	2757	63202441.9	0.000126024	0.000130544
Middleborough	581	178902350	7988199	182	23116	9023	186883218.6	0.000123692	0.00012921
Mendon	129	46034725	552653	179	5839	2091	46584242.34	0.000125343	0.000126839
Paxton	136	38049457	1981773	228	4806	1599	40028540.57	0.000120064	0.000126309
Groton	333	84853731	2575943	115	10646	3989	87428015.79	0.000121769	0.000125463
Dighton	189	57045463	639495	76	7086	2591	57683211.69	0.000122843	0.000124217
Rowley	188	47154272	886721	254	5856	2253	48041557.36	0.000121894	0.000124188
Carlisle	123	39536091	641968	51	4852	1758	40176550.75	0.000120767	0.000122723
West Newbury	112	34838123	3073303	324	4235	1580	37912805.25	0.000111704	0.000121562
Westport	551	129076856	5538761	334	15532	7193	134621170.5	0.000115376	0.000120331
Dalton	231	56416391	256494	70	6756	2920	56670224.44	0.000119216	0.000119752
Southwick	224	79825932	2153492	279	9502	3916	81974144.14	0.000115915	0.000119034
Charlton	380	109254326	4179167	54	12981	4885	113425616	0.000114445	0.000118815
Carver	517	96872155	6038938	52	11509	4600	102907166.4	0.000111839	0.000118806
Provincetown	272	25047886	560000	242	2942	4494	25606212.11	0.000114894	0.000117455
Lancaster	469	71134777	1307527	147	8055	2614	72438919.71	0.000111197	0.000113236
Ware	334	88986353	14492977	309	9872	4590	103472219.4	9.54073E-05	0.000110938
Newbury	259	60484016	1901002	205	6666	2936	62386785.66	0.00010685	0.000110211
Montague	512	78105249	3369121	192	8437	3958	81471727.52	0.000103557	0.000108021
Belchertown	353	136345999	6943853	24	14649	5839	143280040.2	0.00010224	0.00010744
Sutton	341	83935566	4199124	290	8963	3394	88128579.04	0.000101704	0.000106784
Townsend	234	84952168	684896	299	8926	3385	85636672.53	0.000104231	0.000105071
Boylston	161	41598694	9562396	39	4355	1778	51157851.4	8.51287E-05	0.000104691

Hampden	101	50852236	105963	120	5139	1949	50954879.91	0.000100854	0.000101058
Sherborn	133	40966896	961380	269	4119	1495	41925320.11	9.82461E-05	0.000100545
Sunderland	112	36856254	1349204	289	3684	1729	38203570.46	9.64308E-05	9.99559E-05
Freetown	337	89286664	2553923	102	8870	3317	91839219.63	9.65818E-05	9.93429E-05
Sterling	317	79343448	2761462	282	7808	2965	82100544.57	9.51029E-05	9.84076E-05
Templeton	358	82575050	1287387	294	8013	3139	83859977.86	9.55521E-05	9.7039E-05
Essex	101	36187007	705864	92	3504	1600	36892350.46	9.4979E-05	9.68303E-05
Sturbridge	452	96406994	4487572	287	9268	3989	100887720.8	9.18645E-05	9.61341E-05
Rehoboth	280	121568446	1407002	247	11608	4280	122971526.8	9.43958E-05	9.54853E-05
Harvard	399	68467391	1901043	125	6520	2047	70365462.87	9.26591E-05	9.52278E-05
Bolton	196	51675247	348786	34	4897	1738	52021235.13	9.41346E-05	9.47649E-05
Winchendon	429	111434190	2740864	343	10300	4199	114174534.7	9.02128E-05	9.24312E-05
Lenox	256	54958353	1168736	152	5025	3044	56123610.2	8.95345E-05	9.14329E-05
Douglas	258	94282105	3846212	77	8471	3293	98122026.34	8.63313E-05	8.98474E-05
Hadley	250	59791827	3939738	117	5250	2230	63727536.63	8.2382E-05	8.78046E-05
Lee	392	67725973	2254051	150	5943	3056	69975289.18	8.493E-05	8.77507E-05
Rutland	234	90918826	2972193	257	7973	2990	93885351.18	8.49227E-05	8.76936E-05
Nantucket	1294	116471398	10406221	197	10172	11618	126901265.4	8.01568E-05	8.73347E-05
Granby	156	72079661	667254	111	6240	2460	72741846.03	8.57828E-05	8.65709E-05
Orange	358	90893007	2410005	223	7839	3593	93301105.67	8.40183E-05	8.62443E-05
East Brookfield	111	25514944	1433058	84	2183	931	26946090.34	8.10136E-05	8.55577E-05
Berlin	140	33598202	523984	28	2866	1189	34120118.88	8.39974E-05	8.53022E-05
North Brookfield	231	55084070	1759511	212	4680	2058	56839632.35	8.23369E-05	8.4961E-05
Brookfield	145	40266781	2729462	45	3390	1493	42993204.94	7.88497E-05	8.41885E-05
Hatfield	151	41202053	2403722	127	3279	1563	43603141.65	7.5201E-05	7.95834E-05
Southampton	168	72913678	2077741	276	5792	2337	74986128.58	7.7241E-05	7.94364E-05
Westminster	278	91766611	4719705	332	7277	2960	96483102.83	7.54225E-05	7.9299E-05
Holland	132	31841683	1990803	135	2481	1365	33830289.94	7.33366E-05	7.79167E-05
Monson	239	114313094	1687179	191	8560	3438	115992499.5	7.37979E-05	7.48821E-05
Dunstable	108	42620556	784744	81	3179	1098	43405221.24	7.324E-05	7.45884E-05
Plympton	78	38005424	1105747	240	2820	1043	39109078.03	7.2106E-05	7.41999E-05
Warren	211	71345899	267462	311	5135	2211	71608289.9	7.17096E-05	7.19733E-05
West Brookfield	199	53059307	1639527	323	3701	1699	54695015.74	6.76661E-05	6.97521E-05
Williamstown	231	121107530	329844	341	7754	3074	121437479	6.38518E-05	6.40257E-05
Great Barrington	453	116090784	2472600	113	7104	3466	118555020.2	5.99215E-05	6.11935E-05
Ashburnham	294	99381082	6725169	11	6081	2599	106105537.7	5.73109E-05	6.11887E-05
Deerfield	323	83896705	2750125	74	5125	2181	86643428.34	5.91505E-05	6.1087E-05
Rochester	208	86970679	6365841	250	5232	1885	93335411.27	5.60559E-05	6.01582E-05
Edgartown	550	69429046	849731	89	4067	5220	70288133.22	5.78618E-05	5.85778E-05
Wellfleet	380	51262713	1307804	318	2750	4305	52567974.82	5.23132E-05	5.36452E-05
Clarksburg	67	32865588	267085	63	1702	715	33133105.6	5.13686E-05	5.17867E-05
Erving	133	35786457	1492427	91	1800	807	37278126.53	4.82857E-05	5.02984E-05
Ashby	149	61389725	1002029	12	3074	1191	62391636.61	4.92694E-05	5.00735E-05
Barre	282	114807655	719421	21	5398	2176	115520599.6	4.67276E-05	4.70178E-05
Cheshire	158	69434044	1827452	58	3235	1529	71259312.2	4.53976E-05	4.6591E-05
Wales	107	40736788	601751	306	1838	882	41335859.38	4.4465E-05	4.51189E-05
West Tisbury	248	64835740	3481713	327	2740	2204	68325856.41	4.01019E-05	4.22606E-05
Gill	125	35647707	2665409	106	1500	608	38312589.04	3.91516E-05	4.20784E-05

Lanesborough	192	74697172	1906233	148	3091	1478	76600529.74	4.03522E-05	4.13804E-05
Hubbardston	164	106373488	2406515	140	4382	1662	108774960.5	4.0285E-05	4.11945E-05
Brimfield	208	89982811	1420260	43	3609	1598	91396756.72	3.94872E-05	4.01077E-05
Russell	114	44865623	1100451	256	1775	699	45962843.51	3.86182E-05	3.95626E-05
Hinsdale	168	53696359	2502375	132	2032	1133	56195692.32	3.61594E-05	3.78424E-05
Williamsburg	127	66210557	353143	340	2482	1183	66559823.61	3.72898E-05	3.74865E-05
Buckland	126	50938640	542598	47	1902	888	51479985.35	3.69464E-05	3.7339E-05
Princeton	155	91709834	1032231	241	3413	1339	92737352.6	3.68029E-05	3.72152E-05
Truro	313	54274481	1751052	300	2003	3077	56022195.48	3.57537E-05	3.6905E-05
Oakham	151	53949370	1008115	222	1902	711	54953969.69	3.46108E-05	3.52553E-05
Bernardston	133	60568312	63648	29	2129	948	60632119.49	3.51134E-05	3.51504E-05
Northfield	230	88796644	2812794	217	3032	1391	91609257.99	3.30971E-05	3.41454E-05
Stockbridge	274	58887363	2434646	283	1947	1692	61317863.31	3.17526E-05	3.30631E-05
Huntington	130	68157855	1238562	143	2180	1014	69391673.76	3.14159E-05	3.19846E-05
Shelburne	170	59986596	578686	268	1893	931	60563989.36	3.12562E-05	3.1557E-05
Leverett	127	59071058	425618	154	1851	811	59493816.5	3.11125E-05	3.13351E-05
Richmond	117	48394456	839827	249	1475	902	49231327.89	2.99606E-05	3.04787E-05
Hardwick	183	99941339	5846025	124	2990	1218	105780647.8	2.8266E-05	2.99175E-05
Whately	114	52145080	1320182	337	1496	661	53462394.04	2.79823E-05	2.86892E-05
West Stockbridge	164	47796960	595126	326	1306	856	48388846.79	2.69897E-05	2.73239E-05
Phillipston	133	62804588	1004362	235	1682	802	63806859.95	2.63608E-05	2.67815E-05
Sheffield	269	122856983	2936326	267	3257	1751	125784807.7	2.58934E-05	2.65105E-05
Shutesbury	132	68680801	1557084	272	1771	866	70234330.09	2.52156E-05	2.5786E-05
Egremont	103	48382146	618571	90	1225	921	48997263.47	2.50014E-05	2.53193E-05
Goshen	123	44818485	1029754	108	1054	598	45845812.23	2.29901E-05	2.35171E-05
Westhampton	79	70373770	478358	331	1607	696	70847384.43	2.26826E-05	2.28352E-05
Aquinnah	92	13811374	1128507	104	311	503	14942176.81	2.08136E-05	2.25177E-05
Montgomery	47	39171239	306793	194	838	343	39475243.04	2.12285E-05	2.13932E-05
Pelham	80	65038092	3735678	230	1321	570	68769577.55	1.92091E-05	2.03112E-05
Conway	145	97611925	465179	68	1897	830	98073010.32	1.93427E-05	1.94341E-05
Charlemont	137	67210336	1059506	53	1266	681	68269034.03	1.85443E-05	1.88364E-05
New Braintree	107	53842961	405495	202	999	390	54244850.13	1.84165E-05	1.8554E-05
Chilmark	177	49317853	3653408	62	866	1606	52979024.87	1.63461E-05	1.75596E-05
Otis	241	92050297	6454094	225	1612	1701	98497436.97	1.63659E-05	1.75122E-05
Ashfield	189	103608624	650618	13	1737	877	104255099.7	1.66611E-05	1.6765E-05
Alford	50	29779772	105325	6	494	342	29882999.19	1.65311E-05	1.65884E-05
Leyden	72	46361278	309509	156	711	325	46670968.68	1.52343E-05	1.53361E-05
Chesterfield	114	79916167	1031109	60	1222	591	80942406.09	1.50972E-05	1.5291E-05
Colrain	186	111715571	658628	66	1671	797	112374231.6	1.487E-05	1.49576E-05
Becket	297	119290557	4481906	22	1779	1728	123763987.3	1.43741E-05	1.49132E-05
Cummington	115	59321728	332515	69	872	485	59651266.37	1.46183E-05	1.46995E-05
Granville	109	109293015	2080495	112	1566	647	111366108.4	1.40617E-05	1.43285E-05
Chester	149	94828476	1498383	59	1337	645	96320286.63	1.38808E-05	1.40991E-05
Monterey	144	68450021	2506911	193	961	928	70951917.01	1.35444E-05	1.40394E-05
Worthington	98	82742556	380239	349	1156	629	83117883.36	1.3908E-05	1.3971E-05
Peru	56	67139662	273449	233	847	413	67409418.48	1.2565E-05	1.26155E-05
New Marlborough	191	121445541	2630681	203	1509	1039	124067838.8	1.21627E-05	1.24253E-05

