

ARTICLE 6

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

Article 6 includes a provision regarding whether the bond authorization for the “Driscoll School Rehabilitation” (Item #70 of Section 13 of Article 7 of the 2018 Annual Town Meeting) in the amount of \$4,000,000 is still needed. Although the item is broadly worded, it was intended to be used specifically for a new HVAC system for the school.

The Advisory Committee initially voted to recommend that the bond authorization be rescinded.

At its meeting on May 8, 2019, the day after the failure of the debt exclusion override vote, the Advisory Committee voted to reconsider its position on Article 6.

Recognizing that the future of the Driscoll School is now much more uncertain and that the \$4 million bond authorization for improvements to the school approved by the 2018 Annual Town Meeting could be needed at a future date to address significant repairs to the building, the Advisory Committee decides against rescinding the bond authorization. The Advisory Committee also noted that a Reserve Fund transfer could be requested if the existing Driscoll HVAC system requires emergency repairs.

RECOMMENDATION:

The Advisory Committee, by a vote of 19–1–1, recommends NO ACTION under Article 6.

ARTICLE 9

SELECT BOARD'S SUPPLEMENTAL RECOMMENDATION

When the Select Board originally voted items 67 (Driscoll) and 68 (Baldwin) as part of the budget motion a successful debt exclusion vote was needed to support the funding of these projects. Since the vote was not successful, the Board reconsidered their motions under Article 9 and chose not to move either project. The Board discussed the possibility of adding contingent language to the Driscoll appropriation that would allow the potential for the project to move forward, but a majority of the Board felt that more feedback from the School Committee as the using agency and a broader conversation on the new approach to solving the problem was needed before advancing funding for that project.

The Select Board voted 3-2 to RESCIND their prior motion under article 9. This means that the Board is now in alignment with the Advisory Committee motion as presented in pages 9-77 – 87 and Tables 1 and 2 of the Combined Reports.

**ROLL CALL VOTE:**

Aye:

Greene  
Franco  
Heller

Nay:

Hamilton  
Fernandez

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

**BACKGROUND:**

The Advisory Committee's recommended motion under Article 9 (the FY2020 budget motion as it appears on pp. 9-77 – 87 of the Combined Reports, including Tables 1 and 2) does not include any provisions for special appropriation 67 (Driscoll School) and special appropriation 68 (Baldwin School).

The Advisory Committee recommended a FY2020 budget without any provisions for borrowing the funds for the Driscoll and Baldwin projects because the Committee decided to wait until after Brookline voters voted on the debt exclusion override for these two projects at the May 7, 2019, Town election. If Brookline's voters had approved the debt exclusion override, the Advisory Committee would have considered amending its FY2020 budget recommendation to include authorizing the Town to issue bonds to raise the funds necessary for the Driscoll and Baldwin projects (special appropriations 67 and 68). (Note that total revenues and expenditures for FY2020 are not affected by the presence or absence of special appropriations 67 and 68. The funds for these two projects would be raised and spent in future fiscal years. Thus, the dollar figures in the Advisory Committee's motion

under Article 9 would remain the same regardless of any amendments regarding items 67 and 68.)

On May 8, 2019, after Brookline voters had voted against the debt exclusion override, the Advisory Committee met to review and possibly vote on special appropriations 67 and 68.

Members of the Advisory Committee offered two motions to amend the Committee's previous recommendation under Article 9. The first motion proposed adding a special appropriation 67 that would authorize borrowing \$108.8 million to reconstruct the Driscoll School, provided that Brookline voters approve a Driscoll School debt exclusion override prior to September 15, 2019—the date by which, under state law, a debt exclusion override must be approved if the Annual Town Meeting votes a contingent bond authorization. In effect, the motion would "pre-approve" the borrowing necessary to finance a new Driscoll School, making it unnecessary for Town Meeting to hold a vote on that question after the voters had approved a debt exclusion override.

The second motion was a resolution that called on the Select Board to put on the ballot a debt exclusion override for a 4-section Driscoll School.

DISCUSSION:

On May 8, the Advisory Committee had an extensive debate on the two motions to amend item 67 of Article 9.

(1) The Contingent Special Appropriation that Would Authorize Borrowing \$108.8 Provided that Brookline Voters Subsequently Approve a Driscoll-Only Debt Exclusion:

***ARTICLE 9, CAPITAL IMPROVEMENT PROGRAM ITEM 67 – DRISCOLL SCHOOL (see pp. 9-85 to 9-86 of the Combined Reports)***

***Contingent on a debt exclusion vote pursuant to General Laws, Chapter 59, Sections 21C(k) and (m) on or before September 15, 2019 approving the payment of principal, interest and costs on the borrowing as set forth below, appropriate \$108,800,000, to be expended under the direction of the Building Commission, with any necessary contracts over \$100,000 to be approved by the Select Board and the School Committee to reconstruct the Driscoll School and, to meet the appropriation, authorize the Treasurer, with approval of the Select Board, to borrow \$108,800,000, under General Laws, Chapter 44, Section 7(1) as amended, or pursuant to any other enabling authority; and authorize the Select Board to apply for, accept, receive and expend grants, aid, reimbursements, loans, and all other forms of funding and financial assistance from both state and federal sources and agencies for such purpose. Any premium received upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.***

Proponents of this motion made the following arguments:

- The results of the May 7 election suggest that Brookline voters rejected the "bundled" vote and opposed the Baldwin project. They would most likely support a Driscoll-only override.
- In public hearings and other discussions, the Driscoll project has received a lot of support, including support from the Driscoll community.
- The Driscoll School is an aging facility that needs renovation. Expansion would not cost significantly more than the necessary renovation, and it would add needed classroom capacity to solve Driscoll overcrowding and help with the overcrowding of adjacent schools.
- Public Schools of Brookline data indicates that, with capacity added at Driscoll and Pierce together with the forecast decline in enrollment, building Baldwin appears unnecessary at this time.
- With this contingent appropriation in place, the Driscoll project could move forward more rapidly. A contingent authorization for borrowing \$108.8 million would mean that the project could move forward without a further vote of Town Meeting.
- This contingent appropriation is not a directive to the Select Board, but merely an option that they could choose to exercise or not.

Opponents made the following arguments:

- One day after the Town election is too soon to consider the next steps to address school capacity issues. The Committee has time to meet again to discuss this issue before Town Meeting.
- The results of the election do not provide a clear indication that voters support voting on a Driscoll-only debt exclusion override. Some voters may have opposed the override because they did not want to increase taxes, for example, not because they opposed Baldwin and supported Driscoll.
- If voters do not support the Baldwin project, then the Town may need to reconsider its overall plan for adding classroom capacity. Baldwin was an important part of that plan.
- Brookline needs to take a comprehensive look at the current K-8 classroom capacity situation. It will take time to review all of the options, including Newbury and Maimonides.
- Any changes to the previous plans for Driscoll and Baldwin raise questions of educational policy. It would be inappropriate to vote until the School Committee has had an opportunity to consider these issues.

(2) The Resolution Calling for a Driscoll-Only Debt Exclusion Override:

*A RESOLUTION TO SEEK AN OVERRIDE VOTE TO APPROVE A DRISCOLL 4-SECTION SCHOOL*

*WHEREAS on May 7, 2019 voters of Brookline rejected Question 1 on the Town Election ballot; and*

*WHEREAS Question 1 called for debt exclusion overrides for the Driscoll School and the Baldwin School, as approved for schematic design by votes of Town Meeting on 12/18/2018; and*

*WHEREAS Question 1 was a so-called "bundled" vote, limiting voters to saying "Yes" to both the Driscoll and Baldwin projects or "No" to both the Driscoll and Baldwin projects; and*

*WHEREAS Question 1 was widely debated during the period leading up to the 5/7/2019 election, with opposition to Question 1 focused on the flaws of the Baldwin project; accompanied by warnings of the forced harm posed by the bundled vote to the Driscoll project; and*

*WHEREAS Spend Smart Brookline led the opposition to Question 1 while vowing to "bring back Driscoll" for a separate vote on a future override ballot.*

*WHEREAS the position of Spend Smart Brookline prevailed by a margin of 9 percent; now therefore,*

*BE IT RESOLVED that Town Meeting urges the Board of Selectmen to meet at the earliest convenient date to set a date no sooner than 35 days but no later than 9/15/2019 for a debt exclusion for the 4-section Driscoll School project; and for that question to be offered to Brookline voters for approval.*

The arguments for and against the resolution were generally similar to the arguments for and against the contingent special appropriation. Proponents also noted that the resolution would give voters the choice they did not have, due to the bundling of the Baldwin and Driscoll projects into one question. Some said it was easier to support a resolution than preauthorization of \$108.8 million in borrowing. The resolution would give voters another chance to vote, whereas the contingent special appropriation would budget funds that have not been approved by the voters and would require a further town vote. Opponents also argued that the resolution included questionable or unclear language and should be revised.

*Votes*

Both motions failed, with nine votes in favor and twelve opposed.

RECOMMENDATION:

In light of the failure of the two motions to amend Article 9, the Advisory Committee continues to recommend the Article 9 budget motion that appears in the Combined Reports on pp. 9-77 – 87 and Tables 1 and 2.

The Advisory Committee will meet on May 21 to consider any further motions related to Article 9, special appropriations 67 and 68.

ARTICLE 9

**MOTION OFFERED BY C. SCOTT ANANIAN, TMM10**

VOTED: That the Town adopt the following Resolution:

**A RESOLUTION 4-DRISCOLL**

WHEREAS there is broad agreement in Town Meeting that the reconstruction and enlargement of the Driscoll School is urgently needed and long overdue, with Article 2 in the December 13, 2018 Special Town Meeting having passed by a vote of 220-2; and

WHEREAS, the expansion of Driscoll from a 3- to 4-section school represents a significant and timely step toward alleviating overcrowding in Brookline's schools; and

WHEREAS the plan for Driscoll's reconstruction as a 4-section school has wide-ranging support within the Driscoll community of parents and neighbors, as well as among voters across Brookline, and is the first step in a plan which continues with renovation of Pierce; and

WHEREAS the architects were told to stop work on May 9, 2019 with significant unspent funds remaining from the \$1,500,000 appropriated for schematic design under Article 2 of the December 13, 2018 Special Town Meeting; now therefore

BE IT RESOLVED that Town Meeting urges the Select Board to prepare a debt exclusion question specifically for a 4-section Driscoll School and to place said question on the ballot of a special town election, to be held no later than the Special Town Meeting in Fall 2019; and

BE IT FURTHER RESOLVED that Town Meeting urges the Select Board to release the unspent funds appropriated under Article 2 of the December 13, 2018 Special Town Meeting, along with other fund transfers as needed, to ensure the 4-section Driscoll School project is not delayed.

**Explanation:**

The resolution moved under Article 9 Special Appropriations Item 67 is responsive to an open letter to the Select Board with (as of May 14) 423 signatures, among them 141 Driscoll parents and 70 Town Meeting Members. The signatories of the open letter “wish[ed] to express our support for the 4-section Driscoll school project, and urge the Select Board to take steps to ensure the project is continued and that its Fall 2022 opening

not be delayed” after the defeat of the override in the May 7, 2019 Town election. The complete text can be found at <https://cscott.net/driscoll>.

The resolution also responds to the near-unanimous support for the 4-section Driscoll school project expressed by Special Town Meeting in December 2018.

This resolution urges the Select Board to schedule a new override vote for Fall 2019 specifically for the 4-section Driscoll project, as a stand-alone question, so that Town Meeting can then appropriate the corresponding bond issue no later than our usual Special Town Meeting in November 2019. If the Select Board determines that keeping the Driscoll renovation on schedule requires an earlier source of funds, they can call an earlier Special Town Meeting.

In addition, according to Deputy Town Administrator Melissa Goff as of May 15th there are approximately \$275,083 of unencumbered funds remaining from the \$1.5 million appropriated for Driscoll schematic design under Article 2 of the December 13, 2018 Town Meeting. The architects were told to stop work on May 9, 2019. This resolution asks the Select Board to release those remaining funds to continue the schematic design and keep the project on schedule.

An expansion of Driscoll from 3 sections to 4 will add at least 172 new classroom seats beyond the current building capacity of 577, as noted in Superintendent Bott’s May 14, 2019 presentation to the School Committee. This doesn’t completely solve our school overcrowding issue, but it does substantially contribute to an overall solution. We expect the MSBA-supported renovation of Pierce will also help to alleviate overcrowding. The complete capacity plan may not be clear now in the wake of the May 7th vote, but there is broad consensus, dating back to the final B-SPACE report in September 2013, that Driscoll and Pierce expansions should be key steps toward that overall solution. Both schools are well-located to relieve the heavy concentration (~90%) of current overcrowding that exists in the northern third of the Town’s geography without major redistricting, increased vehicle dependence, or destruction of school walkability.

A renovation of Driscoll is long overdue. Driscoll has the largest class sizes in the district (25% of classrooms are at 24+ students), with a steady drumbeat of new housing / housing expansion projects in and near Driscoll’s core district. Fourteen classrooms, and many additional learning spaces, are smaller than the MSBA standard. The middle school science classrooms are undersized and unsafe. Four classrooms are in the basement. Driscoll has been forced to resort to using hallways or shared resource rooms for Special Education students, in a manner which the Massachusetts Department of Education recently stated was not compliant with its requirement to “minimize the separation or stigmatization of students [and] ensure student confidentiality”. The medical suite is undersized and guidance is in a modular which is over 20 years old. Art and Music rooms are undersized and lack adequate storage space. Lunch starts at 10:15am in the poorly-designed cafeteria and there are 5 lunch periods to accommodate the student population. The serving line area is small and there is no walk-in freezer for the kitchen. The gym is 36% too small by MSBA

standards. The playground was last renovated in 1993, twenty-six years ago, and the Park Division recommends a complete renovation and upgrade of the green space.

And, finally: the HVAC system at Driscoll is on its last legs. It will not last many more winters. Replacing it will likely cost in excess of \$6 million, and in fact this money has already been appropriated. The appropriation was scheduled to be rescinded at this Town Meeting, but after the override failed no motion was made to rescind and it is still active. Saving this money in favor of a 4-section replacement of Driscoll is akin to a 5% discount on the project cost, right from the start, but the Driscoll project needs to be started now in order to take advantage of it. An HVAC failure could result in evacuation of the building. Delay risks saddling the Town with substantial non-recoverable HVAC-related costs.

It is clear that something must be done about Driscoll in the near future. It is being rebuilt instead of renovated only because the Driscoll building committee found that to be the most cost effective option: renovating Driscoll was almost equally expensive with a much poorer end product. Renovating or building a three section school on the site would not address the overcrowding of the existing three section school. However, Driscoll's lot is only 4 acres; only Runkle and old Lincoln are smaller. Therefore, it is not a good site for a 5-section school. So we are left with 4-section Driscoll as the right approach for the school, the site, and the neighborhood.

We are fortunate in that we already have an excellent plan for a 4-section Driscoll, one with broad community and Town-wide support. The long term plan may be cloudy, but the next two steps are clear: 4-Driscoll and Pierce. Let's move forward with these projects together and without delay. Doing so will keep us moving step-by-step toward a complete solution to the overcrowding problem.

ARTICLE 9

**MOTION OFFERED BY KATHLEEN SCANLON, TMM3**

VOTED: Insert in the motion of the Advisory Committee under Article 9, special appropriation item 36 so that the item reads (additions in **bold**, deletions ~~struck~~):

36.) Raise and appropriate \$600,000, to be expended under the direction of the Building Commission, with any necessary contracts over \$100,000 to be approved by the Select Board, for making extraordinary repairs to Fire Stations. **Repairs shall be made after completion of a study prepared under the direction of the Building Department to consider the feasibility of all-electric building systems to ensure consistency with the Brookline Climate Action Plan zero greenhouse gas emissions goal to the greatest extent possible. The Brookline Climate Action Plan zero greenhouse gas emissions goal prioritizes planning to achieve zero emissions by 2050 (no reliance on fossil fuels) Town- and community-wide.**

VOTED: Insert in the motion of the Advisory Committee under Article 9, special appropriation item 69 so that the item reads (additions in bold, deletions struck):

69.) Appropriate, \$2,000,000 to be expended under the direction of the Building Commission, with any necessary contracts over \$100,000 to be approved by the Select Board and the School Committee, for a feasibility study to understand the extent of facility and programming deficiencies, and to explore the formulation of a solution to those deficiencies, at the Pierce School located a 50 School Street in the Town of Brookline, Massachusetts and shown as Parcel I.D. No. 172/03-00, in the Town of Brookline Assessor's map and database, for which feasibility study the Town may be eligible for a grant from the Massachusetts School Building Authority (MSBA) **and in preparation of which feasibility study and schematic design the Town intends to work with MSBA to ensure consistency with the Brookline Climate Action Plan zero greenhouse gas emissions goal to the greatest extent possible. The Brookline Climate Action Plan zero greenhouse gas emissions goal prioritizes planning to achieve zero emissions by 2050 (no reliance on fossil fuels) Town- and community-wide. A report, prepared by an independent sustainable design consultant describing how the project plans to comply with the Brookline Climate Action Plan greenhouse gas emissions goal, should be delivered to Town meeting at the end of Schematic Design phase.** The MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any costs the Town incurs in connection with the feasibility study in excess of any grant that may be received from the MSBA shall be the sole responsibility of the Town. To meet the appropriation the Treasurer, with the approval of the Select Board, is authorized to borrow \$2,000,000 under General Laws, Chapter 44, Section 7(7), as amended, or pursuant to any other enabling authority; and the Select Board is authorized

to apply for, accept, receive and expend grants, aid, reimbursements, loans, and all other forms of funding and financial assistance from both state and federal sources and agencies for such purpose and that the amount of borrowing authorized pursuant to this vote shall be reduced by any grant amount set forth in the Feasibility Study Agreement that may be executed between the Town and the MSBA. Any premium received upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.

ARTICLE 10

SELECT BOARD'S SUPPLEMENTAL RECOMMENDATION

The Board was not able to make a recommendation under Article 10 in time for the supplemental mailing. The Board hopes more information will be available on May 21.

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

Article 10 pertains to the Town's possible acquisition of the Newbury College campus.

The Advisory Committee has received no information that would provide a basis for a recommendation under Article 10. The Committee will review and possibly vote on this Article on May 21 or, if necessary, a later date.

ARTICLE 11

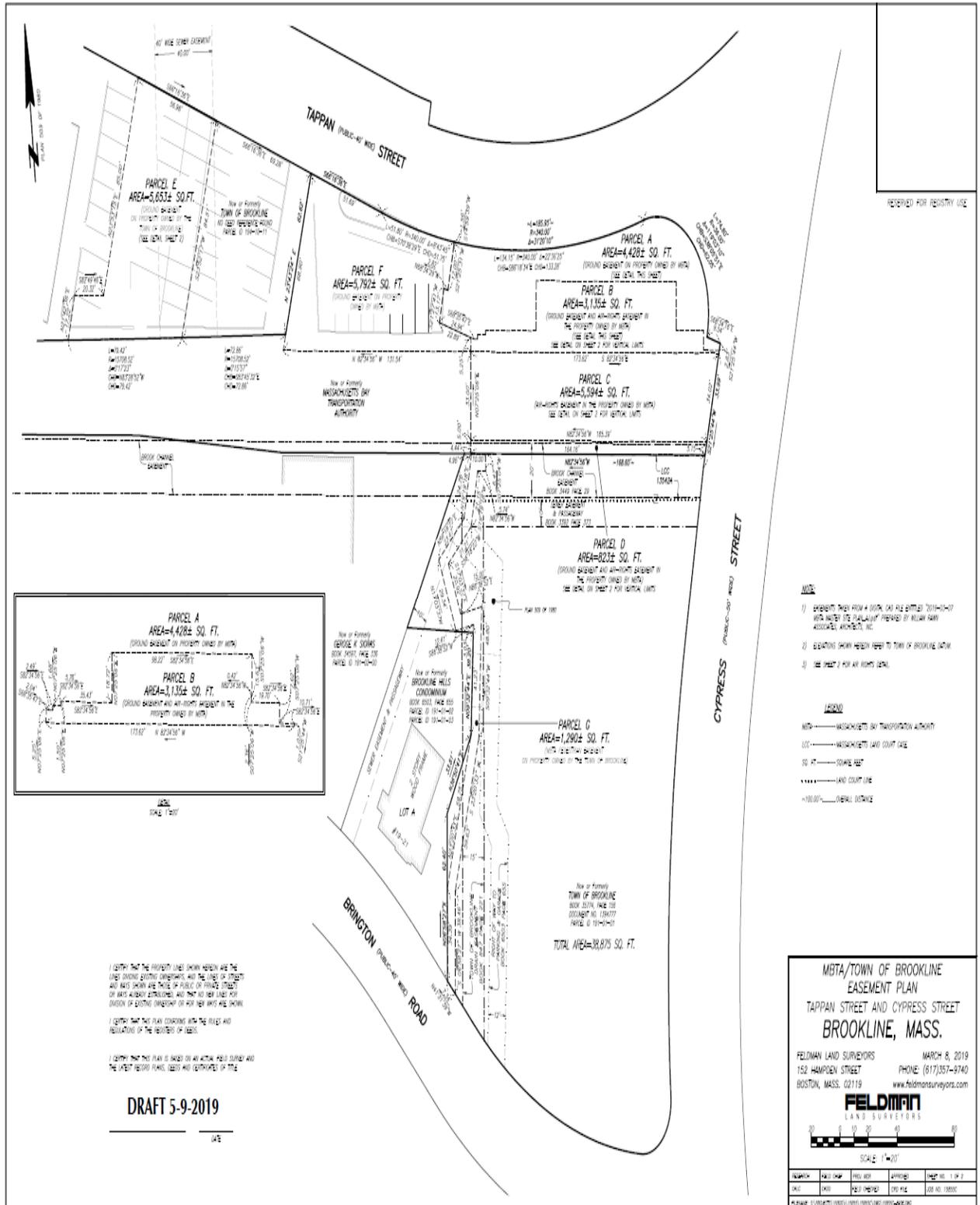
SELECT BOARD'S SUPPLEMENTAL RECOMMENDATION

The Select Board reconsidered Article 11 in order to respond to revised plans for the easement with the MBTA. The revised plans provide more detail on the easement and provide refined square footage estimates.