Florida	104	63094485	592481	98	752	356	63686923.73	1.18078E-05	1.19186E-05
Plainfield	93	54646771	594033	237	648	329	55238583.79	1.17309E-05	1.1858E-05
Royalston	191	108245025	1829133	255	1258	574	110074099	1.14287E-05	1.16218E-05
Heath	108	64452259	101848	130	706	670	64554245.89	1.09365E-05	1.09538E-05
Wendell	139	82468345	962986	319	848	436	83428587.3	1.01644E-05	1.02827E-05
Windsor	101	90630849	448237	345	899	491	91075357.52	9.87095E-06	9.91936E-06
Blandford	171	133578582	4814706	33	1233	574	138383529.9	8.91002E-06	9.23052E-06
Petersham	173	140477829	36337808	234	1234	546	176806834.1	6.97937E-06	8.7843E-06
New Salem	201	115950531	35994731	204	990	465	151937661.7	6.51583E-06	8.53812E-06
Middlefield	51	62458083	63888	183	521	279	62517978.64	8.3336E-06	8.34159E-06
Warwick	132	96699282	807171	312	780	426	97506303.23	7.99948E-06	8.06624E-06
Hancock	95	92374170	178586	121	717	534	92549364.98	7.74722E-06	7.76191E-06
Savoy	94	92838285	452299	263	692	357	93288433.47	7.41785E-06	7.45382E-06
Sandisfield	173	134177247	3047061	260	915	671	137215008.8	6.66837E-06	6.81934E-06
Tyringham	58	48303392	585673	302	327	280	48885643.94	6.68908E-06	6.76971E-06
New Ashford	37	34874360	36176	200	228	112	34909831.24	6.53111E-06	6.53775E-06
Rowe	89	60739991	1502242	253	393	227	62242531.67	6.31401E-06	6.4702E-06
Tolland	86	81730931	3205245	297	485	510	84930489.52	5.71055E-06	5.93411E-06
Washington	96	98375655	2114697	313	538	261	100484077.5	5.35408E-06	5.46883E-06
Monroe	45	27682160	250777	190	121	77	27933276.18	4.33175E-06	4.37105E-06
Hawley	62	79859369	130009	129	337	198	79987320.28	4.21317E-06	4.21992E-06
Mount Washington	26	57545054	390303	195	167	148	57931476.39	2.88272E-06	2.90207E-06
Gosnold	129	34153210	817672	109	75	215	34974146.46	2.14444E-06	2.19599E-06

ARTICLE 20

SELECT BOARD'S SUPPLEMENTAL RECOMMENDATION

The Select Board vote under Article 20 was incorrectly reported as unanimous. The following vote is a corrected roll call vote under article 20:

ROLL CALL VOTE:

Aye:	No:	Absent:
Wishinsky	Heller	Greene
Franco		
Hamilton		

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

The provisions of Warrant Article 20 are summarized and analyzed in the Advisory Committee's initial report on this Article.

The Advisory Committee initially recommended that the subject matter of Article 20 and other questions related to parking and zoning be referred to the Zoning By-Law Review Committee. On October 30, after the Select Board voted to recommend No Action on Article 20, the Advisory Committee reconsidered its recommendation. The Advisory Committee now recommends No Action on Article 20.

The Advisory Committee never endorsed the specific approach proposed in Article 20. It had hoped that the Zoning By-Law Review Committee might be able to productively consider the issues raised by Article 20. During the course of reconsidering Article 20, however, the Advisory Committee concluded that the Zoning By-Law Committee will have a full agenda as it reviews Brookline's Zoning By-Law more generally. Further discussion of Article 20 also persuaded a majority of the Advisory Committee that Article 20 is seriously flawed and would not achieve its objectives.

The Advisory Committee continues to believe that the specific proposal contained in the Warrant article should not be pursued. Required minimum off-street parking spaces are not included in Gross Floor Area (GFA) for purposes of applying the Floor Area Ratio (FAR). If one assumes that the developer has built out to the maximum allowed GFA (which is almost always the case), the reduction of three parking spaces has the potential to reduce the overall size and mass of the building. It seems unlikely that developers would opt for Article 20's proposed alternative of requiring developers to reduce GFA if they built fewer parking spaces, since the $31,000 per-space "penalty" that the Article would impose is so small a fraction of the value of the space that could otherwise be developed.

Members of the Committee continue to believe that a potential approach to addressing the Petitioner's concerns, if they need to be addressed at all, is to create specific concessions that a developer would have to accept in order to take advantage of the TPOD's reduced parking space requirements. These might be in the form of increased green space, smaller footprints overall, or other direct measures. It was also suggested that as part of the current overall review of Brookline's Zoning By-Law, consideration could be given to redefining FAR so as to eliminate exempt uses, such as garages and off-street parking, so that the overall bulk and mass of buildings could be directly addressed and fewer opportunities for developers to "game" the zoning by-law would be available.

RECOMMENDATION:
On October 30, 2018, the Advisory Committee reconsidered Article 20 and changed its recommendation. By a VOTE of 13–9–0, the Advisory Committee recommends NO ACTION on Article 20.

ARTICLE 21

TWENTY-FIRST ARTICLE

Submitted by: Girl Scout Troop 62558, Maria Arado-McDonald, Ann Kamensky

To see if the Town will vote to adopt the following resolution:

EVERYTHING SHOULD HAVE A HOME. A RESOLUTION TO ENCOURAGE BROOKLINE RETAILERS TO DONATE UNSOLD MERCHANDISE

A new Resolution for the Town of BROOKLINE encouraging the donation of unopened and unused commercial items for sale within the Town, rather than inclusion of such items in commercial single-stream waste disposal programs.

§ 1. FINDINGS AND INTENT

WHEREAS, the Town has a duty to protect the natural environment, the economy, and the health of its citizens; and

WHEREAS, commercial entities operating within the Town are required to comply with comprehensive waste disposal regulations; and

WHEREAS, as an element of many waste disposal compliance plans, local commercial entities engage in so-called "single-stream" recycling, whereby all recyclable material is disposed in a single container, which is transported to a remote site for sorting; and

WHEREAS, Girl Scout 62558 has learned that some commercial entities include new, unopened, and unused materials into the shops dumpsters, particularly seasonal materials (i.e. clothing, shoes, school supplies); and

WHEREAS, downstream processing of recyclable materials adds energy and other environmental costs; and

WHEREAS, donation of new, unopened and unused items to charities within our Commonwealth would directly benefit its neediest residents; and

WHEREAS, commercial entities would directly benefit from a smaller trash bill and tax write off for donating to nonprofits

WHEREAS, donations are generally subject to favorable tax treatment;

WHEREAS, when acting on this Resolution, retail stores will get a decal to display stating, "this store does more about going green," allowing customers to know about the stores commitment to eliminating environmental waste and helping those in need.

NOW THEREFORE BE IT RESOL VED THAT the Town shall establish a voluntary donation program whereby businesses operating within the Town segregate new, unopened and unused items from being tossed into the store dumpsters and allow charities operating within the Commonwealth reasonable opportunity to inspect, accept and transport any such items prior to inclusion in the commercial trash stream, with such program encouraging the following:

1) Stores work with non-profit organizations to donate unsold merchandise.
2) Stores will receive a decal, to display, stating, "This store does more about going GREEN"
3) This action will reduce the environmental impact of unsold merchandise being placed in the trash stream, and
4) Unsold merchandise will be redirected to help a person in need.

Or act on anything relative thereto

PETITIONER'S ARTICLE DESCRIPTION

To determine if the Town will adopt a Resolution to encourage commercial entities operating in the Town to donate unopened and unused, non-expired stock to appropriate non-profit charities, instead of throwing them in the store dumpster. These items include non-food (i.e. clothing, school supplies) and food items. Reuse is a vital early technique to reduce overall waste streams and is easily implemented at the local level. Materials included in single-stream disposal systems that are later reclaimed for re-use represent a missed opportunity for nonprofit and environmentally conscious entities and the commercial entities who operate herein; while the Commonwealth's residents benefit directly from the donations, businesses may assess the full value of the (unopened and unused) items donated for tax purposes, rather than a fraction of that value recovered pursuant to downstream recycling activities and/or the environmental impact of discarding the items.

SELECT BOARD'S RECOMMENDATION

Article 21 is a petition from Girl Scout Troop 62558 that asks the Town to adopt a resolution encouraging businesses in Town to voluntarily donate unopened and unused items that would otherwise be thrown away to local charities operating in Massachusetts.

The Select Board is supportive of this article and commends the petitioners for encouraging businesses to think differently about items that were previously sent to the waste stream. The Board supports the language proposed by the Advisory Committee which seeks to remove any burdens that could be placed on the Department of Public Works and was pleased to hear that Brookline merchants have been responding positively to the proposal.

The Select Board unanimously voted FAVORABLE ACTION on the motion offered by the Advisory Committee.

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Article 21, which was placed on Warrant by a citizen petition involving Girl Scout Troop 62558, encourages local businesses to donate any surplus, unopened, and unused commercial items to charities operating within the Commonwealth instead of disposing of them with other commercial waste. The dual purpose of the resolution is to reduce the solid waste stream and its attendant environmental costs and, at the same time, benefit those in need. Local merchants have responded positively to the initiative. The Advisory Committee proposed minor changes to the original language to clarify that Town departments would not be involved in executing the programs.

By a vote of 25 in favor, none opposed, and no abstentions, the Advisory Committee recommends Favorable Action on a slightly revised Warrant Article 21 resolution.

DISCUSSION:
The petitioners learned that some stores in Brookline throw away new unsold merchandise at the end of each season. In addition to holiday decorations and candy, seasonal items such as winter hats, gloves, scarves, blankets, school supplies, and backpacks are discarded and written off as a loss. The petitioners feel this makes no sense for the environment or for those in need who could put these items to good use.

Article 21 asks Town Meeting to encourage local stores to donate unsold merchandise to the organization or charity most meaningful to them. The value of donations to a non-profit organization can be written off on the stores' federal taxes instead of being absorbed as a loss. Participating merchants will receive a decal to prominently display on their storefront letting the community know that their STORE DOES MORE for those in need and for the environment.

The petitioners feel the Warrant Article is a win for everyone. Retailers benefit from a tax reduction and community goodwill. The Town reduces the amount of waste it must process, and with less waste going into landfills, the environment benefits as well. Most of all, those in need receive items they can use.

Local merchants have responded favorably to the Warrant Article. Some already donate their unused items. The petitioners hope that national chains will respond to community pressure once they see the decals in local stores. For example, this past summer, after Burberry's was criticized for burning thousands of dollars-worth of unused merchandise, other large chains began to review their own policies in this regard.

The Advisory Committee recommended some minor changes to the Warrant Article to clarify that Town staff would play no role in creating or implementing the program. This addresses concerns raised by the Department of Public Works, which does not have the resources to sustain such an effort, but can help promote a voluntary program. The first line of the resolved clause now reads "NOW THEREFORE BE IT RESOLVED THAT Town Meeting **encourages local businesses to develop voluntary donation programs**" instead of requiring the Town to establish a program. The words "will receive a decal" in the last whereas clause and the second stipulation of the resolve clause were changed to "**may display a decal**." A scrivener's error was corrected to include the word "Troop" between "Scout" and "62558" in Whereas clause #4.

RECOMMENDATION:
By a vote of 25–0–0, the Advisory Committee recommends FAVORABLE ACTION in the following motion under Warrant Article 21.

VOTED: That the Town adopt the following resolution:

EVERYTHING SHOULD HAVE A HOME. A RESOLUTION TO ENCOURAGE BROOKLINE RETAILERS TO DONATE UNSOLD MERCHANDISE

A new Resolution for the Town of BROOKLINE encouraging the donation of unopened and unused commercial items for sale within the Town, rather than inclusion of such items in commercial single-stream waste disposal programs.

§ 1. FINDINGS AND INTENT

WHEREAS, the Town has a duty to protect the natural environment, the economy, and the health of its citizens; and

WHEREAS, commercial entities operating within the Town are required to comply with comprehensive waste disposal regulations; and

WHEREAS, as an element of many waste disposal compliance plans, local commercial entities engage in so-called "single-stream" recycling, whereby all recyclable material is disposed in a single container, which is transported to a remote site for sorting; and

WHEREAS, Girl Scout Troop 62558 has learned that some commercial entities include new, unopened, and unused materials into the shops dumpsters, particularly seasonal materials (i.e. clothing, shoes, school supplies); and

WHEREAS, downstream processing of recyclable materials adds energy and other environmental costs; and

WHEREAS, donation of new, unopened and unused items to charities within our Commonwealth would directly benefit its neediest residents; and

WHEREAS, commercial entities would directly benefit from a smaller trash bill and tax write off for donating to nonprofits

WHEREAS, donations are generally subject to favorable tax treatment;

WHEREAS, when acting on this Resolution, retail stores may display a decal stating, “this store does more about going green,” allowing customers to know about the stores commitment to eliminating environmental waste and helping those in need.

NOW THEREFORE BE IT RESOLVED THAT Town Meeting encourages local businesses to develop voluntary donation programs whereby businesses operating within the Town segregate new, unopened and unused items from being tossed into the store dumpsters and allow charities operating within the Commonwealth reasonable opportunity to inspect, accept and transport any such items prior to inclusion in the commercial trash stream, with such programs encouraging the following:

1) Stores work with non-profit organizations to donate unsold merchandise.
2) Stores may display a decal which states, "This store does more about going GREEN”
3) This action will reduce the environmental impact of unsold merchandise being placed in the trash stream, and
4) Unsold merchandise will be redirected to help a person in need.

For informational purposes, here is a marked-up version of the petitioners’ resolution as it was published in the Warrant, with changes indicated.

EVERYTHING SHOULD HAVE A HOME. A RESOLUTION TO ENCOURAGE BROOKLINE RETAILERS TO DONATE UNSOLD MERCHANDISE

A new Resolution for the Town of BROOKLINE encouraging the donation of unopened and unused commercial items for sale within the Town, rather than inclusion of such items in commercial single-stream waste disposal programs.

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WHEREAS, Girl Scout Troop 62558 has learned that some commercial entities include new, unopened, and unused materials into the shops dumpsters, particularly seasonal materials (i.e. clothing, shoes, school supplies); and

WHEREAS, downstream processing of recyclable materials adds energy and other environmental costs; and

WHEREAS, donation of new, unopened and unused items to charities within our Commonwealth would directly benefit its neediest residents; and

WHEREAS, commercial entities would directly benefit from a smaller trash bill and tax write off for donating to nonprofits

WHEREAS, donations are generally subject to favorable tax treatment;

WHEREAS, when acting on this Resolution, retail stores ~~will get~~ may display a decal ~~to display~~ stating, "this store does more about going green," allowing customers to know about the stores commitment to eliminating environmental waste and helping those in need.

NOW THEREFORE BE IT RESOLVED THAT ~~the Town shall establish a~~ Town Meeting encourages local businesses to develop voluntary donation programs whereby businesses operating within the Town segregate new, unopened and unused items from being tossed into the store dumpsters and allow charities operating within the Commonwealth reasonable opportunity to inspect, accept and transport any such items prior to inclusion in the commercial trash stream, with such programs encouraging the following:

1) Stores work with non-profit organizations to donate unsold merchandise.
2) Stores ~~will receive~~ may display a decal~~, to display, stating~~ which states, "This store does more about going GREEN"
3) This action will reduce the environmental impact of unsold merchandise being placed in the trash stream, and
4) Unsold merchandise will be redirected to help a person in need.

XXX

ARTICLE 22

TWENTY-SECOND ARTICLE

Submitted by: Isaac Silberberg, TMM14

Resolution calling for the General Court of Massachusetts to reinstate the effect of State And Local Tax (SALT) deductions.

To see if the Town will adopt the following Resolution or will amend and adopt the Resolution or will act on anything relative thereto:

WHEREAS, Brookline relies on local taxation to provide town services and educational opportunities to its residents,

WHEREAS, the Commonwealth of Massachusetts levies state taxes to pay for crucial initiatives and programs,

WHEREAS, federal tax reform legislation signed into law in December 2017 placed a cap on total state and local tax deductions which an individual may claim, penalizing members of communities which choose to invest in themselves,

WHEREAS, states across the country have enacted legislation to ease the burden such a cap creates on taxpayers,

THEREFORE, BE IT RESOLVED that Brookline Town Meeting calls on the General Court of Massachusetts to pass legislation which enables the Commonwealth of Massachusetts, as well as its cities and towns, to provide tax relief to citizens by reinstating the full effect of state and local tax deductions,

BE IT FURTHER RESOLVED that the Town Clerk shall submit a copy of this resolution to our representatives and representatives-elect in the General Court of Massachusetts upon passage,

Or act on anything relative thereto

PETITIONER'S ARTICLE DESCRIPTION

While campaigning for the override passed by the voters this past spring, one thing I consistently heard from proponents and opponents alike was concern that this override would have a larger impact on people's financial bottom lines than previous overrides due to federal tax legislation passed in December of 2017. This legislation limited the ability to deduct state and local taxes (SALT) when preparing their taxes for filing with the federal

government at $10,000 per year. They asked me if there would be a way to lessen the impact of the override by bringing back the SALT deductions.

Researching the topic and speaking with staff of legislative leadership and the Attorney General's office led me to the conclusion that state action would be required, leading to the submission of this warrant article. On its own, this warrant article is just a resolution asking the state legislature to examine this situation and see if a possible solution exists.

Why might you care?

- As more children join Brookline's public schools, funding adequate educational programs is the responsible thing to do. It would be nice if we could lessen the financial pain caused when communities choose to invest in themselves, as existed prior to 2018.
- Overrides have serious implications for many residents, particularly those living on fixed incomes. We should not ignore the plight of those who wish to age in community, and are trying to make do with a fixed budget.
- We can better align incentives when it comes to future ballot questions in Brookline by not pitting those who itemize deductions in opposition to those who do not.

What is this not?

- Town or state dollars being used for tax relief.
- Any particular mechanism. While there are a variety of programs across the country aimed at solving this problem, this resolution does not recommend a particular one, believing the legislature is best-equipped to study this issue and move forward appropriately.
- A proposal just for the wealthy. According to the US Census Bureau, Brookline has a median household income over $100,000, and a median property value over $750,000 (which results in just over $10,000 in state and local taxes).

SELECT BOARD'S RECOMMENDATION

Article 22 is a petitioned resolution, which asks the Town to urge the legislature to pass legislation that would provide tax relief by reinstating the effect of state and local tax deductions. The Board acknowledges that setting tax policy at all levels of government is a complicated process. At the public hearing on this article, the Board discussed with the petitioner attempts by other States to mitigate the impact of the cap placed on state and local tax (SALT) deductions. These efforts have run into legal challenges and/ or have been overruled by the Treasury Department and the Internal Revenue Service.

We appreciate the petitioner's attempt to have Town Meeting make a statement that expresses sentiments he received from voters during the May 2018 election who were concerned about the impact of the new cap on SALT deductions. The amended resolution asks the legislature to *consider* legislation that may mitigate the impact on the SALT deductions. While the Board understands that the impact of these changes still needs to be

understood the revised language allows Town Meeting to express concerns that may need to be addressed at both the state and local level.

A unanimous Select Board voted FAVORABLE ACTION on the following motion:

VOTED: That the Town adopt the following Resolution:

Resolution calling for the General Court of Massachusetts to reinstate the effect of State and Local Tax (SALT) deductions.

WHEREAS, Brookline relies on local taxation to provide town services and educational opportunities to its residents,

WHEREAS, federal tax reform legislation signed into law in December 2017 placed a cap on total state and local tax deductions which an individual may claim,

WHEREAS, the Commonwealth of Massachusetts levies state taxes to pay for crucial initiatives and programs,

WHEREAS, states across the country are considering, and at least one state has enacted legislation to ease the burden such a cap creates on taxpayers,

THEREFORE, BE IT RESOLVED that Brookline Town Meeting calls on the General Court of Massachusetts to consider legislation which enables the Commonwealth of Massachusetts, as well as its cities and towns, to mitigate the effect on taxpayers of federal limits state and local tax deductions,

BE IT FURTHER RESOLVED that the Town Clerk shall submit a copy of this resolution to our representatives and representatives-elect in the General Court of Massachusetts upon passage.

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Article 22 is a resolution proposing that Town Meeting calls on the Massachusetts state legislature to consider legislation that would enable the Commonwealth as well as its cities and towns to mitigate the effect on taxpayers of new federal limits on state and local tax deductions.
By a vote of 15–2–3 the Advisory Committee recommends No Action.

BACKGROUND:
Earlier this year the U.S. Congress passed a major federal income tax overhaul. Among the new provisions is a cap for state and local tax (SALT) deductions, which are now limited to $10,000 for those federal tax filers who itemize deductions. Previously, there was no limit, although deductions were gradually phased out above certain income thresholds for

high-income taxpayers. A number of states with high income and property taxes, such as New York and New Jersey, have been concerned that their ability to raise state and local taxes would be inhibited by this new cap on deductions. Consequently, such states are considering, or in one case have passed, legislation that would create a mechanism to enable taxpayers to make charitable contributions to a state or municipal charitable entity in lieu of taxes and obtain a certificate for credit of these local taxes, for local filings, and provide the taxpayer with a charitable deduction (which is currently unlimited) for federal tax filing.

The Treasury Department and the Internal Revenue Service recently have issued rules and clarifications that raise significant doubts as to the effectiveness and legality of such schemes.

In campaigning for the recent Town override question, the Article 22 petitioner received comments from voters indicting that they were concerned that the new cap on SALT deductions would reduce their desire to support increasing Brookline real estate taxes for future overrides. The Petitioner also noted that, having talked with the offices of a number of State Representatives, including some of the leadership, the state legislature was not considering addressing this issue at this time, unless there was expressed concern from cities and towns in the Commonwealth.

DISCUSSION:
The Advisory Committee expressed numerous concerns about this Warrant Article: it is not specific in what is being proposed to achieve the goal of clawing back revenue from the Federal government; it has a complete lack of analysis in terms of who in the Town would benefit, how much they would benefit; that if implemented, that it would have the desired effect of supporting higher local taxes; and that the article is premature.

Questions were raised regarding whether or not there is a problem to be solved. By this time next year, the IRS will have published its full filing data for the current tax year, so that some determination and analysis might be done as to whether the SALT cap does indeed pose a problem or not. Factors in the new tax code, such as the doubling of the standard deduction, changes to the Alternative Minimum Tax, and lower tax rates, may well eliminate or mitigate the impact for federal taxpayers who have been itemizing SALT deductions. Thus there may not be a problem to be solved.

Some Committee members were concerned that this Article looks like it is trying to perpetuate a tax break for the well-off. And as Brookline is regarded as a wealthy community with very high assessed property values, it was thought that it would not be wise for Brookline to be a leader on taking this issue to the Legislature. It was felt that Brookline has a limited amount of political capital to petition the legislature and that members felt that this is not an issue on which we should expend any of that capital.

RECOMMENDATION:
By a vote of 15–2–3, the Advisory Committee recommends NO ACTION.

XXX

ARTICLE 22

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

After learning that the Select Board had recommended Favorable Action on the petitioner's motion under Article 22, a resolution regarding the federal tax deduction for state and local taxes (SALT), the Advisory Committee put the Article on its agenda for possible reconsideration. After discussing the case for reconsideration, the Committee found no reason to change its recommendation of No Action. There was no motion to reconsider.

Although members of the Advisory Committee recognize that Article 22 raises important issues, they had the following concerns about the Article. First, there is not enough data on the impact of changes in the federal tax code to determine whether the SALT cap is creating serious problems for Brookline and Massachusetts. In particular, we cannot yet analyze who in Brookline is (or is not) benefiting from the current federal tax code or the impact of any state-level attempts to mitigate the impact of the SALT cap. Second, any response to federal limits on deductions for state and local taxes also needs to take into account the significant reduction in federal taxes (i.e., changes to the Alternative Minimum Tax and lower tax rates). Third, the resolution does not present a definite proposal for mitigating the effect of the cap on deductions for state and local taxes. Fourth, it is not yet clear which, if any, policies to mitigate the cap on the SALT deduction might be legal or feasible. Finally, given that Brookline has a relatively high level of property taxes, it might be seen as self-serving for Brookline to initiate this resolution.

The Advisory Committee's initial Article 22 report in the Combined Reports includes further discussion of the reasons for the Committee's recommendation.

RECOMMENDATION:
The Advisory Committee continues to recommend NO ACTION on Article 22.

ARTICLE 23

TWENTY-THIRD ARTICLE

Submitted by: Jules Milner-Brage, TMM12

Resolution calling for study of restoring the Olmsted bridle path along the median of Beacon Street in Brookline (and inclusion of funding in the Town's Fiscal Year 2020 budget for such a study)---

To see if the Town will adopt the following resolution:

WHEREAS, Beacon Street is a cherished and prominent public space which provides one of the important east-west routes across Brookline and also serves many local residents and businesses;

WHEREAS, Beacon Street was designed by Frederick Law and John Charles Olmsted in the 1880s, "to make [it] attractive, not only because of the unusual convenience secured, but also because of the sylvan beauty to be enjoyed in passing over it;"

WHEREAS, the Olmsteds' design for Beacon Street conceived of it as, "first, [being] a spacious, direct trunk-line thoroughfare, specially adapted to pleasure driving, riding, and walking; and, second, [having] a cable railway...laid in the midst of [the] avenue...[and] screened on each side by two rows of trees growing in well-prepared borders;" and it remains essentially so to this day, except for one element;

WHEREAS, the Olmsteds' original design included a dedicated facility along Beacon Street's median to accommodate (horseback) "riding" use, a facility known as the "bridle-way"---which abutted the "railway" on its wider side and was distinct from the (driving) "carriage-way" further toward the street's outer edge there---that was enjoyed by local residents for decades before it was obscured in the 1930s;

WHEREAS, the Olmsteds' goals---that the "bridle-way" (specifically) be a space "where those using it may have greater enjoyment of the sociability of a promenade" and that Beacon Street (broadly) be both "a resort, and...a route of travel"---were served, in their original design, by consolidating "riding" activity in a dedicated, common (two-way) facility and by positioning both the median "bridle-way" and the two outer-edge "sidewalks" directly alongside (and thus within the shelter of) shade-tree plantings;

WHEREAS, separating modes of traffic with differing mass and/or speed ---as a means for reducing conflicts and increasing safety and comfort for all street uses---was a design principle championed by Frederick Law Olmsted, was a central aspect of Beacon Street's original design, and today is considered a transportation-engineering best practice in the design of major thoroughfares;

NOW, THEREFORE, BE IT RESOLVED, that Town Meeting calls for study of the feasibility and impacts of one/more approaches to (re)establishing a protected path suitable for two-way moderate-speed person-scale non-car travel abutting the median railway along the whole extent of Beacon Street in Brookline (between Ayr Road and Saint Mary's Street);
and BE IT FURTHER RESOLVED, that appropriation of sufficient funds for such a study, within the Planning Department, in collaboration with the Department of Public Works, be proposed to Town Meeting in the Town's Fiscal Year 2020 budget.

Or act on anything relative thereto.[1]

PETITIONER'S ARTICLE DESCRIPTION

Per earlier study, it seems that there are feasible approaches to restoring the bridle path along Beacon St. in Brookline, an integral element of F.L. and J.C. Olmsted's design for the street and of historical built versions of it, and a means for rendering the street broadly more humane. And it seems that one/more of these feasible approaches would involve little car parking loss.