A unanimous Select Board voted FAVORABLE ACTION on the following motion:

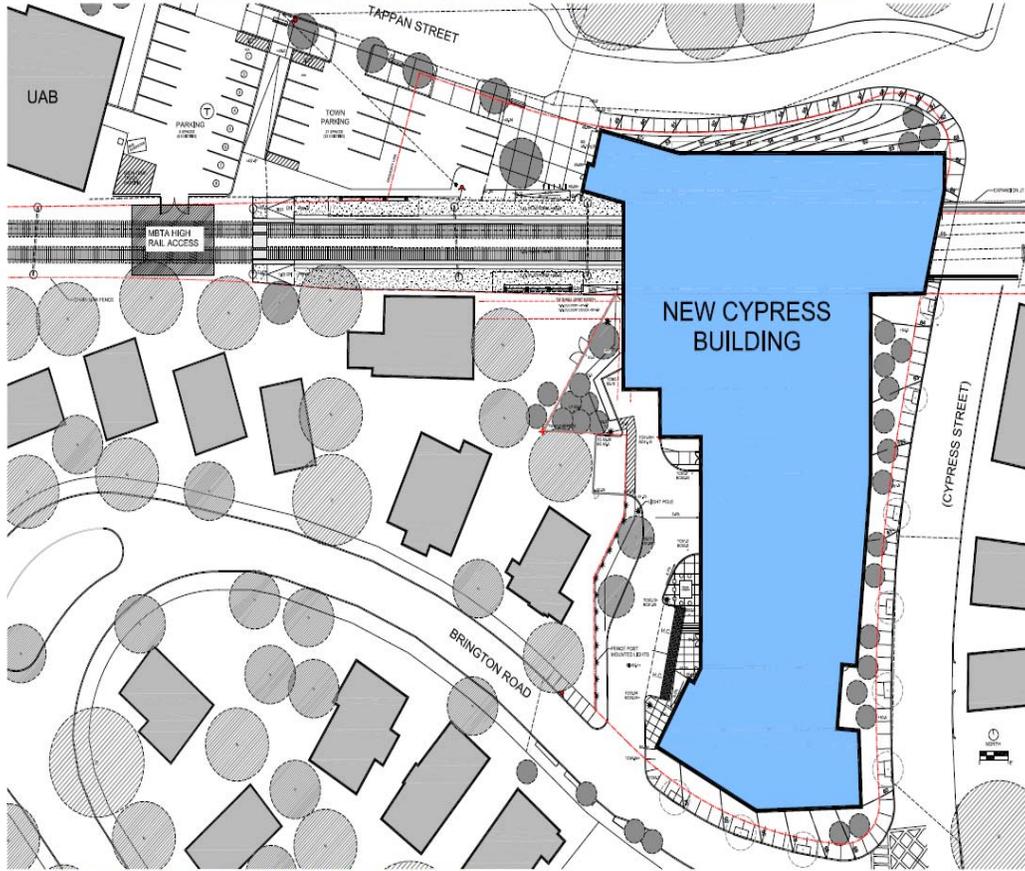
VOTED: That the Town authorize the Select Board to grant and acquire, as necessary, permanent rights and easements necessary to facilitate the construction of the new Brookline High School Expansion located at 111 Cypress Street as well as certain improvements to the MBTA Brookline Hills Station, as substantially shown on the plans submitted herewith entitled “Brookline High School Improvements Project” and “MBTA/Town of Brookline Easements Plan”, as those plans may be amended. The rights and easements will be granted and acquired pursuant to a Reciprocal Easement Agreement between the Town and the MBTA, wherein:

- The Town will acquire certain ground and air rights easements from the MBTA sufficient to allow the construction of the Brookline High School Expansion and attendant improvements on MBTA air rights and land located at the corner of Cypress Street and Tappan Street, a portion of which contains the MBTA Brookline Hills Parking Lot, with said easements being shown as parcels labeled “A” “B” “C” “D” and “F on the plan “MBTA/Town of Brookline Easements Plan” and containing approximately 10,220 square feet in ground easement area, 3,958 square feet in ground and air-right easement area and 5,594 in air rights easement area.
- The Town will grant to the MBTA certain rights and easements sufficient to relocate the MBTA Brookline Hills Parking Lot onto Town-owned land on Tappan Street and to allow pedestrian access over Town-owned land from Brington Road to the MBTA Brookline Hills Station with said easements being shown as parcels labeled “E” and “G” on the plan “MBTA/Town of Brookline Easements Plan” and containing approximately 6,493 square feet in easement area.