Restoration of Beacon St.'s bridle path would reduce conflicts among different modes of transportation and would improve support for person-scale car-alternative modes which are space and energy efficient, generally naturally have very few pollution emissions, and many of which intrinsically provide some physical exercise.

Thus, restoration of the bridle path would provide Brookline and the region numerous benefits: increasing safety for all uses of Beacon St.; reducing strain on Beacon St.'s roadway capacity; improving public health; and reducing environmental damage---all by means of reclaiming an element of the Olmsteds' design that is not lost but rather, fortunately, is simply currently hidden in plain sight.

This call for further study of Beacon St.'s bridle path is an outgrowth of preliminary study and analysis pursued over the past year (July 2017 - May 2018) in collaboration (first) with the Bicycle Advisory Committee and (second) with Prof. Peter Furth, of the Northeastern University Civil Engineering Dept., and his student Jackson Lynch.

This spring (Apr. - June 2018), the results of that preliminary study were presented to, and discussed with, the Tree Planting Committee; the Public Transportation -, Pedestrian -, and Bicycle Advisory Committees to the Transportation Board; and the Transportation Board (under an informational agenda item).

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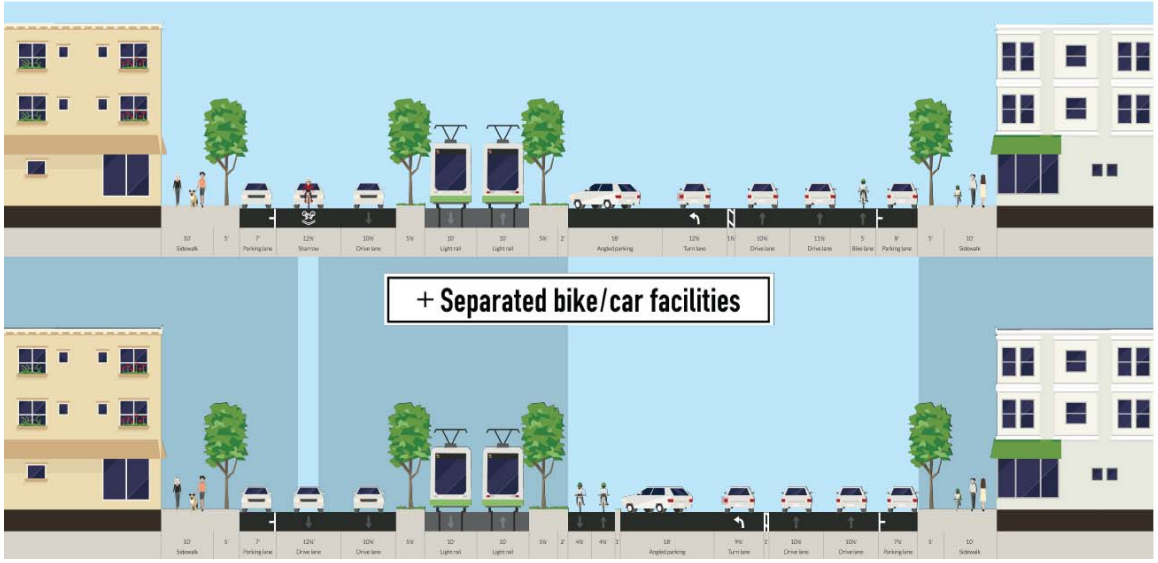
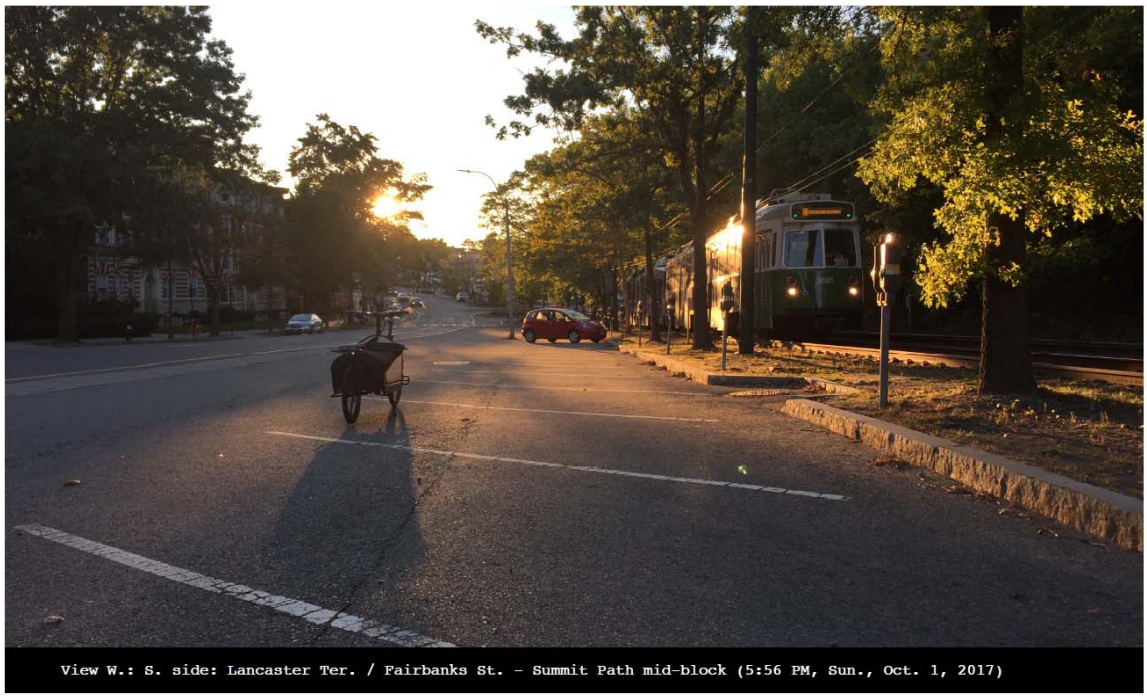
[1] (Source for all quotes above---)
F.L. and J.C. Olmsted, "Preliminary Plan for Widening Beacon Street from the Back Bay district of Boston to the Public Pleasure Ground at Chestnut Hill Reservoir and for Connections with Massachusetts and Commonwealth Avenues," Nov. 29, 1886. (Courtesy of the National Park Service, Frederick Law Olmsted National Historic Site, Brookline, MA.) <http://flickr.com/photos/olmsted_archives/31414486471>

Given compelling benefits, and seemingly modest downsides, now is the time to study restoration of Beacon St.'s bridle path further: to look to the past to explore an improved way forward along this street that is so central to both the function and character of our Town.





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[2] Background:
(1) Historical view:
A collection of historical photos of the median of Beacon St. during the period---circa 1890s - 1900s---shortly after the Olmsteds' design for the street was first realized, when the original bridle path was intact.
http://milner-brage.com/jules/2018/06/11/historical-view-bridle-path-beacon-st-brookline

(2) Concept (introduction) (July 18 - Sep. 26, 2017):
Frames the concept of a modern incarnation of the bridle path, precedents, and a course of study to further develop design and implementation specifics, in order to support evaluation and discussion by Beacon St.'s broad array of stakeholders.
http://milner-brage.com/jules/2017/09/26/concept-bridle-path-beacon-st-brookline

(3) Concept bottom line (Dec. 9, 2017 - June 22, 2018):
Results of preliminary CAD modeling and ground-truthing study of the feasibility of (re)establishing a median non-car path--- for protected bicycling (primarily, at least initially), and to shorten cross-walk distances and moderate car travel speeds ---along the whole of Beacon St. in Brookline.
Illustrates and examines this potential improvement by:

[A] updating Mass. DOT's traffic plans for the street's last major renovation (largely its current built form),

[B] via a "shrink to fit" cross-section transformation (modestly narrowing and shifting the car facilities on the wide side of the train tracks).

Especially addresses the degree of geometric fit and specific challenges to implementation presented by existing conditions.
http://milner-brage.com/jules/2018/05/07/concept-bottom-line-bridle-path-beacon-st-brookline

TRANSPORTATION BOARD REPORT AND RECOMMENDATION

Per the request of Town Staff, the Transportation Board held a public meeting on Monday, September 17, 2018 to discuss the issuance of a letter of recommendation regarding Warrant Article 23: Request for a Feasibility Study of the Restoration of the Beacon Street Bridle Path as a means to provide for a Protected Path Suitable for Two-way Moderate-speed Person-scale Non-car Travel Abutting the Median Railway along the whole extent of Beacon Street in Brookline . Following the public meeting and a subsequent discussion at the October 15, 2018 meeting the Transportation Board considered the following motion:

WHEREAS The Transportation Board for the Town of Brookline, under Chapter 317 of the Acts of 1974 as amended, are charged with the "authority to adopt, alter or repeal rules and regulations not inconsistent with general law…relative to pedestrian movement, vehicular and bicycle traffic in the streets and in the town-controlled public off-street parking areas in the town, and to the movement, stopping, standing or parking of vehicles and bicycles on, and their exclusion from, all or any streets, ways, highways, roads, parkways and public off-street parking areas under the control of the town";

WHEREAS the Transportation Board, in response to the demands of our citizenry and in recognition that our community has both an urban and suburban mixture, has worked hard to enact regulations and support programs which lead to a strong multi-modal transportation system that encourages the use of public transportation, walking, and cycling as alternatives to single car commuting;

WHEREAS the Bicycle Advisory Committee, an advisory committee to the Transportation Board, has annually released and updated the Green Routes Master Network Plan since 2007 which seeks to make bicycling in Brookline a "sustainable, economical, and convenient mode of transportation for short and medium distance trips" because as a form of transportation is "is good for the environment, for public health, and for reducing traffic congestion and parking demand";

WHEREAS the Brookline Select Board adopted a Complete Streets Policy which requires that the "Town's transportation projects shall be designed and implemented to provide safe and comfortable access for healthful transportation choices such as walking, bicycling, and mass transit. The needs and safety of the town's most vulnerable users shall be given special consideration during project planning. Users may be considered vulnerable by virtue of their mode of transportation, such as bicycling or walking, or because of their age or ability, such as small children, senior citizens, and people with disabilities.";

WHEREAS the Transportation Board has an interest in best meeting the transportation goals for
all modes on Beacon Street and would like to move the discussion forward and have it become informed through the findings of the feasibility study;

THEREFORE the Transportation Board, by a unanimous vote, recommends favorable action by Town Meeting on Warrant Article 23 which will instruct Town officials to

develop a scope of services and budget sufficient funds necessary to carry out a feasibility study of the restoration.

SELECT BOARD'S RECOMMENDATION

Article 23 is a Resolution seeking a study of the feasibility of creating a path along the length of the Beacon Street median in order to accommodate protected, non-vehicular traffic. This path would generally follow the concept of the Olmsted-designed "bridle path" that existed along Beacon Street before the transition to motorized vehicles in the early 20th century.

The proposal to study the issues associated with creating a "community path" along the Beacon Street median is an interesting one that appears consistent with the Town's commitments to "complete streets" and the reduction of carbon emissions. However, this is a very complicated project that involves multiple government jurisdictions, an active trolley line, existing infrastructure and features, and substantial cost. The Town Administrator convened a meeting with staff to discuss concerns raised during the review of this article. In general, despite an acknowledgement that restoring the path is an intriguing concept, concerns were raised about the amount of staff time that would be required for this project, whether this project was inconsistent with or would compete with existing Town priorities or projects, and how the study would be funded given the intense competition over capital funding. The group agreed that this project should be viewed as a long-term project that would be studied incrementally over several years. The Town Administrator assured the Board that due to the long term and conceptual nature of the study he did not anticipate that it would consume an unreasonable amount of staff time or serve as a barrier to pursuing other priorities or projects of the Town, including more immediate projects such as installing electric vehicle charging stations along the corridor.

Building upon the suggestion of the Capital Subcommittee of the Advisory Committee, the Town Administrator recommended that the Resolve clauses be consolidated into a single clause as follows;

> NOW THEREFORE, BE IT RESOLVED that Town Meeting requests the Town Administrator to assign staff as he deems appropriate to a Scope of Services necessary to engage a consultant to study the concept and feasibility of establishing a protected path suitable for two-way, non-motorized travel along the full length of the Beacon Street median in Brookline, estimate the costs associated with such a study, and identify potential funding sources. Said Scope would be prepared in sufficient time to be considered for inclusion in the Town's FY 2021-2026 Capital Improvement Plan (CIP).

The Board is appreciative of the efforts of the Town Administrator and staff to look at this article and modify the language to allow a scope to be developed while not attempting to bind a future Town Meeting with a funding request. This Board is interested in pursuing outside funding, if possible, for studying this concept. The Board thanks the petitioner for

bringing this Article to Town Meeting and looks forward to understanding the possibilities that exist for this important corridor.

A unanimous Select Board voted FAVORABLE ACTION on the following motion:

VOTED: That the Town adopt the following resolution:

WHEREAS, Beacon Street is a cherished and prominent public space which provides one of the important east-west routes across Brookline and also serves many local residents and businesses;

WHEREAS, Beacon Street was designed by Frederick Law and John Charles Olmsted in the 1880s, "to make [it] attractive, not only because of the unusual convenience secured, but also because of the sylvan beauty to be enjoyed in passing over it;"

WHEREAS, the Olmsteds' design for Beacon Street conceived of it as, "first, [being] a spacious, direct trunk-line thoroughfare, specially adapted to pleasure driving, riding, and walking; and, second, [having] a cable railway...laid in the midst of [the] avenue...[and] screened on each side by two rows of trees growing in well-prepared borders;" and it remains essentially so to this day, except for one element;

WHEREAS, the Olmsteds' original design included a dedicated facility along Beacon Street's median to accommodate (horseback) "riding" use, a facility known as the "bridle-way"---which abutted the "railway" on its wider side and was distinct from the (driving) "carriage-way" further toward the street's outer edge there---that was enjoyed by local residents for decades before it was obscured in the 1930s;

WHEREAS, the Olmsteds' goals---that the "bridle-way" (specifically) be a space "where those using it may have greater enjoyment of the sociability of a promenade" and that Beacon Street (broadly) be both "a resort, and...a route of travel"---were served, in their original design, by consolidating "riding" activity in a dedicated, common (two-way) facility and by positioning both the median "bridle-way" and the two outer-edge "sidewalks" directly alongside (and thus within the shelter of) shade-tree plantings;

WHEREAS, separating modes of traffic with differing mass and/or speed ---as a means for reducing conflicts and increasing safety and comfort for all street uses---was a design principle championed by Frederick Law Olmsted, was a central aspect of Beacon Street's original design, and today is considered a transportation-engineering best practice in the design of major thoroughfares;

NOW THEREFORE, BE IT RESOLVED that Town Meeting requests the Town Administrator to assign staff as he deems appropriate to a Scope of Services necessary to engage a consultant to study the concept and feasibility of establishing a protected path suitable for two-way, non-motorized travel along the full length of the Beacon Street median in Brookline, estimate the costs associated with such a study, and identify potential funding sources. Said Scope would be prepared in sufficient time to be considered for inclusion in the Town’s FY 2021-2026 Capital Improvement Plan (CIP).

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Article 23 is a resolution asking the Town Administrator to facilitate the engagement of a consultant to study the feasibility of restoring the former Beacon Street Bridle Path to be used for non-motorized, low-impact travel. By a vote of 20–1–0, the Advisory Committee recommends Favorable Action on the motion offered by the Select Board.

BACKGROUND:
This proposal is the outgrowth of a preliminary study and analysis that the petitioner pursued from July 2017 to May 2018 in collaboration with the Bicycle Advisory Committee and with Professor Peter Furth of the Northeastern University Civil Engineering Department and his student Jackson Lynch. Last spring the results of that preliminary study were presented to, and discussed with, the Tree Planting Committee, the Public Transportation, Pedestrian, and Bicycle Advisory Committees of the Transportation Board, and the Transportation Board itself, under an informational agenda item.

The bridle path is considered to be an integral element of F.L. & J.C. Olmsted's plan for Beacon Street. Interestingly, the Olmsted firm's first design included a 200-foot wide boulevard containing two bridle paths and a cycling path as well as a drive for "pleasure" traffic and one for commercial vehicles with a streetcar track down the middle. The design was later reduced to 160 feet, eliminating the bicycle path and one of the bridle paths.

The petitioner believes that there are feasible approaches to restoring the bridle path so that it could be used for "two-way moderate-speed person-scale non-car travel." He further believes that the redesign could be accomplished with little or no parking loss. He noted that restoring Beacon Street's bridle path would reduce the conflicts that occur among different modes of transportation in the vehicular lanes and that the bridle path could be used for bicycles, scooters, electric wheelchairs, and folks with jogging strollers. The petitioner also noted that besides increasing public safety, a restored bridle path would result in reducing damage to the environment by encouraging modes of transportation other than gas-powered vehicles.

Given the potential beneficial impact of re-creating the bridle path for low-density, low-impact transportation uses, members of the Advisory Committee's Capital Subcommittee supported the concept of pursuing a feasibility study, but they urged the petitioner to speak with Town Hall staff to determine which department would assume responsibility for pursuing and subsequently managing such a study; what the cost(s) would be; and whether the State Department of Transportation would support a proposal to modify some of the existing parking facilities and to eliminate the existing bike lanes on the street.

Subsequent discussions between the petitioner and the Director of Planning and Community Development and a meeting of the Town Administrator with Town Hall staff led to the amended resolution.

DISCUSSION:
The Advisory Committee had two discussions regarding Article 23 (October 4th and October 18th) during which time additional information about the proposal was sought, including the adequacy of a 10-foot wide path for low-impact modes of transportation, loss of parking, the possibility of approval by the Massachusetts Department of Transportation (Mass DOT), the interaction of various modes of travel at intersections, and the possibility of outside funding. There were also questions about the difference between the proposed path and a bike path.

In response, the petitioner stated that Mass DOT guidelines stipulate that bi-directional paths be 8–12 feet wide, consequently ten feet would appear to be an acceptable width. He believes that there has been a change in thinking in the Department and that it might be open to considering different types of parking configurations and dynamics. He also explained that in his estimation, some of the needed ten feet for the restored bridle path would come from the elimination of the existing bike lanes. Bicyclists using Beacon Street for commuting purposes, particularly during the early morning and late afternoon/evening, might still prefer to use the vehicular traffic lanes. However, for those cyclists who preferred a slower ride, the restored bridle path would be ideal. It also would allow a separation between lower speed walking on the sidewalks and the low-mass, moderate speed of scooters, bicycles, skateboards, and motorized wheelchairs on the “new” path.

Using information on the cost of previous or similar studies, the petitioner believes the cost of this study would be approximately $50,000. Planning Director Alison Steinfeld believes that are a number of possible outside funding sources for the project.

The original and compressed time schedule to prepare for and to fund the feasibility study in May 2019 has been extended in the amended Resolution. A few Advisory Committee members expressed hesitation with using the FY2021–2026 Capital Improvement Plan as a framework because, theoretically, it could push the study to FY2026. However, other Committee members noted that flexibility in timing was prudent, particularly since outside funding is being sought. They also observed that Town Meeting could accelerate the schedule if it felt that the study were being unnecessarily delayed.

RECOMMENDATION:
By a vote of 20–1–0, the Advisory Committee recommends FAVORABLE ACTION on the motion offered by the Select Board.

XXX

ARTICLE 24

TWENTY-FOURTH ARTICLE

Reports of Town Officers and Committees

Moderator's Committee on Elderly Tax Relief
Interim Report
October 23, 2018

There are five committee members: Susan Granoff (Chair), Tom Elwertowski, Ben Franco, Jeff Kushner, and Bob Lepson. To date, the committee has held four meetings: June 11, July 9, August 13, and October 22.

The committee has not completed its deliberations but plans to issue a full report before the 2019 November Town Meeting.

WA 29 Report

**REPORT OF THE COMMITTEE ON WARRANT ARTICLE 29
OF THE NOVEMBER 2016 TOWN MEETING**

I. Warrant Article 29.

Warrant Article 29 of the November 2016 Special Town Meeting was introduced by Gary Jones, following a brutal attack by a dog on a neighbor of Mr. Jones. The following, from the Combined Reports, is the Petitioner's description of the Article.

Warrant Article 29 from the Warrant reads as follows:

> *This article makes it clear it's the police officer's duty to protect the public from a dangerous dog or animal.*
>
> *The Brookline Police Department shall train each police officer in the proper handling of dangerous, violent dog and other animal attacks. Such training shall teach each officer it's their responsibility in the event of such an attack to secure the dangerous dog or animal. The public expects the officers to ensure their public safety. They cannot expect the public to protect themselves from dangerous dogs and animals. Public safety is a police function.*

Town meeting voted to refer Warrant Article 29 to a committee of the Select Board. Select Board Member Bernard Greene chaired the Committee. The other members of the Committee were Carla Benka and Gary Jones. Staff members who assisted in the deliberations of the Committee were Police Deputy Superintendent Andrew Lipson, Animal Control Officer ("ACO") David Cheung, Health and Human Services Department Director Dr. Swannie Jett, and Director of Environmental Health Patrick Maloney.

II. Testimony and Information Presented to the Committee.

The Committee heard testimony and contributions of pertinent information from the Petitioner, Gary Jones, Deputy Superintendent Andrew Lipson, Police Officer David Cheung, Dr. Swannie Jett, and Patrick Maloney.

A. Petitioner Gary Jones.

At its March 21, 2017 meeting, Gary Jones gave testimony to the Committee to further elaborate on his concerns. Those concerns included that he believed the Town did not respond to the dog attack incident on May 19, 2016 adequately. For example, he asserted that the police did not declare the attacking dog a "dangerous dog," which Mr. Jones believes reflects problems with the

Town's bylaws. He also suggested an online index for police reports and alerts to the dog community of incidents. This suggestion was addressed by a separate Moderator's Committee on Posting of Police Reports, which is discussed later in this report.

Mr. Jones kept his neighbors, including those neighbors who had been traumatized by the attack, informed of the progress of the Moderator's Committee and this Committee. He noted that they were all pleased to know that Chief O'Leary had issued Special Order 2017-1 (January 3, 2017), Responding to Dog Bites; Nuisance and/or Dangerous Dogs Hearings (the "Special Order") to insure all policemen in service now were given guidance on how to handle such attacks by animals. A copy of the Special Order is attached as Exhibit 1. Mr. Jones believes that the Special Order came about because of the citizen petition for a dangerous dog hearing, which many of the neighbors signed. They understand and agree that the order instructed officers to inform victims of the right to petition for such a hearing. There was no such requirement, he argued, when the attack occurred and victims and neighbors were left unaware of their rights under Massachusetts Law.

Several people questioned why such a hearing shouldn't be done automatically. The general thinking, he said, is that the neighborhood responded to the victim screaming and saved her and her dog by restraining the attacking dog. When the officer arrived, the dangerous dog was restrained by a neighbor, and the victim was on the way to the hospital, her dog being taken to the veterinarian by another neighbor. Meanwhile, the dangerous dog was sent home with its owner by the officer. A few people thought a change in the town bylaw could guarantee that outcome wouldn't happen again. Mr. Jones said that he thought that whatever happens in a dog attack in the future the officer needs discretion in handling the situation as it presents itself whatever any bylaw says. He thinks the current bylaw suffices.

B. Police Department

Deputy Superintendent Andrew Lipson. Deputy Superintendent Lipson described the training provided to all police officers. He explained that all new officers joining the force receive one week of training on all issues specific to Brookline. During the year, all officers participate in 40 hours of in-service training. All officers are also trained on all General Orders, including General Orders relevant to animal control matters, such as General Order 13.1, dated December 29, 2016 (Injured Domestic Animals and Wildlife). They are also trained on Bylaw Article 8.6 (Dog Control).

Deputy Lipson described the duties and responsibilities of the ACO, which are described in section 2 of the Policies and Procedures, Rules and Regulations manual, under the heading Animal Control Officer. When responding to complaints involving animals, the ACO conducts investigations to determine the basis for a complaint, completes and submits a report, and provides information to

the potential complainant about requesting a hearing. Any such request is forwarded to Town Counsel's office.

Deputy Lipson also provided some history of animal control in Brookline. He explained that in the 1970s, there were three animal control officers, which were all civilian positions in the Health Department. That number was eventually reduced to two and the role was moved to the police department. Subsequently the number was reduced to one. Currently the one ACO receives an additional $3500 in salary. Deputy Lipson noted that creating one or more ACO positions would require negotiations with the Police Union. It would also impact the Police Department's budget for the ACO additional salary and the costs associated with the ACO training.

Police Officer David Cheung. Officer Cheung is Brookline's sole ACO. He testified before the Committee and described the training he underwent to become an ACO. Officer Cheung stated that in 2015 he attended the Animal Control Academy for one day each week for 12 weeks. The Academy was sponsored by the ACOs Association of MA. Subjects taught included state statutes, wildlife issues, dog bite prevention, animal behavior, animal handling, and animal capture. Officer Cheung added that he participates in a two-day refresher course annually and in specialized training throughout the year when possible. He believes that his training covers "the basics" and is sufficient for his purposes.

Most of Officer Cheung's work involves domestic animals and includes enforcing the regulations of the Green Dog Program and Brookline's leash law. There are also occasions when he has to deal with wild animals. He is also responsible for rescuing stray animals and is equipped with a microchip reader so that he is able to identify an animal's owner if it has been micro-chipped. If he picks up an injured animal, he takes it to Angell Memorial Hospital (MSPCA) or the Brookline Animal Hospital. The Town is liable for the first $250 of the animal's care. The number of times he has taken injured animals to these hospitals and the number of times he has had to euthanize injured animals, such as a deer hit by a motor vehicle is shown in the chart below.

Animal Statistics.

	2015	2016	2017
Animals brought to Kennel/Hospital			
Canine/Feline:	4	6	7
Wildlife	10	16	18
Animals Euthanized by year			
Euthanized by Animal Hospital	18	9	16
Euthanized by Brookline PD (firearm[1])	1	1	0

[1] The incidents of Animals Euthanized by Brookline PD (firearm) were Deers that were struck by vehicles and severely injured.

Officer Cheung noted that the number of calls that he receives increases in warmer weather, and include loose animals, dog bites, and bats in residences. When he is not on duty, another officer responds to the complaints. The Committee asked Officer Cheung whether he would be able to train the other officers who might be called upon in his absence. In response, he noted that his training is specialized and that unless it is used on a regular basis, it would be difficult for another officer to remember all the protocols.