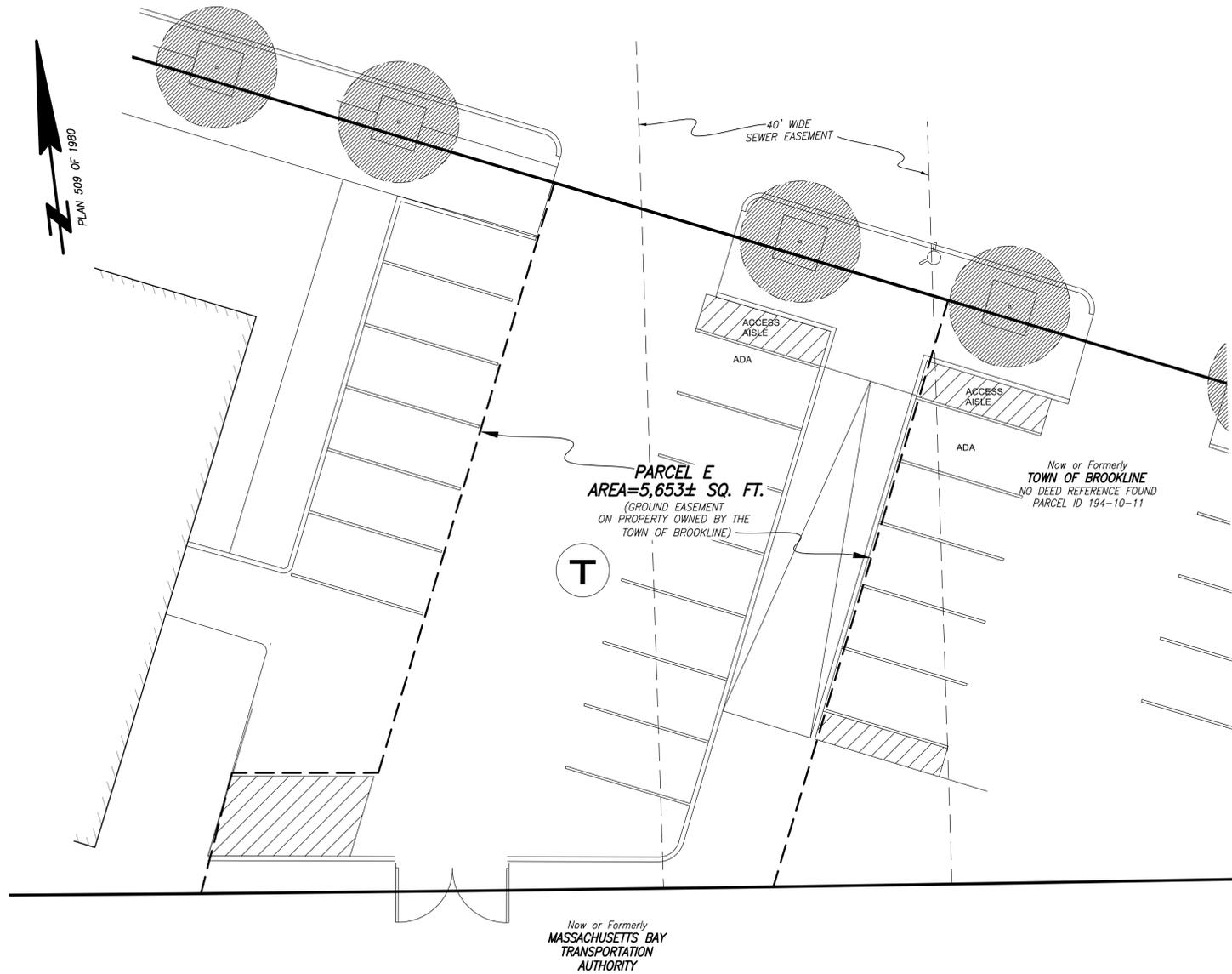


### BROOKLINE HIGH SCHOOL IMPROVEMENTS PROJECT

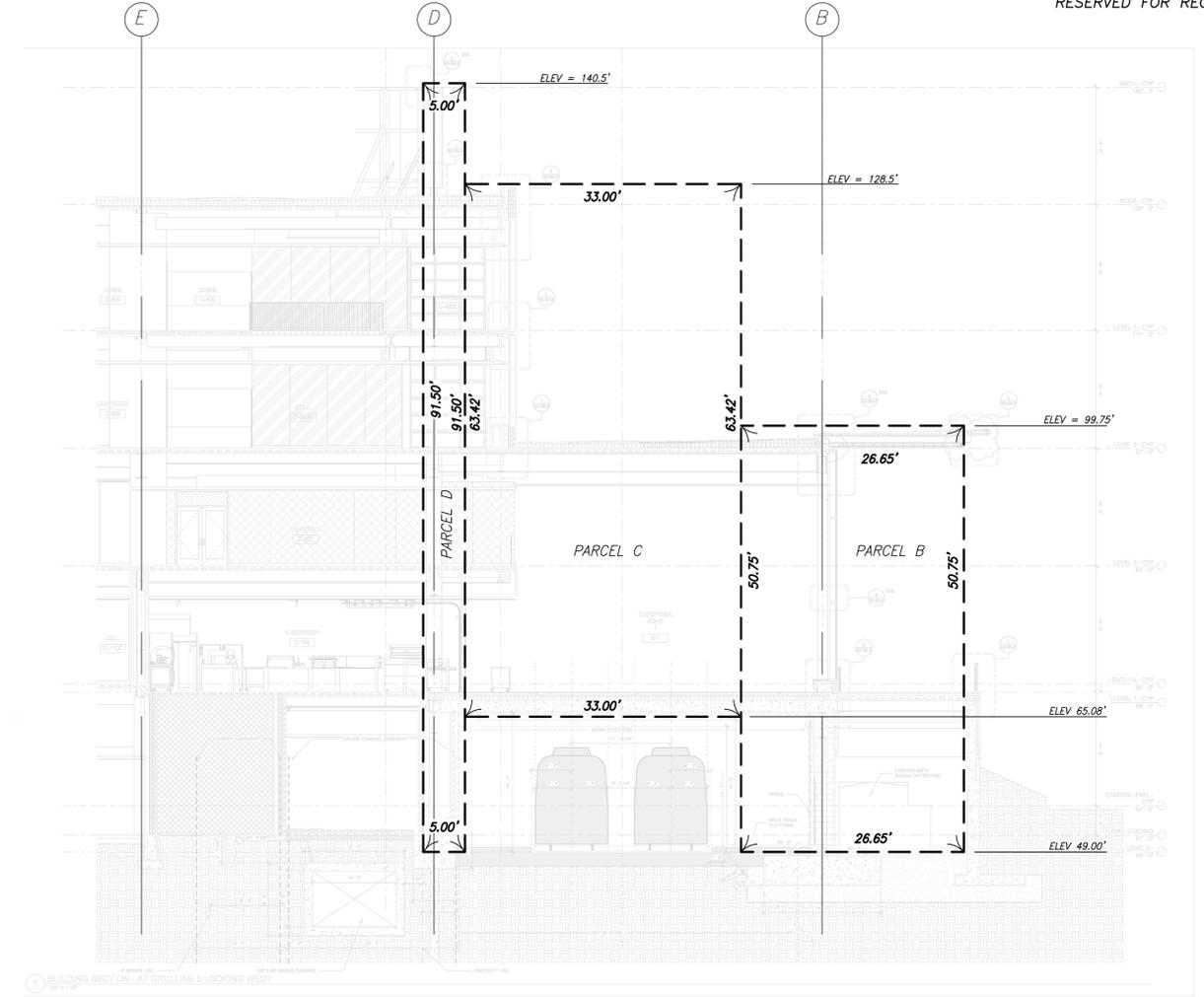




RESERVED FOR REGISTRY USE



PARCEL E DETAIL  
SHOWING PROPOSED CONDITIONS  
SCALE: 1" = 10'



AIR RIGHTS DETAIL  
SECTION AT GRID LINE 5 LOOKING WEST  
SCALE: 1" = 10'  
ELEVATIONS DATUM IS BROOKLINE TOWN BASE

**NOTE:**

- 1) EASEMENTS TAKEN FROM A DIGITAL CAD FILE ENTITLED "2019-03-07 MBTA MASTER SITE PLAN\_A.dwg" PREPARED BY WILLIAM RAWN ASSOCIATES, ARCHITECTS, INC.
- 2) ELEVATIONS SHOWN HEREON REFER TO BROOKLINE TOWN BASE (BTB).
- 3) BENCH MARK INFORMATION:  
BENCH MARK USED:  
MY2083 DISK FOUND STAMPED E-37 AT THE NORTH EAST CORNER OF CYPRESS STREET AND TAPPEN STREET. ELEVATION= 54.01(NAVD88) OR 60.61(BTB)  
TEMPORARY BENCH MARKS SET:  
TBM FS1: X-CUT ON LEFT BOLT OVER MAIN OUTLET AT 122 CYPRESS STREET. ELEVATION= 62.75(BTB)  
TBM FS2: X-CUT ON LEFT BOLT OVER MAIN OUTLET AT 19-21 BRINGTON ROAD. ELEVATION= 54.53(BTB)

**LEGEND**

MBTA	.....	MASSACHUSETTS BAY TRANSPORTATION AUTHORITY
LCC	.....	MASSACHUSETTS LAND COURT CASE
SQ. FT.	.....	SQUARE FEET

I CERTIFY THAT THE PROPERTY LINES SHOWN HEREON ARE THE LINES DIVIDING EXISTING OWNERSHIPS, AND THE LINES OF STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED, AND THAT NO NEW LINES FOR DIVISION OF EXISTING OWNERSHIP OR FOR NEW WAYS ARE SHOWN.

I CERTIFY THAT THIS PLAN CONFORMS WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS.

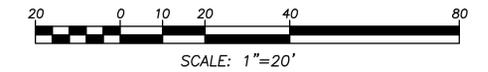
I CERTIFY THAT THIS PLAN IS BASED ON AN ACTUAL FIELD SURVEY AND THE LATEST RECORD PLANS, DEEDS AND CERTIFICATES OF TITLE.

**DRAFT 5-9-2019**

DATE

**MBTA/TOWN OF BROOKLINE  
EASEMENT PLAN  
TAPPAN STREET AND CYPRESS STREET  
BROOKLINE, MASS.**

FELDMAN LAND SURVEYORS  
152 HAMPDEN STREET  
BOSTON, MASS. 02119  
MARCH 8, 2019  
PHONE: (617)357-9740  
www.feldmansurveyors.com



RESEARCH	FIELD CHIEF	PROJ MGR	APPROVED	SHEET NO. 2 OF 2
CALC	CADD	FIELD CHECKED	CRD FILE	JOB NO. 15855C

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**Town of Brookline**  
Massachusetts  
**Department of Public Works**  
Engineering & Transportation Division

May 21, 2019  
Annual Town Meeting  
Article 16 – Supplement No. 1

**TRANSPORTATION BOARD**  
CHRISTOPHER DEMPSEY, CHAIR  
JONATHAN KAPUST, PE  
VICE CHAIR  
ASHLEY HAIRE, PE  
CYNTHIA LEE  
NANCY MOORE  
ALI TALI, PE

April 23, 2019

Brookline Board of Selectmen  
Brookline Advisory Committee  
Brookline Town Meeting

RE: Warrant Article 16 Recommendation

Per the request of the petitioner and the Pedestrian Advisory Committee, the Transportation Board held a public hearing on Monday, April 8, 2019 to discuss the issuance of a letter of recommendation regarding Warrant Article 22: Resolution Calling for a Study of Pedestrian Friendly Street Lighting. Following the public hearing and a subsequent discussion during a separate public meeting agenda item 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, as early as 2016, have recommended that the Town implement the parking meter and payment technology needed to allow for dynamic variable parking meter rate structures based on demand and allow staff to increase or decrease parking meter rates to better manage curbside parking, encourage regular turnover, and achieve desired occupancy rates;

WHEREAS the 2017 Override Study Committee recommended in its final report that the “Town should investigate the implementation of Parking Benefit Districts to see if districts can be created where an appropriate premium on meter rates can be collected and used to fund improvements guided by residents and businesses in the area”;

WHEREAS a group of 10 Brookline Village Business owners have voiced their support for the creation of the Brookline Village Parking Benefits District as a way to better manage “parking in Brookline Village so that parking is more accessible and available for visitors and employees”, provide a means

of “input from business voices in parking management and public parking meter rates”, and “fund improvements to Brookline Village, including beautification, public art, and public events”;

THEREFORE the Transportation Board, by a unanimous vote, recommends favorable action by Town Meeting on Warrant Article 16 which will create a Parking Benefit District in Brookline Village and create a Select Board appointed Brookline Village Parking Benefit District Advisory Board charged with making recommendations to the Select Board about the parking meter rate within the district and the allocation of a portion of that parking meter revenue toward improvements within the district in accordance with Massachusetts General Law Chapter 40, Sections 22 A and 22A½ with the request that Town Meeting consider the appropriateness of the boundary of the district as it relates to Brookline Avenue toward the Longwood Medical Area and further request that Town staff monitor their time spent supporting the new Advisory Board with the potential that increased staff time be offset by the district’s revenue in the future.

Sincerely (on behalf of the full Board),



Jonathan Kapust  
Vice Chair, Brookline Transportation Board

cc: Mel Kleckner, Town Administrator  
Christopher Dempsey, Petitioner for Warrant Article 16  
Andrew Pappastergion, Commissioner - Department of Public Works  
Peter M. Ditto, PE Director - DPW Engineering & Transportation Division  
Kara Brewton, Economic Development Director

ARTICLE 17

**COMMISSION FOR DIVERSITY, INCLUSION, & COMMUNITY RELATIONS  
RECOMMENDATION**

The Commission for Diversity, Inclusion & Community Relations (CDICR) unanimously endorses Warrant Article 17: *“Include the Commission for Diversity, Inclusion and Community Relations on the Review Committee for the Naming of Public Facilities”*.

The Review Committee is currently made up on one member from the Advisory Committee, the Park and Recreation Commission, The Preservation Commission, and the School Committee. Each of these individuals represent their area of interest and expertise. If Brookline truly values diversity and inclusion, it will include a participant with awareness, sensitivity, and expertise in equity and inclusion issues in the naming process of public buildings and facilities. This individual can make valuable contributions to the Review Committee in the review of all proposals as well as the process to collect proposals and communicate results.

This is a minor modification, only expanding the size of the committee from 4 to 5, that could have valuable impact in avoiding rework and negative publicity. An ounce of prevention is worth a pound of cure. Please vote to allow diversity and inclusion to have a seat at the table during this important process.

ARTICLE 17

**PETITIONER MOTION AND ADDITIONAL EXPLANATION**

Moved to amend Section 6.8.2 (A) of the Town’s General by-laws, Naming Public Facilities – Review Committee, as follows (new language appearing in **bold underline**, deletions in ~~strike-through~~):

Section 6.8.2 REVIEW COMMITTEE

(A) Appointment - The **Select** Board of ~~Selectmen~~ shall appoint a Committee of **not less than five nor more than seven** members for staggered three year terms to review all proposals for naming public facilities except rooms and associated spaces under the jurisdiction of the School Committee and Library Trustees as specified above in Section 6.8.1. The Committee shall include one member of each of the Advisory Committee, the Park and Recreation Commission, the Preservation Commission, **the Commission for Diversity, Inclusion and Community Relations** and the School Committee. In addition, the **Select** Board of ~~Selectmen~~ may appoint one alternate member to the Committee. Such alternate shall be appointed for a three year term and shall be designated by the Chair of the Committee from time to time to take the place of any member who is absent or unable or unwilling to act for any reason.

**Petitioner’s additional explanation:**

The Review Committee for the Naming of Public Facilities (the “Naming Committee”) is charged with reviewing naming proposals and reporting its recommendations, presumably to the Select Board, the Advisory Committee and to Town Meeting, and is further authorized to initiate its own proposals for naming public facilities. Recommendations are subject to criteria established by the Naming Committee and approved by the Select Board.

The proposed amendment to Section 6.8.2 to the Town Bylaws adds an important point of view that is currently lacking in the statutory composition of the Naming Committee, and one that requires no further explanation and no further study. As the petitioner of Warrant Article 17, I ask you to vote NO ACTION on the anticipated Advisory Committee motion to refer Article 17 to CTOS (for what purpose they didn’t say at the Advisory Committee review of Warrant Article 17), and join me and a unanimous Select Board in voting FAVORABLE ACTION on the main motion as it’s printed above.

ARTICLE 19

**ADDITIONAL INFORMATION PROVIDED BY THE PETITIONERS**

Warrant Article 19 proposes to restrict the sale of flavored tobacco products, including menthol flavored products, in the town of Brookline. Flavored tobacco products contribute to the continuing trend of increased initiation of smoking among underage users.

The following letters offer additional support for this warrant article:  
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Dear Fellow Brookline Residents,

Smoking kills 480,000 Americans per year, and reduces life expectancy by an average of 10 years. African-Americans are more likely to die of cigarette smoking than other Americans. Although African-Americans try to quit more often than other smokers, quit attempts are less successful in African-Americans. When I talk to my hospitalized African-American patients about quitting, I often hear some variation of, “Doc, I’m sure I could quit, if it wasn’t for the menthol.”

Menthol is not some harmless flavoring added to tobacco. ***Menthol is a drug.*** Menthol binds to temperature receptors on nerves (this is why it produces a cool sensation). It also binds to opioid receptors, and acts as a local anesthetic.

Big Tobacco has long recognized that African-Americans are especially vulnerable to menthol. We now know why: there are specific gene variants in African-Americans related to nerve receptors that are strongly associated with menthol use. (Although 80% of African-Americans who smoke use menthol, menthol use is not unique to them; about 23% of white Americans prefer menthols as well.)

There is a reason that Big Tobacco has their lawyers, lobbyists, and flacks armed with talking points out in Brookline fighting this warrant article. ***Menthol bans lead to higher quit rates among menthol smokers and an overall drop in tobacco use.*** A menthol ban in Ontario resulted in an 11% decline in all cigarette sales, including a 4% decline in non-menthol cigarettes, and a 50% increase in quit rates among menthol smokers. (Menthol cigarettes have been banned nationwide in Canada since October 2017.)

A menthol ban in the United States is supported by the American College of Physicians, the American Thoracic Society, the American Heart Association, the American Lung Society, the American Academy of Pediatrics, the American Cancer Society, and the World Health Organization. Major African-American organizations, including the NAACP, the National Urban League, and the National Medical Association, support a menthol ban. ***Even the Food and Drug Administration, under the leadership of a Trump appointee, Scott Gottlieb, is pushing for a menthol ban.***

Your “Yes” vote for Article 19 will help our adult smokers to quit, and reduce the addictiveness of the e-liquid that our teenagers are vaping. Plus, it’s a poke in the eye for Big Tobacco.

Warmest regards,

John Ross, MD  
Hospital Medicine Physician  
Brigham and Women’s Hospital  
Assistant Professor, Harvard Medical School

Precinct 15 Resident

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To the Town Meeting Members of the Town of Brookline,  
RE: Warrant Article 19.

I live at 16 Stetson Street and have three kids in the Brookline schools (two teenagers at BHS and a 5<sup>th</sup> grader at CCS). I am also a pediatrician at Massachusetts General Hospital for Children in the Pediatric Group Practice and Professor of Pediatrics at Harvard Medical School. I’m honored to care for many Brookline kids in my practice. My expertise and training includes neurobiology, statistics, behavioral theory, and tobacco control. My academic credentials in tobacco are summarized in a footnote at the end of this letter.

I write in support of Warrant Article 19 which would have a profound benefit for the health of our children and fellow residents. **It is a necessary move at this critical time given the 78% rise of adolescent electronic cigarette use in the past year and the reversal of decades of progress in tobacco control.** Every day in my clinical practice, I have patients who I’ve known for years coming in with nicotine addiction due to JUUL and other flavored e-cigarettes. We were down to single digits of tobacco use in my patients. **Now every teenager I treat is either using JUUL or has friends who currently use.** The number one flavor kids use is mint and menthol. Although 20% of high school students are current users of e-cigarettes (*YRBSS 2018 survey data*), the rate in higher socio-economic towns tends to be higher because the kids have more money to spend on their pods. **Kids who use electronic cigarettes are over three times more likely to use combusted tobacco.** For the first time in recent years, the combusted tobacco use rate is increasing in adolescents. Those who graduate to combusted tobacco often use mint and menthol products because it acts as an anesthetic, allowing the toxins to be inhaled more deeply so that kids can overcome their natural aversion to tobacco smoke.

Flavored cigarettes were banned by the Federal Government in 2009. **The tobacco industry was able to exempt menthol flavoring and non-cigarette tobacco products through intense lobbying efforts.** Menthol products have directly targeted African-American/black population through advertisements. **Warrant article 19 closes this**

**loophole.** The tobacco industry needs menthol and mint in their products to get the next generation hooked on tobacco. **Over half of adolescent smokers 12-17 years of age use menthol cigarettes (references 1-3).** Menthol is extremely dangerous given its ability to invoke a deep inhalation and increase addiction, particularly among African American groups (4-10). Nearly 95% of tobacco product users start before the age of 21. **Over 85% of user say that flavors are the reason they started using tobacco products. The use of e-cigarettes can cause anxiety, depression, mood disorders, asthma, impacts brain development, may cause cancer, and can alter the reward pathways of the brain to potentiate addiction to other drugs.**

**Based on the Youth Risk Behavior Surveillance System Data, and Brookline’s socio-economic profile, I estimate that approximately 100 Brookline kids per year become regular, addicted users of tobacco products, the majority initiating with flavored e-cigarette products. Among adolescents, 97% of daily e-cigarette users will still be using a year later.** Shut down the flavors and we protect a large proportion of these kids. Nothing works 100% but each measure Brookline Town Meeting takes can be a piece of the solution. As we saw with raising the tobacco sales age to 21, kids are most sensitive to what is advertised and for sale in local retail stores. One town’s actions can have a big effect on tobacco use even when other surrounding neighbors take more time to act. When Needham became the first town to raise the age to 21, they saw a 47% reduction in teen tobacco use in their high school. Kids who are not addicted will typically not travel to purchase product—most don’t even drive. Studies now show that over 60% of kids get their flavored tobacco products from retail stores or from older friends who get them from retail stores. **The DPH has run compliance checks for Brookline over the past 4 years and our compliance rates are worse than the state average. It only takes a single store selling to an adolescent to supply product for an entire high school.**

**In Massachusetts the rate of adolescent use of eCigarettes is nine times higher than adults.** However, among never smokers, the rates is over 15 times that of adults. (*NYTS and BRFSS 2018*) If it sounds like the kids are the targets for JUUL and other flavored tobacco, its because they are. **Adults who are trying to quit tobacco have many evidence-based options for quitting tobacco use. FDA approved nicotine replacement gum and patch quadruple the chances of cessation.(*treating tobacco use and dependence guideline 2008*) A recent NEJM article demonstrated that when adults try to quit smoking using e-cigarettes, 19% quit successfully but 80% of those who quit remain addicted to electronic cigarettes a year later.** In that same study 10% of smokers quit using approved nicotine replacement medicine, but only 10% of them were still using the approved nicotine product one year later. **FDA approved nicotine patch and gum was 2.5 times more effective than e-cigs at helping smokers get off all nicotine and tobacco products.** The electronic cigarette is a dream come true for the tobacco industry because they are so addictive. Partly because of the perpetuation of addiction and partly because of the unsafe nature of the products, the FDA has not approved e-cigarettes as a cessation device. **As part of this Warrant article, adults who may want to try e-cigs as a last resort to get off of traditional cigarettes would still be able to buy tobacco flavored e-cigarettes. There is no evidence that tobacco flavor e-cigarettes wouldn’t**

**work for adults trying to get off combusted tobacco cigarettes—after all, smokers are already used to smoking tobacco.** Luckily, kids who have never smoked tobacco find tobacco flavor repulsive. **Warrant article 19 does not ban e-cigarettes, it restricts them and all other tobacco products so that they cannot have the mint, menthol, and other flavors that appeal to kids.**

Historically, the tobacco industry added mint and menthol flavor to help get Black smoking rates higher in the 1960's because they lagged behind the White smoking rate. In a nationally representative study, the majority of Whites want mint and menthol banned from tobacco products. **However, an even larger majority of Blacks want mint and menthol banned than Whites.** (AM J Prev Med)

Warrant article 19 as written has precedent and would have the support of our town counsel and the not-for-profit *Public Health Law Institute* at Northeastern. My interest in Warrant article 19 is strictly as a volunteer with only the interests of public health and children at heart. I hope that this letter will help set the record straight on the benefits to our town of Warrant article 19.

#### References

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2. Substance Abuse and Mental Health Services Administration (SAMHSA). The NSDUH Report: Recent Trends in Menthol Cigarette Use. Rockville, MD: U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Behavioral Health Statistics and Quality; 2011.
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11. Hoffman AC, Miceli D. Menthol cigarettes and smoking cessation behavior. *Tobacco Induced Diseases.* 2011; 9(Suppl 1):S6: 1-5.

Additional references available upon request.

Sincerely,



Jonathan P. Winickoff MD, MPH

**Academic Credentials:** In addition to over 100 peer-reviewed original research publications in tobacco, I've drafted tobacco control policy and served as a scientific advisor for the CDC Communities Putting Prevention to Work, Massachusetts Tobacco Control Program, Indiana Tobacco Control Program, Head Start, WIC, the Food and Drug Administration, Department of Housing and Urban Development, the National Academy of Medicine, and the U.S. Surgeon General through the Interagency Committee on Smoking and Health. I've received numerous awards including the HHS Secretary's Award for Distinguished Service for "protecting the health of the United States public," and the 2011 Academic Pediatric Association Health Policy Award for cumulative public policy and advocacy efforts that have improved the health and well-being of infants, children, and adolescents. I participated in research that helped support the creation of smokefree public housing in the city Boston, the state of Maine, and facilitated HUD's successful national effort to make all public housing buildings smokefree in 2018. Recently, in four research papers, I studied raising the tobacco sales age to 21 and co-founded a volunteer campaign to help communities raise the age to 21. As of April 2019, over 450 communities as well as NYC, Kansas City, Cleveland, and the states of Hawaii, California, Massachusetts, Oregon, New Jersey, Maine, Virginia, Washington, Illinois, Utah, and Arkansas have raised their age of sale to 21—covering over 40% of the United States population. Currently, I've been researching electronic nicotine delivery systems and volunteering with the Massachusetts Attorney General's Office and others across the country to combat the epidemic of JUULing and eCig use in youth.

\*\*\*\*\*

Dear Select Board Members,

We write to you as concerned parents and physicians in support of the ban on the sale of flavored tobacco (including menthol) products in Brookline.