Officer Cheung also noted that in the first six months of 2017, there had been 19 animal bites reported and no "Dangerous Dog" hearings held. He said that a net pole was the primary tool he uses to bring an animal under control. He distributed information on "net guns" which, unlike administering tranquilizers via tranquilizer guns, do not require time to become effective. Using a tranquilizer gun also risks shooting the animal with an incorrect amount of a drug or in the wrong part of an animal's body. A net gun allows an officer to capture an animal from a safe distance and is safer for the animal than a net pole. A net gun costs approximately $1700 and the nets that are supplied along with it can be used multiple times before wearing out.

Brookline Park Police Interns. The Police Department's Community Service Division runs an Intern program in the Town parks that has helped the police to identify and intervene in animal related incidents. Each summer from June through the end of August, Brookline residents who are attending or entering their first year of college are hired to work in the towns parks as interns. They are provided with uniforms in the form of Polo shirts that say "Brookline Park Police Intern" and khaki pants or shorts. They are provided with Police radios and instructed how to contact Police dispatch if they observe a problem. They are the eyes and ears in the parks and are instructed to alert Public Safety Dispatch if they need a Police Officer to respond to an incident. They are briefed by the Community Service division on applicable town-by laws and park rules and regulations. The Park Interns are intended to be a positive presence in the parks and not to engage in confrontations with those they see violating town-by laws or damaging property. The program is supervised by a Lieutenant in the Community Service division and they are assigned to parks alone or in pairs depending on the need and assignment. The Community Service Division consults with the Parks Department to determine which parks the Interns will be assigned. They are regularly assigned to the summer concert series and other summer time special events. During recent summers they have also assisted in parks where there have been dog related problems.

Animal Control Staffing. The Committee discussed animal control staffing in Brookline, following up on the historical sketch provided by Deputy Lipson. Deputy Lipson provided the Committee with an estimate of the cost of one additional ACO in the Police Department. It should be noted that the Committee strongly urges consideration of full staffing of three ACOs, while acknowledging the additional costs of full staffing.

- Cost of additional ACO is $114,523 for salary
- Stipend of $3500
- Ancillary costs and benefits
- Training for a new ACO would initially cost $495 for the state mandated Academy
- Additional yearly specialized training would range from approximately $500 - $1,000 annually

- Uniform equipment to outfit the Officer would be approximately $600
- Due to shift work the ACOs would share a vehicle, specialized tools and equipment and these areas would not create any significant additional cost.

Equipment and Facilities. The Committee discussed whether there are items of animal control equipment and facilities, such as a Town kennel, that should be recommended for consideration by the Town and the costs associated with such equipment and facilities. Deputy Lipson informed the Committee of the possible costs of the equipment the Committee discussed.

Cost of New Equipment Discussed by the Committee:

- Net Gun cost is approximately $2,000
- Tranquilizer gun is $2,250

C. Health and Human Services Department

Dr. Swannie Jett. Dr. Jett offered his perspective on the issue of animal control training and followed up with a summary of the Health Department's responsibilities in animal control matters. He reported that the greatest number of complaints/inquiries that his department receives relate to wild turkeys. He noted that the Town was limited in taking action against wild turkeys and other wild animals by state law. He also noted the difficulty of getting a quick response from the Division of Fisheries and Wildlife within the Executive Office of Energy and Environmental Affairs when their assistance is needed.

Dr. Jett also reported that his department participates in inter-agency discussions regarding animal control and that among its specific responsibilities were rabies clinics, quarantines, and health advisories (including those related to wild animals). He recommended that there be a tracking system for all dogs in Brookline and noted that animal control responsibilities for similarly sized communities were shared by two or three officers. In most other communities those responsibilities rest in the Police Department and within an "animal control unit." In Brookline, he said, more equipment, especially for controlling dangerous dogs, as well as more manpower might be advisable.

The Health Department is part of the team that addresses animal control and wildlife issues in the community. The Department organizes and holds monthly meetings with the Inter-department animal control working group. The Departments that are part of the group are:

- Public Health Department
- Police Department
- Town Clerk
- Parks and Open Space
- Information Technology

Health Department staff that is involved in animal and wildlife issues:

- Assistant Director of Public Health-Chief of Environmental Health
- Public Health Inspectors
- Inspector of Animals
- Public Health Nurse
- Emergency Preparedness Coordinator
- Clerical Support Staff

The Health Departments role on animal issues in the community is the following:

- Implements State requirements on issuing quarantine orders to owners of animals (dogs and cats) that have bitten a human or other animal
- Insures that persons that are bitten by animals receive appropriate care and treatment for rabies protection
- Holds annual Rabies Clinic's in Town, (Department partners with Newton Health Department to hold duel community clinics). Residents receive rabies vaccine by a veterinarian for their pets (dogs, cats, ferrets) at a reduced rate ($15.00/animal). The Health Department has added an animal chip reader program to install chips for tracking and identifying lost animals. Chips are offered for $10.00 per animal.
- Issues permits for the "Keeping of Animals" throughout the Town.
- Recommends issuance of Kennel Permits to the Town Clerks office.
- Assists residents in preparing for emergencies and evacuations with their pets.
- Issues emergency pet travel kits.
- Shares information with Police, Parks and Open Space and Town Clerks office on dog bite reports to the Health Department.
- Issues Public Health Advisories on problem and nuisance animal issues in the community. (Turkeys, Coyotes, Foxes, etc.)
- Has developed a tracking system with existing software that maintains a data base of licensed animals, green dog permits, and quarantined animals.

Director Pat Maloney. Director Maloney, responding to concerns expressed by Warrant Article 29 Petitioner, Gary Jones, stated that when there is an incident, various departments, including the Health Department, are alerted and that such incidents are "red flags" for them. As noted above, the Town Clerk, Public Health Nurse, ACO, Park Ranger, and representatives from the Health and Police Departments meet once a month to discuss such matters. Mr. Jones said that he was pleased to hear that such information is shared among Town personnel but that there should be an online index for Police Reports and that the dog community, an informal network of dog owners, should be alerted when dog attacks take place.

This proposal was partially addressed by the Moderator's Committee on Warrant Article 30,[2] which also arose out of the dog bite incident cited by Mr. Jones. The Warrant Article 30 Committee recommended that the Police Department not post all incident reports on its website, because such a step would be burdensome and impractical. Rather, the Committee recommended that the department take several steps to improve its information disclosure practices. These steps included making its disclosure of information in public channels, such as the Police Blog, as descriptive as possible and being clear that the Blog is comprised of incidents selected by the Community Services Division and not a comprehensive list of crime reports. The Committee also recommended that the public be informed of the Department's use of the privately operated CrimeReports.com website to report data and the limitations of that website. Much of the Committee's recommendations were taken up by the Department immediately. The full report is available on the Town's Boards and Commissions Webpage under Moderator's Committee on Posting of Police Reports:

http://brooklinema.gov/DocumentCenter/View/12380

Director Maloney stated that 38 dog bites were reported in 2015 and 36 were reported in 2016. Committee members commented that there are other animals in the community that bite or can otherwise be dangerous, including squirrels, coyotes, raccoons, and turkeys. Director Maloney noted that all veterinarians must report dog bites to the local Board of Health which checks on the dog's most recent rabies vaccination and orders the dog to be quarantined for a specific period of time.

Ms. Benka noted that members of the public, and especially children, may not be aware that their behavior or gestures may be perceived by an animal as threatening and that it was important for everyone to learn more about animal behavior, the study of which has become broader and more scientifically based during the past two decades.

III. Material Presented to and Examined by the Committee.

The Committee reviewed and discussed (i) the Special Order, (ii) Brookline bylaw §8.6, (iii) ordinances of Newton, Watertown, and Brockton, Mass. Gen. Laws, Chapter 140, §157 (Nuisance or dangerous dogs; orders for remedial action; appeal; violation of order) and §136 (Definitions)

A. The Special Order.

Deputy Superintendent Andrew Lipson distributed copies of the Special Order. The Special Order was responsive, in part, to the dog incident that precipitated the submission of Warrant Article 29. Its stated purpose is "to provide officers with procedures for responding to dog bits and complaints

[2] The Warrant Article 30 Committee was a Moderator's Committee on Posting of Police Reports that resulted from Warrant Article 30 of the November 2016 Town Meeting as a companion article to Warrant Article 29

of dogs that may be dangerous and/or a nuisance." It also includes procedures for nuisance and/or dangerous dog hearings.

Upon receiving a report of a dog bite, the Special Order requires dispatch of an officer to the scene. It provides guidance for a regular patrol officer, under the supervision of the Patrol Supervisor, if the ACO is unavailable. Such guidance includes performing an initial investigation, taking appropriate specified actions to ensure public safety and prevent injury, making a preliminary determination as to which dog or domestic animal is the aggressor and making arrangements to restrain the aggressor if necessary or impounding or transporting it to a local animal facility by a person trained in capturing aggressive animals. A patrol office is not authorized to capture wild animals, rather the officers have contact information for outside animal control agencies. The Special Order also directs the patrol officer or his or her supervisor to contact the ACO and inform him or her of the patrol officer's actions and conclusions for follow up actions by the ACO.

The Special Order instructs the ACO or the patrol officer dispatched to the scene in the absence of the ACO to inform the victims and/or witnesses involved in an incident of the steps to request a dangerous dog hearing. If necessary because of the severity of the incident, an "Alert Brookline" emergency notification can be issued to alert households and businesses of the presence of a potentially dangerous animal in the area.

B. Brookline Bylaw §8.6.

Brookline's Dog Control bylaw prohibits owning or keeping a dog that bites, barks, or howls or exhibits any other type of behavior that disturbs the peace of a neighborhood or endangers the safety of any person. An owner or keeper may be prosecuted and his/her dog impounded for a number of causes including having an unlicensed dog, violating a muzzling order of the animal control officer, and for owning a dog that has bitten, injured or "physically molested" a person, or has bitten or injured a domestic animal.

The bylaw requires that when in public, a dog must be accompanied by a person of adequate age and ability to keep the dog under control. It prohibits a dog going on to private property without permission of the property's owner, and going on public property unless restrained by a leash of seven feet or less in length. The single exception to the latter restriction is that in Town dog parks, a dog may be allowed off leash but must be kept under the control of its owner or keeper.

Other provisions of the bylaw address the owner or keeper's responsibility to remove any fecal matter deposited by the dog, conditions under which a dog may be muzzled, procedures for releasing a dog from impoundment, and circumstances for confining a dog in heat.

C. Newton Ordinance Chapter 3, Articles I and II

Newton's Article I creates a Department of Animal Control under the direction of the Director of Animal Control, who may also serve as a dog officer (There are currently two dog officers in the city.) The Department of Animal Control works with the police department and undertakes investigations of reported or apparent violations, takes actions relative to the enforcement of the provisions of the ordinance, and is responsible for the care and management of the city pound.

Article II includes requirements for licensing and vaccinating dogs, prohibits owning or keeping a dog that disturbs the quiet of any person by biting, barking or howling, and bars dogs from public areas and streets unless effectively restrained by a leash or chain of 10 feet. Exceptions are included under the Dogs Off-Leash Program. Under no circumstances are dogs allowed in public "tot lots."

Other portions of Article II pertain to the removal and disposal of canine waste, the circumstances under which the dog officer may order a dog to be muzzled or confined, and the conditions under which a dog owner or keeper may seek the lifting of such restrictions.

Watertown Animal Control Ordinance, Title IX, Chapter 91

Like Brookline and Newton, Watertown's Animal Control Ordinance prohibits owning or keeping a dog which by biting, barking, howling, scratching or crying disturbs the peace of a neighborhood or endangers the safety of a person. Unlike Newton and Brookline, Watertown's ordinance offers numerous definitions, including ones for a "Dangerous Dog" and a "Nuisance Dog." The former is described as "a dog that either (i) without justification, attacks a person or domestic animal causing physical injury or death or (ii) behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of physical injury or death to a person or to a domestic or owned animal."

A "Nuisance Dog" is described as a dog that:

(1) By excessive barking or other disturbance, is a source of annoyance to a sick person residing in the vicinity; or
(2) By excessive barking, causing damage or other interference, a reasonable person would find such behavior disruptive to one's quiet and peaceful enjoyment; or
(3) Has threatened or attacked livestock, a domestic animal or a person, but such threat or attack was not a grossly disproportionate reaction under all the circumstances.

Any person may file a written complaint to the Board of Health that a dog owned or kept in the city is a nuisance or a dangerous dog, and the Board of Health, as the hearing authority, is required to process the complaint, hold a public hearing, and issue a decision.

The ordinance includes requirements for vaccinations and for licensing. No license may be issued for a dog six months or older unless proof of spaying or neutering or a statement signed by the dog's owner or keeper stating that a decision not to spay or neuter has been submitted. No more

than three dogs over six months of age may be kept in a household unless prior approval is issued by the Board of Health.

Regarding the restraint of dogs, no dog is allowed off-leash on any street or in any public place in the city, and with the exception of dog parks, no dog is allowed in any park or cemetery or on school property. Finally, no dog, even on a leash, may be allowed on private property without the specific permission of the property's owner.

Other provisions of the ordinance pertain to removal of dog waste, impoundment, and the reporting of all animal bites to the Health Department and Animal Control Officer.

Brockton – Chapter 3, Article I (Sec.3-1 – 3-15), Article II (Sec. 3-19 – 3-20; 3-22-3-23; 3-25-3-28 and Article III (Sec.3-37 – 3-39)

Brockton has a Department of Animal Control, which is under the charge of a dog officer designated by the mayor. With or in aid of the Police Department, the dog officer has the power and duty to enforce both the city's ordinances pertaining to animals as well as the provisions of the State statute pertaining to animal cruelty.

Brockton's ordinances are longer and more detailed than those of the other three communities the Committee reviewed. For example, in Article I, the definition of a "dangerous dog" includes:

1) Any dog which, according to the records of the appropriate authority, has inflicted severe injury on a human being without provocation on public or private property; or

(2) Any dog which, according to the records of the appropriate authority, has killed a domestic animal without provocation while off the owner's property; or

(3) Any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting;

(4) Any dog owned or harbored on property known for drug trafficking or gang activity;

(5) Any dog which, when unprovoked, chases or approaches a person upon the streets, sidewalks or any public or private property in a menacing fashion or apparent attitude of attack;

(6) Any dog with known propensity, tendency or disposition to attack unprovoked, to cause injury, or to otherwise threaten the safety of human beings or domestic animals;

(7) Any dog which, on three (3) separate occasions within a twelve-month period, has been observed being unrestrained or uncontrolled off its owner's premises as documented by the records of the animal control officer or has been impounded by the animal control officer for being unrestrained or uncontrolled off its owner's premises.

A "nuisance animal" is defined as:

Any animal that:

(1) Molests passersby or passing vehicles, including bicycles.

(2) Attacks other animals.

(3) Trespasses on school grounds.

(4) Is at large in violation of this chapter.

(5) Damages private or public property.

(6) Barks, whines or howls and disturbs the peace and tranquility of an area.

(7) Bites or attacks any persons.

Like Watertown, Brockton has a three-dog limit for a single premises, and like all of the other communities, Brockton's ordinance prohibits dogs from being on public property unless they are on a leash and addresses disposal of dog waste and impoundment procedures. Unlike the three other communities, however, a full four sections of the city's ordinances deal with "dangerous or vicious" dogs. Section 3-12 requires that all owners of dangerous dogs register their dog on an annual basis, include a current color photograph of the animal, and provide proof of at least $100,000 in liability insurance for property damage or liability for injury inflicted by the dog.

D. Massachusetts General Laws, chapter 140, §§ 136A, 156 and157.

Mass. Gen. Laws, c. 140, §156 permits any person to kill a dog under specific circumstances, including an unprovoked assault by a dog of a person who outside the enclosure of the dog's owner or keeper. In addition, any person may kill a dog found outside of the enclosure of its owner or keeper and not under his immediate care "in the act of worrying, wounding or killing persons, livestock or fowls. The person shall not be held liable for cruelty to the dog unless intention to be cruel or "wanton and reckless disregard for the suffering" of the dog is shown.

Mass. Gen. Laws, c. 140, §136A provides a definition of "dangerous" that is based on studies published in the Journal of the American Veterinary Medical Association and on consultations with animal behaviorists.

Mass. Gen. Laws, c. 140, §157 defines the steps that must be taken in order to initiate an investigation into the dangerousness of a dog. It also spells out the authority of a local jurisdiction to hold an administrative hearing and offers recommendations for disposition, including recommendations on care and control or humane euthanasia. The appeal process of a dog's owner is defined. Section 157 also provides local officials with the discretion to seek a court order to impound a dog and the ability to recover costs for housing the animal if the order to appeal is unsuccessful. Furthermore, this section provides to cities and towns recommendations to order the

future confinement and other provisions for a dog found to be "dangerous" and Section 157A addresses non-compliance of a dog owner or keeper with an order.

Two of the more notable provisions added to Section 157 when it was updated in 2012 include prohibiting a city or town to regulate a dog "in a manner that is specific to [its] breed" and prohibiting the issuance of an order that causes a dog deemed "dangerous" to be removed from the city or town in which the dog's owner resides.

IV. Additional Information; Animal Research; Statistical Data; Current Practices.

Police Training. The Committee discussed some of the thinking on police training to prepare for encounters with a potentially dangerous animal, including the use of less lethal force and other steps that police should be trained to take to avoid the negative impacts of injuring or killing animals, especially when the animal is a family pet. Negative impacts include potential injury to bystanders, public relations impacts, and potential litigation.

Training should include adapting the force-continuum concept that is used for high risk police interactions with human to police-dog encounters. This should include animal specific threat assessments to assist officers in determining appropriate force options based on knowledge of animal psychology and body language and other cues given by dogs or other animals.[3] Police officers should also be trained to avoid such biases as breed stereotypes.

Public Education. The Committee also discussed the need to increase public education initiatives regarding animal – and in particular, canine – behavior.

According to a policy paper of the Animals and Society Institute:[4]

> *Sixty-seven percent of injurious dog bites to children have been shown to be preventable by changing the child's or the caregiver's behavior in interacting with the dog. And as simple an intervention as a single 30-minute lesson incorporated into a regular school day, taught by a dog handler, has been shown to dramatically reduce high-risk behaviors toward unfamiliar dogs in both very young (kindergarten age) and middle school children.*
>
> *It is just as important to educate adults about safety with dogs. One study about dog bites to children found that there was no adult present in 69 percent of the cases studied. In*

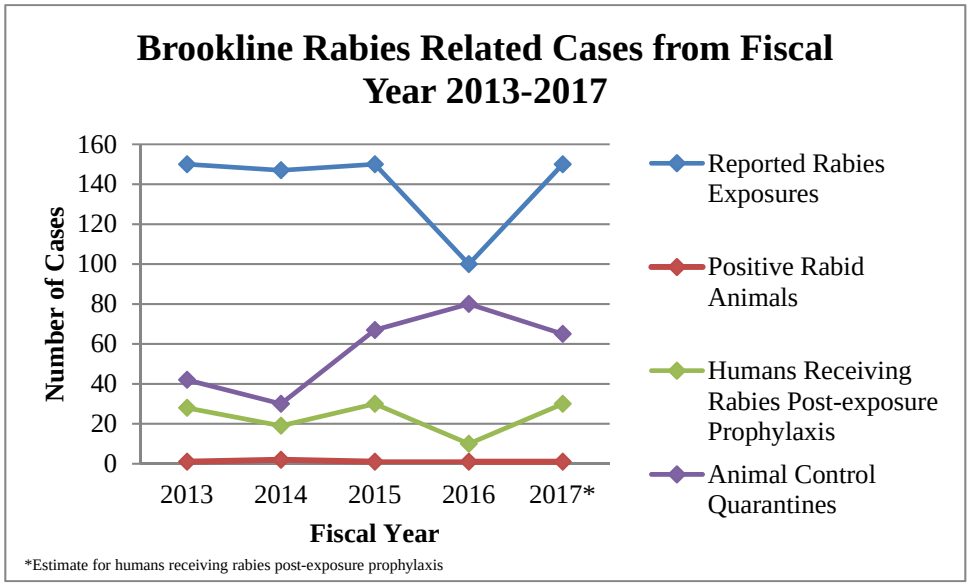
[3] *See, e.g., The Problem of Dog-Related Incidents and Encounters*, Cynthia Bathurst, Donald Cleary, Karen Delise, Ledy VanKavage, Patricia Rushing, The Office of Community Oriented Policing Services (COPS Office), U.S. Department of Justice (revised 2015). There are also many videos available, including on YouTube. An example is *Police and Dog Encounters: an overview*: https://www.youtube.com/watch?v=pTQY8gYUM_k

[4] *Dog Bites: Problems and Solutions*, Animals and Society Institute, Policy Paper by Janis Bradley (revised 2014) – *https://www.nationalcanineresearchcouncil.com/sites/default/files/Dog-Bites-Problems-and-Solutions-2nd-Edition_0.pdf*

addition, a study published in Journal of the American Veterinary Association in 2008 found that parents generally lacked knowledge of factors that were likely to increase the risk of dog bites to children, even when they were supervising the child/dog interactions.

The National Canine Research Council also describes basic responsible pet ownership practices that can do much to mitigate any risks to public safety. These include humane care (providing proper diet, veterinary care, socialization and training), humane custody (licensing and permanent ID) and humane control (following leash laws and not allowing dogs to become threats or nuisances to the community).

Rabies and Dog Bite Statistics. The following statistics are from the Brookline Department of Public Health. These data reflect rabies-related cases reported to the Town of Brookline during the fiscal years of 2013 through 2016. An estimate has been provided for humans receiving rabies post-exposure prophylaxis for fiscal year 2017. Reported rabies exposures include both animals and humans. Animal control quarantines include dogs and cats.



Rabies Related Cases in Brookline

	Fiscal Year				
Category	**2013**	**2014**	**2015**	**2016**	**2017***
Reported Rabies Exposures	150	147	150	100	150
Positive Rabid Animals	1	2	1	1	1
Humans Receiving Rabies Post-exposure Prophylaxis	28	19	30	10	30
Animal Control Quarantines	42	30	67	80	65

*Estimate for humans receiving rabies post-exposure prophylaxis

The following statistics are from the Massachusetts Department of Public Health Injury Surveillance Program. These data include Massachusetts residents treated at a Massachusetts acute care hospital during the fiscal years of 2011 through 2015 for dog bite related injuries. Counts represent the number of injury-related discharges, rather than the number of individuals treated. Rates are per 100,000 Massachusetts residents.

Dog Bite Related Injuries in Massachusetts (MA residents only)					
	Fiscal Year				
	2011	**2012**	**2013**	**2014**	**2015**
Hospital Discharges					
Count	196	184	191	189	208
Crude Rate	3.0	2.8	2.9	2.8	-
Emergency Department Visits					
Count	6,603	7,146	6,834	6,744	6,852
Crude Rate	100.2	107.5	102.1	100	-
Outpatient Observations					
Count	29	42	50	50	-
Crude Rate	0.4	0.6	0.7	0.7	-

The following statistics are from the National Center for Injury Prevention and Control, CDC. The injury data are obtained from an expansion of the National Electronic Injury Surveillance System (NEISS) operated by the U.S. Consumer Product Safety Commission. Population data was collected from the Bureau of Census. These data reflect estimated numbers of nonfatal dog bites in the United States from 2011 through 2015.

Overall Nonfatal Dog Bite Injuries and Rates per 100,000 in the United States					
	Year				
	2011	**2012**	**2013**	**2014**	**2015**
Count	359,972	362,724	346,925	353,954	348,000
Crude Rate	115.48	115.48	109.64	110.99	108.27

V. Conclusion.

This Committee was charged by the Select Board to study and determine whether the police should be required to provide additional training for Brookline police officers in the handling of dog bites

and dangerous attacks by dogs or other animals. The Committee noted the quick response of the Police Department following the dog bite incident and the Town Meeting article, including the issuance on January 3, 2017 of the Special Order by Police Chief Daniel O'Leary. The Special Order was an excellent first step. Following on the Special Order and current programs and practices of the Police and Health Departments, the Committee makes the following recommendations to address the issues presented by Warrant Article 29.

VI. Recommendations of the Committee

A. Special Order. The Committee recommends:

i. That the Select Board request that the Chief of Police and Town Counsel revise the Special Order with the suggested revisions in the attached Exhibits 2 and 3 as a guide.

ii. That the Select Board issue the revised Special Order as a General Order of the Police Department in accordance with the Police Manual (the "General Order")

B. Police Training and Policies.

i. That the General Order be used in the initial training of all new police officers and in the annual in-service trainings of all police officers.

ii. That the Police Department training include dog psychology, including body language and other cues given by dogs.

iii. That the Police Department training stress de-escalation techniques, and the use of less lethal force, if appropriate, when encountering potentially dangerous animals, particularly domestic animals.

C. Police Staffing. The Committee recommends:

i. That the Select Board in consultation with the Police Department and other relevant departments of the Town consider studying the benefits of increasing the number of ACOs serving the Town from one to two.

ii. That the Police Department examine the benefit of creating a separate Police unit solely for animal control, including animals used in criminal activities or enterprises, to increase in-house resources and expertise in the department and reduce the need to rely upon State resources and resources of other municipalities in dangerous situations.

D. Equipment and Facilities. The Committee recommends:

i. That the Police Department purchase additional equipment (the Committee heard testimony on the value of net guns and tranquilizer darts as additional equipment

the Police Department should consider) or new technology for animal control or to assist in addressing potential emergency actions

ii. That the Town study whether it should acquire a kennel facility to house captured or problem animals. Currently animals are placed a local veterinary facility, if space is available. If accommodations cannot be made locally, then, in accordance with a contract between the Brookline Police Department and the Norwood Animal Hospital, the animal is transported to Norwood. Given that at some future point this arrangement could become unworkable, developing a "Plan B" in the form of the Town operating its own kennel should be investigated.

E. Public Education.

i. That the Town Health Department, the Public Schools, and the Police Department's School Education Officer develop and disseminate appropriate educational curricula and materials to educate the public on animal behavior and proper reactions to encounters with wild or domesticated animals. The curricular and materials should include education on canine instincts and how dogs and other animals perceive threats, and when and how to request a dangerous dog hearing.

F. Information Technology.

i. That the Health Department work with the Town's Information Technology Department to develop a tracking system that sends notices ("Red Flags") describing any dog bite incidents to all Town Departments.

ii. That the Health Department, Police Department, Town Clerk, Park and Open Space Department, and other relevant departments review whether the Town should strengthen the monitoring of "dangerous" dogs.

iii. That the Health Department, Police Department, Town Clerk, Park and Open Space Department, and other relevant departments review whether the Town needs better inter-departmental communication on dangerous dogs and dog related matters.