Tobacco has a long history of negative consequences on the health of children and adults alike (from cancer to increased cardiovascular risk to worsening respiratory illness such as asthma). Flavored products in particular, though, are targeting our youth as evidenced by the increased utilization in our middle and high school aged children. These flavored products have made smoking more enticing to our youth and are sweetened to a level that is purposefully meant to be attractive to children (eg. with bubble gum and grape flavors).

In our jobs as medical providers we see how difficult it is for our patients to quit these products as well as the myriad harmful health effects they cause. Banning the sales in our town would decrease the avenue for access and thereby help prevent our children from becoming addicted to nicotine products.

Sincerely,

Jennifer L. Beach, MD (Internal Medicine) at 62 Circuit Road  
Jonathan Cluett, MD (Orthopedics) at 62 Circuit Road  
Tanaz Ferzandi, MD (OB/Gyn) at 71 St. Mary's Street  
Jeffrey Zarin, MD (Orthopedics) at 71 St. Mary's Street  
Julie Dollinger, MD (Pediatrics) at 46 Brook Street  
Julia Lindenberg, MD (Internal Medicine) at 6 Conant Road

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March 18, 2019

Re: Proposed Amendment to Article 8.23

Dear Select Board Member,

I write in support of the proposed amendment of Article 8.23 of the Town's General By-laws that would ban the sale of all menthol and flavored tobacco products. As a physician I have seen the grave consequences of tobacco addiction. In recent years we have witnessed a dramatic increase in the use of electronic cigarettes, especially among adolescents and young adults, creating a new, easy method of nicotine addiction. While touted by some to be an effective tool for smoking cessation, the long term health consequences of this product are still very uncertain. Of greater concern is the risk the routine use of these products will have on the long term health of youth who use them, as well as for the potential risk of addiction to other tobacco products. Not surprisingly, flavored products (such as bubble gum, grape and cherry vanilla), have a natural appeal to children; such flavored products illicit deeper inhalation of tobacco and are more addictive, while providing a false sense of safety. The fear that vaping products will lead to increased tobacco use appears to have been realized in an unfortunate recent reversal in the decline of tobacco use in children under 18 years of age. As a Brookline parent I am particularly concerned about the availability of flavored products in our community and the common use within our schools.

Thus, for the wellbeing of our community, I would encourage you to approve the ban of all flavored tobacco products within the town of Brookline.

Sincerely,

C. Christopher Smith, MD  
Director, Internal Medicine Residency Program,  
Associate Vice Chair for Education,  
Beth Israel Deaconess Medical School  
Associate Professor of Medicine,  
Harvard Medical School

ARTICLE 20

**ADVISORY COUNCIL ON PUBLIC HEALTH RECOMMENDATION**

Please be advised that the Town of Brookline Advisory Council on Public Health held a public hearing at 6:00pm on Thursday, April 25, 2019, at the Brookline Department of Public Health, 11 Pierce Street on Warrant Article 20 (WA) Menstrual Products. Rebecca Stone, TMM presented WA 20. ACPH voted 5-0 in favor of Warrant Article 20.

ARTICLE 20

SELECT BOARD'S SUPPLEMENTAL RECOMMENDATION

The Board considered the Advisory Committee language under article 20, which is described on page 20-8. The Select Board unanimously voted FAVORABLE action on the Advisory Committee motion.

ARTICLE 22

**TRANSPORTATION BOARD RECOMMENDATION**



*Town of Brookline*  
Massachusetts

Department of Public Works  
Engineering & Transportation Division

**TRANSPORTATION BOARD**  
CHRISTOPHER DEMPSEY, CHAIR  
JONATHAN KAPUST, PE  
VICE CHAIR  
ASHLEY HAIRE, PE  
CYNTHIA LEE  
NANCY MOORE  
ALI TALI, PE

April 23, 2019

Brookline Board of Selectmen  
Brookline Advisory Committee  
Brookline Town Meeting

RE: Warrant Article 22 Recommendation

Per the request of the petitioner and the Pedestrian Advisory Committee, the Transportation Board held a public hearing on Monday, April 8, 2019 to discuss the issuance of a letter of recommendation regarding Warrant Article 22: Resolution Calling for a Study of Pedestrian Friendly Street Lighting. Following the public hearing and a subsequent discussion during a separate public meeting agenda item 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 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 Brookline Select Board formed an Age Friendly Cities Committee to coordinate Brookline's Age-Friendly City initiative as part of the Town's designation as a World Health Organization Age-Friendly Community and committed the Town to take active steps to enable "people of all ages to actively participate in community activities", treat "everyone with respect, regardless of their age", make "it easy for older people to stay connected to people that are important to them", help "people stay healthy and active even at the oldest ages", and provide "appropriate support to those who can no longer look after themselves";

WHEREAS the Pedestrian Advisory Committee, an advisory committee to the Transportation Board, issued a recommendation to the Board that highlighted pedestrian scale lighting as a safety, economic, and social issue that was needed to allow pedestrians, particularly seniors, to safely walk between residential and commercial areas of the Town;

WHEREAS the Transportation Board has an interest in best meeting the transportation goals for all modes and would like to move the discussion forward and have it become informed through the findings of the Select Board appointed committee;

THEREFORE the Transportation Board, by a unanimous vote, recommends favorable action by Town

Meeting on Warrant Article 22 which will request that the Select Board appoint a committee charged to determine the extent to which there is public demand for improved lighting for pedestrians, identify locations where improved pedestrian lighting is most needed, and examine costs of installation and operation of new pedestrian-friendly street lighting.

Sincerely (on behalf of the full Board),



Christopher Dempsey  
Chairman, Brookline Transportation Board

cc: Mel Kleckner, Town Administrator  
Frank Caro, Petitioner for Warrant Article 22  
Andrew Pappastergion, Commissioner - Department of Public Works  
Peter M. Ditto, PE Director - DPW Engineering & Transportation Division

ARTICLE 23

SELECT BOARD'S SUPPLEMENTAL RECOMMENDATION

The Select Board considered the Advisory Committee's version of Article 23, which provided additional wording changes to improve the clarity of the Article. The Select Board unanimously voted FAVORABLE ACTION on the motion offered by the Advisory Committee.

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

SUMMARY:

Article 23 is resolution that urges the Town to purchase and use electric vehicles. The resolution calls upon the Town to fully electrify the Town's vehicle fleet by imposition of a moratorium on the purchase of new fossil fuel-consuming vehicles in instances where a practical and affordable electrified alternative is obtainable.

The Advisory Committee acknowledged that a plan to purchase "all" electric vehicles is in stark contrast to the Town's prior, incremental approach in transitioning to hybrid vehicles. However, Town staff (Zoe Lynn, sustainability program administrator; Dave Geanakakis, chief procurement officer; Justin Casanova-Davis, assistant town administrator) expressed their support for the resolution and expressed confidence they could help implement this transition to an all-electric fleet given time and discretion to make prudent choices.

The Advisory Committee unanimously recommends FAVORABLE ACTION on a revised and amended resolution.

BACKGROUND:

Transport—including municipal, private, and commercial vehicles—accounts for 25% of Brookline's carbon emissions. With Warrant Article 23, the petitioners' goal is to reduce the Town's own carbon emissions by starting to electrify the Town's fleet of more than 300 vehicles. At the Advisory Committee subcommittee hearing, the petitioners pointed out that an electric car purchased today and powered by the Town's existing municipal electrical power reduces total carbon emissions by 60%–70% compared to an efficient hybrid car. As the grid gets cleaner by at least 2% per year through 2029 and 1% per year thereafter, and as Brookline potentially also buys even cleaner municipal power (as advocated in Article 24), that same electric car could eventually drive its first mile without any additional carbon emissions beyond those required for manufacturing.

DISCUSSION:

The primary changes included in the petitioners' amended version (see below) removed the 25% price point trigger that had been included in the resolution as it appears in the Warrant. While the resolution retains a broad electric vehicle (EV) policy, the Town staff envisions delivering tailored EV policies for police and fire vehicles in the next year.

The petitioner explained that the resolution is immediately relevant for many of the Town's passenger cars, such as inspector cars, which can now be fully electrified practically and affordably, as defined by the resolution. Full electrification may not be immediately practical or affordable for many other vehicles including garbage trucks, patrol cars, and SUVs, for which fully EV alternatives may not yet be available, practical, or cost-competitive.

In the Capital Subcommittee's first public hearing on this article, the subcommittee heard from several members of the public who spoke in support of the Warrant Article, and was reminded of the Town's general support for policies that help mitigate climate change. The subcommittee was supportive of the Article, but initially suggested additional wording changes in the interest of clarity. The petitioners worked with Town staff to clarify the intent of the resolution.

While electrifying the fleet is framed as a climate necessity, the petitioners acknowledged that there is no perfect path forward due to costs and the limited types of electric vehicles currently on the market. If there are significant budget constraints due to costs of some larger, more specialized equipment, electrification could be slowed to save money, or it could be accelerated with additional funding.

**RECOMMENDATION:**

By a vote of 20–0–0 the Advisory Committee recommends FAVORABLE ACTION on the following motion:

VOTED: That the Town adopt the following resolution:

**A RESOLUTION CALLING FOR THE ELECTRIFICATION OF THE TOWN'S  
MOTORIZED FLEET**

Whereas, Brookline has a strong desire to assist the rest of the world in stopping climate change; and

Whereas, the Town must dramatically reduce its emissions via implementation of "strong and immediate" policies if it wishes to assist in keeping global warming below 1.5°C, per the December 2018 Intergovernmental Panel on Climate Change report; and

Whereas, fossil fuels for the Town's own motorized vehicles are a significant source of atmospheric carbon emissions, and all Town vehicles burn fossil fuels (although many sedans are hybrids); and

Whereas, a variety of all-electric vehicles (and sources of 100% clean electricity) are now available, with more becoming available every year; and

Whereas the Town and its fleet are an important and visible model to the public, shaping culture and belief in collective climate action; and

Whereas transportation and transportation-related emissions are primarily a function of (1) vehicle energy efficiency; (2) the carbon emissions associated with vehicle energy use; (3) vehicle miles traveled; and (4) other factors related to vehicle use, e.g., vehicle size and demand for vehicles, which may be influenced by encouraging the use of route optimization, virtual meetings, and alternative modes of transport such as biking, scooters, walking, and MBTA;

NOW THEREFORE, BE IT RESOLVED that Town Meeting calls upon the Town to electrify the Town's motorized vehicle fleet and to create a comprehensive vehicle policy to reduce greenhouse gas (GHG) emissions from motorized vehicles and equipment to zero by 2050, or as soon as is possible.

BE IT FURTHER RESOLVED THAT Town Meeting calls upon the Town, as of July 1, 2020, or using funds allocated in the budget for FY2021 and fiscal years thereafter, not to acquire via purchase, lease, or otherwise fossil fuel-consuming vehicles including cars, trucks, buses, emergency vehicles, street sweepers, lawn mowers, snow blowers, skid-steers, or any other motorized portable equipment for which a PRACTICAL ALTERNATIVE is acquirable via a contract or procurement process that complies with MGL Ch. 30B. For the purposes of this resolution, a PRACTICAL ALTERNATIVE shall be defined as one or more commercially available electrified device(s) that singly or in combination meet the required needs with equivalent utility for the intended use. The department head requesting the vehicle, after consultation with the Chief Procurement Officer and Fleet Manager, will determine whether available alternatives qualify as PRACTICAL ALTERNATIVES.