EXHIBITS

Exhibit 1	Special Order 2017-1
Exhibit 2	Revised Special Order as General Order

DANIEL C. O'LEARY
CHIEF OF POLICE

BROOKLINE POLICE DEPARTMENT

Brookline, Massachusetts

Special Order #2017-01

Subject: Responding to Dog Bites
Nuisance and/or Dangerous Dogs Hearings

Effective Date: January 3, 2017

PURPOSE:

The purpose of this order is to provide officers with procedures for responding to dog bites and for complaints of dogs that may be dangerous and/or a nuisance.

PROCEDURES FOR DOG BITES:

When a report of a dog bite is received, an officer is to be dispatched to investigate the report and conduct the preliminary investigation as follows:

A) When the Animal Control Officer (ACO) is working and available, the ACO shall be notified to respond and conduct a thorough investigation.

B) When the ACO is working but unavailable, a Patrol Officer shall respond and take appropriate actions to ensure public safety and prevent injury until the arrival of the ACO.

C) If the ACO is off-duty, a Patrol Officer shall respond and take appropriate actions to ensure public safety and prevent injury according to the following procedures:
   1. The officer will:
      a) assess the incident
      b) activate EMS if needed
      c) identify any victim(s), dog owner and/or keeper, any and all witnesses (including cell phone and email contact information) and any dog and/or domestic animal involved
      d) investigate the circumstances surrounding the incident
      e) obtain any other relevant information as determined by the Patrol Supervisor.

2. Based on the nature of the incident, the Patrol Supervisor may request the ACO be notified to respond to handle the investigation.

D) If the ACO is off-duty and not available to respond, the responding Patrol Officer shall:

1. Conduct the preliminary investigation and submit an incident report. The officer shall also forward an email to the ACO and the ACO's supervisor requesting a follow-up.

2. If possible, the officer will make a preliminary determination which dog or domestic animal is the aggressor.

3. If possible, photographs of the scene, any dog or domestic animal involved, any injuries, etc. should be taken for every dog bite incident.

4. The officer shall ensure that the dog identified as the aggressor is appropriately restrained as follows:
   a) If the officer determines that it is safe to do so, the dog may be returned to its owner/keeper and have the dog kept under the owner/keeper's care and control until further notice by the ACO.
   b) If the officer determines that the dog is an immediate threat to public safety, Article 8.6 of the Town's General By-Laws authorizes the ACO or any Police Officer to impound the dog.
   c) The transportation of animals is prohibited in police cruisers. Animals may only be transported in the ACO vehicle. There is a spare key for the ACO vehicle in the CO's key box.
   d) If the dog needs to be impounded and the officer can safely capture it, the dog will be transported in the ACO vehicle to one of the facilities identified in the attachment at the end of this Special Order. ?
   e) If a dog that needs to be impounded can be isolated and contained in an area that does not pose an immediate threat to the public or other animals, officers who are not trained in Animal Control procedures should not attempt to capture an aggressive dog until the arrival of trained personnel. If the ACO is unable to respond, officers should request assistance in capturing an aggressive dog from outside animal control agencies. A list of agencies and contact numbers can be found in the attachment to this Special Order.

5. Under MA General Law Chapter 140, Section 156, lethal force may be used against a dog that is outside the enclosure of its owner or keeper only when it is in the act of worrying, wounding or killing a person, livestock or fowl.

E) The ACO may order the owner or keeper of the dog to restrain and muzzle a dog that has bitten or injured a person, or substantially injured another domestic animal.

F) When responding to dog bite calls, the ACO or Patrol Officer shall inform the victim(s) and/or witness(es) involved in the incident that a written request for a dangerous dog hearing may be submitted to the Chief of Police. The attached form may be used to file the complaint in writing.

G) Based on the severity of the incident, the Patrol Supervisor or the Supervisor of the ACO should ensure that residents or businesses in the area be notified of the presence of a potentially dangerous dog in the area. Notification can be accomplished through the "Alert Brookline" emergency notification system, social media and/or through notification of neighborhood groups, business associations, etc.

PROCEDURES FOR NUISANCE and/or DANGEROUS DOG HEARINGS:

A. Definitions (per MGL Chapter 140, Section 136A) :

"Attack", aggressive physical contact initiated by an animal.

"Dangerous dog", a dog that either: (i) without justification, attacks a person or domestic animal causing physical injury or death; or (ii) behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of physical injury or death to a person or to a domestic or owned animal.

"Hearing authority", the selectmen of a town, mayor of a city, the officer in charge of the animal commission, the chief or commissioner of a police department, the chief or commissioner's designee or the person charged with the responsibility of handling dog complaints in a town or city.

"Nuisance dog", a dog that: (i) by excessive barking or other disturbance, is a source of annoyance to a sick person residing in the vicinity; or (ii) by excessive barking, causing damage or other interference, a reasonable person would find such behavior disruptive to one's quiet and peaceful enjoyment; or (iii) has threatened or attacked livestock, a domestic animal or a person, but such threat or attack was not a grossly disproportionate reaction under all the circumstances.

B. Written Requests for Nuisance/Dangerous Dog Hearing:

1. When responding to dog bite calls, the ACO or Patrol Officer shall inform the victim(s) and/or witness(es) from the incident that a written request for a dangerous dog hearing may be submitted to the Chief of Police. The attached form may be used to file the complaint in writing.
2. Upon receipt of a written complaint for a nuisance or dangerous dog hearing, the complaint shall be forwarded promptly to the ACO.
3. The ACO shall investigate the complaint without delay and file a report.

C. Conducting a Nuisance and/or Dangerous Dog Hearing:

1. The Hearing Officer shall conduct the hearing pursuant to the requirements of MGL Chapter 140, Section 157 and enter an order consistent with the provisions of the statute as well as Town of Brookline General By-Law Article 8.6.

Per order of:

Daniel C. O'Leary
Chief of Police

Attachments:

Dangerous / Nuisance Dog Hearing request form
List of Animal Shelters
Town of Brookline General By-Law Article 8.6
MGL CH 140 sec 156
MGL CH 140 sec 157

Public Safety Building, 350 Washington Street, Brookline, Massachusetts 02445
Telephone (617) 730-2249 ❖ Facsimile (617) 730-8454

RESPONDING TO DOG BITES

General Order Number: 2018 - __ **DRAFT Date: __/__/2018**

PURPOSE:

The purpose of this order is to provide officers with procedures for responding to dog bites and initiating complaints for hearings on dogs that may be dangerous and/or a nuisance.

PROCEDURES FOR DOG BITES:

When a report of a dog bite is received, the Animal Control Officer ("ACO") and a patrol officer shall be dispatched to ensure public safety, investigate the report, and conduct a preliminary investigation as follows:

A. When the ACO is working and available, the ACO shall be notified to respond and conduct a thorough investigation. If a patrol officer arrives on scene first the ACO shall take over the investigation upon their arrival on scene.

B. When the ACO is working but unavailable, officers shall respond and take appropriate actions to ensure public safety and prevent injury until the arrival of the ACO.

C. If the ACO is off-duty, a patrol officer shall respond and take appropriate actions to ensure public safety and prevent injury according to the following procedures:

1. The officer will:
   a) Assess the incident
   b) Activate EMS if needed
   c) Identify any victim(s), dog owner and/or keeper, any and all witnesses (including cell phone and email contact information) and any dog and/or domestic animal involved
   d) Investigate the circumstances surrounding the incident
   e) Obtain any other relevant information as determined by the patrol supervisor

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2. Based on the nature of the incident, the patrol supervisor may request the activation of the ACO to respond to the incident and handle the initial investigation and follow-up.
3. If the patrol officer believes that the dog is a potentially dangerous and threatening dog, the patrol officer will approach the incident using the guidelines in part H below.

D. If the ACO is off-duty and not available to respond, the responding patrol officer shall:

1. Conduct the preliminary investigation and submit an incident report. The patrol officer shall also forward an email to the ACO and the ACO's supervisor requesting a follow-up.
2. If possible, the patrol officer will make a preliminary determination of which dog or domestic animal is the aggressor.
3. If possible, photographs of the scene, including any dog or domestic animal involved, all injuries sustained, etc. should be taken for every dog bite incident.
4. The officer shall ensure that the dog identified as the aggressor is appropriately restrained as follows:

   a) If the officer determines that it is safe to do so, the dog may be returned to its owner/keeper and have the dog kept under the owner/keeper's care and control until further notice by the ACO.
   b) If the officer determines that the dog is an immediate threat to public safety, Article 8.6 of the Town's General By-Laws authorizes the ACO or any Police Officer to impound the dog.
   c) The transportation of animals is prohibited in police cruisers. Animals may only be transported in the ACO vehicle. There is a spare key for the ACO vehicle in the CO's key box.
   d) If the dog needs to be impounded and the officer can safely capture it, the dog will be transported in the ACO vehicle to one of the facilities identified in the reference list kept in dispatch and the commanding officer's office.
   e) If a dog that needs to be impounded can be isolated and contained in an area that does not pose an immediate threat to the public or other animals. Police officers who are not trained in Animal Control procedures should not attempt to capture an aggressive dog until the arrival of trained personnel.
   f) If the ACO is unable to respond, officers should request assistance in capturing an aggressive dog from outside animal control agencies. A list of agencies and contact numbers can be found in a reference list maintained in dispatch and the commanding officer's office.

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E. The ACO may order the owner or keeper of the dog to restrain and muzzle a dog that has bitten or injured a person, or substantially injured another domestic animal.

F. When responding to dog bite calls, the ACO or Patrol Officer shall inform the victim(s) and/or witness(es) involved in the incident that a written request for a dangerous dog hearing may be submitted to the Chief of Police. The attached form may be used to file the complaint in writing.

G. Based on the severity of the incident, the Patrol Supervisor or the Supervisor of the ACO should ensure that residents or businesses in the area be notified of the presence of a potentially dangerous dog in the area. Notification can be accomplished through the "Alert Brookline" emergency notification system, social media and/or through notification of neighborhood groups, business associations, etc.

H. Under MA General Law Chapter 140, Section 156, lethal force may be used against a dog that is outside the enclosure of its owner or keeper only when it is in the act of worrying, wounding or killing a person, livestock or fowl.

Lethal force may also be used when an Officer has a reasonable fear of bodily injury. When time and the totality of the circumstances permit, officers should use de-escalation alternatives to lethal force when encountering a potentially dangerous and threatening dog including but limited to the following:

1.) Less Lethal options (pepper spray, 40 mm sponge round)
2.) Containment and isolation of the animal until trained animal control personnel arrive when there is no immediate threat to the public
3.) When approaching a potentially dangerous dog, officers should approach slowly, with a non-aggressive stance and demeanor. If necessary, retreating should be considered if the dog is agitated but not otherwise a threat to the public.
4.) Officers should recognize that the most frequent dog to human aggression is "fear aggression" and, when possible, officers should take steps to not present a threatening posture towards the dog.
5.) Officers should be trained in signs and behavior of aggressive dogs, dog fear aggression and dog breed behaviors and stereotypes.
6.) Officers should also recognize that dogs and other animals are often beloved by their owners and that use of lethal force against a dog can be a traumatic event.

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I. If a dog is suspected of or found to be used in a criminal enterprise, such as dog-fighting, to protect a criminal enterprise, or to carry or conceal contraband, officers should notify a supervisor and the ACO.

PROCEDURES FOR NUISANCE AND/OR DANGEROUS DOG HEARINGS

A. Definitions (*see* General Laws, Chapter 140, §136A):

"Attack," means aggressive physical contact initiated by an animal.

"Dangerous Dog," means a dog that either: (i) without justification, attacks a person or domestic animal causing physical injury or death; or (ii) behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of physical injury or death to a person or to a domestic or owned animal.

"Hearing Authority," the Select Board of the Town, the Town's Animal Control Officer or other person in charge of animal control, the police chief or the Chief's designee, or the person charged with handling dog complaints in the Town.

"Nuisance Dog," a dog that: (i) by excessive barking or other disturbance, is a source of annoyance to a sick person residing in the vicinity; or (ii) by excessive barking, causing damage or other interference, a reasonable person would find such behavior disruptive to one's quiet and peaceful enjoyment; or (iii) has threatened or attacked livestock, a domestic animal or a person, but such threat or attack was not a grossly disproportionate reaction under all the circumstances.

B. Written Requests for Nuisance/Dangerous Dog Hearing:

1. When responding to dog bite calls, the ACO or Patrol Officer shall inform the victim(s) and./or witness(es) from the incident that a written request for a dangerous dog hearing may be submitted to the Chief of Police. The attached form may be used to file the complaint in writing.
2. Upon receipt of a written complaint for a nuisance or dangerous dog hearing, the complaint shall be forwarded promptly to the ACO.
3. The ACO shall investigate the complaint without delay and file a report.

C. Conducting a Nuisance and/or Dangerous Dog Hearing:

The Hearing Officer shall conduct the hearing pursuant to the requirements of General Laws Chapter 140, §157 and enter an order consistent with the provisions of the statute as well as Town of Brookline General Bylaw Article 8.6.

DRAFT

Pursuant to Order of

ANDREW LIPSON
Chief of Police

Attachments: Dangerous/Nuisance Dog Hearing request form
List of Animal Shelters
Town of Brookline General Bylaw Article 8.6
General Laws, Chapter 140, §156
General Laws, Chapter 140, §157

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Benjamin J. Franco
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