BE IT FURTHER RESOLVED THAT Town Meeting calls upon the Town to create a policy to prioritize higher ranked PRACTICAL ALTERNATIVES over lower ranked ones, in the following order:

1. Fully electric equipment (e.g., Battery Electric Vehicles [BEVs]);
2. Partially electric plug-in hybrid equipment (e.g., Plug-in Hybrid EVs [PHEVs]);
3. Partially electric non-plug-in hybrid equipment (e.g., conventional hybrids).

BE IT FURTHER RESOLVED THAT Town Meeting calls upon the Town Administrator to amend the vehicle policy within the next year to integrate fleet management and purchasing practices that advance zero-emission vehicles, fleet rightsizing, route optimization, reductions in vehicle miles traveled, and other relevant considerations that

are needed for a stable climate, environmental stewardship, equity, sustainable budgets, and community health.

BE IT FURTHER RESOLVED THAT Town Meeting requests Town Departments to note the energy source(s) of vehicles in budget requests (e.g., fossil fuel, plug-in hybrid, non-plug-in hybrid, or fully electric).

BE IT FURTHER RESOLVED THAT for the purchase of Public Safety vehicles, the following standards must continue to be complied with, as set forth in the following:

- A. For Police Department vehicles, acceptable Michigan State Police vehicle test results for the current model year police vehicles, and;
- B. For Fire Department vehicles, the NFPA 1901 Standard for Automotive Fire Apparatus; the NFPA 1911 Standard for the Inspection, Maintenance, Testing, and Retirement of In-Service Emergency Vehicles; the NFPA 1914 Standard for Fire Apparatus Refurbishing; and the NFPA 1915 Standard for Fire Apparatus Preventive Maintenance Program.

BE IT FURTHER RESOLVED THAT although much of the Town's school bus and school van transport is currently provided by contract, such that vehicles are not owned or leased by the Town, the Town Meeting nevertheless encourages the Town and Schools to explore electrification of the contracted fleet and, as soon as is practical and cost effective, to transition the contracted fleet to fully electric vehicles, by modifying or switching the contract and/or by acquiring some or all of the Town's own fleet via purchase or lease.

ARTICLE 24

**SELECT BOARD’S CLIMATE ACTION COMMITTEE  
REPORT AND RECOMMENDATION**

Warrant Article 24 proposes to annually increase the purchase of Renewable Energy Certificates (RECs) for electricity use in municipal buildings, to reduce greenhouse gas (GHG) emissions to zero by 2050.

RECOMMENDATION:

The Select Board’s Climate Action Committee voted FAVORABLE ACTION (10-0-1) on April 22, 2019, and urges the Town do everything possible to reach 100% renewable energy use before 2050.

ARTICLE 26

SELECT BOARD'S SUPPLEMENTAL RECOMMENDATION

The Select Board considered the Advisory Committee's version of Article 26, which provided language that specifically references the GARE process, which the Board supports. The Select Board unanimously voted FAVORABLE ACTION on the motion offered by the Advisory Committee.

ARTICLE 27

**MOTION OFFERED BY THE PETITIONER**

VOTED that the Town adopt the following resolution:

**AN APOLOGY TO GERALD ALSTON AND COMMITMENT TO DO BETTER**

WHEREAS, regarding the termination of Brookline firefighter Gerald Alston, the Massachusetts Civil Service Commission has declared, "The Town's own actions and inactions were the reasons that made it impossible for Firefighter Alston to return to work, which formed the basis of the Town's decision to terminate his employment";

WHEREAS, the Massachusetts Civil Service Commission has declared, "When a municipality's own violation of a tenured employee's rights has prevented the employee from returning to work, as here, the Town cannot use that inability to work as just cause for discharging the employee from his tenured position";

WHEREAS, the Massachusetts Civil Service Commission has declared that use of a racial epithet, "coupled with subsequent actions and inactions by Town officials at all levels, which compounded the racist comment into an avalanche of unfair, arbitrary, capricious and retaliatory behavior that infringed on Firefighter Alston's civil service rights, made it impossible for him to perform his job as a Brookline firefighter";

WHEREAS, the Massachusetts Civil Service Commission has declared, "the Town of Brookline has failed to show just cause for terminating Gerald Alston from employment;"

NOW, THEREFORE, BE IT HEREBY RESOLVED, the Town of Brookline apologizes to Gerald Alston for any and all pain and suffering he has experienced as a result of his employment as a Brookline firefighter and as a result of his termination from that position; and further, the Town of Brookline endeavors to engage in serious introspection, reflection, and open dialogue so that no employee or resident of Brookline, or any person passing through Brookline for any amount of time, shall ever again have to experience anything like that which Mr. Alston has gone through.

ARTICLE 27

**MOTION OFFERED BY MICHAEL SANDMAN, TMM3  
AND JOHN VANSCOYUC, TMM13**

WHEREAS in 2010 a racial epithet used by an employee of the Town of Brookline was recorded on Gerald Alston's cellular telephone voicemail, and was heard by Gerald Alston; and

WHEREAS, the term “hate speech” includes, but is not limited to, epithets and slurs that disparage a person’s race, religion, ethnic heritage, national origin, sexual orientation, gender or gender identity, and

“WHEREAS it should be recognized that hate speech, as defined in this resolution, includes the racial epithet heard by Mr. Alston in 2010; and

WHEREAS, the Town of Brookline has a moral and legal obligation to maintain its workplaces and public spaces free of hate speech and racist behavior that create a hostile environment for people who live, visit or work in Brookline, and

“WHEREAS it is unacceptable for Town employees, residents, or visitors to Brookline to be subjected to hate speech under any circumstances.

NOW, THEREFORE,

“BE IT RESOLVED: that Brookline Town Meeting, individually and collectively, expresses profound regret to Gerald Alston for the hurt caused by the racial epithet he received on his voicemail in 2010; and,

BE IT FURTHER RESOLVED: that we pledge to engage in serious introspection, reflection, and open dialogue and to carry out our commitment to help ensure that no employee, appointee or resident of Brookline, or any person passing through Brookline, shall experience any hate speech that is attributable to any employee, appointee, or elected official of the Town of Brookline.”

BE IT FURTHER RESOLVED, that the Town of Brookline, now and in the future, takes a zero tolerance policy towards any Town employee who is found to engage in such abhorrent behavior.

## **Explanation**

Ten years after the event, Brookline Firefighter Gerald Alston continues to deal with life-changing consequences of a racial epithet spoken by a supervisor and recorded in a message on Gerald Alston's telephone.

Still pending is the outcome of a Civil Service Commission order to reinstate Firefighter Alston with full back pay, a decision which the Town has appealed. Also pending is litigation in the federal courts stemming from actions taken by the Town of Brookline subsequent to the phone message including the racial epithet.

Objections have been raised to Article 27 because if it is approved, it could be introduced as evidence in federal court. The petitioner offering Article 27 has cited statutes and rules to support his contention that an apology cannot be considered as an admission in a civil claim. It is not clear that the petitioner is correct. According to a clerk in Boston Federal District Court, if Town Meeting acts favorably on Article 27, the vote will be admissible as evidence to be put before a jury by Mr. Alston's attorney.

We hope that a majority of Town Meeting will see the wisdom of steering clear of wording that could undermine the Town's position in ongoing litigation. But we share the desire to express profound regret for the years of hurt stemming from a racial epithet experienced by Gerald Alston.

The Substitute Motion expresses dismay at both the initial incident and the consequences that flowed from it, but without inferring any conclusions from the Civil Service Commission's order. Town Counsel has neither endorsed nor opposed an earlier version the Substitute Motion.

ARTICLE 27

**COMMISSION FOR DIVERSITY, INCLUSION, & COMMUNITY RELATIONS  
RECOMMENDATION**

The Commission for Diversity, Inclusion & Community Relations by majority vote endorses Warrant Article 27: *“An Apology to Gerald Alston and a Commitment to Do Better”*.

Statement regarding this endorsement written by Kelly Race, Chair of the Commission for Diversity, Inclusion and Community Relations: “If any Town Meeting Members have not read the decision issued by the Civil Service Commission on February 14, 2019, I urge you to do so. Since 2010, I, like many residents of Brookline, have heard or read some details of the incident which occurred on May 20, 2010 involving Gerald Alston. I have also followed the subsequent actions in public meetings and reporting in the TAB. However, it was not until reading the Civil Service Commission decision earlier this year that I became aware of all of the facts and evidence of the initial incident and subsequent behaviors and later actions and inactions taken by the town.

No one can read the Civil Service Commission’s decision and not conclude that the town has not lived up to its ideals of fairness, respect, or equal opportunity. For all of the reasons articulated in the decision, the town of Brookline needs to show remorse and atone for the way it has treated Gerald Alston. Article 27 is an opportunity for Town Meeting to demonstrate its moral leadership and take initiative by apologizing to Gerald Alston and committing to ensuring nothing similar ever happens again.”

ARTICLE 27

SELECT BOARD'S SUPPLEMENTAL RECOMMENDATION

Article 27 is a petitioned resolution asking that the Town make a public apology to Gerald Alston. A majority of the Board chose to abstain from voting under this article because they are subjects of a pending lawsuit filed by Mr. Alston. A motion to move the article in the original filed language failed 1-1-3. A revised motion that had been considered by the Advisory Committee, the Michael Sandman, John VanSoyoc and Bernard Greene (S-JVS-G) proposal, was considered by the Board.

The Board moved FAVORABLE ACTION on the following motion:

VOTED: That the Town adopt the following resolution

"A PLEDGE TO RECOGNIZE THE HURT CAUSED BY HATE SPEECH, AND TO RECOMMIT TO A HATE-FREE TOWN OF BROOKLINE

"WHEREAS in 2010 a racial epithet used by an employee of the Town of Brookline was recorded on Gerald Alston's cellular telephone voicemail, and was heard by Gerald Alston; and

"WHEREAS, for the purposes of this resolution, "hate speech" includes, but is not limited to, epithets and slurs that disparage a person's race, religion, ethnic heritage, national origin, sexual orientation, gender or gender identity; and

"WHEREAS it should be recognized that hate speech, as defined in this resolution, includes the racial epithet heard by Mr. Alston in 2010; and

"WHEREAS it should be recognized by all employees, appointees and elected officials of the Town of Brookline that the Town is obligated to maintain its workplaces free of hate speech and other behaviors that could create a hostile environment for our workforce; and

"WHEREAS it is unacceptable for residents of Brookline and/or visitors to Brookline to be subjected to hate speech attributable to any employee, appointee, or elected official of the Town of Brookline;

NOW, THEREFORE, "BE IT RESOLVED: that we, the Brookline Town Meeting Members who approve this resolution, express individually and collectively our profound regret to Gerald Alston for the hurt caused by the racial epithet he received on his voicemail in 2010; and,

BE IT FURTHER RESOLVED: that we pledge to engage in serious introspection, reflection , and open dialogue and to carry out our commitment to help ensure that no employee, appointee or resident of Brookline, or any person passing through Brookline, shall experience any hate speech that is attributable to any employee, appointee, or elected official of the Town of Brookline."

**ROLL CALL VOTE:**

Aye:

Hamilton  
Fernandez

Abstain:

Greene  
Franco  
Heller

*\*The Board had not seen the revised language filed by Sandman and VanSoyoc on 5/15.  
The Board will review this language on May 21.*

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ARTICLE 28

**REVISED PETITIONER EXPLANATION**

Legislation similar to this bill has been filed in the Massachusetts State Legislature by former State Representative Byron Rushing (D – Suffolk) every 2 years for the past 34 years. These efforts have had the support of the Massachusetts Commission of Indian Affairs but never made it out of committee. Multiple Native American groups, such as the North American Indian Center of Boston and United American Indians of New England, are in support of this bill as part of their legislative agenda. The bill is attached. It sets up a commission to study the state seal and motto and to make recommendations regarding revisions to the state legislature. The state legislature then will vote on whether or not to accept the recommendations of the commission and the governor would need to sign it into law.

The seal has changed several times since the 1629 Seal of the Governor and Company of Massachusetts Bay. The original seal is shown in the accompanying flyer. The Native is depicted as saying, “Come Over and Help Us”, implying that the Native Nations had requested help from Europeans. This stands in stark contrast to the actual events, including huge loss of life from disease, starvation, and the outright slaughter of Native populations. This was followed by enslavement or servitude in Pilgrim households under the guise of saving Indigenous People’s souls. Native peoples were also sent to the Caribbean Islands as slaves. Linford D. Fisher of Brown University has said that Native American Slavery “is a piece of the history of slavery that has been glossed over... Between 1492 and 1880, between 2 and 5.5 million Native Americans were enslaved in the Americas in addition to the 12.5 million African slaves.” Rather than actually helping the Native populations, it could be said that the European colonists “helped” themselves to the land inhabited by these peoples.

The current seal and flag, designed by Edmund Garrett and adopted in 1898, contain an image of a Native man whose body and dress are a composite of multiple Native men. The face comes from a photograph taken of a Chippewa chief from Montana. The proportions of the body come from a Native skeleton disinterred in Winthrop. The belt is patterned after that worn by Metacomet who led the first Native war against English colonization. He was subsequently beheaded, and his head was displayed on a pike for more than 20 years. Garrett noted that, “The bow is an accurate representation of one taken from an Indian shot and killed by William Goodnough in Sudbury in 1665.” The downward pointing arrow, used in both the current seal and the one from 1629, indicates a “peaceful” or “pacified” Indian. The threatening sword over the Native man’s head is purported to be modelled after Myles Standish’s broadsword. Standish is known to have ambushed and killed four Massachusetts warriors after he had summoned them to a meeting. As detailed in New England Magazine, a great deal of thought was given to the depiction of the Indian.

Some might consider this art. Nevertheless, it should be recognized that the figure represents a troublesome history. Hartman Deetz (Mashpee/Wampanoag) stated as part of a panel discussion on January 9, 2019, in Cambridge, Massachusetts, “This is a flag that celebrates colonial exploitation and dispossession of Native People.” He further stated, “The flag is a reflection of the ongoing genocide of the Native People that has been happening in Massachusetts and the New England area since 1630.” The motto has various translations, but it is commonly translated as “By the sword we seek peace, but peace only under liberty.”

Additional Sources:

New England Magazine, Vol.23 (1900-01), “The Coat of Arms and Great Seal of Massachusetts”

Archives related to the State seal and flag provided by the Secretary of State and the State Library special collection at the Statehouse, Boston

Modell of Christian Charity, John Winthrop (First Governor of the Massachusetts Bay Colony

William Penn Letters of Jeremiah Evarts, 1829

ARTICLE 28

SELECT BOARD'S SUPPLEMENTAL RECOMMENDATION

Article 28 is a petitioned resolution asking the Town to support Massachusetts state legislation “providing for the creation of a special commission relative to the seal and motto of the Commonwealth.” The Board is supportive of this effort. The Board discussed the Advisory Committee language and expressed caution that they have previously expressed about statements of fact contained in resolutions in general. The Board believes that it is important to celebrate our rich history but also remain cognizant of the symbolism and meaning associated with our current seal and motto. The Board hopes that a commission could study possible changes to the seal and motto that celebrates our collective history, diversity, and unity. Ultimately, the Board preferred the petitioner’s language and unanimously voted FAVORABLE ACTION on the following motion:

VOTED: THAT THE TOWN OF BROOKLINE ADOPT THE FOLLOWING RESOLUTION:

RESOLUTION IN SUPPORT OF THE CREATION OF A SPECIAL COMMISSION RELATIVE TO THE SEAL AND MOTTO OF THE COMMONWEALTH

WHEREAS, the history of State of Massachusetts is replete with instances of conflict between the European Colonists and the Native Nations of the region, who first extended the hand of friendship to the Colonists in 1620 and helped them survive during the settlers’ first winter on their land<sup>1</sup>; and

WHEREAS, members of the Native Nation for whom the State of Massachusetts is named were ambushed and killed by Myles Standish, first commander of the Plymouth Colony, in April 1623, barely two years after the Pilgrims arrived on their shores<sup>2,3</sup>; and

WHEREAS, the symbols in the current flag and seal of the Commonwealth are a composite of appropriated symbols that do not reflect the true history<sup>4</sup>; and

WHEREAS, since colonial times, the history of relations between what is now the State of Massachusetts and the Native Nations include forced internment leading to the death of hundreds in 1675 on Deer Island and their subsequent enslavement in Boston, Bermuda and the Caribbean islands<sup>5</sup>; and

WHEREAS, the Native Nations within the current State of Massachusetts were kept in a state of servitude, and their members were legally considered incompetent wards of the state until the nonviolent action of the so-called Mashpee Rebellion of 1833 which led to

the granting of Native self-rule by the Massachusetts legislature in 1834, as if it were the right of the Massachusetts legislature to grant such rights<sup>6,7</sup>; and

WHEREAS, Native Americans were legally prohibited from setting foot into Boston from 1675 until 2004, when the law was repealed<sup>8</sup>; and

WHEREAS, the 400<sup>th</sup> anniversary of the landing of the European Colonists at Plymouth Plantation is approaching in 2020, giving every citizen of the Commonwealth a chance to reflect on this history and to come to a new awareness of the possibility of a better relationship between the heirs of the European conquest and the Native Nations of the Commonwealth; and

WHEREAS, Native Americans have long suffered the many abuses of racism, the appropriation of their symbols for public schools and sports teams, the confiscation and pollution of their ancestral lands and the encroachment on their cultures;

Now, therefore, BE IT RESOLVED that Town Meeting of Brookline adopts this resolution in support of H.2776 and S.1877, entitled “Resolve providing for the creation of a special commission relative to the seal and motto of the Commonwealth” and commends Representative Nika Elugardo as a sponsor and Representative Tommy Vitolo as a cosponsor of this resolution and further urges Representatives Edward Coppinger and Michael Moran and Senator Cynthia Creem to support and vote in favor of the aforementioned Resolve (H.2776 and S.1877) in the General Court and that the Joint Committee on State Administration and Regulatory Oversight (or all other legislative committees which may hear the bill), after holding a public hearing, report it out favorably and if the legislation shall pass, that Governor Charles Baker shall sign it and work with members of the General Court to ensure its enactment.

BE IT FURTHER RESOLVED that the Town Clerk shall cause a copy of this resolution to be sent to State Representatives Elugardo, Vitolo, Coppinger and Moran, to Senator Creem and to Governor Charles Baker.

<sup>1</sup> Philbrick, Nathaniel, Mayflower; A Story of Courage, Community, and War, 2006, pp xvi, 92, chapters 13 and 14.

<sup>2</sup> Philbrick, Nathaniel, ibid, p 151-152.

<sup>3</sup> Jenks, Tudor, Myles Standish, 1905.

<sup>4</sup> Olins, William M., “The Coat of Arms and Great Seal of Massachusetts”, New England Magazine, vol. 23 (1900-1901), on design of current state seal by Edmund Garret.

<sup>5</sup> [www.natickprayingindians.org/history](http://www.natickprayingindians.org/history)

<sup>6</sup> Philbrick, ibid, p xiv-xv.

<sup>7</sup> Fisher, Linford D., Ethnohistory, vol.64, issue 1, 1 January 2017 and at [futurity.org/native-americans-slaves](http://futurity.org/native-americans-slaves).

<sup>8</sup> “Banned in Boston”, New York Times, 11/25/2004.

ARTICLE 28

**COMMISSION FOR DIVERSITY, INCLUSION, & COMMUNITY RELATIONS  
RECOMMENDATION**

The Diversity, Inclusion and Community Relations Commission voted unanimously in support of Warrant Article 28 adopting a town resolution voicing support for pending state legislation that would set up a state commission to study the state flag and seal for possible change. Commissioners agreed on the importance of reviewing the history that led to the creation of the flag and seal of the Commonwealth to ensure that these symbols do not perpetuate negative and harmful stereotypes, but rather faithfully reflect the Commonwealth's commitment to respect and equality.

ARTICLE 29

**COMMISSION FOR DIVERSITY, INCLUSION, & COMMUNITY RELATIONS  
RECOMMENDATION**

Warrant Article 29 seeks to raise awareness of “the disparity between the demographics of the membership of Town Meeting Members and the town population overall.” In addition, Article 29 also stresses the importance that Town Meeting Members should *proactively* seek out, encourage, and support potential candidates representing Brookline Protected Classes as defined in Article 3.14.1 of the Town’s bylaws to run for Town Meeting and to apply to the Town’s various commissions and committees. And finally, the petitioner also seeks to encourage the Moderator to consider “inclusivity across Brookline Protected Classes as an important aspect of deciding the order of speakers” during Town Meeting deliberations.

Article 29 is a natural extension of the mission of the Commission for Diversity, Inclusion and Community Relations (CDICR) as well as the Office of Diversity, Inclusion and Community Relations (ODICR). It is also consistent with the “goal of the Town...to strive for a community characterized by the values of inclusion.” To make this goal a reality, “*vigorous affirmative steps*” must be taken to make this goal a reality.

Following a public hearing held by the Commission for Diversity, Inclusion and Community Relations, the Commission voted unanimously to recommend FAVORABLE ACTION on Warrant Article 29.